United States Court of Appeals for the sixth circuit

David Jonathan Tulis	)	
Appellant	)	
	)	Case No. 25-5430
V.	)	
	)	
Brandon Bennett et al	)	
Appellees	)	

APPENDIX

1 of 2

In the Sessions Court of Hamilton County, Tennessee

State of Tennessee	)	
	)	Docket Nos.
vs.	)	1930155 "light law"
	)	1930156 "driver's license"
David Jonathan Tulis	)	
In *persona propria*	)	
% 10520 Brickhill Lane	)	
Soddy-Daisy TN 37379	)	
Tel (423) 316-2680	)	
davidtuliseditor@gmail.com	)	

FILED IN OFFICE:
DATE: 1-12-24 TIME: 3:16A
VINCE DEAN CLERK
BY _____ DEPUTY CLERK

Affidavit, pre-plea remedy and avoidance

Comes now accused, living in Hamilton County, Tenn., and does attest to the following matters pertaining to his arrest Nov. 22, 2023, by Hamilton County sheriff's department to be true, accurate, and complete, to the best of his knowledge.

1. Accused challenges the state's claim that its case gives the court subject matter jurisdiction because the accuser State of Tennessee has made appearance without having exhausted its administrative remedies before bringing the matter for enforcement in criminal jurisdiction, a case based on presumption the accused herein rebuts.

2. The matter at issue is under the uniform administrative procedures act (UAPA) at Tenn. Code Ann. § 4-5-101 *et seq*. Controversies over licenses are administrative in nature ("[T]he grant or refusal of a license to use public highways in commerce is purely an administrative question." McMinnville Freight Line, Inc. v. Atkins, 514 S.W.2d 725, 726–27 (Tenn. 1974)). [1] Accused demands his right to have the dispute over a license be

[1] All matters pertaining to driver licenses and licensed activity are purely administrative, however, and a upon a license follows the rule of exhaustion of administrative remedies.

heard first by State of Tennessee under auspices of its department of safety and homeland security, responsible for issuing the license upon which claim is made, the court not yet qualified by ripeness of the allegations to determine if State of Tennessee has authority make a claim for which relief may be granted as a criminal matter.

Factual Background

3. On Nov. 22, 2023, at 6:26 a.m., deputy Brandon Bennett of Hamilton County sheriff's office chases accused southbound on state Highway 153, running his blue lights. He arrests accused in a retail parking lot opposite the Hixson Wal-Mart store for "a broken passenger taillight in which white light could be seen."

4. Deputy Bennett in "incident narrative" and affidavit of complaint describes the seizure as a "traffic stop" for a "passenger taillight" of a "vehicle" being "[operated]" by a "driver and violator." [2]

5. "I explained [to] Tulis he must be in compliance with Tennessee Law while operating a vehicle on public roadways. I then asked for Mr. Tulis' driver's license which he refused to produce. Mr. Tulis stated he did have a license, but did not want to give it to me. I

"[T]he Utilities Commission has never been held by this Court to be restricted by the technical common law rules of evidence in determining purely administrative questions, and we have held that the grant or refusal of a license to use public highways in commerce is **purely an administrative question**." *Hoover Motor Exp. Co. v. R.R. & Pub. Utilities Comm'n*, 195 Tenn. 593, 616, 261 S.W.2d 233, 243 (1953).(emphasis added)

[2] 18 U.S.C § 31. Definitions (6) Motor vehicle.- "The term '**motor vehicle**' means every description of carriage or other contrivance propelled or drawn by mechanical power **and used for commercial purposes on the highways** in the **transportation** of passengers, passengers and property, or property or cargo.***

(10) Used for **commercial purposes**.-The term 'used for commercial purposes' means the carriage of persons or property **for any fare, fee, rate, charge or other consideration**, or directly or indirectly in connection with any business, or other undertaking **intended for profit**." (emphasis added)

advised *** I needed his license to identify him as the driver and violator. Mr. Tulis again refused so *** I asked him to step out of the vehicle, which he did," according to the affidavit of complaint.

6. "What makes you believe right now that I'm traveling right now in commerce?" accused asks Mr. Bennett.

7. BENNETT "Well, I observed you on the motor way and *** I do believe you to be the person operating this vehicle as of right now."

8. TULIS "I rebut the presumption, sir, I'm operating a vehicle. Right now, I would rebut the claim that I am driving and operating a motor vehicle. Is it not possibly prudent for you to determine whether or not I'm involved in the activity under the privilege right now? That would be under [Title] 55, chapter 50, and also under [Title] chapter 65 under the Tennessee code annotated, which is carriers."

9. BENNETT "You're not. I'd say you're not. You're not. If I take this before a judge he'll also state that, 'Yes, you are in violation of a traffic law under section 55 of — "

10. TULIS "The light law?"

11. BENNETT "— Yes."

12. TULIS"— Yes, well. I rebut the presumption, officer ***. "

13. Audio/video record shows Mr. Bennett stating three times that accused is <u>not acting in commerce</u>.

14. Mr. Bennett, under color of office, orders accused from his car and binds his wrists, arresting and imprisoning him. Mr. Bennett takes accused to Hamilton County detention center, aka Silverdale, whereupon in name of State of Tennessee accused is criminally charged and booked without warrant as required under T.C.A. § 40-7-103, the alleged breach not meeting the legal standard for public offense.

15. Magistrate Blake Murchison states at a hearing he finds probable cause for the arrest, and releases accused on his own recognizance.

16. The allegations arise from Hamilton County sheriff's office colorable administration of Tenn. Code Ann. §§ Titles 65, carriers, and 55, motor and other vehicles. Tenn. Code Ann. § Title 55 regulates the privileged field of activity called transportation. The privilege is the trade, business, calling or taxable vocation styled "operating" or "driving" a "motor vehicle," for which authority is state of Tennessee through the exercise of a state privilege in the Uniform Classified ***and*** Commercial Driver License Act of 1988, regulating transportation on Tennessee roads, Title 55, motor and other vehicles.

17. Deputy Bennett's vocabulary is thoroughly commercial, down to describing the right-rear taillight as the "passenger side" of the car. A guest or rider sits in the right-hand seat, in "absence of any contractual relation between the parties"; in contrast, a *"passenger"* pays for transport under §§ 65 and 55. Talbot v. Taylor, 184 Tenn. 428, 429–30, 201 S.W.2d 1, 1–2 (1935) (abrogated by a 1992 case on other grounds).

Petition for pre-plea avoidance

18. The state's case fails to give the court subject matter jurisdiction because (1) the party bringing the claim is acting outside of statutory authority, (2) the court into which he files his allegation receives it prematurely, and (3) because the accused is in no way

known, on Nov. 22, 2023, at 6:26 a.m., to be involved in privileged activity subject to the commercial and administrative authority of Tenn. Code Ann. § Title 55.

19. Privilege enforcement in Tennessee arises from the general assembly's constitutional authority to regulate trades, granted Tenn. const. art. 2, sect. 28, "The Legislature shall have power to tax merchants, peddlers, and **privileges,** in such manner as they may from time to time direct, and the Legislature may levy a gross receipts tax on merchants and businesses in lieu of ad valorem taxes on the inventories of merchandise held by such merchants and businesses for sale or exchange." Privilege management is described in Phillips v. Lewis, 3 Shannon's cases 230 (1877) (emphasis added) [3]

20. Criminal enforcement and administrative regulation are distinct areas of law. The case before the court originates in *administrative regulation*, which is civil. The criminal authority invoked only on articulable, reasonable or warranted *suspicion of a crime* under Tenn code ann. § Title 39 having been committed. State v. Garcia, 123 S.W.3d

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[3] Police power and regulatory authority under the UAPA are exercisable upon those "on the privilege" of driving or operating a motor vehicle. Phillips describes a privilege as an occupation, trade or calling such as the raising of bitches or jackasses for private profit and gain.

> This pursuit or occupation is taxed, not as property, but as an occupation. Another element in this occupation is, that its object and pursuit is directed to a profit to be made off the general public, the merchant having a relation, by reason of his occupation, to the whole community in which he may do business, by reason of which he reaps, or is assumed to reap, the larger profit by drawing upon or getting the benefit of the resources of those surrounding him. The same idea is involved in the case of the peddler, who may range over a whole county by virtue of his license. His is an occupation of like character, a peculiar use of his capital varied only in some of its incidents.

Phillips v. Lewis, 3 Shannon's cases 230 (1877) at 240

335, 343–44 (Tenn. 2003). [4]

21. Only a member of the highway patrol can stop a motor vehicle traveling on the road without probable cause. "(c) Unless a law enforcement officer has probable cause to believe that an offense has been committed, no officer, except members of the Tennessee highway patrol acting pursuant to § 4-7-104, shall have the authority to stop a motor vehicle for the sole purpose of examining or checking the license of the driver of the vehicle" (Tenn. Code Ann. § 40-7-103).

22. The trooper's authority to stop motor vehicle operators apart from probable cause inheres in the *pre-agreement* to be stopped on part of the driver or operator of a motor vehicle, that being through his application for a classified and commercial driver's license under § 55-50-101 *et seq.* [5] A licensee "on the privilege" – or exercising the activity under state privilege – is subject to state trooper administration of the regulatory laws upon transportation or traffic. Transportation is under privilege because no one has a right to use the public right of way for private profit and gain; only licensees under

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[4] "We have noted that '[u]pon turning on the **blue lights** of a vehicle, a police officer has clearly initiated a stop and **has seized the subject** of the stop **within the meaning of the Fourth Amendment** of the Federal Constitution and Article I, section 7 of the Tennessee Constitution.' *Id.* (citing *State *344 v. Pulley,* 863 S.W.2d 29, 30 (Tenn.1993)). Accordingly, in the instant case, when Officer Kohl stopped Garcia's vehicle **by turning on her blue lights**, she must have had **reasonable suspicion**, supported by **specific and articulable facts**, that the defendant had committed, or was about to commit, a **criminal** offense in order for the stop to be constitutionally valid."
State v. Garcia, 123 S.W.3d 335, 343–44 (Tenn. 2003) (emphasis added)

[5] Driver licenses are issued and revoked "upon the principles of equity." *Sullins v. Butler*, 175 Tenn. 468, 135 S.W.2d 930, 933 (1940).

taxable privilege may use the people's public roads for gain. [6]

23. Driver licenses are purely an administrative matter enforceable by the Tennessee department of safety and homeland security (DOSHS). "The members of the Tennessee highway patrol have jurisdiction and authority to make such investigation of operators of motor vehicles for hire as they may see fit to ascertain whether or not they are operating in compliance with § 65-15-109, and whether or not they are otherwise complying with the law relating to such operators, and they have authority to make arrests for any violation of title 65, chapter 15, or of any other traffic law of the state."

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[6] "The state legislature may properly enact reasonable regulations requiring licensing and registration of motor vehicles as it furthers the interests of public safety and welfare pursuant to its police power. The ability to drive a motor vehicle on a public highway is not a fundamental right. Instead, it is a revocable privilege that is granted upon compliance with statutory licensing Procedures." State v. Ferrell, 2009 Tenn. Crim. App. LEXIS 629

"The right of the Citizen to travel upon the public highways and to transport his property thereon, in the ordinary course of life and business, is a common right which he has under the right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. It includes the right, in so doing, to use the ordinary and usual conveyances of the day, and under the existing modes of travel, includes the right to drive a horse-drawn carriage or wagon thereon or to operate an automobile thereon, for the usual and ordinary purpose of life and business." Thompson v. Smith, 154 SE 579, 11 American Jurisprudence, Constitutional Law, section 329, page 1135

"3079a199. **Operator** is a common **carrier**, and the business is a **privilege**, when.–Any person, firm, or corporation operating **for hire** any public conveyance propelled by steam, compressed air, gasoline, naphtha, electricity, or other motive power **for the purpose** of affording a means of street **transportation** similar to that ordinarily afforded by street railways (but not operated upon fixed tracks) by indiscriminately accepting and discharging such persons as may offer themselves for transportation along the way and course of operation, shall be and the same is hereby declared and defined to be a **common carrier**, and the business of all such common carriers is hereby declared to be a **privilege**." (1915, ch. 60, sec 1.), cited in Shannon's *A Compilation of Tennessee Statutes*, Volume 2, 1917. (emphasis added)

T.C.A § 65-15-102(7) "'**For-hire motor carrier**' means a person engaged in the **transportation** of goods or passengers **for compensation**." (emphasis added)

(Tenn. Code Ann. § 4-7-105)

24. The DOSHS commissioner signs a semiannual covenant with the U.S. department of transportation for fiscal years 2022-2024 to receive federal funding to improve commercial motor vehicle safety. The document is "TENNESSEE Commercial Vehicle Safety Plan Federal Motor Carrier Safety Administration's Motor Carrier Safety Assistance Program Fiscal Years 2022 - 2024" (hereinafter, "TCVSP") [7]. **EXHIBIT No. 1.**

25. In the TCVSP, the commissioner states on p. 4 – "The Tennessee Highway Patrol of the Tennessee Department of Safety and Homeland Security (TDOSHS) is the **sole agency** in the State of Tennessee responsible for enforcing laws related to size, weight, and safety regulations for commercial motor vehicles. The Tennessee Highway Patrol is the State's lead agency for the Motor Carrier Safety Assistance Program and does not fund any sub-grantees" (emphasis added).

26. TCVSP, on p. 5, states that the highway patrol's overseer, DOSHS, enforces the operating and driving privilege upon commercial motor vehicles to protect "the general public." [8]

> According to Tennessee Code Annotated (TCA) Title 65 Chapter 15, the Tennessee Highway Patrol (THP) is the lead agency in the State of Tennessee responsible for enforcing laws related to size, weight, and safety regulations for commercial motor vehicles and the Federal Motor

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[7] Date of Approval: Aug. 10, 2022

https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/2022-11/FY2022%20Tennessee%20eCVSP_Final.pdf

[8] "**DRIVER**. One **employed** in conducting or **operating** a coach, carriage, wagon, or other vehicle, with horses, mules, or other animals, or a bicycle, tricycle, or motor car, though not a street railroad car. A person actually doing driving, **whether employed** by owner to drive or driving his own vehicle." (*Black's Law Dictionary* 4th ed. p.585) (emphasis added)

> Carrier Safety Assistance Program. No sub-grantees are funded. The THP uses various regulatory, enforcement, and educational strategies to achieve its mission. Tennessee troopers are certified to conduct all levels of the North American Standard inspections, including passenger carriers, cargo tanks, and hazardous materials. The THP, in partnership with the Federal Motor Carrier Safety Administration, conducts commercial motor vehicle targeted enforcement and public education and awareness programs geared toward both industry and the general public to increase awareness of commercial motor vehicle safety issues and the operation of passenger vehicles around commercial motor vehicles."

27. TCVSP p. 7: "The State of Tennessee, Highway Patrol executes the following activities to meet the requirements of 49 CFR part 350.213(b): *** Enforcing federal registration (operating authority) requirements under 49 U.S.C. 13902, 49 CFR Part 365, 49 CFR Part 368, and 49 CFR 392.9a by prohibiting the operation of (i.e., placing out of service) any vehicle discovered to be operating without the **required operating authority** or beyond the scope of the motor carrier's operating authority" (emphasis added).

28. Regulation of transportation is under federal auspices.

Analysis

29. Use of the public road is in either of two categories, either for private purposes as mamber of the general public or in regulable commerce. The subject matter in instant case is commercial, under Tenn. Code Ann. § Title 55, motor and other vehicles, and § Title 65, carriers.

30. The court receives the allegation of commercial use – and wrongdoing under any license – prematurely from State of Tennessee.

31. Title 65 grants DOSHS authority to regulate commercial activity, affirms the **commercial** nature of the privileged activity of operating a motor vehicle upon the public highways. "(a) It is unlawful for any motor carrier, contract hauler, or exempt

for-hire motor carrier to use any of the public highways of this state for the **transportation** of person or property, or both, **in interstate or intrastate commerce**, without first having received a permit from the department or from any state designated as the base jurisdiction state for that carrier pursuant to 49 U.S.C. § 11506 [omitted] as amended by § 4005 of the Intermodal Surface Transportation Efficiency Act of 1991. Violators are subject to penalty pursuant to § 65-15-113" (Tenn. Code Ann. § 65-15-107) (emphasis added).

32. The law creating THP affirms the same in § 4-7-105. "The members of the Tennessee highway patrol have jurisdiction and authority to make such investigation of **operators of motor vehicles for hire** as they may see fit to ascertain whether or not they are operating in compliance with § 65-15-109, and whether or not they are otherwise complying with the law relating to such operators, and they have authority to make arrests for any violation of title 65, chapter 15, or of any other traffic law of the state" (emphasis added).

33. DOSHS is designated for enforcement of privileged commercial motor vehicle activity and its licensing. DOSHS is the specialized agency for ascertaining subject matter jurisdiction for any alleged violations of §§ Titles 55 and/or 65.

34. Driver licenses are an exclusive state privilege. "The licensing as a privilege of the driving of any motor driven vehicle upon the roads, streets or other highways of the state is declared an **exclusive state privilege** and no tax for such privilege under any guise or shape shall hereafter be assessed, levied or collected by any municipality of the state" Tenn. Code Ann. § 6-55-501 (emphasis added).

35. The department of safety and homeland security has exclusive jurisdiction over all matters pertaining to driver licenses and privilege enforcement upon those people using

motor vehicles,[9] according to the two titles above mentioned (§ Title 55 and § Title 65), and under agreement with the U.S. department of transportation that holds that the highway patrol is the "sole agency" for enforcement of the state's interest in equity and public health, safety and welfare.

