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**For Department of State Use Only**

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Last Effective Day: 9/14/2024

## Emergency Rule Filing Form

*Emergency rules are effective from date of filing, unless otherwise stated in the rule, for a period of up to 180 days.*

<b>Agency/Board/Commission:</b>	Department of State
<b>Division:</b>	Executive Office
<b>Contact Person:</b>	Lydia Doss, Tennessee Businesses Against Trafficking Program Coordinator
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**Revision Type (check all that apply):**

- ☐ Amendment  
☒ New  
☐ Repeal

**Statement of Necessity:**

The Department of State seeks to adopt emergency rules to address Public Chapter No. 0177 of the 113th General Assembly, which requires the Secretary of State to establish and implement the Tennessee Businesses Against Trafficking ("TBAT") program. The TBAT program engages participating corporations and other private entities in voluntary efforts to identify, prevent, and combat human trafficking. The legislation was signed into law by Governor Lee on April 17, 2023, effective immediately for rulemaking purposes, and for all other purposes effective July 1, 2023.

Emergency rules are permitted by statute in Tenn. Code Ann. § 4-5-208. Specifically, an agency may use emergency rules if "an immediate danger to the public health, safety or welfare exists, and the nature of this danger is such that the use of any other form of rulemaking authorized by this chapter would not adequately protect the public," or if "the agency is required by an enactment of the general assembly to implement rules within a prescribed period of time that precludes utilization of rulemaking procedures described elsewhere in this chapter for the promulgation of permanent rules." T.C.A. §§ 4-5-208(a)(1), (a)(5).

The implementation of the TBAT program began immediately upon passage of the legislation. The Secretary of State began interviews to hire a TBAT Program Coordinator. Upon accepting the position, the TBAT Program Coordinator, at the direction of the General Assembly in Tenn. Code Ann. § 38-1-801(d), began working with interested parties, including state agencies, private organizations, and advisory councils with similar goals, to develop the program. As a result of this collaborative effort, these emergency rules are drafted to create the TBAT program.

These rules are appropriately filed as emergency rules for multiple reasons. First, these rules satisfy the requirement under Tenn. Code Ann. § 4-5-208(a)(1), as these rules will help prevent Tennesseans from falling victims to human trafficking, and any undue delay of implementation of the TBAT program would not adequately protect the public. Second, these rules satisfy the requirement under Tenn. Code Ann. § 4-5-208(a)(5). The General Assembly passed the TBAT program with an effective date of July 1, 2023. Utilization of the rulemaking procedure described elsewhere in Title 4, Chapter 5, would result in the delay of the TBAT program taking effect until significantly beyond the date required by the General Assembly.

**Rule(s) Revised** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule

numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

<b>Chapter Number</b>	<b>Chapter Title</b>
1360-11-02	Tennessee Businesses Against Trafficking Rules
<b>Rule Number</b>	<b>Rule Title</b>
1360-11-02-.01	Definitions
1360-11-02-.02	Application for TBAT Certificate
1360-11-02-.03	Human Trafficking Prevention Training
1360-11-02-.04	Program Violations
1360-11-02-.05	Certification Renewal
1360-11-02-.06	Benefits to Businesses

Chapter 1360-11-02  
Tennessee Businesses Against Trafficking Rules

New

**1360-11-02-.01 DEFINITIONS**

The following terms as used in this Chapter have the following meanings:

- (1) "Commercial sex industry" means a commercial enterprise primarily engaged in providing services or offering for sale, rental, or exhibition, devices or items intended to facilitate sexual stimulation or gratification for its clientele.
- (2) "Entity" means a domestic or foreign for-profit corporation, limited partnership, limited liability company, professional association, cooperative association, bank, trust company, savings and loan association or company, insurance company, reciprocal or interinsurance exchange, railroad company, cemetery company, government-regulated cooperative, stock company, abstract and title insurance company, organization that engages in for-profit activities through the use of employees, or any other organization that is governed under the Tennessee Code Annotated, federal law, or the laws of another state or nation.
- (3) "Human trafficking" means any offense referred to in TCA § 39-13-314(a)(1).
- (4) "Human trafficking prevention training" means training designed to combat human trafficking, focusing on the accurate and prompt identification and reporting of, and response to, suspected human trafficking.
- (5) "Partnership" or "partner" means an entity that has applied to participate in the Tennessee Businesses Against Trafficking program, has satisfied the requirements of participation in the program, and has received a Tennessee Businesses Against Trafficking Certificate.
- (6) "Secretary of State" or "Secretary" means the Secretary of State or the Secretary of State's authorized representative or designee;
- (7) "TBAT" means Tennessee Businesses Against Trafficking;
- (8) "Zero-tolerance policy" means a policy regarding human trafficking that includes, at a minimum, the following:
  - (a) Compliance with relevant federal and state laws and regulations pertaining to human trafficking;
  - (b) A periodic review of the business's supply lines, supplies, agents, subcontractors, other inputs, and facilities associated with the business to identify potential vulnerabilities to human trafficking, and taking appropriate actions to address any adverse findings, which may include incorporating language in supplier contracts outlining the entity's human trafficking policies and encouraging suppliers to adhere to these policies; and
  - (c) Implementation of measures to prevent the use of business funds for patronizing business entities or others involved in the commercial sex industry and to ensure that business resources are not used to engage in sexual conduct that violates state or federal laws or to operate a business within the commercial sex industry.

Authority: T.C.A. § 38-1-802.

**1360-11-02-.02 APPLICATION FOR TBAT CERTIFICATE**

- (1) Any entity seeking to join the Tennessee Businesses Against Trafficking Program must submit an application to the Secretary of State on a form provided by the Secretary and supported by additional documentation, if required, demonstrating the following:
  - (a) The applicant has adopted a Zero-Tolerance Policy regarding human trafficking;

- (b) The applicant will participate in at least one anti-human-trafficking public awareness or education campaign each year for the duration of its participation in the partnership;
  - (c) Verification that the applicant will offer all current employees Human Trafficking Prevention Training within 60 days of application approval;
  - (d) Verification that the applicant will include Human Trafficking Prevention Training in all new hire materials or has established periodic training programs;
  - (e) An agreement to share with the Secretary of State best practices that are effective in combatting human trafficking;
  - (f) Contact information to ensure applicant receives timely updates to training materials and other pertinent announcements from the Secretary of State; and
  - (g) Any additional information as required by the Secretary of State.
- (2) The application for a TBAT Certificate must contain the signature of an individual with authority to sign on behalf of the entity and the date on which the applicant signed the application.
  - (3) If, after a review of the application and any additional documentation requested by the Secretary of State, the Secretary determines that all the requirements set forth in subsections (1) and (2) of this Rule have been met, the Secretary will approve the application, issue a TBAT Certificate to the applicant, and the applicant will be named a TBAT Partner.
  - (4) All TBAT Certificates issued by the Secretary of State must bear an expiration date that will be two years from the date the certificate is issued.
  - (5) There is no fee for an entity to submit an application for a TBAT Certificate.

Authority: T.C.A. § 38-1-802.

#### **1360-11-02-.03 HUMAN TRAFFICKING PREVENTION TRAINING**

Human Trafficking Prevention Training must include the following:

- (1) A general overview of human trafficking;
- (2) A general overview of state law on human trafficking;
- (3) The definition of human trafficking and the commercial exploitation of children;
- (4) Guidance on how to recognize potential human trafficking victims;
- (5) Guidance on how to recognize potential human traffickers;
- (6) Guidance on how to identify activities commonly associated with human trafficking;
- (7) Safe and effective responses to human trafficking situations, including how to report suspected human trafficking to proper law enforcement officials; and
- (8) Pre-training and post-training surveys to gauge the trainees' increased understanding of the scope and signs of human trafficking and the manner in which to respond to potential trafficking.

Authority: T.C.A. § 38-1-802.

#### **1360-11-02-.04 PROGRAM VIOLATIONS**

- (1) Any Partner who violates the requirements of these Rules, including implementation of the Human Trafficking Prevention Training and Zero-Tolerance Policy, may result in termination of the Partnership and revocation of the entity's TBAT Certificate.
- (2) To revoke an entity's participation in the program, the Secretary will send a revocation letter to the entity stating the grounds for non-compliance that resulted in termination of the Partnership and revocation of the TBAT Certificate.
- (3) Any entity that has its Partnership terminated and its TBAT Certificate revoked may submit an application for TBAT Certification after rectifying the grounds for non-compliance. The Secretary has discretion to approve or deny, for any reason, the application of an entity that had its Partnership terminated and TBAT Certificate revoked.

