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Sequence Number: 12-08-15
Rule ID(s): 6075
File Date: 12/9/15
Effective Date: 3/8/16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	Tennessee Department of Commerce and Insurance
Division:	Fire Prevention
Contact Person:	Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement
Address:	500 James Robertson Parkway, Davy Crockett Tower, 8 th Floor
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Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0780-02-18	Tennessee Equitable Restroom Act Rules and Regulations
Rule Number	Rule Title
0780-02-18-.01	Purpose
0780-02-18-.02	Jurisdiction and Effective Dates
0780-02-18-.03	Restroom Requirements
0780-02-18-.04	Enforcement and Inspections

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Amendment
Chapter 0780-02-18

Rule 0780-02-18-.01 Purpose shall be amended by deleting the existing rule in its entirety and substituting the following, so that, the new rule shall read as follows:

0780-02-18-.01 Purpose.

- (1) The purpose of this chapter is to implement the Tennessee Equitable Restroom Act T.C.A. §§ 68-120-501, et seq., and mitigate the lengthy delays which women face in gaining access to restroom facilities in public places.

Authority: T.C.A. §§ 68-120-203(3)(B), 68-120-502(6) and 68-120-506.

Paragraph (2) of Rule 0780-02-18-.02 Jurisdiction and Effective Dates shall be amended by deleting the existing paragraph in its entirety and substituting the following, so that, the new paragraph (2) shall read as follows:

- (2) Exemptions. This chapter does not apply to the following:
 - (a) Hotels. For purposes of this regulation, hotel means an establishment as defined in T.C.A. § 68-14-302(6).
 - (b) Food service establishment, as defined in T.C.A. § 68-14-703(9)(A);
 - (c) A state or local park with a seating capacity for less than two hundred fifty (250) persons; or
 - (d) Automobile race tracks where portable facilities can be located and which were in existence prior to July 1, 1985.

Authority: T.C.A. §§ 68-120-203(3)(B), 68-120-502(6), 68-120-504, 68-120-505 and 68-120-506.

Rule 0780-02-18-.03 Restroom Requirements shall be amended by deleting the existing rule in its entirety and substituting the following, so that, the new rule shall read as follows:

0780-02-18-.03 Restroom Requirements.

- (1) The edition of the building construction standard(s) adopted in Tenn. Comp. R. & Regs. 0780-02-02 (Codes and Standards) shall be utilized to determine the minimum number of water closets and plumbing fixtures required for restroom facilities in public places.

Authority: T.C.A. §§ 68-120-203(3)(B), 68-120-502(6), 68-120-503 and 68-120-506.

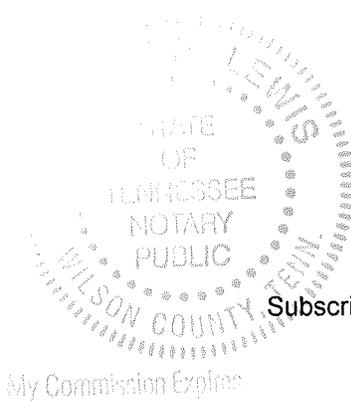
Rule 0780-02-18-.04 Enforcement and Inspections shall be amended by deleting the existing rule in its entirety and substituting the following, so that, the new rule shall read as follows:

0780-02-18-.04 Enforcement and Inspections.

- (1) The responsible authority for the enforcement of these regulations shall be the local building inspector and:
 - (a) The State Building Commission with respect to State public buildings as provided in T.C.A. § 4-15-106(a); and
 - (b) The State Fire Marshal with respect to public buildings reviewed under the authority of T.C.A. § 68-120-101(d).

Authority: T.C.A. §§ 68-120-203(3), 68-120-502(6) and 68-120-506.

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commissioner on 07/24/2015 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.



Date: 7/24/15

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner of Commerce and Insurance

Subscribed and sworn to before me on: 7/24/15

Notary Public Signature: Denise M. Lewis

My commission expires on: 2/15/2016

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
10/20/2015
Date

Department of State Use Only

Filed with the Department of State on: 12/9/15

Effective on: 3/8/16

Tre Hargett
Tre Hargett
Secretary of State

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Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

1. Types and estimated number of small businesses directly affected:

Small businesses where the public congregates for entertainment purposes will be affected by the promulgation of these rules.

2. Projected reporting, recordkeeping, and other administrative costs:

There is no foreseeable alteration in existing reporting or recordkeeping utilized by small businesses that will result from the promulgation of these rules.

3. Probable effect on small businesses:

There will be minimal effect as the proposed rules are necessary to reflect the Tennessee Equitable Restroom Act and to mirror the building codes which have been previously adopted and are being enforced.

4. Less burdensome, intrusive, or costly alternative methods:

The proposed rules are not anticipated to impact small businesses more than the current rules provide. There has not been a less burdensome, intrusive or costly alternative method identified or recommended for use.

5. Comparison with federal and state counterparts:

29 C.F.R. 1910.141 – Sanitation

This section is only applicable to permanent places of employment but sets for the required number of toilet facilities which must be present in an employment location.

The International Building Code (IBC) published by the International Code Council (ICC) sets forth the required number of toilet facilities which must be present in public places.