36. Given that a dispute over a license, arising from a rules of the road violation claim, is a privilege and tax matter, [10] the accused in an administrative and civil matter has right to be heard *in agency* at DOSHS, with claims as to subject matter jurisdiction to be established there first.

37. The courts recognize the necessity for exhausting administrative remedies before suits are brought to adjudication:

> The exhaustion doctrine has been recognized at common law as an exercise of judicial prudence. Justice Brandeis referred to it as 'the long settled rule of judicial administration that no one is entitled to judicial relief for a supposed or threatened injury until the prescribed administrative remedy has been exhausted.' *Myers v. Bethlehem Shipbuilding Corp.*, 303 U.S. 41, 50-51, 58 S.Ct. 459, 82 L.Ed. 638 (1938). When a claim is first cognizable by an administrative agency, therefore, the courts will not interfere 'until the administrative process has run its course.' *United States v. W. Pac. R.R. Co.,* 352 U.S. 59, 63, 77 S.Ct. 161, 1 L.Ed.2d 126 (1956). Both courts and legislatures have recognized that the exhaustion doctrine promotes judicial efficiency and protects administrative authority in at least three ways.
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> First, sometimes '[j]udicial intervention may not be necessary because the agency can correct any initial errors at subsequent stages of the process[, and] the

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[9] 18 U.S.C § 31 (a)(6) "Motor vehicle.— The term 'motor vehicle' means every description of carriage or other contrivance propelled or drawn by mechanical power and used for commercial purposes on the highways in the transportation of passengers, passengers and property, or property or cargo."

[10] "**PRIVILEGE**. A particular and peculiar benefit or advantage enjoyed by a person, company, or class, beyond the common advantages of other citizens. An exceptional or extraordinary power or exemption. A right, power, franchise, or immunity held by a person or class, against or beyond the course of the law." *Black's Law Dictionary* 4th edition, p.1359

> agency's position on important issues of fact and law may not be fully crystallized or adopted in final form.' Ticor Title, 814 F.2d at 735 (quoting Gellhorn Boyer).
>
> Secondly, exhaustion allows the agency to develop a more complete administrative record upon which the court can make its review. *Efco Tool Co. v. Comm'r,* 81 T.C. 976, 981, 1983 WL 14906 (1983).
>
> Finally, cases that concern subject matter within the purview of administrative agencies often involve 'specialized fact-finding, interpretation of disputed technical subject matter, and resolving disputes concerning the meaning of the agency's regulations.' *West v. Bergland*, 611 F.2d 710, 715 (8th Cir. 1979) (citations omitted). Requiring that administrative remedies be exhausted often leaves courts better equipped to resolve difficult legal issues by allowing an agency to 'perform functions within its special competence.' Id. (quoting *Parisi v. Davidson*, 405 U.S. 34, 37, 92 S.Ct. 815, 31 L.Ed.2d 17 (1972)).

Colonial Pipeline Co. v. Morgan, 263 S.W.3d 827, 838-39 (Tenn. 2008)

38. The doctrine of exhaustion of remedies requires that administrative matters are to be heard in agency in a contested case "by an administrative judge or hearing officer sitting alone." Tenn. Code Ann. § 4-5-301. At conclusion of such case, the party may appeal "in the chancery court nearest to the place where the cause of action arose, or in the chancery court of Davidson County" Tenn. Code Ann. § 4-5-322.

39. The moving party, in its endeavors to enforce motor vehicle and transportation laws via TCVSP pursuant to CFR Title 49, is obligated by statute to the doctrine of exhaustion of administrative remedies: "These rules do not relieve the requirement that a party exhaust its administrative remedies before going to court. Any action appealable as of right must be timely appealed. If an appeal, discretionary appeal, or petition seeking reopening is filed under § 1115.2 or § 1115.3 of this part, before or after a petition seeking judicial review is filed with the courts, the Board will act upon the appeal or petition after advising the court of its pendency unless action might interfere with the court's jurisdiction." (49 CFR § 1115.6 - Exhaustion of remedies and judicial review.)

40. The commissioner of safety certifies that, "The State will ensure that violation sanctions imposed and collected by the State are consistent, effective, and equitable." (TCVSP item 11 on page entitled "Certification of MCSAP Conformance (State Certification)- FY 2018"). In the interest of maintaining these principles, the law ensures the duty for State of Tennessee exhaust its remedies in agency.

Argument

41. Accused gives notice that he is unwilling to yield this right to have the matter heard administratively in the department of safety where available administrative remedies have not yet been exhausted.

42. The protocol for an in-agency hearing as to the facts and subject matter jurisdiction is outlined at Tenn. Code Ann. § 4-5-301; accused also has right to a pre-hearing conference, Tenn. Code Ann. 4-5-306, a hearing on whether he is subject to the officer's claims about his activity, and a final order, pursuant to Tenn. Code Ann. § 4-5-314. Further administrative remedies remain available to the accuser in an administrative hearing pursuant to Tenn. Code Ann. § 4-5-223 (a). Declaratory orders.

> "(a) Any affected person may petition an agency for a declaratory order as to the validity or applicability of a statute, rule or order within the primary jurisdiction of the agency. The agency shall:
>
> > (1) Convene a contested case hearing pursuant to this chapter and issue a declaratory order, which shall be subject to review in the chancery court of Davidson County, unless otherwise specifically provided by statute, in the manner provided for the review of decisions in contested cases; or
> > (2) Refuse to issue a declaratory order, in which event the person petitioning the agency for a declaratory order may apply for a declaratory judgment as provided in § 4-5-225.

43. The state's accusation in this case is premised on authority of Tenn. Code Ann. Title 55, invoking the jurisdiction of the department of safety and homeland security, before

which they must reasonably be first heard.

44. Case law has consistently recognized the importance of the exhaustion doctrine:

> When a **statute provides** for an administrative remedy, an aggrieved party **must ordinarily exhaust** the remedy **before** seeking to utilize the judicial process. Thomas v. State Bd. of Equalization, 940 S.W.2d 563, 566 (Tenn. 1997); Bracey v. Woods, 571 S.W.2d 828, 829 (Tenn. 1978). In Thomas, this Court observed that the exhaustion of remedies **doctrine** allows an administrative body to '(1) **function efficiently** and have an opportunity to correct its own errors; (2) afford the parties and the courts the benefit of its **experience and expertise** without the threat of litigious interruption; and (3) compile a record which is adequate for judicial review.' Thomas, 940 S.W.2d at 566. Nevertheless, unless the **statute** providing for an administrative remedy **requires exhaustion** 'by its plain words,' an administrative appeal is not mandatory. Id.; see also Reeves v. Olsen, 691 S.W.2d 527, 530 (Tenn. 1985). Absent a statutory mandate, the exhaustion of the administrative remedies doctrine is a matter of judicial discretion. Thomas, 940 S.W.2d at 566 n.5; Reeves, 691 S.W.2d at 530; State ex rel. Moore & Assocs., Inc. v. West, 246 S.W.3d 569, 577 (Tenn. Ct. App. 2005).

Ready Mix, USA, LLC v. Jefferson County, Tennessee 380 S.W.3d 52 at 63-64. (emphasis added)

45. The above mentioned facts and law demonstrate that the court does not have subject matter jurisdiction, as the matter is administrative and not ripe. The accused demands that the court dismiss the case and grant the state leave to exhaust its remedies against the license at DOSHS.

46. "The trial court, by reason of plaintiff's failure to exhaust her administrative remedies, acquired no jurisdiction over the plaintiff's claim. When it clearly appears that the court lacks jurisdiction, the court has no authority to reach the merits. In such a situation the action should be dismissed for want of jurisdiction." Melo v. United States, 505 F.2d 1026, 1030 (8th Cir. 1974)

47. "Courts derive their powers to adjudicate not from the parties, but from the law. A Court acting without jurisdiction of the subject matter, or beyond the jurisdiction conferred upon it, is therefore acting without authority of law and its judgments and decrees in so acting are void and bind no one. Sheffy v. Mitchell, 142 Tenn. 48, 215 S.W. 403." Gillespie v. State, 619 S.W.2d 128, 129 (Tenn. Ct. App. 1981)

48. "The lack of subject matter jurisdiction is a nonwaivable defect that may be raised at any time to justify dismissal of a pending action. *Id.*" Ambrose v. Welch, 729 F.2d 1084, 1085 (6th Cir. 1984).

Relief demanded

49. The state of Tennessee and the officer fail to exhaust such available administrative remedies in the department of safety before seeking adjudication, depriving accused of his right to have the matter heard administratively, whereafter he demands to exercise this right at the agency. Because the court receives the allegation prematurely, it lacks subject matter jurisdiction over this case, and should dismiss it *ministerially.*

I attest that the foregoing is true and accurate to the best of my knowledge. Further affiant sayeth naught.

Respectfully submitted,

David Jonathan Tulis

David Jonathan Tulis

JAUNELDRED REID
STATE OF TENNESSEE NOTARY PUBLIC
HAMILTON COUNTY

STATE OF TENNESSEE, COUNTY OF HAMILTON — I, the undersigned Notary Public, do hereby affirm that David Jonathan Tulis personally appeared before me on the 12 day of January 2024, and signed this affidavit as his free and voluntary act and deed.

Notary Public Exp. 12/14/2026

Exhibits

1. TENNESSEE Commercial Vehicle Safety Plan Federal Motor Carrier Safety Administration's Motor Carrier Safety Assistance Program Fiscal Years 2022 - 2024, Pages 1-5, 89-91
2. Charging instrument State of Tennessee v. David Jonathan Tulis
3. Incident narrative, deputy Brandon Bennett

Certificate of Service

This pre-plea remedy and avoidance is served in person by hand delivery to the office of the district attorney general, Coty Wamp, at the Hamilton County courts building at

600 Market St., Suite 310
Chattanooga, TN 37402
Phone: (423) 209-7400

Exhibit 1

eCVSP

TENNESSEE

Commercial Vehicle Safety Plan

Federal Motor Carrier Safety Administration's
Motor Carrier Safety Assistance Program

Fiscal Years 2022 - 2024

Date of Approval: August 10, 2022

FINAL CVSP

U.S. Department of Transportation
Federal Motor Carrier Safety Administration

Part 1 - MCSAP Overview

Part 1 Section 1 - Introduction

The Motor Carrier Safety Assistance Program (MCSAP) is a Federal grant program that provides financial assistance to States to help reduce the number and severity of accidents and hazardous materials incidents involving commercial motor vehicles (CMV). The goal of the MCSAP is to reduce CMV-involved accidents, fatalities, and injuries through consistent, uniform, and effective CMV safety programs.

A State lead MCSAP agency, as designated by its Governor, is eligible to apply for grant funding by submitting a commercial vehicle safety plan (CVSP), in accordance with the provisions of 49 CFR 350.209, 350.211 and 350.213. The lead agency must submit the State's CVSP to the FMCSA Division Administrator on or before the due date each year. For a State to receive funding, the CVSP needs to be complete and include all required documents. Currently, the State must submit a performance-based plan or annual update each year to receive MCSAP funds.

The online CVSP tool (eCVSP) outlines the State's CMV safety objectives, strategies, activities and performance measures and is organized into the following five parts:

- Part 1: MCSAP Overview (FY 2022 - 2024)
- Part 2: Crash Reduction and National Program Elements (FY 2022 - 2024)
- Part 3: National Emphasis Areas and State Specific Objectives (FY 2022 - 2024)
- Part 4: Financial Information (FY 2022)
- Part 5: Certifications and Documents (FY 2022)

You will find that each of the five eCVSP parts listed above contains different subsections. Each subsection category will provide you with detailed explanation and instruction on what to do for completing the necessary tables and narratives.

The MCSAP program includes the eCVSP tool to assist States in developing and monitoring their grant applications. The eCVSP provides ease of use and promotes a uniform, consistent process for all States to complete and submit their plans. States and territories will use the eCVSP to complete the CVSP and to submit a 3-year plan or an Annual Update to a 3-year plan. As used within the eCVSP, the term 'State' means all the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and the Virgin Islands.

REMINDERS FOR FY 2022:

Multi-Year plans–All States will be utilizing the multi-year CVSP format. This means that objectives, projected goals, and activities in the plan will cover a full three-year period. The financial information and certifications will be updated each fiscal year.

Annual Updates for Multi-Year plans–States in Year 2 or Year 3 of a multi-year plan will be providing an Annual Update only. States will review the project plan submitted the previous year and indicate any updates for the upcoming fiscal year by answering the "Yes/No" question provided in each Section of Parts 1-3.

- If Yes is indicated selected, the information provided for Year 1 will be editable and State users can make any necessary changes to their project plan. (Note: Trend Analysis information that supports your current activities is not editable.) Answer carefully as there is only one opportunity to select "Yes" before the question is locked.
- If "No" is selected, then no information in this section will be editable and the user should move forward to the next section.

All multi-year and annual update plans have been pre-populated with data and information from their FY 2021 plans. States must carefully review and update this information to reflect FY 2022 activities prior to submission to FMCSA. The financial information and certifications will be updated each fiscal year.

- Any information that is added should detail major programmatic changes. Do not include minor modifications that reflect normal business operations (e.g., personnel changes).
- Add any updates to the narrative areas and indicate changes by preceding it with a heading (e.g., FY 2022 update). Include descriptions of the changes to your program, including how data tables were modified.
- The Trend Analysis areas in each section are only open for editing in Year 1 of a three-year plan. This data is not editable in Years 2 and 3.

Personally Identifiable Information - PII is information which, on its own or matched with other data, would permit identification of an individual. Examples of PII include: name, home address, social security number, driver's license number or State-issued identification number, date and/or place of birth, mother's maiden name, financial, medical, or educational

records, non-work telephone numbers, criminal or employment history, etc. PII, if disclosed to or altered by unauthorized individuals, could adversely affect the Agency's mission, personnel, or assets or expose an individual whose information is released to harm, such as identity theft.

States are reminded **not** to include any PII in their CVSP. The final CVSP approved by FMCSA is required to be posted to a public FMCSA website.

Part 1 Section 2 - Mission/Goal Statement

Instructions:

Briefly describe the mission or goal of the lead State commercial motor vehicle safety agency responsible for administering this Commercial Vehicle Safety Plan (CVSP) throughout the State.

***NOTE:** Please do not include information on any other FMCSA grant activities or expenses in the CVSP.*

The Tennessee Highway Patrol of the Tennessee Department of Safety and Homeland Security (TDOSHS) is the sole agency in the State of Tennessee responsible for enforcing laws related to size, weight, and safety regulations for commercial motor vehicles. The Tennessee Highway Patrol is the State's lead agency for the Motor Carrier Safety Assistance Program and does not fund any sub-grantees.

The Tennessee Department of Safety and Homeland Security's mission is to serve, secure, and protect the people of Tennessee. The Department's vision is to be a national leader in best practices that enhance public safety and customer service. The Commercial Vehicle Enforcement Administration Unit of the Tennessee Highway Patrol is responsible for the Department's mission with respect to commercial motor vehicles. Tennessee carries out this mission through commercial vehicle inspections, traffic enforcement, education, and the implementation of special initiatives targeting Commercial Motor Vehicle safety. These activities include the following:

- Enforcement of motor vehicle and criminal laws focusing on commercial motor vehicles
- Regulation of commercial motor vehicles and motor carriers per Title 49 CFR
- Public Education and Awareness
- Driver/Vehicle Inspections
- Carrier Investigations and New Entrant Safety Audits
- Data Collection
- Crash Investigations

Part 1 Section 3 - MCSAP Structure Explanation

Instructions:

Answer the questions about your grant activities and briefly describe the State's commercial motor vehicle (CMV) enforcement program funded by the MCSAP grant. Please do not include activities or expenses associated with any other FMCSA grant program.

Complete the check boxes below if they affirmatively apply to this CVSP:

☑ **Initiatives involving "rural roads" are specifically included in this CVSP.**

☑ **The State has voluntarily submitted an annual Training Plan to the National Training Center (NTC).**

According to Tennessee Code Annotated (TCA) Title 65 Chapter 15, the Tennessee Highway Patrol (THP) is the lead agency in the State of Tennessee responsible for enforcing laws related to size, weight, and safety regulations for commercial motor vehicles and the Federal Motor Carrier Safety Assistance Program. No sub-grantees are funded. The THP uses various regulatory, enforcement, and educational strategies to achieve its mission. Tennessee troopers are certified to conduct all levels of the North American Standard inspections, including passenger carriers, cargo tanks, and hazardous materials. The THP, in partnership with the Federal Motor Carrier Safety Administration, conducts commercial motor vehicle targeted enforcement and public education and awareness programs geared toward both industry and the general public to increase awareness of commercial motor vehicle safety issues and the operation of passenger vehicles around commercial motor vehicles.

There are eight THP Districts within the state. Each district is commanded by a District Captain. All districts are under the command of the THP Administrative Office located in Nashville, Tennessee. The command staff consists of Majors, Lieutenant Colonels, and a Colonel. Within the state there are eight commercial vehicle weigh station facilities. Each of the fixed facilities is under the command of a Lieutenant who reports to the Captain of that district. All of the Agency's commercial motor vehicle activities are coordinated by the Commercial Vehicle Enforcement Administration Unit. Within the Commercial Vehicle Enforcement Administration Unit is a Lieutenant who coordinates passenger transportation safety and a Sergeant who coordinates hazardous materials and new entrant activities. There are also two Sergeants whose duties include, but are not limited to, coordination of commissioned and industry education, interpretation of regulations for drivers, motor carriers and field personnel. All three Sergeants report to the Commercial Vehicle Enforcement Lieutenant who oversees all CVE grant and enforcement programs and he reports directly to the CVE and Special Program's Captain. The Captain then reports to a Major within the THP Command Staff.

