

**RULES
OF
THE TENNESSEE PEACE OFFICER STANDARDS**

**CHAPTER 1110-09
CRITERIA FOR WAIVERS**

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1110-09-.01 SUBMISSION OF WAIVER REQUEST. Request for waiver (except for those preemployment requirements) must be submitted by the agency currently employing the person requiring a waiver. Request for waiver of preemployment requirements must be submitted by the agency having an interest in hiring a person requiring such waiver prior to that person's employment. Request for waiver filed/submitted by an individual will not be accepted by the Commission. The requesting department shall be represented at the hearing by its designee. Once a waiver has been granted for a previous preemployment requirement, that requirement shall be considered waived for future applications for certification.

Authority: T.C.A. §§ 38-8-104 and 38-8-106. **Administrative History:** Original rule filed August 4, 1992; effective November 29, 1992. Amendment filed October 2, 2006; effective February 28, 2007. Amendment filed March 18, 2010; effective June 16, 2010.

1110-09-.02 WAIVER OF BASIC TRAINING. The Commission may not consider a waiver of basic training requirements, however, a Substitution of Basic Training may be considered under the following circumstances as requested by the employing agency:

- (1) Substitution of Basic Training - may be granted for a law enforcement officer meeting the following criteria:
 - (a) having less than a five (5) year break in service from previous law enforcement employment in the State of Tennessee; and
 - (b) having left previous employment as a certified officer in good standing; and
 - (c) having at least forty (40) hours of in-service training that is in compliance with Chapter 7 and POST Rule 1110-02-.03 (4)(c)(1); or, having completed a federal, state, or local basic law enforcement training course.

Authority: T.C.A. §§ 38-8-104 and 38-8-106. **Administrative History:** Original rule filed August 4, 1992; effective November 29, 1992. Amendment filed April 19, 2002; effective August 28, 2002.

1110-09-.03 WAIVER OF POST TRANSITION SCHOOL. A waiver of the POST Transition School may be considered on an individual basis upon review of education and previous law enforcement experience and training in the following circumstances:

- (1) Upon separation from employment as a state officer who completed basic training and enters employment as a full-time sworn commissioned law enforcement officer with an agency required to meet minimum standards.
- (2) Upon separation from employment as a federal law enforcement officer who has completed equivalent training for basic training.

(Rule 1110-09-.03, continued)

Authority: T.C.A. §§ 38-8-104 and 38-8-106. **Administrative History:** Original rule filed August 4, 1992; effective November 29, 1992. Amendment filed March 18, 2010; effective June 16, 2010.

1110-09-.04 WAIVER OF PREEMPLOYMENT REQUIREMENTS. A waiver of preemployment requirements may be granted under the following circumstances:

- (1) No person may be employed as a law enforcement officer, who requires a waiver under this section, until such waiver is granted. "Any person who shall appoint any applicant, who, to the knowledge of the appointee, fails to meet the minimum standards as set forth herein or required by the Commission, and any person who signs the warrant or check for the payment of the salary of any person who, to the knowledge of the signer, fails to meet the qualifications as a law enforcement officer as provided herein or required by the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not exceeding one thousand dollars (\$1,000)".
 - (a) Military History - The Commission may waive preemployment requirements relating to the military history on an individual basis and depending on the circumstances.
 1. Waivers may be granted from preemployment requirements for the following separations from military service:
 - (i) an Entry Level Separation
 - (ii) a General Discharge under Honorable Conditions.
 2. Waivers will not be granted from preemployment requirements for the following separation from military service:
 - (i) Dishonorable Discharge
 - (ii) Bad Conduct Discharge
 - (iii) Other Than Honorable Discharge
 - (b) Criminal Activity - The Commission may consider a waiver from preemployment requirements relating to criminal activity on an individual basis and depending on the circumstances.
 1. Waivers may be granted if the officer has been convicted of or pleaded guilty to or entered a plea of nolo contendere to any felony charge or to any violation of any federal or state law or city ordinance (excluding domestic violence) with the following charges:
 - (i) relating to force, violence, theft, dishonesty, gambling, liquor and other alcoholic beverages;
 - (ii) or controlled substances, as defined in the Tennessee Drug Control Act compiled in Title 39, Chapter 17, Part 4, when the offense was classed as a misdemeanor.
 2. The employing agency requesting waiver must present a copy of the final court disposition of the case.
 3. Some of the factors to be considered when determining whether to grant a waiver shall be:

(Rule 1110-09-.04, continued)

- (i) the amount of time since the offense;
 - (ii) the amount of time since completion of the sentence;
 - (iii) the type, circumstances and severity of the offense;
 - (iv) the applicant's activities since the offense; and
 - (v) the applicant's ability to carry a fire arm pursuant to federal and state law.
- (c) Mental Impairment - A waiver shall not be granted from preemployment requirements for a mental impairment that would affect the person's ability to perform an essential function of the job, with or without a reasonable accommodation.
- (d) Education - A waiver will not be granted from preemployment requirements relating to minimum education requirements.
- (e) Previous decertification or voluntary surrender of certification as a law enforcement officer – The Commission may waive preemployment requirements relating to previous decertification or voluntary surrender of certification as a law enforcement officer on an individual basis and depending on the circumstances.
1. Some of the factors to be considered when determining whether to grant a waiver shall be:
- (i) the circumstances surrounding and which lead to the previous decertification or voluntary surrender of certification as a law enforcement officer;
 - (ii) the amount of time since the previous decertification or voluntary surrender of certification as a law enforcement officer;
 - (iii) the applicant's activities since the offense; and
 - (iv) the applicant's ability to carry a fire arm pursuant to federal and state law

Authority: T.C.A. §§ 38-8-104, 38-8-105, and 38-8-106. **Administrative History:** Original rule filed August 4, 1992; effective November 29, 1992. Amendment filed April 19, 2002; effective August 28, 2002. Amendment filed October 6, 2006; effective February 28, 2007. Amendments filed March 18, 2010; effective June 16, 2010. Amendments filed March 11, 2011; effective June 9, 2011. Emergency rule filed January 28, 2014; effective through July 27, 2014. Emergency rule expired effective July 27, 2014; rule reverted to previous status. Amendment filed July 24, 2014; effective October 22, 2014.

1110-09-.05 WAIVER OF IN-SERVICE TRAINING. Failure of an individual officer to successfully complete the in-service training requirements annually will result in the officer's loss of eligibility for the pay supplement during the calendar year. Failure of this individual officer to successfully complete another in-service training session within one (1) year will result in loss of certification. A waiver of in-service training may be granted under the following circumstances:

- (1) Medical Disability - Requests for waivers of in-service training for a calendar year on the basis of medical disability should be submitted to the Commission by the chief administrative officer of the department explaining the individual case. This should be accompanied by a doctor's statement. Each request will be considered on an individual basis.

(Rule 1110-09-.05, continued)

- (2) Retirement. Requests for waivers of in-service training for a calendar year on the basis that an officer will retire during that year, the certified officer must submit a letter to his chief administrator stating his intention to retire prior to the completion of in-service training for the calendar year. If the request is approved by his department, then a letter must be forwarded to the Commission for approval.
- (3) Failure to Complete - All full-time commissioned officers are required to complete annual in-service. Failure to complete annual in-service, for whatever reason, must be reported to the POST Commission by submitting a request for waiver and written explanation documenting the reason the officer failed to comply. It is not considered failure to complete the required in-service if an officer misses twenty percent (20%) or less of the course duration due to an approved emergency absence pursuant to Rule 1110-04-.07.

Authority: T.C.A. §§ 38-8-104 and 38-8-106. **Administrative History:** Original rule filed August 4, 1992; effective November 29, 1992. Amendment filed March 11, 2011; effective June 9, 2011.

1110-09-.06 WAIVER OF EIGHT (8) MONTHS' FULL-TIME SERVICE. The Commission may consider a waiver of the eight (8) months' full-time service during the calendar year under the following conditions providing in-service training has been completed during the calendar year:

- (1) Death of the officer.
- (2) Retirement.
- (3) Medical disability.
- (4) Separation due to change of administration (officer must be able to substantiate).
- (5) Military duty in the event of a national emergency.

Authority: T.C.A. §§ 38-8-104 and 38-8-106. **Administrative History:** Original rule filed August 4, 1992; effective November 29, 1992. Amendment filed April 19, 2002; effective August 28, 2002.