6. Effect of possible exemption of small businesses:

There are no possible exemptions for small businesses to the requirements except for those exemptions specifically set forth in the adopted rules and in the applicable statute.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The proposed rule will impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule eliminates the requirement of a minimum ratio of two water closets for women to each water closet for men and instead implements the requirements of the 2012 Plumbing Code for determining the minimum number of plumbing fixtures in public places. The rules contain several minor amendments which correct citations to statute sections and the Plumbing Code.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 68-120-506 authorizes rules and regulations to be promulgated to carry out the purpose of Tennessee Equitable Restrooms Act.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

This rule effects patrons and owners of sports and entertainment arenas, musical amphitheatres, stadiums, community and convention halls, amusement facilities, zoos and specialty event centers located in public parks. There are exemptions for hotels, food service establishments, state or local parks with a seating capacity of less than two hundred fifty persons and automobile race tracks where portable facilities can be located and which were in existence prior to July 1, 1985.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

Tenn. Att'y Gen. Op. No. 02-098 (September 11, 2002).

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Minimal

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement, Department of Commerce and Insurance and Christopher Bainbridge, Codes Enforcement Officer, Department of Commerce and Insurance

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Joseph Underwood, Chief Counsel for Fire Prevention and Law Enforcement, Department of Commerce and Insurance and Christopher Bainbridge, Codes Enforcement Officer, Department of Commerce and Insurance

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Joseph Underwood, 500 James Robertson Pkwy, Davy Crockett Tower, 8th Floor, Nashville, TN 37243, (615) 741-3899 Joseph.Underwood@tn.gov; Christopher Bainbridge, 500 James Robertson Pkwy, Davy Crockett Tower, 10th Floor, Nashville, TN 37243, (615) 741-6246 christopher.bainbridge@tn.gov

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

Not applicable.

**RULES
OF
DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF FIRE PREVENTION**

**CHAPTER 0780-2-18
TENNESSEE EQUITABLE RESTROOM ACT RULES AND REGULATIONS**

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0780-02-18-.01 PURPOSE.

~~(1) The purpose of this chapter is to implement the Tennessee Equitable Restroom Act T.C.A. §§ 68-120-501, et seq., and mitigate the lengthy delays which women face in gaining access to restroom facilities in public places.~~

(1) The purpose of this chapter is to implement the Tennessee Equitable Restroom Act T.C.A. §§ 68-120-501, et seq., and mitigate the lengthy delays which women face in gaining access to restroom facilities in public places.

Authority: T.C.A. §§ 68-120-203(3)(B), 68-120-502(6) and 68-120-506. Administrative History: Original rule filed September 12, 1996; November 26, 1996.

0780-02-18-.02 JURISDICTION AND EFFECTIVE DATES.

(1) Application. This chapter shall apply to the following facilities where the public congregates:

- (a) sports and entertainment arenas;
- (b) musical amphitheaters;
- (c) stadiums;
- (d) community and convention halls;
- (e) amusement facilities;
- (f) zoos; and
- (g) specialty event centers located in public parks.

(2) Exemptions. This chapter does not apply to the following:

(a) Hotels. For purposes of this regulation, ~~hotel~~ hotel means an establishment as defined in ~~T.C.A. § 68-14-302(5);~~ T.C.A. § 68-14-302(6);

(b) Food services establishment, as defined in ~~T.C.A. § 68-14-302(4)~~ T.C.A. § 68-14-703(9)(A);

(c) A state or local park with a seating capacity for less than two hundred fifty (250) persons; or

(d) Automobile race tracks where portable facilities can be located and which were in existence prior to July 1, 1985.

(3) Effective dates. The effective date for this chapter is as follows:

(Rule 0780-2-18-.02, continued)

- (a) New facilities where the public congregates. Implementation of this regulation will be based upon contracts for design or construction executed on or after the effective date of these rules.
- (b) Existing facilities where the public congregates. Implementation of this regulation will be based upon contracts for the design or construction of the renovation executed on or after the effective date of these rules. An existing facility where the public congregates will be considered to be renovated if:
 - 1. Its rehabilitation requires more than fifty percent (50%) of the gross floor area or volume of the entire building to be rebuilt. Cosmetic work such as painting, wall covering, wall paneling, floor covering, and suspended ceiling work are not included.
 - 2. An addition is made to an existing facility where the public congregates. The requirements of this regulation shall apply only to the portion of the building which is being renovated.

Authority: *T.C.A. §§ 68-120-203(3)(B), 68-120-502(6), 68-120-504, 68-120-505 and 68-120-506. Administrative History: Original rule filed September 12, 1996; November 26, 1996.*

0780-02-18-.03 RESTROOM REQUIREMENTS.

- (1) ~~More water closets shall be provided for women than for men by a minimum ratio of two (2) water closets for women to each water closet for men; or each single use urinal for men; or for twenty (20) inches of trough urinal for men.~~

~~The 1994 Standard Plumbing Code, Section 407, edition of the building construction standard(s) adopted in Tenn. Comp. R. & Regs. 0780-02-02 (Codes and Standards) shall be used/utlized to determine the minimum number of water closets and plumbing fixtures required for men for restroom facilities in public places.~~

Authority: *T.C.A. §§ 68-120-203(3)(B), 68-120-502(6), 68-120-503 and 68-120-506. Administrative History: Original rule filed September 12, 1996; November 26, 1996.*

0780-02-18-.04 ENFORCEMENT AND INSPECTIONS.

- (1) The responsible authority for the enforcement of these regulations shall be the local building inspector and:
 - (a) The State Building Commission with respect to State public buildings as provided in T.C.A. § 4-15-106(a); and ~~T.C.A. § 4-15-106(a)~~;
 - (b) The State Fire Marshal with respect to public buildings reviewed under the authority of T.C.A. § 68-120-101(d); ~~T.C.A. § 68-120-101(d)~~.

Authority: *T.C.A. §§ 68-120-203(3), 68-120-502(6) and 68-120-506. Administrative History: Original rule filed September 12, 1996; November 26, 1996.*