Along with the CVE commissioned personnel, there are several administrative support personnel who include an Administrative Secretary, an Accounting technician, a Grants manager, a Statistical analyst, and part time Fiscal Service Accounting personnel. There are also eight Troopers and one Administrative Assistant who make up the Tennessee New Entrant Program.

As of June 2021, THP had 54 troopers assigned to the fixed inspection facilities and 683 in patrol and/or administrative positions. All troopers below the rank of Captain are, at a minimum, Level III certified. Troopers in specialized CVE positions are required to maintain higher levels of certification. Troopers assigned to the road and administrative positions are required to complete a minimum number of North American Standard inspections each year in addition to their regular duties. The primary responsibilities of troopers assigned to the fixed facilities are commercial vehicle inspections and other commercial motor vehicles related enforcement.

All new troopers are required to pass the North American Standard Part A. Within six months of completing training they must complete 32 North American Standard Level III inspections with a Certified Field Training Officer. Select troopers receive additional training in HAZMAT, Level VI (Radioactive Materials & Transuranics), North American Standard Part B, cargo tank, and passenger carrier, which allows them to gain certification in these specialized areas. The table below shows the number of certified Troopers as of June 2021.

FY 2022 Certification of MCSAP Conformance (State Certification)

I, Jeff Long, Commissioner, on behalf of the State of Tennessee, as requested by the Administrator as a condition of approval of a grant under the authority of 49 U.S.C. § 31102, as amended, do hereby certify as follows:

1. The State has designated the Tennessee Highway Patrol as the Lead State Agency to administer the Commercial Vehicle Safety Plan (CVSP) throughout the State for the grant sought and the Tennessee Highway Patrol to perform defined functions under the CVSP.

2. The State has assumed responsibility for and adopted commercial motor carrier and highway hazardous materials safety regulations, standards and orders that are compatible with the FMCSRs and the HMRs, and the standards and orders of the Federal Government.

3. The State will cooperate in the enforcement of financial responsibility requirements under 49 C.F.R. part 387.

4. The State will enforce registration (i.e., operating authority) requirements under 49 U.S.C §§ 13902 and 31134 by prohibiting the operation of any vehicle discovered to be operating without the required registration or beyond the scope of the motor carrier's registration.

5. The laws of the State provide the State's enforcement officials right of entry (or other method a State may use that is adequate to obtain the necessary information) and inspection sufficient to carry out the purposes of the CVSP, as approved.

6. The Lead State Agency and any subrecipient of MCSAP funds have the legal authority, resources, and qualified personnel necessary to enforce the State's commercial motor carrier, driver, and highway hazardous materials safety laws, regulations, standards, and orders.

7. The State has undertaken efforts to emphasize and improve enforcement of State and local traffic laws as they pertain to CMV safety.

8. The State will obligate the funds or resources necessary to provide a matching share to the Federal assistance provided in the grant to administer the plan submitted and to enforce the State's commercial motor carrier safety, driver, and hazardous materials laws, regulations, standards, and orders in a manner consistent with the approved plan.

9. The State will maintain the maintenance of effort required under 49 C.F.R. § 350.225.

10. The State requires that all reports required in the CVSP be available to FMCSA upon request, meets the reporting requirements, and uses the forms for recordkeeping, inspections, and investigations that FMCSA prescribes.

11. The State implements performance-based activities, including deployment and maintenance of technology, to enhance the efficiency and effectiveness of CMV safety programs.

12. The State dedicates sufficient resources to a program to ensure that accurate, complete, and timely motor carrier safety data are collected and reported, and to ensure the State's participation in a national motor carrier safety data correction system prescribed by FMCSA.

13. The State will ensure that the Lead State Agency will coordinate the CVSP, data collection, and information systems with the State highway safety improvement program under 23 U.S.C. § 148(c).

14. The State will ensure participation in information technology and data systems as required by FMCSA for jurisdictions receiving MCSAP funding.

15. The State will ensure that information is exchanged with other States in a timely manner.

16. The laws of the State provide that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Standard Inspection procedure, through the use of a nationally accepted system allowing ready identification of previously inspected CMVs.

17. The State will conduct comprehensive and highly visible traffic enforcement and CMV safety inspection programs in high-risk locations and corridors.

18. The State will ensure that it has departmental policies stipulating that roadside inspections will be conducted at locations that are adequate to protect the safety of drivers and enforcement personnel.

19. The State will ensure that, except in the case of an imminent or obvious safety hazard, an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a bus station, terminal, border crossing, maintenance facility, destination, or other location where motor carriers may make planned stops (excluding a weigh station).

20. The State will address activities in support of the national program elements listed in 49 C.F.R. § 350.203.

21. The State will ensure that detection of criminal activities and CMV size and weight enforcement activities described in 49 C.F.R. § 350.227(b) funded with MCSAP funds will not diminish the effectiveness of other CMV safety enforcement programs.

22. The State will ensure that violation sanctions imposed and collected by the State are consistent, effective, and equitable.

23. The State will include, in the training manual for the licensing examination to drive a non-CMV and the training manual for the licensing examination to drive a CMV, information on best practices for safe driving in the vicinity of noncommercial and commercial motor vehicles.

24. The State has in effect a requirement that registrants of CMVS demonstrate their knowledge of the applicable FMCSRs, HMRs, or compatible State laws, regulations, standards, and orders on CMV safety.

25. The State will transmit to its roadside inspectors at the notice of each Federal exemption granted pursuant to 49 U.S.C. § 31315(b) and 49 C.F.R. §§ 390.32 and 390.25 as provided to the State by FMCSA, including the name of the person granted the exemption and any terms and conditions that apply to the exemption.

26. Except for a territory of the United States, the State will conduct safety audits of interstate and, at the State's discretion, intrastate new entrant motor carriers under 49 U.S.C. § 31144(g). The State must verify the quality of the work conducted by a third party authorized to conduct safety audits under 49 U.S.C. §31144(g) on its behalf, and the State remains solely responsible for the management and oversight of the activities.

27. The State willfully participates in the performance and registration information systems management program under 49 U.S.C. §31106(b) not later than October 1, 2020, or demonstrates to FMCSA an alternative approach for identifying and immobilizing a motor carrier with serious safety deficiencies in a manner that provides an equivalent level of safety.

28. The State will ensure that it cooperates in the enforcement of hazardous materials safety permits issued under subpart E of part 385 of this subchapter by verifying possession of the permit when required while conducting vehicle inspections and investigations, as applicable.

29. In the case of a State that shares a land border with another country, the State may conduct a border CMV safety program focusing on international commerce that includes enforcement and related projects or will forfeit all MCSAP funds based on border-related activities.

30. In the case that a State meets all MCSAP requirements and funds operation and maintenance costs associated with innovative technology deployment with MCSAP funds, the State agrees to comply with the requirements established in 49 C.F.R. subpart D.

Date 7/08/2021

Signature 

UNIFORM ARREST REPORT AFFIDAVIT OF COMPLAINT

SPN	Date Arrested	Time Arrested	Arrestee #	Sector / District	Warrant Signed By	
626945	11/22/2023	5:26 AM	1		☐ Officer ☐ Victim ☐ Both	☐ Original Charge ☑ Warrant Service

Location Of Arrest	Location Of Incident (If different from arrest)	CPD Number
5741 HIGHWAY 153 CHATTANOOGA TN 37343		

	Arresting Agency Name	Arresting ORI	Arresting Agency ID Num	Jail/Arrest Number	Arresting Complaint Number
ARRESTING AGENCY	HAMILTON COUNTY SHERIF	TN 0330000	1		23-045719

	Reporting Agency Name	Reporting ORI	Reporting Agency ID	T.B.I. Document#	Reporting Complaint Num
REPORTING AGENCY	HAMILTON COUNTY SHERIF	TN 0330000	1		

ARRESTEE	(OfficeOnly) Last Name	First Name	Middle Name	Alias/Maiden/Nickname
	TULIS, DAVID J			

Last name	First Name	Middle Name	Age	Sex	Race	Date Of Birth	Ethnicity	Resident Status	Under Age 18
TULIS, DAVID			64	M	W	6/9/1959	N	Resident	

Height	Weight	Hair	Eyes	Marks, Scars, Tatoos, Physical Defects	Social Security Number	Driver License ID Number	State
602	160	BRO	GRN		[redacted]	061252193	TN

Home Address	City	State	Zip	Business Name/Address	City	State	Zip
10620 BRICKHILL LANE	SODDY-DAISY	TN	37379				

Home Phone	Place Of Birth	F.B.I. or S.I.D. Number	Business Phone	Type Of Arrest	Multiple Clearance	Cleared
423-316-2680				T		

Armed with: Describe weapon (serial#	Make	Model	Caliber)	Armed with: Describe weapon (serial#	Make	Model	Caliber)
Code: 01 auto	336-09482	RUGER	SR9C	9m Code: auto			

Offense	TIBRS	Status	Def Used	Location	Criminal Activity	Bias	Gang: Activity	Type	Name
		C					1.		
							2.		

#	Suspected Drug Type	Estimated Qty	Measurement
1			
2			
3			

IF MARIJUANA COMPLETE THE FOLLOWING
☐ Indoor ☐ Outdoor ☐ Both
Num Of Plots | Latitude | longitude

Property Or Evidence Description:
9MM AMMUNITION

Receipt Number

CODE: C-Complaint V-Victim W-Witness P-Parent G-Guardian ***Obtain information from warrant if available***

Code	Last Name	First Name	Mid	DOB	Age	Sex	Race	Home or Business Address	Phone Number

VEHICLE: YR | Make | Model | Style | Color(s) | License | State | Year | Type

VIN	☐ Parked and Locked ☐ Towed	Vehicle can be located at:

CHARGE	DOCKET #	CHARGE	DOCKET #	CHARGE	DOCKET #
LIGHT LAW VIOLATION	1930155	VIOLATION OF DRIVER S LICENS	1930156		

AFFIDAVIT OF COMPLAINT

In the General Sessions Court of Hamilton State of Tennessee vs. TULIS, DAVID

The undersigned affiant, after being duly sworn according to the law TULIS, DAVID whose name is otherwise unknown to the affiant, committed the offense of LIGHT LAW VIOLATION in the above county at (Location) 5741 HIGHWAY 153 CHATTANOOGA TN 37343 on or about 11/22/202 Further affiant makes oath that the essential facts constituting said offense, the sources of affiant's information, and the reasons why his/her information is believable concerning said facts are as follows:

23-045719-CPL. BENNETT 2755ON 11/22/2023 AT APPROXIMATELY 0626 HOURS, I, CORPORAL BENNETT WAS LEAVING LINEUP FROM THE WEST SECTOR AND WAS ENTERING HIGHWAY 153 SOUTH. I OBSERVED A GREEN TOYOTA RAV 4 TRAVELING SOUTH BOUND WITH A BROKEN PASSENGER TAILLIGHT IN WHICH WHITE LIGHT COULD BE SEEN. I CONDUCTED A TRAFFIC STOP OF THE VEHICLE IN THE 5100 BLOCK OF HIGHWAY 153. UPON PERSONAL CONTACT WITH THE DRIVER (DAVID TULIS), DEPUTIES IDENTIFIED THEMSELVES AND THE REASON FOR THE TRAFFIC STOP. MR. TULIS IMMEDIATELY BEGAN TO RECORD WITH HIS PHONE FROM INSIDE THE VEHICLE AND ATTEMPTED TO REBUT THE VIOLATION AS AN UNLAWFUL DETENTION. I EXPLAINED THE TULIS HE MUST BE IN COMPLIANCE WITH TENNESSEE LAW WHILE OPERATING A VEHICLE ON PUBLIC ROADWAYS. I THEN ASKED FOR MR. TULIS' DRIVER'S LICENSE WHICH HE REFUSED TO PRODUCE. TULIS STATED HE DID HAVE A LICENSE, BUT DID NOT WANT TO GIVE IT TO ME. I ADVISED MR. TULIS I WOULD LIKE TO GET HIM ON HIS WAY, BUT I NEEDED HIS LICENSE TO IDENTIFY HIM AS THE DRIVER AND VIOLATOR. MR. TULIS AGAIN REFUSED SO AT THAT TIME I ASKED HIM TO STEP OUT OF THE VEHICLE WHICH HE DID. AT THIS TIME HE ADVISED HE WAS IN POSSESSION OF A WEAPON ON HIS HIP. A TERRY FRISK WAS DONE OF HIS - CONT. NEXT PAGE

If the defendant's charges is dismissed, a no true bill is returned by a grand jury, the defendant is arrested and released without being charged with an offense, or the court enters a nolle prosequi in the defendant's case, the defendant is entitled, upon petition by the defendant, having jurisdiction over the action, to the removal and destruction of all public records relating to the defendant.

D-Defendants:

Signature Arresting Officer/Affiant	Badge/ID
	2755
Signature Approving Supervisor	Badge/ID
NCIC/TIES Entries Clear Made By	Date

Sworn to before me this 11/22/2023

Judge-Court Of General Sessions

Vince Dean, Clerk, Criminal Div.
General Sessions Court

By _____
Court Clerk/Deputy Clerk

Arresting Officer BENNETT 8 2755

Exhibit 2

[illegible] ARREST REPORT AFFIDAVIT OF COMPLAINT

SPN	Date Arrested	Time Arrested	Arrestee #	Sector / District	Warrant Signed By	
626945	11/22/2023	6:26 AM	1		☐ Officer ☐ Victim ☐ Both	☐ Original Charge ☑ Warrant Service

Location Of Arrest	Location Of Incident (If different from arrest)	CPD Number
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	Arresting Agency Name	Arresting ORI	Arresting Agency ID Num	Jail/Arrest Number	Arresting Complaint Number
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	Reporting Agency Name	Reporting ORI	Reporting Agency ID	T.B.I. Document#	Reporting Complaint Num
REPORTING AGENCY	HAMILTON COUNTY SHERIF	TN 0330000	1		

ARRESTEE	(Office Only) Last Name	First Name	Middle Name	Alias/Maiden/Nickname
	TULIS, DAVID J			

Last name	First Name	Middle Name	Age	Sex	Race	Date Of Birth	Ethnicity	Resident Status	Under Age 18
TULIS	DAVID		64	M	W	6/8/1959	N	Resident	

Height	Weight	Hair	Eyes	Marks, Scars, Tatoos, Physical Defects	Social Security Number	Driver License/ID Number	State
602	160	BRO	GRN		[redacted]	061252193	TN

Home Address	City	State	Zip	Business Name/Address	City	State	Zip
10520 BRICKHILL LANE	SODDY-DAISY	TN	37379				

Home Phone	Place Of Birth	F.B.I. or S.I.D. Number	Business Phone	Type Of Arrest	Multiple Clearance	Cleared
423-316-2680				T		

Armed with: Describe weapon (serial# Make Model Caliber)	Armed with: Describe weapon (serial# Make Model Caliber)
Code: 01 auto 336-09482 RUGER SR9C 9m	Code: auto

Offense	TIBRS	Status	Def Used	Location	Criminal Activity	Bias	Gang: Activity Type Name
		C					1.
							2.

#	Suspected Drug Type	Estimated Qty	Measurement
1			
2			
3			

IF MARIJUANA COMPLETE THE FOLLOWING
☐ Indoor ☐ Outdoor ☐ Both
Num Of Plots Latitude longitude

Property Or Evidence Description:
9MM AMMUNITION
Receipt Number

CODE: C-Complaint V-Victim W-Witness P-Parent G-Guardian ***Obtain information from warrant if available***

Code	Last Name	First Name	Mid	DOB	Age	Sex	Race	Home or Business Address	Phone Number

VEHICLE: YR Make Model Style Color(s) License State Year Type

VIN ☐ Parked and Locked ☐ Towed Vehicle can be located at:

CHARGE	DOCKET #	CHARGE	DOCKET #	CHARGE	DOCKET #
LIGHT LAW VIOLATION	1930155	VIOLATION OF DRIVER'S LICENS	1930156		

AFFIDAVIT OF COMPLAINT In the General Sessions Court of Hamilton State of Tennessee vs TULIS, DAVID

The undersigned affiant, after being duly sworn according to the law TULIS, DAVID whose name is otherwise unknown to the affiant committed the offense of LIGHT LAW VIOLATION in the above county at (Location) 5741 HIGHWAY 153 CHATTANOOGA TN 37343 on or about 11/22/202 Further affiant makes oath that the essential facts constituting said offense, the sources of affiant's information, and the reasons why his/her information is believable concerning said facts are as follows .

WOULD NOT BE VIOLATING HIS CONSTITUTIONAL RIGHTS

If the defendant's charge is dismissed, a no true bill is returned by a grand jury, the defendant is arrested and released without being charged with an offense, or the court enters a nolle prosequi in the defendant's case, the defendant is entitled upon petition by the defendant to the court having jurisdiction over the action, to the removal and destruction of all public records relating to the case without cost to the defendant.
O-Defendants:

Signature Arresting Officer/Affiant	Badge/ID
	2755
Signature Approving Supervisor	Badge/ID
NCIC/TIES Entries/Clear Made By	Date

Arresting Officer BENNETT, B 2755

Sworn to before me this 11/22/2023

Judge-Court Of General Sessions

Vince Dean, Clerk, Criminal Div
General Sessions Court

By _____

Court Clerk/Deputy Clerk

Hamilton County Sheriff's Office
TN

Bennett aff.