Authority: T.C.A. § 38-1-802.

#### **1360-11-02-.05 CERTIFICATION RENEWAL**

- (1) An entity may renew its TBAT Certificate by filing an application for renewal in the same manner as the original application under these Rules.
- (2) An application for renewal may be submitted only during the renewal period. The renewal period begins sixty (60) days before the expiration of the TBAT Certificate and ends on the date of the TBAT Certificate's expiration. An application for renewal submitted before the renewal period will be rejected.
- (3) An application for renewal submitted after the renewal period will be treated as a new application under these Rules.

Authority: T.C.A. § 38-1-802.

#### **1360-11-02-.06 BENEFITS TO BUSINESSES**

- (1) Any entity that becomes a Partner in the Tennessee Businesses Against Trafficking program will receive a Tennessee Businesses Against Trafficking Certificate and Digital participation symbol signifying the business's commitment to combatting human trafficking.
- (2) The Secretary will place the name of each Partner on the Secretary of State website and may publicly acknowledge the partnership through various communication channels, such as the Secretary of State website, social media platforms, and newsletters.

Authority: T.C.A. § 38-1-802.

\* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

I certify that this is an accurate and complete copy of an emergency rule(s), lawfully promulgated and adopted.

Date: February 23, 2024

Signature: [Signature]

Name of Officer: Michael T. Harmon

Title of Officer: General Counsel, Department of State

Agency/Board/Commission: Department of State

Rule Chapter Number(s): 1360-11-02

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

[Signature]  
Jonathan Skrmetti  
Attorney General and Reporter  
March 11, 2024  
Date

**Department of State Use Only**

Filed with the Department of State on: 3/18/2024

Effective for: 180 **\*days**

Effective through: 9/14/2024

\* Emergency rule(s) may be effective for up to 180 days from the date of filing.

RECEIVED

Mar 18 2024, 4:19 pm

Secretary of State  
Division of Publications

[Signature]  
Tre Hargett  
Secretary of State

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

This rule will not have any impact on local governments.



### Additional Information Required by Joint Government Operations Committee

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

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

One new Chapter is being promulgated by the Department of State, which has been charged with regulatory authority of the Tennessee Businesses Against Trafficking ("TBAT") program, codified at T.C.A. §§ 38-1-801, *et seq.* The chapter is: Chapter 1360-11-02, Tennessee Businesses Against Trafficking Rules. This chapter establishes the TBAT program, and outlines the requirements of the program's application, trainings, violations, and renewal. The rules further establish benefits available to businesses that join the Secretary of State as a TBAT Partner.

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

2023 Public Acts, Chapter 117, became law for purposes of rulemaking on April 17, 2023, and allows the Secretary of State to promulgate rules as necessary to implement the Tennessee Businesses Against Trafficking ("TBAT") program. The purpose of these rules is to implement the TBAT Program, T.C.A. §§ 38-1-801 *et seq.*, which has statutory guidelines for rulemaking throughout its provisions, as cited in these rules.

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

These rules are designed to help business identify victims and potential victims of human trafficking. There are many organizations seeking to combat the human trafficking epidemic. As directed by statute, specifically T.C.A. § 38-1-801(d), the Secretary of State consulted with many individuals and groups in the creation of these rules, including Thistle Farms, AncoraTN, and Ascend Consulting DC. The Secretary of State's Office has seen strong support for the adoption of these rules, for the benefit of human trafficking victims.

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

None.

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

The Department of State does not expect there will be any significant changes to either state or local government revenue or expenditures resulting from this emergency rule.

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

Michael Harmon, General Counsel, Department of State  
Lydia Doss, TBAT Program Coordinator, Department of State

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

Michael Harmon, General Counsel, Department of State  
Lydia Doss, TBAT Program Coordinator, Department of State

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

Michael Harmon



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

None.