Case #:23-045719 Arrest #: HC23110362A

Narrative (1)

INCIDENT NARRATIVE

Exhibit 3

11/22/2023

23-045719
Cpl. Bennett 2755

On 11/22/2023 At approximately 0626 hours, I, Corporal Bennett was leaving lineup from the West Sector and was entering Highway 153 South. I observed a green Toyota Rav 4 traveling south bound with a broken passenger taillight in which white light could be seen. I conducted a traffic stop of the vehicle in the 5100 Block of Highway 153. Upon personal contact with the driver (David Tulis), Deputies identified themselves and the reason for the traffic stop. Mr. Tulis immediately began to record with his phone from inside the vehicle and attempted to rebut the violation as an unlawful detention. I explained the Tulis he must be in compliance with Tennessee Law while operating a vehicle on public roadways. I then asked for Mr. Tulis' driver's license which he refused to produce. Tulis stated he did have a license, but did not want to give it to me. I advised Mr. Tulis I would like to get him on his way, but I needed his license to identify him as the driver and violator. Mr. Tulis again refused so at that time I asked him to step out of the vehicle which he did. At this time he advised he was in possession of a weapon on his hip. A Terry frisk was done of his person and at which time a Ruger SR9C was discovered loaded in a holster on his right hip. The weapon was secured and checked for stolen through NCIC. During the Terry Frisk Deputies felt an unusual object in Tulis' left pocket. I asked his permission to enter the poket to identify the object which he stated was a rotary phone dial. Due to Deputies', and Officer's safety present at the scene I entered the pocket due to such object being used as explosive initiators. Once the item was identified as a rotary face with keys they were placed back into the pocket. Tulis again refused to cooperate at which time he was placed into custody for the equipment violation, and failure to produce identification. At this time a search incident to arrest was conducted of his person and the vehicle. R&D wrecker service was called as next district to take possession of the vehicle. Mr. Tulis' firearm was placed into property at the West Sector Property Room. Tulis was advised of this at the appropriate time. Mr. Tulis was Mirandized which he refused to acknowledge and then attempted to again rebut his detention. I advised Tulis he has originally wished to remain silent and see a Magistrate and I would not be violating his constitutional rights.

Officer (2)

Arresting Officer:	Bennett, Brandon (2755hs)
APPROVING Officer:	Merritt, Ginger (gmerritt2)

REPORTS

OF CASES

ARGUED AND DETERMINED

IN THE

Supreme Court of Tennessee

FOR THE YEARS

1871-2.

JOSEPH B. HEISKELL,
REPORTER.

VOLUME III.

A NEW EDITION WITH SUBSEQUENT CITATIONS

BY

ROBERT T. SHANNON,
OF THE NASHVILLE BAR.

LOUISVILLE KY.:
FETTER LAW BOOK COMPANY.
1902.

TENNESSEE CASES

—WITH—

Notes and Annotations

BEING REPORTS OF CASES ARGUED AND DETERMINED IN THE SUPREME COURT OF TENNESSEE, NOT HERETOFORE REPORTED, AND ALSO THE CASES CONTAINED IN THOMPSON'S CASES AND THE LEGAL REPORTERS NOT REPORTED IN THE REGULAR SERIES OF TENNESSEE REPORTS

—BY—
ROBERT T. SHANNON
Of the Nashville Bar

IN THREE VOLUMES

VOLUME III

PUBLISHERS
THE BALDWIN LAW BOOK COMPANY
Incorporated
LOUISVILLE, KENTUCKY
1916

with the law. The testator might have used the words, "home tract," or "home place," or "the tract of land on which he resides"—or words of boundary or other words designating more certainly his intention.

But the will speaks from his death—and he does not use the words, my homestead—but "my wife's homestead," which we think indicates his intention to let the law carve out the homestead for his wife, and that he used the words, "my wife's homestead" in their technical sense, meaning the land, mansion, and its appurtenances which the law secures to her.

We therefore hold that the chancellor erred in his construction of this clause of the will, or so much thereof as undertakes to declare what the testator meant by the use of the word homestead.

In all other respects than as herein indicated the decree will be affirmed. The costs will be paid by complainant out of the trust fund in his hands.

DISSENTING OPINION.

Turney, J., delivered a dissenting opinion, saying: I dissent from so much of the opinion as disposes of the question of homestead.

JOHN W. PHILLIPS v. W. G. LEWIS, TAX COLLECTOR, ETC.

Nashville, January Term, 1877.

1. CONSTITUTIONAL LAW. Constitution supreme law of the land, and constitutional questions demand grave consideration.

Constitutional questions in a republican form of government like ours, always demand grave consideration. The constitution of our state is not to be lightly esteemed, but must be held, both in great and small matters, to be the supreme law of the land. (Pp. 237, 251.)

2. SAME. Freedom guaranteed, and limitations imposed.

Our constitutions, state and federal, embody the great guarantees for freedom of the citizen that have been wisely wrought out by the experience of ages past. Not only this, but they contain the limitations which the people have imposed upon their official agents as well as upon themselves through their representatives in our legislature, which cannot be disregarded. (P. 237.)

3. SAME. Legislative power unlimited except as forbidden by the constitution; limitations imposed are imperative, and acts violative thereof are void.

It is true, as an axiom admitted everywhere by the courts of the United States, that the legislature of a state may exercise all legitimate powers appertaining to the government of a free people representing as it does the sovereign will of such a people, except what is expressly or by fair implication forbidden by the constitution of such state, yet limitations therein imposed must always be held as imperative, the supreme law of the land, which no legislature can disregard. If it should be done, then it is the duty of any or every court in the land to declare such act void as beyond the power of the legislature and in violation of the embodied will of the people as expressed in their constitution of government. (P. 237.)

4. SAME. All laws to be constitutionally tested, and if forbidden by the constitution, to be held void.

Every act of the legislature, when before our courts for interpretation or application, must be brought to the test as to whether its provisions are in accord with the requirements of the constitution. If the law be forbidden by that instrument, the enactment must be held void, regardless of all other considerations. (P. 238.)

5. SAME. Ownership of property cannot be taxed as a privilege, but the business in which it is used may be taxed as a privilege.

The legislature cannot, under our constitution, declare the simple enjoyment, possession, or ownership of property of any kind a privilege, and tax it as such. It may declare the business, occupation, vocation, calling, pursuit, or transaction, by which the property is put to a peculiar use for a profit to be derived from the general public, a privilege, and tax it as such, but it cannot tax the ownership itself as a privilege. The ownership of the property can only be taxed according to value. (P. 245.)

6. SAME. Same. Dogs may be taxed as other property, but the ownership of them cannot be taxed as a privilege.

Dogs are property, and under the constitutional provision that "all property shall be taxed according to its value, that value to be ascertained in such manner as the legislature shall direct, so that taxes shall be equal and uniform throughout the state," dogs may be taxed as such, if taxed according to value as other property, but they cannot be taxed at so much per head for the privilege of keeping them, regardless of value. A dog is property, notwithstanding the fact he is not property of general use, or has no market value. (Pp. 245, 246.) [In the case of the State v. Brown, 9 Bax., 53, 56, it was held that a dog, if he have

an owner, is personal property, and if of any value, is the subject of larceny. See Wheatley v. Harris, 4 Sneed, 468; Citizens' Rapid Transit Co. v. Dew, 16 Pickle, 322, 325; Sentell v. Railroad, 166 U. S., 698 (L. ed., Book 41, p. 1169.]

7. SAME. Same. Same. An enactment taxing dogs for the privilege of keeping them is unconstitutional and void.

A revenue act declaring the keeping of dogs a privilege, and taxing the owner or harborer of dogs so much per head for the privilege of keeping or harboring them, is a tax on the simple ownership of property, or the harboring of it, as a privilege regardless of value, and not a tax upon any peculiar use of it for profit to be derived from the general public, nor a tax upon a vocation, calling, or pursuit as a privilege, and is therefore unconstitutional and void. (Pp. 238, 239.)

Cited and held unconstitutional: Act 1875, ch. 67 [repealed by act 1877, ch. 8].

8. STATUTES. Body of act may show one of two objects in title thereof to be the leading object and the other the incident or result.

Where the title of an act is "An act to increase the revenue of the state, and to encourage wool growing," it indicates two objects, namely, the increase of state revenue and the encouragement of wool growing; but where the body of the said act shows that the leading object is the increase of the revenue of the state, and that the encouragement of wool growing is only an incident or probable result of the leading object of the enactment, the act must be treated as a revenue act, one in which the legislature intended and has exercised the taxing power, and not an act in the appropriate exercise of the police power of the State. (Pp. 237, 250.)

Cited and construed: Acts 1875, ch. 67 [repealed by act 1877, ch. 8].

9. PRIVILEGES. Definition of the term "privilege" as used in the state constitution.

The settled judicial construction, interpretation, and definition of the term "privilege" at the time of the adoption of our constitution in 1870, in which sense the term was used in that instrument, was, "the exercise of an occupation or business, which requires a license from some proper authority, designated by a general law, and not open to all, or any one, without such license." The essential element of the definition is occupation and business, and not the ownership simply of property, or its possession or keeping it. The tax is on the occupation, business, pursuits, vocation, or calling, it being one in which a profit is supposed to be derived by its exercise from the general public, and not a tax on the property itself, or the mere ownership of it. (Pp. 242, 243.)

Cited with approval: Mabry v. Tarver, 1 Hum., 94; Cate v. State, 3 Sneed, 121; State v. Schlier, 3 Heis., 283; French v. Baker, 4 Sneed, 193 [see Robertson v. Heneger, 5 Sneed, 258; Columbia v. Guest, 3 Head, 414; Jenkins v. Ewin, 8 Heis., 475; Clarke v. Montague, 3 Lea, 277; Dun v. Cullen, 13 Lea, 204; Railroad v. Harris, 15 Pickle, 702].

Cited and construed: Code (1858 and T. & S.), sec. 550; M. & V. Code, secs. 604, 617; Shannon's Code, secs. 692, 712.

10. SAME. Same. Legislature cannot declare anything else not included in the definition a privilege and tax it as such, and destroy ad valorem and uniformity of taxation.

To assume as correct the proposition argued, that whatever the legislature shall so declare is a privilege, is to make the clause of the constitution, providing that "all property shall be taxed according to its value, that value to be ascertained in such manner as the legislature shall direct, so that taxes shall be equal and uniform throughout the state" (const., art. 2, sec. 28) as conferring a power, or limiting or defining a power in the legislature, useless, inoperative, and absurd. If the power conferred to tax in this mode is only equivalent to the will or discretion of the legislature, then this clause of the constitution is practically a nullity, ceases to be any rule, or to operate at all over the subject, but only the will of the legislative body would be supreme over the question so that in fact anything and all property could be taxed exclusively in this way, and thus the rule of taxation according to value be annulled. This cannot be the proper construction of the said clause under consideration. (Pp. 244, 245.)

11. SAME. Actually issued license or tax receipt only evidence of the grant of the privilege, and not an essential feature of it.

It seems that it is not an essential feature of a privilege that an actual license be issued to the party, for it is only the evidence of the grant of the right to follow the occupation or business, and while the usual and perhaps universal incident to such grant, yet a tax receipt even is or may be the evidence of the grant; still the thing declared to be a privilege is the occupation or business, the license but the incident to its engagement, prescribed by statute, assuming, however, that the license in one form or the other is to be had. (P. 243.)

12. POLICE POWERS OF THE STATE. Different from taxing power, though taxes may tend to reach same end in some cases.

The police power of the state is a very different one from the taxing power, in its essential principles, though the taxing power, when properly exercised, may indirectly tend to reach the end sought by the other in some cases. (P. 246.)

13. SAME. Same. Privilege and license laws not an exercise of police powers, when.

Where revenue is the leading object of the privilege and license laws, though they may, as a mere incident or result thereof, to some extent, in some cases, as in that of the sale of intoxicating liquors, check or prevent the business, it does not follow that because this effect may in some

degree follow, that it is the end of the law, nor that it is done in the exercise of the police power of the state. (Pp. 250, 251.)

14. SAME. Based on certain maxims.

The police power of the state is based on the maxims that a man must so use his own as not to do wrong to another, that the individual citizen shall so enjoy his own rights as not thereby to infringe upon the rights of others, that the interest and rights of the individuals or a class of individuals is to be made subservient to the higher interest of the whole or a majority of the people of the state, whenever the minor interest shall conflict in the judgment of the legislature with that of the greater. (Pp. 246, 247.)

15. SAME. Same. Principle on which founded.

The police power of the state is a principle growing out of the nature of well ordered civil society, that every holder of property, however absolute and unqualified may be his title, holds it under the implied liability that his use of it may be so regulated that it shall not be injurious to the equal enjoyment of others having an equal right to the enjoyment of their property, nor injurious to the rights of the community. Rights of property, like all other social and conventional rights, are subject to such reasonable limitations in their enjoyment as shall prevent them from being injurious, and to such reasonable restraints and regulations established by law as the legislature, under the governing and controlling power vested in them by the constitution, may think necessary and expedient. (P. 247.)

Cited with approval: Commonwealth v. Alger, 7 Cush., 53, 84, 85.

16. SAME. May be exercised in the suppression, repression, and regulation of dogs, and in other instances.

In the exercise of the police power of the state, the legislature may, by a proper enactment, declare the keeping of dogs a nuisance, or limit the number to be kept, or particular species of them with known tendencies to do injury by devouring sheep; it may impose penalties for keeping such animals, to be enforced by fine or otherwise, on conviction; it may regulate the manner in which such animals shall be kept, as by forbidding them to be allowed to go at large except when in use and under control of competent persons, or require them to be kept muzzled or collared so as to be incapable of doing mischief, and, in fact, may make whatever kind of regulation or requirement in this direction that may be adequate to the end to be attained; for instance, the protection of that valuable and increasing industry, wool growing, in our state. Several instances of the exercise of the police power are given in the text and authorities cited. (Pp. 247, 249, 251.) [Our statues against sheep killing dogs. See Shannon's Code, secs. 2871-2873, 6527, 6528.]

Cited and construed: Acts 1875, ch. 67, sec. 4; acts 1865-66, ch. 3, sec. 1; T. & S. Code, sec. 4665a; Shannon's Code, sec. 6527; M. & V. Code, sec. 5428.

Cited with approval: Cooley's Const. Lim., 572 et seq., 594, 595 (6th ed., 704 et seq., 712 et seq., 739-741); 100 Mass., 136.

17. SAME. No destruction of property without a previous adjudication.

Except in the well known cases, recognized at common law, of great emergencies, such as the demolition of a house in a city to check the progress of a fire, etc., neither dogs nor any other property shall be destroyed without a previous adjudication to that effect. In the case of the destruction of any property, with the exception stated, the rule of the constitution of our state must be followed, which is that "no man shall be . . . deprived of his life, liberty, or property, but by the judgment of his peers, or the law of the land." (Pp. 243, 249, 250.)

Cited and construed: Const., art. 1, sec. 8 [see art. 1, sec. 21, and art. 11, sec. 8].

Cited and disapproved as to destruction of dogs without previous adjudication: 100 Mass., 136.

18. SAME. Same. "The law of the land" and "due process of law" defined.

The phrase "the law of the land," as used in the constitution, is equivalent to the phrase "due process of law," and does not mean a statute passed for the purpose of working wrong, for such construction would render the restriction absolutely nugatory, and turn this part of the constitution into mere nonsense, and would but be to say to the legislature, "You shall not do the wrong, unless you choose to do it;" but the meaning is, that no member of the state shall be disfranchised or deprived of any of his rights and privileges, unless the matter shall be adjudged against him upon trial had according to the course of the common law. It must be ascertained judicially that he has forfeited his rights, before he can be deprived of them. It cannot be done by mere legislation, but only by adjudication, with the well known exception mentioned and referred to in the last syllabus. (Pp. 243, 249, 250.) [See Const., art. 1, sec. 8, and notes, and Henley v. State, 14 Pickle, 667.]

Cited with approval: Taylor v. Porter, 4 Hill (N. Y.), 140; Sedgw. on Const. and Stat. Law, 478 et seq.

FREEMAN, J., delivered the opinion of the court:

This suit is brought to recover from the tax collector of Giles county, two dollars paid as a tax on two dogs, one by the agreed case is the property of Phillips, the other is a "stray dog" of no value, which was on the plaintiff's premises, and harbored by plaintiff. The tax was paid under protest, and this suit brought, no doubt, for the purpose of testing the question of the constitutionality of the act of the legislature on this subject.

The act of the legislature of March 22d, 1875 [Acts 1875, ch. 67], is as follows: Section 1. "That hereafter the keeping of dogs shall be a privilege, which shall be taxed as follows: Every owner or harborer of a dog or dogs shall pay one dollar on each dog; for the privilege of keeping a bitch the owner or harborer of the same shall pay a tax of five dollars for each bitch so kept except spayed bitches, which shall be taxed as other dogs, to be collected and paid into the treasury as other moneys by the revenue collector."

Section 2 provides for the enumeration and assessment by the tax assessor of the dogs and bitches in their districts at the time he assesses other property, and that the revenue collector shall collect the taxes so assessed. Each person is requested to state on oath to the assessor the number and kind of dogs owned by himself.

The third section of the act makes it a misdemeanor to fail to pay the taxes so assessed within ten days after demand made by the tax collector or his deputy, and on conviction, he is to be fined not less than five dollars and costs for each dog or bitch not paid for, with a proviso that the party may be relieved from payment of the tax by immediately killing the dog upon demand made for the tax. These are all the provisions bearing on the question before us.

It might seem at first glance that this is a case of small importance, involving, as it does, but the paltry sum of two dollars, but upon consideration it will be readily seen that it involves not only large interest to the state, but also to the people who pay the tax. It is stated by the attorney-general that an assessment of $266,000 has been made on the dogs of the state, from which has already been derived to the treasury the sum of $120,000. These figures show the gravity of the questions presented in this aspect. In addition, the case presents several grave constitutional questions as to the powers of the legislature

that (to say the least of them) are not of ready solution. Constitutional questions in a republican form of government like ours, always demand grave consideration. Our constitutions, state and federal, embody the great guarantees for freedom of the citizen that have been wisely wrought out by the experience of ages past. Not only this, but they contain the limitations which the people have imposed upon their official agents, as well as upon themselves, through their representatives in our legislature, which cannot be disregarded. It is true as an axiom admitted everywhere by the courts of the United States, that the legislature of a state may exercise all legitimate powers appertaining to the government of a free people, representing, as it does, the sovereign will of such a people, except what is expressly, or by fair implication, forbidden by the constitution of such state, yet limitations therein imposed must always be held as imperative, the supreme law of the land which no legislature can disregard. If it should be done, then it is the duty of any or every court in the land to declare such act void as beyond the power of the legislature, and in violation of the embodied will of the people, as expressed in their constitution of governments. With these views of the gravity of the questions before us, we proceed to their solution.

It is obvious from the sections we have quoted that this act must be treated as a revenue bill, one in which the legislature intended and has exercised the taxing power. The title of the act is, "An act to increase the revenue of the state, and to encourage wool growing," thus indicating so far as this goes, two objects, the leading one, however, the increase of the revenue of the state. The body of the act shows the other object was deemed but an incident or probable result of the leading object of the enactment. The first section emphatically declares the keeping of dogs a privilege, and then proceeds to prescribe the amount of tax to be paid on this privilege, and the money should be

ACTS

OF THE

STATE OF TENNESSEE

PASSED BY THE

FIFTY-FOURTH GENERAL ASSEMBLY

1905

PUBLISHED BY AUTHORITY.

NASHVILLE, TENN.:
BRANDON PRINTING COMPANY.
1905.

CHAPTER 173.

Senate Bill No. 246.

AN ACT to require owners of automobiles to register and number the same; to regulate the operation thereof; to provide for the recovery of damages for injuries caused by the unlawful running thereof; and to fix the penalty for the violation of the provisions of this Act.

Register with Secretary of State.

Section 1. *Be it enacted by the General Assembly of the State of Tennessee,* That before any owner of any automobile, locomobile, motorcycle, or any other vehicle of like character, other than street railway cars hereinafter termed "automobile," used for the purpose of transporting or conveying persons or freight, or for any other purpose, whether such automobile is propelled by steam, gasoline, or electricity, or any other mechanical power, shall operate or permit to be operated any automobile upon any street, road, highway, or any other public thoroughfare, such owner shall register such automobile with the Secretary of State, giving the motive power, and make of the same, together with the name and residence address of such owner, and shall, upon the payment of a fee of two ($2.00) dollars, receive from the Secretary of State a certificate showing such registration, which certificate shall be numbered as issued in consecutive order, beginning with "100," and shall thereafter, upon the payment of a fee of one ($1.00) dollar, register said certificate with the County Court Clerk of the county in which such owner may reside.

Whenever the ownership of such automobile shall become changed, by sale or otherwise, the purchaser thereof shall be required to notify the Secretary of State of such transfer and receive a certificate in his name, for which he shall pay a fee of one ($1.00) dollar, and he shall be required to register such certificate with the County Court Clerk of the county in which he resides, and pay therefor a fee of fifty (50) cents.

To be numbered —how.

Sec. 2. *Be it further enacted,* That a number in Arabic numerals of not less than three inches in height and one and one-half inches in width, corresponding to that assigned to such automobile by the Secretary of State in the certifi-

CHAPTER 173.

SENATE BILL No. 246.

AN ACT to require owners of automobiles to register and number the same; to regulate the operation thereof; to provide for the recovery of damages for injuries caused by the unlawful running thereof; and to fix the penalty for the violation of the provisions of this Act.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That before any owner of any automobile, locomobile, motorcycle, or any other vehicle of like character, other than street railway cars hereinafter termed "automobile," used for the purpose of transporting or conveying persons or freight, or for any other purpose, whether such automobile is propelled by steam, gasoline, or electricity, or any other mechanical power, shall operate or permit to be operated any automobile upon any street, road, highway, or any other public thoroughfare, such owner shall register such automobile with the Secretary of State, giving the motive power, and make of the same, together with the name and residence address of such owner, and shall, upon the payment of a fee of two ($2.00) dollars, receive from the Secretary of State a certificate showing such registration, which certificate shall be numbered as issued in consecutive order, beginning with "100," and shall thereafter, upon the payment of a fee of one ($1.00) dollar, register said certificate with the County Court Clerk of the county in which such owner may reside. Register with Secretary of State.

Whenever the ownership of such automobile shall become changed, by sale or otherwise, the purchaser thereof shall be required to notify the Secretary of State of such transfer and receive a certificate in his name, for which he shall pay a fee of one ($1.00) dollar, and he shall be required to register such certificate with the County Court Clerk of the county in which he resides, and pay therefor a fee of fifty (50) cents.

SEC. 2. *Be it further enacted,* That a number in Arabic numerals of not less than three inches in height and one and one-half inches in width, corresponding to that assigned to such automobile by the Secretary of State in the certifi- To be numbered —how.

CHAPTER 471.

HOUSE BILL No. 622.

(By Mr. Worley.)

AN ACT to regulate the operation of automobiles, to prescribe some of the duties of chauffeurs, to provide for the recovery of damages for injuries caused by the unlawful running thereof, and to fix the penalty for the violations of the provisions of this Act, and to provide a privilege tax on automobiles for road-repairing purposes in counties having a population of not more than 28,150 nor less than 28,100 according to the Federal census of 1910 or any subsequent Federal census.

Applies to Sullivan County

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That before any owner of any automobile, locomobile, motor cycle, or any other vehicle of like character, other than street railway cars, hereinafter termed "automobile," used for the purpose of transporting or conveying persons or freight or for any other purpose, whether such automobile is propelled by steam, gasoline, or electricity, or any other mechanical power, shall operate or permit to be operated any automobile upon any street, road, highway, or any other public thoroughfare, such owner shall comply with the provisions of Section 1 and Section 2 of Chapter 173 of the Acts of 1905.

SEC. 2. *Be it further enacted,* That no automobile shall be run or driven upon any road, street, highway, or other public thoroughfare at a rate of speed in excess of eighteen miles per hour; *provided,* that any municipality coming under the provisions of this Act shall have the authority to prescribe a lower maximum rate of speed within its corporate limits.

SEC. 3. *Be it further enacted,* That whenever any person riding or driving a horse or horses upon any street, road, highway, or other public thoroughfare shall signal the chauffeur or driver of an automobile for the purpose of warning or notifying him that his horse or horses are frightened or are about to be frightened by the automobile, it shall then be the

duty of such person driving such automobile to bring the same to a full stop until such horse or horses shall have passed, a sufficient signal shall be the raising of the right hand; and upon approaching any horse or horses from the rear, it shall be the duty of the driver of any automobile to slow down his rate of speed, and make known his approach to such person driving or riding such horse or horses by ringing a bell or sounding a horn.

SEC. 4. *Be it further enacted,* That whenever any suit for damages is brought in any court of competent jurisdiction for injuries to persons or property caused by the running of any automobile in willful violations of the provisions of this Act, there shall be a lien upon such automobile for the satisfaction of such recovery as the court may award, whether at the time of the injury such automobile was driven by the owner thereof or by his chauffuer, agent, employee, servant, or any other person using the same by loan, hire, or otherwise.

SEC. 5. *Be it further enacted,* That a failure on the part of any person or persons to observe and comply with the provisions of this Act shall be deemed a misdemeanor, punishable by a fine of not less than twenty-five nor more than one hundred dollars. This Act shall apply only to counties having a population of not more than 28,150 nor less than 28,100, according to the Federal census of 1910 or any subsequent Federal census.

SEC. 6. *Be it further enacted,* That each automobile run for hire shall pay a privilege tax of twenty ($20) dollars per annum, and that each automobile owned by individual or individuals and used for private or domestic purposes shall pay an annual privilege tax of ten ($10) dollars, to be paid to the County Court Clerk, and shall be used exclusively for the purpose of repairing the pike roads of such counties. This tax shall be in lieu of all other privilege taxes.

SEC. 7. *Be it further enacted,* That this Act take

effect from and after its passage, the public welfare requiring it.

Passed April 27, 1911.

A. M. LEACH,
Speaker of the House of Representatives.

N. BAXTER, JR.,
Speaker of the Senate.

Approved June 30, 1911.

BEN W. HOOPER,
Governor.

CHAPTER 472.

HOUSE BILL No. 693.

(By Mr. Cooper.)

AN ACT authorizing White County, Tenn., to issue bonds for building, extending, and improving turnpikes and public roads in said county upon an affirmative vote of the people, and to regulate the same, and to levy a tax and a sinking fund for the same, and for the appointment and payment of Commissioners and the regulation of same, and to provide machinery to be used in the work upon said turnpikes and public roads.

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That within twelve months from the passage of this Act the Commissioners of Election for White County, Tennessee, shall order an election in said county, giving at least twenty days' notice of same by publication in some newspaper published in said county, said election to be held by officers appointed for that purpose in each civil district of said county for the purpose of determining whether the qualified voters of said county are in favor of the issuance of coupon bonds not to exceed ninety thousand ($90,000) dollars for the purpose of building turnpikes and improvement of public roads of said county, and each voter who is a qualified voter at the date of said election to vote for Representatives in the General Assembly of the State of Tennessee shall be qualified to vote at said elec-

A COMPILATION

OF THE

TENNESSEE STATUTES

OF A GENERAL PUBLIC NATURE, IN FORCE ON THE FIRST DAY OF JANUARY, 1917, TOGETHER WITH WHICH ARE NOTED THE EXISTING LOCAL STATUTES

Edward J. Shannon Nashville Tenn.

COMPILED ON THE BASIS AND ARRANGEMENT OF THE CODE OF TENNESSEE, ENACTED IN 1858, WITH ANNOTATIONS SHOWING THE CONSTRUCTION OF THE STATUTES BY THE COURTS, AND ALSO THE DECISIONS UPON THE RELATED SUBJECTS

COMPILED, EDITED, AND ANNOTATED BY
ROBERT T. SHANNON

VOLUME I

TENNESSEE LAW BOOK PUBLISHING COMPANY
PUBLISHER
Nashville, Tennessee
1917

Each transient auctioneer in cities, towns, or taxing districts of 60,000 inhabitants or over, per week...	25 00
In cities, towns, or taxing districts of from 20,000 to 60,000 inhabitants, each, per week.....	10 00
In cities, towns, or taxing districts of less than 20,000 inhabitants, each, per week.....	5 00

1. **A privilege tax imposed upon auctioneers is not affected by interstate commerce laws, if no discrimination.**—See Const., p. 320, note 191.

2. **Registration is not constructive notice to auctioneer, when.**—The registration of a mortgage of personalty is not constructive notice to an auctioneer selling the mortgaged property. Frizzell v. Rundle, 4 Pickle, 396; Embry v. Galbreath, 2 Cates, 301; Smith v. Cross, 17 Cates, 175, 176.

3. **Auctioneer is not liable to third persons, when.**—An auctioneer is not liable to a third person for the value of goods sold on commission, where the proceeds have been paid over, without notice. Frizzell v. Rundle, 4 Pickle, 396; Fargason v. Ball, 1 Thomp., 140, 142, applying the same rule to a cotton factor.

AUTOMOBILES, GARAGE OR DEALERS.

In cities, towns, or taxing districts of 60,000 inhabitants or over, each, per annum.....$	100 00
In cities, towns, or taxing districts of 20,000 to 60,000 inhabitants, each, per annum.....	75 00
In cities, towns, or taxing districts of less than 20,000 inhabitants, each, per annum.....	30 00
Automobile agents and salesmen, each, per annum....	10 00
Provided, that it does not apply to agents or salesmen who pay a garage tax.	

AUTOMOBILES FOR HIRE OR RENT.

For each automobile for rent or hire, each, per annum, in each county.....$	10 00
For each sight-seeing car or truck, with capacity of ten to twelve people, per annum.....	15 00
For each sight-seeing car or truck, with capacity of more than 12 people per annum.....	20 00
For each automobile truck for hauling baggage, freight or express, 25 horsepower or less, each, per annum	15 00
For each automobile truck for hauling baggage, freight, or express, 45 horsepower or over, each, per annum	20 00
For each automobile ambulance where charge is made for same.....	10 00

1. **Constitutionality of act imposing privilege taxes upon automobiles in Davidson county, under federal census of 1910, is doubted.**—By Acts 1915 (Private), ch. 407, a privilege tax in counties having a population of from

149,000 to 190,000, by the federal census of 1910 or any subsequent federal census, is assessed on automobiles or motorcycles used for pleasure, to be placed to the credit of account for oiling turnpikes in said counties. Under the federal census of 1910, said act applies in Davidson county alone.

The constitutionality of this act is seriously doubted, upon five grounds, either of which may be fatal to its validity.

One fatal defect in the act is that its body is broader than its title. The title restricts the turnpike roads to be oiled to those under the supervision of the turnpike boards, while the body of the act makes no such restriction, but allows all turnpikes in said counties to be oiled, if it be effective at all for oiling any turnpikes.

Another fatal defect in said act arises from the fact that no provision whatever is made for the expenditure of said taxes or fund in the oiling of turnpikes. The county court clerk is required to pay these taxes to the county trustee to be placed by him to the credit of account for oiling turnpikes in said counties; but no mode whatever is prescribed for the expenditure of said fund in the oiling of turnpikes; and so far as this act is concerned, said taxes may accumulate a fund as long as the government stands, to be carried as a credit of account for oiling turnpikes, without any benefit whatever being derived therefrom. The act provides for the accumulation of a fund by taxation for a stated nominal purpose, without any provision for its expenditure for the accomplishment of the said purpose. This is equivalent to taxation for the accumulation of a fund for a stated purpose that is impossible of accomplishment, because no mode of expenditure thereof is provided for the stated purpose. This act must stand or fall by its own provisions; and the courts cannot take into consideration the fact that subsequent legislation may possibly provide for the proper expenditure of said fund in the oiling of turnpikes.

Another objection to said act is upon the ground of discrimination. In order to save said act from its unconstitutionality, on account of the objections stated to it, in the preceding paragraph, it must be construed as intended to raise or create a fund to be expended for the improvement of the turnpikes. There appears to be no reason for the discrimination in the use of automobiles and motorcycles for pleasure and in their use for business purposes. Their use for business purposes generally inflicts greater injury and detriment than their use for pleasure; and a discrimination by taxing their use for pleasure, and leaving them untaxed for business purposes, is without reason or just cause, and is vicious, so far as the purpose of taxation for raising a fund for the improvement of turnpikes is concerned. There is no public policy to be subserved in such discrimination. There is no reason or public policy in discouraging their use for pleasure and in encouraging their use for business purposes. The use for the one purpose is no more dangerous to the public than the use for the other. Such discrimination cannot be justified upon the ground that their use for pleasure is more injurious to the pikes than their use for business purposes. There appears to be no reason for the exercise of the police power in taxing such use for pleasure, and leaving such use for business purposes untaxed. Besides, it is often difficult to determine whether their use is for pleasure or business.

There is still another objection to said act. This tax purports to be a privilege tax imposed upon the mere use of automobiles and motorcycles for pleasure. A privilege tax cannot be imposed upon anything or any act, unless it constitutes a business, occupation, pursuit, or vocation. Such use for pleasure does not constitute a business, occupation, pursuit, or vocation. Pleasure-taking does not constitute a business, occupation, pursuit, or vocation, in the

sense of the definition of a taxable privilege; and, therefore, is not subject to privilege taxation. See Const., pp. 314, 315, notes 151–155. The tax purports to be a privilege tax, and it cannot be sustained as such, as above shown. Whether the tax may be sustained as taxation imposed upon an object of taxation not excluded from the power of the legislature, by the constitution, is not so clear. See Const., pp. 280–282, note 6. Can the legislature impose a privilege tax upon the mere taking of pleasure by the people, which is the exercise of an inalienable right, so long as it does not interfere with the rights of others? The taking of pleasure is of great benefit to humanity, and often a powerful agency for the restoration of health, as well as for the preservation of health.

The last objection to be noticed is that the act imposes what may be held to be excessive penalties for the nonpayment of the so called privilege taxes. The penalty of one thousand two hundred and fifty per cent, for the nonpayment of the said privilege tax on a motorcycle might be reasonably held to be excessive, and in violation of the state constitution (art. 1, sec. 16) and of the federal constitution (8th am.). See Const., pp. 145–147.

In view of these observations, the constitutionality of said act is doubted. —Ed.

2. Privilege taxes imposed upon automobiles in Sullivan county, under federal census of 1910; constitutionality of statute.—By Acts 1911 (Private), ch. 471, a certain privilege tax is imposed upon the operation of automobiles, and its violation is made a misdemeanor, in counties having a population of not more than 28150 nor less than 28100, according to the federal census of 1910 or any subsequent federal census, which act, under the federal census of 1910, applies in Sullivan county alone.

The validity, effectiveness, and constitutionality of this statute is doubted, upon the ground that no provision or mode whatever is made for the expenditure of said taxes in repairing the pike roads, but the taxes are required to be paid to the county court clerk who, so far as this act provides, may hold the same forever. The act provides that said taxes "shall be used exclusively for the purpose of repairing the pike roads of such counties." But the duty of expending this fund is not imposed upon the county court clerk or any one else.—Ed.

BAIL BONDS.

See Security Dealers and Loan Agents.

BASEBALL.

(Professional Leagues).

In counties of over 100,000 inhabitants, when admission fee is charged, each, per annum	$ 100 00
In counties of less than 100,000 and more than 50,000 inhabitants, when admission is charged, each, per annum	60 00
In counties of less than 50,000 and over 20,000 inhabitants, when admission fee is charged, each, per annum	40 00
In counties of less than 20,000 inhabitants, when admission fee is charged, each, per annum	10 00

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VOLUME II

TENNESSEE LAW BOOK PUBLISHING COMPANY
PUBLISHER
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1917

such station does not requalify within two months, he may, if there is a request for same, form a station elsewhere to take the place of the one disbanded. Nothing in this chapter shall, however, be construed to in any way interfere with the full use of the apparatus at any time by the owners of the same; provided, that while the said apparatus forms the equipment of a state station, it shall be available, as above set forth, for emergency or for drill and training. (1913, 1st ex. ses., ch. 38, sec. 7.)

"any other [business] purpose"

CHAPTER 33.

REGISTRATION OF AUTOMOBILES, AND THE REGULATION OF THEIR OPERATION.

3079a186. Registration of automobiles, etc., with secretary of state and county court clerk; fees therefor.—Before the owner of any automobile, motorcycle, auto truck, traction engine, or other vehicle of like character, used for the purpose of conveying persons or freight or for any other purpose, whether such vehicle is propelled by steam, gasoline, or electricity, or any other mechanical power, shall operate or permit to be operated, upon any street, road, highway, or any other public throughfare, or elsewhere in Tennessee, such owner shall register such vehicle with the secretary of state, giving the motor power or horse power and make of same together with the name and residence address of such owner, and shall upon payment of the following fees: For automobiles of more than four passenger seating capacity, $7.50; for automobiles of four passenger or less seating capacity, auto trucks, or traction engines, $5.00; for motorcycles, $2.50, receive from the secretary of state a certificate showing such registration, which certificate shall be numbered as issued in consecutive order, and shall thereafter, upon payment of a fee of $1.00, register said certificate with the county court clerk of the county in which the owner may reside, provided that if application shall be made for registration of an automobile or motorcycle under this section after the first of September in any year, the applicant shall be required to pay but one-half the registration fee hereinabove provided for. (1905, ch. 173, sec. 1; 1915, ch. 8, sec. 1.)

3079a187. Transfer certificate upon change of ownership, and its like registration; fees therefor.—Whenever the ownership of such vehicle shall become changed by sale or otherwise,

the purchaser thereof shall be required to notify the secretary of state of such transfer and receive a transfer certificate in his name for which he shall pay the following fees: For automobiles of more than four passenger seating capacity, $7.50; for automobiles of four passenger or less seating capacity, auto trucks, or traction engines, $5.00; for motorcycles, $2.50. He shall be required to register such certificate with the county court clerk of the county in which he resides and pay therefor a fee of 50 cents, and the registration shall not be considered completed until said registration with the county court clerk is made. (1905, ch. 173, sec. 1.; 1915, ch. 8, sec. 2.)

3079a188. Plate numbers to be furnished and displayed at both ends of automobile.—The owner of such vehicle is hereby required to display, in a conspicuous manner at both front and rear of such vehicle, a number of size, color, dimensions and character as the secretary of state may designate, provided that size and number of tag shall be the same each year. The tag shall show, in addition to the registration number of machine, the year and the abbreviation of Tennessee. Provided, further that the secretary of state shall furnish, without cost to the owner of the machine, a set of two number plates, and owners are required to use these number plates on their machine, and no other number plates shall be used. (1905, ch. 173, sec. 2; 1915, ch. 8, sec. 3.)

3079a189. Demonstration numbers for dealers and manufacturers; to be renewed annually; fees therefor.—Every dealer in, or manufacturer of, motor vehicles and traction engines, motorcycles, and auto trucks shall, instead of registering each motor vehicle and traction engines, motorcycles, and auto trucks owned by him, make application to and receive from said secretary of state a general distinguishing number or mark. This certificate and number shall be of different color, number and dimensions from that of an owner of a motor vehicle and traction engines, motorcycles and auto trucks above described in section 3079a186, and shall be known as a demonstration number and the same number may be used by said dealer or manufacturer upon each of the machines that he uses for demonstration purposes. Said dealer or manufacturer shall pay the secretary of state for such number the sum of $10. This number shall be renewed annually as other registrations and the annual registration fee shall be $10. (1915, ch. 8, sec. 4.)

3079a190. Annual registration and plate numbers; fees therefor.—Each owner of a motor vehicle shall annually, hereafter on or before the first day of January of each year, make a report upon a printed form furnished him by the secretary of state, giving the same information as required in the original registration and shall pay annually a fee as follows: For automobiles of more than four passenger seating capacity, $7.50; for automobiles of four passenger or less seating capacity, auto trucks, or traction engines, $5.00; for motorcycles, $2.50; and, upon payment of such fees, shall receive from the secretary of state a certificate showing such registration, which certificate shall carry the same number as that of the original certificate, and shall also receive from the secretary of state a set of two number plates on which shall, in addition to the registration number have the year and the abbreviation "Tenn." (1915, ch. 8, sec. 5.)

3079a191. Fees, less necessary expenses, to be paid into state treasury.—After deducting the necessary expenses incident to the collection of these fees, including cost of number tags, the secretary of state shall annually, on the first day of January, pay the amount so collected into the state treasury, taking the treasurer's receipt therefor. (1915, ch. 8, sec. 6.)

See sec. 1720a24.

3079a192. Dealers to report sales and names of purchasers.—Every dealer or other person selling an automobile, auto truck, traction engine, or motorcycle, either new or second-hand, to any person in the State of Tennessee, shall within three days from date of sale, notify the secretary of state of said sale, giving the name of purchaser, make and horsepower of machine. (1915, ch. 8, sec. 7.)

3079a193. Failure to make said report or to make registration is a misdemeanor; fine; inquisitorial powers.—Any person who fails or refuses to notify the secretary of state, of the sale of any motor vehicle as provided in the preceding section, or any person who fails or refuses to apply for registration or transfer certificate as provided by this chapter, shall be guilty of a misdemeanor and upon conviction, shall be fined not less than five dollars nor more than fifty dollars, together with all costs of said prosecution, and all grand juries are hereby given inquisitorial powers as to the enforcement of the foregoing sections of this chapter. (1915, ch. 8, sec. 8.)

Indictment for operating unregistered motorcycle in the county, without otherwise stating the place, is sufficient.—An indictment under this section

and the first section of this chapter, charging that the defendant unlawfully operated a motorcycle in the county where the indictment was found, without the proper registration of the same with the secretary of state, etc., without charging that he operated the same upon a street, road, highway, or any other public thoroughfare, is sufficient, because it is a violation of the statute to operate a motorcycle at all until duly registered; for its such operation "elsewhere" than on the streets, highways, etc., is declared to be unlawful by said statute. State v. Seinknecht, 188 S. W., 534.

3079a194. Invalidity of any part shall not affect the rest of this law.—In the event any section or sections, or portion of a section or sections, of the foregoing act shall be by the courts declared to be invalid, such holding of the court shall not invalidate or render ineffective the remainder of this act, and shall not affect the validity of the remainder of this act. (1915, ch. 8, sec. 9.)

See note under sec. 3052a36.

3079a195. Limited speed under statute and city ordinance.—No automobile shall be run or driven upon any road, street, highway, or other public thoroughfare at a rate of speed in excess of twenty miles per hour; provided, that any municipality shall have the authority to prescribe a lower maximum rate of speed within its corporate limits. (1905, ch. 173, sec. 3.)

1. **Operator running automobile in excess of statutory speed is guilty of negligence,** as a matter of law. Cochran v. Pavise, 1 Tenn. Civ. App., 8. See Lynde v. Browning, 2 Tenn. Civ. App., 262, 263, 264.

2. **Killing one with automobile run in excess of statutory speed is involuntary manslaughter.**—Where the defendant, while driving an automobile in excess of twenty miles per hour, in violation of this section, which is declared to be a misdemeanor by section 3079a198, killed a child who suddenly ran out in front of the automobile, he was guilty of involuntary manslaughter, because he was negligent in violating the statute; and he was not relieved by the negligence of the deceased, because the doctrine of contributory negligence does not apply to criminal acts. Lauterbach v. State, 5 Thomp., 603. See sec. 6444.

3079a196. Duties of automobile driver on meeting or passing horses being driven or ridden.—Whenever it shall appear than [that] any horse or horses, driven or ridden by any person or persons, upon any street, road, highway, or other public thoroughfare, is about to become frightened by the approach of any automobile from an opposite direction, it shall be the duty of such person driving such automobile to bring the same to a full stop until such horse or horses shall have passed; and upon approaching any horse or horses from the rear it shall be the duty of the driver of any automobile to slow down his rate of speed and make known his approach to such person or persons driving or riding such horse or horses, by ringing a bell or sounding a horn, and should such horse or horses appear to be frightened to stop such automobile for a time sufficient for

such person or persons to alight, if desired, and take hold of such horse or horses, or otherwise control the same. (1905, ch. 173, sec. 4.)

3079a197. Lien on automobile for damages.—Whenever any suit for damages is brought in any court of competent jurisdiction for injuries to person or property caused by the running of any automobile in willful violation of the provisions of this chapter, there shall be a lien upon such automobile for the satisfaction of such recovery as the court may award whether, at the time of the injury, such automobile was driven by the owner thereof or by his chauffeur, agent, employee, servant, or any other person using the same by loan, hire, or otherwise. (1905, ch. 173, sec. 5.)

1. **This lien is inferior to conditional vendor's rights.**—The lien given by this section is inferior to the conditional vendor's rights in the automobile, fixed before the collision or injury, and only the interest of the vendee is subject to such lien. Park-Harris Co. v. Tate, 8 Thomp., 509.

2. **Lien upon automobile for injuries** caused by the running thereof in willful violation of the provisions of law, whether such automobile be driven by the owner or his chauffeur, agent, or licensee, by his consent, express or implied. Lynde v. Browning, 2 Tenn. Civ. App., 262, 267-269.

3. **The words "or otherwise" do not include the operation of the automobile by a party who has stolen it**, or is operating it without the knowledge and consent of the owner; for these words must be construed as ejusdem generis with the preceding words "loan or hire" implying consent. Lynde v. Browning, 2 Tenn. Civ. App., 270.

4. **Presumption is that the operator of automobile is the agent of the owner,** and the burden of disproving this presumption is upon the owner. Lynde v. Browning, 2 Tenn. Civ. App., 268.

5. **Liability of head of family** for injuries caused by operation of his automobile by members of his family. Lynde v. Browning, 2 Tenn. Civ. App., 268, 269.

6. **Liability of owner of automobile for injuries caused by its operation** is for full damages when negligently operated by his agent, but where operated by his licensee his liability is limited to the value of the automobile to be recovered by enforcement of the lien; and no lien is created for injuries when the automobile is operated by a party who is neither the agent, servant, borrower, or bailee of the owner. Lynde v. Browning, 2 Tenn. Civ. App., 270.

7. **This statute is not unconstitutional** as depriving the owner of his property, without due process of law, by reason of the provisions of this section, as construed in the preceding notes. Lynde v. Browning, 2 Tenn. Civ. App., 262, 269-271.

8. **Minor is personally liable for negligence of his chauffeur and agent** in the operation of his automobile, when resulting in personal injuries to a third person, especially where the minor owner was present and giving directions, and acquiescing in the conduct of his such agent. Thrasher v. Bratton, 6 Tenn. Civ. App., 454, 455, 456.

9. **Owner is not liable for injuries inflicted by chauffeur,** upon his own mission, without knowledge of owner, and without his acquiescence. Lampley v. Fain, 6 Tenn. Civ. App., 519.

10. **Duties of automobile operator and passengers getting on and off street cars.**—It is the duty of an automobile operator, when approaching a

street car standing to receive or discharge passengers, to have his machine under control and to exercise due care; and persons alighting from the street car may assume that the automobile driver approaching from the rear will exercise due care; for pedestrians are charged with the duty of exercising ordinary care only, and are not required to look in all directions before crossing the street. Driver v. Card, 6 Tenn. Civ. App., 582, 585–589.

11. **Duty of automobile operator on the highway.**—Automobile operators must exercise vigilance at all times while on the highways, and when driving from the rear and approaching a horse-drawn vehicle, he must give notice of his approach; and whether proper notice was given and whether sufficient space was given for the passage of another vehicle, and whether suitable care was exercised in passing, are all questions for the jury. Allen v. Davie, 6 Tenn. Civ. App., 630.

3079a198. Failure to comply with law is a misdemeanor; fine.—A failure on the part of any person or persons to observe and comply with the provisions of this chapter shall be deemed a misdemeanor, punishable by a fine of not less than twenty-five nor more than one hundred dollars. (1905, ch. 173, sec. 6.)

1. **Operation of automobiles is regulated, taxed, and penalized in certain counties.**—By Acts 1911 (Private), ch. 471, the operation of automobiles is regulated, taxed, and penalized for the violation of said act, in counties having a population not under 28100 nor over 28150, according to the federal census of 1910 or any subsequent federal census, which act, under the said federal census of 1910, applies in Sullivan county alone. As to the constitutionality of this act, see, ante, p. 438, note 2.—Ed.

2. **Acts 1905, ch. 173, is not unconstitutional as embracing a subject in the body not expressed in its title,** upon the ground that its title expresses the subject of legislation as that of automobiles, while its body legislates upon automobiles, motorcycles, locomobiles, and other vehicles of like character, except street cars, for the reason that the term "automobiles" is a generic term, intended by the legislature to mean self-propelled vehicles, and is sufficiently broad to embrace the said vehicles mentioned in the body of the act, so that the title expresses the subject of legislation as required by the constitution (art. 2, sec. 17). State v. Freels, 190 S. W., 454.

CHAPTER 34.

SELF-PROPELLING PUBLIC CONVEYANCES OTHER THAN STREET RAILWAYS FOR STREET TRANSPORTATION ARE COMMON CARRIES WHOSE BUSINESS IS REGULATED AS A PRIVILEGE.

3079a199. Operator is a common carrier, and the business is a privilege, when.—Any person, firm, or corporation operating for hire any public conveyance propelled by steam, compressed air, gasoline, naphtha, electricity, or other motive power for the purpose of affording a means of street transportation similar to that ordinarily afforded by street railways (but not operated upon fixed tracks) by indiscriminately accepting and discharging such persons as may offer themselves for transportation

along the way and course of operation, shall be and the same is hereby declared and defined to be a common carrier, and the business of all such common carriers is hereby declared to be a privilege. (1915, ch. 60, sec. 1.)

3079a200. Unlawful to operate without city ordinance permit and without bond.—It shall be unlawful for any common carrier, as defined in the preceding section, to use or occupy any street, alley or other public place in any incorporated city or town of this state, without first obtaining from such city or town a permit or license by ordinance giving the right to so use or occupy such street, alley, or other public place, such permit or license to embody such routes, terms and conditions as such city or town may elect to impose; provided, however, that no such permit or license shall be granted which does not require the execution and filing of a bond as provided for in the section next following. (1915, ch. 60, sec. 2.)

3079a201. Such common carriers must give bond against injuries to person or property.—Any such common carrier, before operating any public conveyance as aforesaid, in addition to obtaining a permit or license as aforesaid, shall execute to the State of Tennessee and file with the clerk of the county court of the county in which the business is to be carried on, and renew or increase from time to time as may be required by such city or town, a bond with good and sufficient surety or sureties, to be approved by the mayor of such incorporated city or town, in such sum as such city or town may reasonably demand (in no case, however, in a sum less than five thousand dollars for each car operated), conditioned that such common carrier will pay any damage that may be adjudged finally against such carrier as compensation for loss of life or injury to person or property inflicted by such carrier or caused by his negligence. (1915, ch. 60, sec. 3.)

3079a202. Misdemeanor to use streets, without permit, or without the required bond.—Any common carrier, as defined in section 3079a199, which shall use or occupy any street, alley, or other public place in any incorporated city or town of this state, without first obtaining a permit or license to so use and occupy such street, alley, or other public place, or shall operate any such conveyance, without first executing and filing bond as required by the preceding section, shall be guilty of a misdemeanor and shall upon conviction be fined not less than fifty dollars nor more than one hundred dollars for each offense,

and each day upon which such common carrier shall so unlawfully use or occupy any street, alley, or other public place in any incorporated city or town of this state, shall constitute a separate offense. (1915, ch. 60, sec. 4.)

3079a203. Cities may grant permits or licenses to such common carriers, but not without the required bond.—All incorporated cities and towns of this state are hereby authorized and empowered to grant permits or licenses to such common carriers to operate over the streets, alleys, and public places of such cities and towns, and to fix in such licenses and permits the routes, terms, and conditions upon which such common carriers may operate, subject to the limitations contained in section 3079a200; provided that no license or permit shall be granted to any such common carrier, without the execution and filing of bond as required by section 3079a201, being required. (1915, ch. 60, sec. 5.)

3079a204. Cities may impose a tax for such privilege.—And all such incorporated cities and towns are hereby authorized and empowered to impose upon all such common carriers a tax for the exercise of the privilege herein granted. (Ib.)

3079a205. Unconstitutionality of any part will not affect the remaining parts.—If any section or part of this chapter be for any reason held unconstitutional or invalid, such holding shall not affect the validity or the remaining portions of this chapter, but such remaining portions shall be and remain valid. (1915, ch. 60, sec. 6.)

. See note under sec. 3052a36.

1. **This statute is not unconstitutional,** as an arbitrary classification between these public conveyances and privately owned automobiles, street railway cars, or taxicabs, for the reasons stated in the opinion of the court. Memphis v. State, ex rel., 6 Thomp., 83, headnotes 2–4.

2. **Such conveyances cannot be operated without city ordinance, license and bond.**—The conveyances regulated by this law cannot be operated on the streets of a city, where the city has passed no ordinance permitting or licensing the same, and the operator has failed to procure any license or to execute the required bond; and a street railway company having a franchise from the city may restrain the operation of such conveyances, where the city has not regulated or permitted their operation, by a city ordinance. Memphis Street Railway Co. v. Rapid Transit Co., 6 Thomp., 99.

CHAPTER 35.

OF THE LICENSING OF ELECTRICIANS, AND THE PREVENTION OF ELECTRICAL WORK BY UNLICENSED PERSONS.

3079a206. Board of electrical examiners and supervisors; their appointment upon whose nomination; vacancies; removal.—Within thirty days after the passage of this act the governor shall appoint in each city in the State of Tennessee of more than 35,000 inhabitants, according to the federal census of 1900 or any subsequent census, a board which shall be known as the "Board of Electrical Examiners and Supervisors," consisting of three persons, for the purpose of examining into the qualifications and capabilities of master electricians, as defined by section 3079a210. The members of said board so appointed shall be competent, practical electricians, one of whom shall be nominated by the oldest existing association of electrical contractors in the city of his appointment; and if no such association exists, then he shall be a contracting electrician, who has been publicly engaged in such business in the city of his appointment for at least three years prior to the date of his appointment, the second to be nominated by the chief of the fire department, and the third by the local association of fire underwriters, if any such association exists in the town where the appointment is to be made; and if no such association is in existence, then the third member to be appointed upon the nomination of the two members hereinbefore designated. The term of each member shall be one year from date of appointment. Should any vacancy occur from any cause during the term of any board as herein provided, the governor shall appoint some one from nominations made, as above provided, to fill such vacancy, and this in such manner that the various boards shall continue to be constituted as herein provided.

The governor shall have full power to remove any member of the board for incompetency or improper conduct upon satisfactory evidence thereof being presented to him. (1909, ch. 153, sec. 1; 1915, ch. 142.)

Election of said board in certain cities.—By Acts 1911 (Private), ch. 468, and by Acts 1915, ch. 69, sec. 1, provision is made for the election of said board by the board of city commissioners in cities having a population over 131,000, by the federal census of 1910 or any subsequent federal census. Under the federal census of 1910, said amendment applies in the city of Memphis alone.—Ed.

3079a207. Oath of board; president, secretary, and treasurer; rules and by-laws.—The members of said board shall

EXHIBIT 7

A COMPILATION

OF THE

TENNESSEE STATUTES

OF A GENERAL PUBLIC NATURE, IN FORCE ON THE FIRST DAY OF JANUARY, 1919, BY INCLUDING ACTS 1917, IN THE BODY OF THE WORK AND BY A SUPPLEMENT, TOGETHER WITH WHICH ARE NOTED THE EXISTING LOCAL STATUTES

COMPILED ON THE BASIS AND ARRANGEMENT OF THE CODE OF TENNESSEE, ENACTED IN 1858, WITH ANNOTATIONS SHOWING THE CONSTRUCTION OF THE STATUTES BY THE COURTS, AND ALSO THE DECISIONS UPON THE RELATED SUBJECTS

COMPILED, EDITED, AND ANNOTATED BY
ROBERT T. SHANNON

VOLUME V.

TENNESSEE LAW BOOK PUBLISHING COMPANY
PUBLISHER
Nashville, Tennessee
1918

Athletic Clubs.

Athletic clubs, or associations, exhibiting boxing or wrestling contests, each, per annum ..... $100.

Automobile Garage or Dealers.

Automobile garage or dealers in cities, towns, or taxing districts of less than 20,000 inhabitants and more than 5,000, each, per annum ...$30

In cities, towns or taxing districts with less than 5,000 inhabitants and more than one thousand inhabitants, each, per annum.....$10.

Provided that this tax does not apply to agents or salesmen who pay a garage tax or represent home dealers.

Automobiles for Hire or Rent.

For each automobile truck for hauling baggage, freight or express, twenty-five horse power or less, each, per annum.....$30.

For each automobile truck for hauling baggage, freight or express, forty-five horse power or over, each, per annum.....$20.

For each automobile truck for hauling baggage, freight or express with horse power more than twenty-five and less than forty-five, each, per annum $15

Barber Shops.

That every barber shop operating in any city or town of this state shall be required to pay a privilege tax of 50 cents per annum on each and every chair in said barber shop.

Billposters.

In counties over 30,000 and not more than 60,000 inhabitants, each, per annum $25

In counties over 20,000 inhabitants and not more than 30,000, each, per annum..... ..$10

In counties with less than 20,000 inhabitants, each, per annum....$5

Cash Registers and Adding Machines.

Each person, firm or corporation having a place of business displaying cash registers for samples, belonging to himself or another, whether in property rented or owned by himself, or another, from which sales are made, either in whole or in part, upon commissions, shall be defined as a broker, whether he represents one person or more in making such sales, in cities, towns, and taxing districts of 60,000 inhabitants or over, each, per annum $200

In cities, towns and taxing districts of less than 60,000 inhabitants, each, per annum.....$100

This tax shall likewise apply to credit registers and adding machines; but where any two of these machines are sold only one tax shall be imposed.

Chautauquas.

The privilege tax for Chautauquas shall be.....$20

Chili Parlors.

Chili parlors not doing a restaurant or lunch stand business, each, per annum $5

Cigarettes.

Retail dealers selling cigarettes in cities and towns of 20,000 population and over, each, per annum.....$15

In cities and towns of less than 20,000 population, each, per annum..$10

Wholesale dealers selling cigarettes, each, per annum.....$35

EXHIBIT 8

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3079a54–3079a157. **REGULATION AND INSPECTION OF MINES.**

3079a54 is amended, by Acts 1917, ch. 102, sec. 1, by striking out the word "two" in line nine of said section, and inserting in lieu thereof the word "three."—Ed.

3079a61 is amended by Acts 1917, ch. 102, sec. 2, by striking out the words "eight hundred" in line 5 of said section, and inserting in lieu thereof the words "one thousand."—Ed.

3079a83 is amended, by Acts 1917, ch. 102, sec. 3, by striking out the words "fifteen thousand" in line 10 of said section, and inserting in lieu thereof the words "twenty thousand."—Ed.

3079a141 is amended, by Acts 1917, ch. 111, by adding thereto the following: Eighth, every accident of every nature, when any person is injured in any manner or form, whether it results in death or not.

Constitutionality of said amendment is questionable upon the ground of the meagerness of the recital of the title of the former law so sought to be amended. It purports to amend section 24 of Acts 1915, which is compiled in sections 3079a138–3079a142 of the Code, but it only in fact makes the amendment by the addition of the matter as above stated. In other respects, the said original section and the amendment are substantially identical. So, the unconstitutionality of said amendment would only affect and render unconstitutional the amendment by addition to the above section, as above shown.—Ed.

3079a186–3079a198. **REGISTRATION OF AUTOMOBILES, AND THE REGULATION OF THEIR OPERATION.**

Sections 3079a186–3079a194, pp. 2151–2154, of the Code were impliedly repealed by Acts 1917, ch. 73, compiled in sections 3079a194b1–3079a194b16 herein next below.—Ed.

REGISTRATION OF AUTOMOBILES, AND TAX FEES THEREFOR.

3079a194b1. Registration of automobiles, etc., with state department of highways, through county court clerk; fees therefor.—Before the owner of any automobile, motorcycle, auto truck, or other vehicle of like character, used for the purpose of conveying persons of [or] freight or for any other purposes, whether such vehicle is propelled by steam, gasoline, or electricity, or any other mechanical power, shall operate or be permitted to operate upon any street, road, highway, or any other public thoroughfare in Tennessee, such owner shall register such vehicle with the state department of highways through the county court clerk in the county in which owner resides, giving the motor number, rated horse power, tonnage capacity of motor trucks and make of same, together with the name and residence of such owner, and shall upon payment of the following fees: For all motor trucks, freight and passenger, 30 cents per rated horse power of motor so operated as rated to the society of automobile engineers and an additional fee of $3 per ton for each ton carrying capacity (factory rating); for automobiles, motorcycles, or other vehicles of like character 30 cents per rated horse power of the motor so operated as rated by the society of automobile engineers, and shall receive from the state department of highways a certificate showing such registration, provided that if application shall be made for registration of an automobile, motorcycle, auto truck, or other vehicle of like character under this section, after the first of September in any year, the applicant shall be required to pay but one-half the registration fee hereinabove provided for. (1917, ch. 73, sec. 2.)

3079a194b2. Vehicles from other states, Canada, or Mexico may operate free for thirty days.—Owners of regularly licensed vehicles registered in any state or territory of the United States, Canada, or Mexico, may have the privilege of operating upon the public roads of Tennessee for a period of not exceeding thirty days. (Ib.)

3079a194b3. Registration of state, county, or city vehicles, but no fees except that of county court clerk.—Upon the sworn statement from the head of any department of the state government or the county judge or

the chairman of the county court of any county, or the mayor of any town or city that the vehicle for which application is made for registration, is owned by and operated exclusively for the state, county, city, or town, the state department of highways, through the county court clerk, shall issue a license and number plate as above provided, except that no charge shall be made for same by the state, but the county court clerk shall have the right to collect the fee of twenty-five cents for registration, but in all such cases the application must be accompanied by a sworn statement as above provided and the county court clerk shall not issue any number plate until special authority is obtained from the state department of highways. (Ib.)

3079a194b4. Transfer certificate upon change of ownership, and fee therefor.—Whenever the ownership of such vehicle shall become changed by sale or otherwise, the registration number shall remain upon such vehicle as a part thereof until such registration expires by law, but the purchaser thereof shall be required to notify the state department of highways, through the county court clerk, of such transfer and receive a transfer certificate in his name for which he shall pay a fee of one dollar. (Id., sec. 3.)

3079a194b5. Registration of certificate with county court clerk; his fee therefor.—He shall be required to register such certificate with the county court clerk of the county in which he resides and pay therefor a fee of twenty-five cents, and the registration shall not be considered completed until said registration with the county court clerk is made. (Ib.)

3079a194b6. Plate numbers to be furnished and displayed at both ends of automobile.—The owner of such vehicle is hereby required to display, in a conspicuous manner, at both front and rear of such vehicle, a number plate of size, color, dimension, and character as the state department of highways may designate, provided that the size of the number plate shall be the same each year. The number plate shall show, in addition to the registration number of such machine, the year and the abbreviation of Tennessee. Provided, further, that the state department of highways, through the county court clerk, shall furnish, without additional cost to the owner of such machine, a set of two number plates, and owners are required to use these number plates on their machines, and no other number plates shall be used. (Id., sec. 4.)

3079a194b7. Registration and demonstration number plates for dealers and manufacturer; to be renewed annually; fees therefor, and fees of county court clerks:—All dealers in, or manufacturer of, motor vehicles, motorcycles, auto trucks, or like vehicle shall, instead of registering each motor vehicle, motorcycle, auto truck, or like vehicle owned by him, make application to and receive from the said state department of highways, through the county court clerk, a general distinguishing number or mark. This certificate and number shall be of different color and number from that of any owner of a motor vehicle, motorcycle, auto truck, or like vehicle, as described in section 3079a194b1, and shall be known as a demonstration number, and the same number shall be used by said dealer or manufacturer only while such vehicle is actually being demonstrated to a customer or prospective purchaser. Motor vehicles, motorcycles, auto trucks, or like vehicles, used in the service of the manufacturer, sales agent, or dealer must be provided with a regular license number plate and pay therefor the fee set forth in section 3079a194b1, and shall not at any time use or display the special or demonstration number plate while in the service of the owner, agent, or dealer other than for demonstration as aforesaid. Said dealer or

manufacturer shall register with and pay to the state department of highways, through the county court clerk, for such special demonstration number the sum of ten dollars. This registration shall be renewed annually as other registrations and the annual registration fee shall be ten dollars, and the owner shall register same with the county court clerk and pay a fee of twenty-five cents; provided that duplicate demonstration number plates in series may be issued upon application to the state department of highways, through the county court clerk, at a cost of fifty cents each. (Id., sec. 5.)

3079a194b8. Annual registration and plate numbers; fees therefor.—Each owner of a motor vehicle, motorcycle, auto truck, or like vehicle shall annually hereafter, on or before the first day of January of each year, make application to the state department of highways, through the county court clerk, for annual registration, giving the same information and paying the same fees as required in an original registration, including reregistration with the county court clerk; and, upon payment of such fees, shall receive from the state department of highways, through the county court clerk, a certificate showing such registration, and shall also receive from the state department of highways, through the county court clerk, a set of two number plates on which shall, in addition to the registration number, have the year and the abbreviation of Tennessee. (Id., sec. 6.)

3079a194b9. Various duties of county court clerk; and his fees therefor.—It shall be the duty of the county court clerk of each county to collect the fees herein provided and to enforce the provisions of this act; it shall be his duty to ascertain the names of the owners of all automobiles, motor truck, motorcycles, and vehicles of like character in his county, and to issue distress warrants against any such owner who is operating such vehicle in violation of the provisions of this act, after March first of any year, in which case the usual distress warrant fees shall obtain; he shall take registration applications from the owners of all such vehicles specified in this act; shall collect the fees provided in this act; shall distribute the number plates provided by the state department of highways; shall keep a complete record in his office for the benefit of the general public of all such vehicles registered in his county; shall deposit daily in some state depository in his county designated by the state treasurer all highway or road funds collected under this act for the state, said funds to be deposited to the credit of the state treasurer for the state highway fund; shall make a report not later than the fifth of each month to the state treasurer or comptroller showing the amount of such deposits and shall make a report not later than the fifth of each month to the state department of highways showing number in numerical order of each number plate issued during the preceding month and give the name and address of the person to whom issued and the amount collected and shall account to the state department of highways for all number plates consigned to him; he shall collect from the owner making application for registration of a vehicle a fee of twenty-five cents which shall be his compensation in full. (Id., sec. 7.)

tax record

3079a194b10. State depository to be designated for deposit of funds collected under this law; withdrawal of ten per cent. for expenses of state highway department.—It shall be the duty of the state treasurer to designate to the county court clerk in each county a state depository in such county in which the funds collected under this act shall be deposited, he shall keep an accurate and separate account of such funds and shall on the first day of March, June, September, and December, or as much oftener as may be required by the state department of highways, withdraw

fees for highway costs

from each of such banks ten per cent. of the funds deposited since the last such withdrawal which fund shall be placed in the state treasury to the credit of the state department of highways for the maintenance of such department and for the payment of all the costs to the department of the collection of such fund, which shall include cost of number plates, printing certificates and other printing pertaining to collection of such fund, postage, clerical help, and such other expense as may be incurred by the department in the collection of this fund, which ten per cent. shall constitute the sole amount that may be withdrawn from this fund. (Ib.)

3079a194b11. Remainder of fund to be expended in maintenance of highways in the county where collected.—The remainder of the fund shall be expended in the county from which collected under the direction and supervision of the state highway department in coöperation with the regular legally constituted road authorities of the county in the maintenance of state highways, and the state highway department and the legally constituted road authorities of all counties shall coöperate with each other in the expenditure of this fund as provided in chapter 100 of the Public Acts of Tennessee, 1915 [compiled in sections 1720a8–1720a29 in the Code]. (Ib.)

3079a194b12. Fund to be deposited and drawn out for road work in the county.—Said fund shall be deposited as the state and county highway fund and shall be drawn out only on vouchers signed by the chairman of the state highway department and the secretary for road work in the county where collected as herein provided. (Ib.)

3079a194b13. County may direct expenditure of fund, when state department fails to do so, when.—The county courts of counties shall direct the expenditure of all of this fund when the state department fails to do so by May 1st of each year, and the state highway commission shall in that case pay to each county its share as said county expends it as directed by the legally constituted road authorities of the county. (Ib.)

3079a194b14. Dealers to report sales and names of purchasers.—Every dealer or other person selling an automobile, auto truck, motorcycle, or other motor vehicle, either new or secondhand, to any person in the State of Tennessee, shall within three days from the date of sale, notify the state department of highways, through the county court clerk, of said sale, giving the name and address of purchaser, make, horse power, and number of motor vehicle. (Id., sec. 8.)

3079a194b15. Failure to make said report or to make registration and other violations of this act are misdemeanors; fines to be paid in the said road fund.—Any person who fails or refuses to notify the state department of highways, through the county court clerk, of the sale of any motor vehicle as provided in the preceding section, or any person who fails or refuses to apply for registration or transfer of certificate as provided by this act, or any person or persons, firm or corporations, who fails or refuses to give the correct rated horse power and motor number of any automobile, motor truck, motorcycle, or other vehicle of like character, or who fails or refuses to give the correct rated tonnage capacity of any motor truck whether freight or passenger or who violates any provisions of this act shall be deemed guilty of a misdemeanor and upon conviction, shall be fined not less than five dollars nor more than fifty dollars, together with all costs of said prosecution, such fines to be turned over to the state treasurer to be placed to the credit of the county in which such offense occurs, for the state department of highways to be expended as provided for other revenue obtained under this act, and it shall be the duty of all peace officers in the State of Tennessee to arrest

and prosecute violators of this act, before the proper legal tribunal; and all grand juries are hereby given inquisitorial powers as to the enforcement of this act. (Id., sec. 9.)

3079a194b16. Unconstitutionality or invalidity of any part shall not invalidate other parts.—If any clause, section, or part of this act shall be held invalid or unconstitutional for any reason, this shall not invalidate other portions of this act. (Id., sec. 10.)

See note under sec. 3052a36, p. 2046; note 2 under sec. 3273a120, p. 2570.

3079a301–3079a317. OF THE SALE, BARTER, DISTRIBUTION, OR GIVING AWAY OF ALCOHOL OR INTOXICATING LIQUORS BY DRUGGISTS.

Sections 3079a301–3079a317, pp. 2187–2190, of the Code were impliedly repealed by Acts 1917, ch. 68, compiled in sections 3079a317b1–3079a317b18.—Ed.

REGULATION OF DRUGGISTS AND PHYSICIANS IN RESPECT TO INTOXICATING LIQUORS.

3079a317b1. Word "druggist" is defined.—The word "druggist" as used in this act, shall be taken to mean and include any person engaged in the business of conducting any wholesale or retail drug or chemical store or in the occupation of compounding or dispensing medicine in pursuance to a prescription of physicians or selling at retail for medicinal purposes any drugs, chemicals, poisons, or pharmaceutical preparations under the laws of this state. (1917, ch. 68, sec. 1.)

3079a317b2. Word "physician" is defined.—The word "physician" as used in this act shall be taken to mean and include only physicians registered in the State of Tennessee under the provisions of the several acts regulating the practice of their profession. (Ib.)

3079a317b3. Word "person" is defined.—The word "person" as used in this act, shall be construed to import the singular or plural as the case demands and shall include firms and corporations. (Ib.)

3079a317b4. Word "alcohol" is defined.—The word "alcohol" as used in this act, shall be taken to mean and include absolute alcohol, and alcohol which conforms to the United States Pharmacopedia [Pharmacopœia], 190 proof. (Ib.)

3079a317b5. Unlawful for druggists to sell, dispense, or keep intoxicating liquors, except as provided; intoxicating liquor is defined.—It shall hereafter be unlawful for any person engaged in the sale of drugs to sell, dispense, or keep in his possession or store as medicine or beverage or for any other purpose any intoxicating liquor, except as hereinafter provided; and for the purpose of this act intoxicating liquor shall be defined as any medicine or beverage containing over one-half of one per cent. of alcohol that is not sufficiently medicated so as to prevent its use as beverage or its use for its internal alcoholic effect, provided, that this section shall not apply to medicines containing only a sufficient percentage of alcohol to extract and preserve the medicinal property thereof. (Id., sec. 2.)

3079a317b6. What sales may be made by druggists; register of sales to be kept open to inspection.—The provisions of this act shall not be construed to prevent the sale of alcohol and wine in quantities of not less than one quart by wholesale druggists to retail druggists or to physicians to be used by them in their practice, or to bona fide manufacturers and institutions using alcohol and wine for mechanical, scientific, sacramental or pharmaceutical purposes in connection with their business in pursuance of a written order from the purchaser on special order blanks prescribed for that purpose by the pure food and drug inspector and the attorney-general of the state, provided, that a register be kept showing in true, complete and correct form each sale, the quantity of alcohol or wine, the date of the sale, the person to whom sold, the address to which delivered,

Chapter XVI - Vehicles for Hire

Commercial Vehicles for Hire

Private Acts of 1921 Chapter 566

SECTION 1. That all owners or operators of "for hire" vehicles propelled by steam, gasoline or electric power and used for the purpose of conveying passengers, goods, wares or merchandise, shall cause to have painted on both sides of their vehicle or vehicles offered for public hire, in letters not less than one and one-half inches (1½) inches [sic] high, in such manner as to be plainly visible, the name or monogram or trade mark of the individual, firm, corporation or association owning or operating such vehicle or vehicles.

SECTION 2. That it shall be unlawful for any vehicle propelled by steam, gasoline or electric power to carry for public hire any passengers, goods, wares or merchandise unless such owner or operator shall first give bond or security as hereinafter conditioned and specified; every owner or operator of such public vehicle for hire shall cause to be executed and filed in the office of the County Court Clerk of the County in which the owner or operator has a place of business, a bond or insurance contract conditioned to satisfy and pay any final judgment rendered against the owner or operator of any such vehicle by reason of the negligent operation of such vehicle; provided however, said bond shall not include, cover or be held to satisfy a mere personal judgment against an employee, agent or chauffeur of any such owner or operator. Said bond or insurance contract shall be executed in amount of not less than five thousand ($5,000.00) dollars where one vehicle is operated, and the bond shall be increased one thousand ($1,000.00) dollars for each additional vehicle operated as aforesaid, and said amount shall be applied to the satisfaction of any such judgment insofar as said amount will satisfy same, or if said judgment is less than the amount of the bond, so much of said amount shall be applied to the satisfaction of said judgment and costs as is necessary to satisfy same. Said security or securities or insurance company as hereinafter provided for shall pay or satisfy said judgment and cost within the amount of said bond within sixty days after final judgment, provided that in the event of two or more judgments the judgment first rendered shall have precedence in the proceeds of said bond or insurance contract.

Upon the failure of any surety sureties or insurance company to pay and satisfy any judgment recovered against any such owner or operator, and action may be brought by the plaintiff or defendant against the security or securities or insurance company and costs; or such bond or insurance contract to recover the judgment and costs; such bond or insurance contract shall be executed by any insurance company duly authorized to write or execute bonds or liability insurance contracts in the State of Tennessee, or in lieu thereof shall be executed by two or more reputable residents of the County in which such owner or operator has his principal office or place of business. Such bond shall be signed by the owner or operator as well as the surety or sureties or insurance company. Each of said sureties shall qualify in double the amount of said bond, in the event that personal securities are given and each of said sureties make oath that he has real estate in said County, of the clear value of at least ten thousand ($10,000.00) dollars unincumbered and subject to execution. Said bond or insurance contract shall be executed for a period of not less than one (1) year. Upon the expiration or cancellation of any such insurance contract or bond, the said expiration or cancellation shall not in any wise effect any cause of action which accrued during the life of said bond and shall only be effective after five (5) days notice by registered mail to the owner or operator. Such owner or operator shall thereafter cause to be executed another bond or insurance contract conditioned as prescribed herein, before the time of cancellation or expiration becomes effective.

SECTION 3. That every owner or operator embraced in this Act shall upon complying with the conditions as to such bond or insurance contract apply for and receive from the County Court Clerk of the County in which said owner or operator maintains a place of business. A license for each and every vehicle operated which shall be of such design as the Board of Highway Commissioners shall designate and shall be attached to the front end of each vehicle.

For the issuance of said license each owner or operator shall pay the sum of five ($5.00) dollars to be paid into the general funds of the State and the further sum of twenty-five cents (25¢) shall be paid the County Court Clerk for issuing said license and making a record of the issuance of same.

SECTION 4. That every such surety, sureties or insurance company as herein set out upon the payment of any judgement and costs, or upon any settlement or satisfaction of any claim growing out of the negligent operation of any such public vehicle, with any person, firm, association or corporation, which said payment and settlement or satisfaction affects the solvency of said sureties, or insurance company or if for any reason the effect or value of said bond or insurance contract becomes impaired, or if the liability

upon same becomes less than five thousand ($5,000.00) dollars by reason of any payment or settlement, said sureties or insurance company shall, within ten days thereafter, notify said County Court Clerk by registered mail, of the facts, and in case of any payment or settlement set out the date, amount and to whom payment was made.

If said notice is not duly mailed, said insurance company, surety or sureties is responsible in the full amount of said bond agreement or insurance contract.

The owner or operator upon knowledge or notice of any such impairment of the value of the bond or insurance contract, as hereinbefore stated, shall immediately have executed sufficient bond or insurance contract as herein provided.

SECTION 5. That the said personal surety or sureties shall qualify as such before the County Court Clerk of the County or his deputies, where said surety or sureties or bondsmen reside. There shall be paid a fee by such sureties or insurance company of ($1.00) dollar for each person so qualified.

SECTION 6. That any violation of this Act shall be a misdemeanor and punishable by a fine of not less than one hundred (100.00) dollars nor more than five hundred ($500.00) dollars or confinement in the County jail of the person, firm or principal agent of any corporation so offending, for a period of not less than ten (10) days nor more than six (6) months, or by both fine and imprisonment, at the option and in the discretion of the jury trying the charges.

SECTION 7. That the provisions of this Act shall be restricted to and apply only to Counties having a population of not less than 15,000 nor more than 116,000 as shown by the Federal Census of 1920 or any subsequent Federal Census, and shall not apply to any vehicles operated upon fixed tracks as street railway or railroad vehicles.

SECTION 8. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

SECTION 9. That should any provision of this Act be declared void, the provisions not so declared shall remain in full force and effect.

SECTION 10. That this Act take effect from and after the first day of May, A. D. 1921, the public welfare requiring it.

Passed: March 31, 1921.

Bonding and Insuring Vehicles for Hire

Private Acts of 1925 Chapter 729

SECTION 1. (a) That the word taxi-cab, when used in this Act means a motor-driven conveyance for hire at designated places at a fare proportioned to the length of the trips of the several passengers who are taken to be carried to destinations without regard to any route adopted or uniformly conformed to by the operator thereof; (b) That all motor driven vehicles, coming within the provisions of this Act, are hereby declared to be common carriers.

SECTION 2. That in all counties having a population of more than 110,000 by the Federal Census of 1920, or any subsequent Federal Census, it shall be unlawful for any person, firm or corporation to operate any motor vehicle, not running on fixed tracks, for the transportation of passengers or property for hire, between fixed termini, or over a regular route even though there may be periodic or irregular departures from said termini, without executing bond or providing insurance as provided in Section 3, except such taxi-cabs or motor vehicles as are operated principally within the limits of one municipality where, by ordinance, a Bond or insurance policy is required, and has been executed as indemnity for the protection to the public for injury to persons or property.

SECTION 3. That every person, firm or corporation operating public motor conveyances as aforesaid, shall execute, file and keep with the Clerk of the County Court of the county in which the business, or any part thereof, is to be carried on, a bond, or insurance policy, which shall be renewed annually, payable to the State of Tennessee, with surety approved by the Judge, or Chairman of the County Court, in the sum of $300.00 for each car operated in freight service, and $5,000.00 for each car operated in passenger service, which said bond or insurance policy shall be fore [sic] the benefit of the public and shall bind the principal and obligor or insurer to make compensation for injury to persons whether passengers or not, and loss of, or damage to property, resulting from the negligent operation of such motor vehicles, and any person injured, or whose property is damaged by such operation of said vehicle, shall have the right to institute suit jointly in the courts of this State against the owner, or operator, of said vehicle and the obligor or insurer.

SECTION 4. That the County Court of the county shall, before granting license to any person, firm or

corporation, to operate motor vehicles as come within the provisions of this Act, require the filing of the bond or insurance policy as provided in Section 3, hereof, except as to persons, firms, or corporations operating vehicles excepted from the provisions of this Act, as set out in Section 2, hereof, and any such County Court Clerk wilfully issuing the license without cmplying [sic] with the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than $25.00, nor more than $100.00, and subject to removal from office, and that said County Court Clerk, shall keep said bonds or insurance policies on file in his office, subject to the inspection of all persons, and shall issue certified copies thereof upon request, and charge a fee of fifty cents, for said copies. Provided that where any person, firm or corporation secures what is known as blanket insurance, on several vehicles regulated by this Act, or what is known as a blanket policy, may file with the County Court Clerk a certificate from the Insurance Company showing the number of the policy covering the vehicle insured, instead of filing the original blanket policy.

SECTION 5. That any person, firm or corporation operating such motor vehicles without first executing, filing and keeping in force said bond or insurance policy, shall be guilty of a misdemeanor and upon conviction thereof, shall, for a first offense, be fined not less than $25.00 nor more than $50.00, and for a second or subsequent offense, be imprisoned not less than ten days, nor more than thirty days, and fined not less than $50.00, nor more than $100.00, and each day upon which said motor vehicle may be operated in violation of this Act, shall constitute a separate offense.

SECTION 6. That the Secretary of State of Tennessee is hereby required upon passage of this Act, to send to the County Court Clerks of the counties to which this law applies, a certified copy of this Act, and said clerk is required to immediately, by mail, give notice to such persons, firms or corporations as are operating vehicles that come under the provisions of this Act.

SECTION 7. That this Act shall take effect thirty days after passage, the public welfare requiring it.

Passed: April 16, 1925.

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County Technical Assistance Service
INSTITUTE for PUBLIC SERVICE

June 12, 2025

Chapter XVI - Vehicles for Hire

Dear Reader:

The following document was created from the CTAS website (ctas.tennessee.edu). This website is maintained by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Private Acts of 1925 Chapter 729

SECTION 1. (a) That the word taxi-cab, when used in this Act means a motor-driven conveyance for hire at designated places at a fare proportioned to the length of the trips of the several passengers who are taken to be carried to destinations without regard to any route adopted or uniformly conformed to by the operator thereof; (b) That all motor driven vehicles, coming within the provisions of this Act, are hereby declared to be common carriers.

SECTION 2. That in all counties having a population of more than 110,000 by the Federal Census of 1920, or any subsequent Federal Census, it shall be unlawful for any person, firm or corporation to operate any motor vehicle, not running on fixed tracks, for the transportation of passengers or property for hire, between fixed termini, or over a regular route even though there may be periodic or irregular departures from said termini, without executing bond or providing insurance as provided in Section 3, except such taxi-cabs or motor vehicles as are operated principally within the limits of one municipality where, by ordinance, a Bond or insurance policy is required, and has been executed as indemnity for the protection to the public for injury to persons or property.

SECTION 3. That every person, firm or corporation operating public motor conveyances as aforesaid, shall execute, file and keep with the Clerk of the County Court of the county in which the business, or any part thereof, is to be carried on, a bond, or insurance policy, which shall be renewed annually, payable to the State of Tennessee, with surety approved by the Judge, or Chairman of the County Court, in the sum of $300.00 for each car operated in freight service, and $5,000.00 for each car operated in passenger service, which said bond or insurance policy shall be fore [sic] the benefit of the public and shall bind the principal and obligor or insurer to make compensation for injury to persons whether passengers or not, and loss of, or damage to property, resulting from the negligent operation of such motor vehicles, and any person injured, or whose property is damaged by such operation of said vehicle, shall have the right to institute suit jointly in the courts of this State against the owner, or operator, of said vehicle and the obligor or insurer.

SECTION 4. That the County Court of the county shall, before granting license to any person, firm or corporation, to operate motor vehicles as come within the provisions of this Act, require the filing of the bond or insurance policy as provided in Section 3, hereof, except as to persons, firms, or corporations operating vehicles excepted from the provisions of this Act, as set out in Section 2, hereof, and any such County Court Clerk wilfully issuing the license without cmplying [sic] with the provisions of this Act, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than $25.00, nor more than $100.00, and subject to removal from office, and that said County Court Clerk, shall keep said bonds or insurance policies on file in his office, subject to the inspection of all persons, and shall issue certified copies thereof upon request, and charge a fee of fifty cents, for said copies. Provided that where any person, firm or corporation secures what is known as blanket insurance, on several vehicles regulated by this Act, or what is known as a blanket policy, may file with the County Court Clerk a certificate from the Insurance Company showing the number of the policy covering the vehicle insured, instead of filing the original blanket policy.

SECTION 5. That any person, firm or corporation operating such motor vehicles without first executing, filing and keeping in force said bond or insurance policy, shall be guilty of a misdemeanor and upon conviction thereof, shall, for a first offense, be fined not less than $25.00 nor more than $50.00, and for a second or subsequent offense, be imprisoned not less than ten days, nor more than thirty days, and fined not less than $50.00, nor more than $100.00, and each day upon which said motor vehicle may be operated in violation of this Act, shall constitute a separate offense.

SECTION 6. That the Secretary of State of Tennessee is hereby required upon passage of this Act, to send to the County Court Clerks of the counties to which this law applies, a certified copy of this Act, and said clerk is required to immediately, by mail, give notice to such persons, firms or corporations as are operating vehicles that come under the provisions of this Act.

SECTION 7. That this Act shall take effect thirty days after passage, the public welfare requiring it.

Passed: April 16, 1925.

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County Technical Assistance Service
INSTITUTE for PUBLIC SERVICE

June 26, 2025

Private Acts of 1925 Chapter 729

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Sincerely,

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