

Document:**Tenn. Code Ann. § 39-11-106**

< Previous

Next >

Tenn. Code Ann. § 39-11-106**Copy Citation**

Current through the 2020 Regular and Second Extraordinary Sessions

[**TN - Tennessee Code Annotated**](#) [**Title 39 Criminal Offenses**](#) [**Chapter 11 General Provisions**](#) [**Part 1 Construction**](#)**39-11-106. Title definitions.**

- (a)** As used in this title, unless the context requires otherwise:
- (1)** "Antique firearm" means:
- (A)** Any firearm, including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before the year 1898;
- (B)** Any replica of any firearm described in subdivision (a)(1)(A) if such replica:
- (i)** Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; or
- (ii)** Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or
- (C)** Any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition;
- (2)** "Benefit" means anything reasonably regarded as economic gain, enhancement or advantage, including benefit to any other person in whose welfare the beneficiary is interested;
- (3)** "Bodily injury" includes a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty;
- (4)** "Coercion" means a threat, however communicated, to:
- (A)** Commit any offense;
- (B)** Wrongfully accuse any person of any offense;
- (C)** Expose any person to hatred, contempt or ridicule;
- (D)** Harm the credit or business repute of any person; or
- (E)** Take or withhold action as a public servant or cause a public servant to take or withhold

action;

(5) "Criminal negligence" refers to a person who acts with criminal negligence with respect to the circumstances surrounding that person's conduct or the result of that conduct when the person ought to be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint;

(6) "Deadly weapon" means:

(A) A firearm or anything manifestly designed, made or adapted for the purpose of inflicting death or serious **bodily injury**; or

(B) Anything that in the manner of its use or intended use is capable of causing death or serious **bodily injury**;

(7)

(A) "Deception" means that a person knowingly:

(i) Creates or reinforces a false impression by words or conduct, including false impressions of fact, law, value or intention or other state of mind that the person does not believe to be true;

(ii) Prevents another from acquiring information which would likely affect the other's judgment in the transaction;

(iii) Fails to correct a false impression of law or fact the person knows to be false and:

(a) The person created; or

(b) Knows is likely to influence another;

(iv) Fails to disclose a lien, security interest, adverse claim or other legal impediment to the enjoyment of the property, whether the impediment is or is not valid, or is or is not a matter of public record;

(v) Employs any other scheme to defraud; or

(vi)

(a) Promises performance that at the time the person knew the person did not have the ability to perform or that the person does not intend to perform or knows will not be performed, except mere failure to perform is insufficient to establish that the person did not intend to perform or knew the promise would not be performed;

(b) Promising performance includes issuing a check or similar sight order for the payment of money or use of a credit or debit card when the person knows the check, sight order, or credit or debit slip will not be honored for any reason;

(B) "Deception" does not include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed;

(8) "Defendant" means a person accused of an offense under this title and includes any person who aids or abets the commission of such offense;

(9) "Deprive" means to:

(A) Withhold property from the owner permanently or for such a period of time as to substantially diminish the value or enjoyment of the property to the owner;

(B) Withhold property or cause it to be withheld for the purpose of restoring it only upon payment of a reward or other compensation; or

(C) Dispose of property or use it or transfer any interest in it under circumstances that make its restoration unlikely;

(10) "Destructive device":

(A) Means:

(i) Any explosive, incendiary, or poison gas;

(a) Bomb;

(b) Grenade;

(c) Rocket having a propellant charge of more than four ounces (4 oz.);

(d) Missile having an explosive or incendiary charge of more than one-quarter ounce (0.25 oz.);

(e) Mine; or

(f) Device similar to any of the devices described in subdivisions (a)(10)(A)(i)(a)-(e); and

(ii) Any combination of parts either designed or intended for use in converting any device into any destructive device described in subdivision (a)(10)(A)(i) and from which a destructive device may be readily assembled; and

(B) Does not include:

(i) Any device that is neither designed nor redesigned for use as a weapon;

(ii) Any device, although originally designed for use as a weapon, that is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device;

(iii) Surplus ordnance sold, loaned, or given by the secretary of the Army pursuant to 10 U.S.C. § 7684(2), 10 U.S.C. § 7685, or 10 U.S.C. § 7686;

(iv) Any antique or rifle which the owner intends to use solely for sporting purposes; or

(v) Any other device that is not likely to be used as a weapon;

(11) "Effective consent" means assent in fact, whether express or apparent, including assent by one legally authorized to act for another. Consent is not effective when:

(A) Induced by deception or coercion;

(B) Given by a person the defendant knows is not authorized to act as an agent;

(C) Given by a person who, by reason of youth, mental disease or defect, or intoxication, is known by the defendant to be unable to make reasonable decisions regarding the subject matter; or

(D) Given solely to detect the commission of an offense;

(12) "Emancipated minor" means any minor who is or has been married, or has by court order or otherwise been freed from the care, custody and control of the minor's parents;

(13) "Firearm":

(A) Means:

(i) Any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosive;

(ii) The frame or receiver of any such weapon;

(iii) Any firearm muffler or firearm silencer; or

(iv) Any destructive device; and

(B) Does not include an antique firearm;

(14) "Force" means compulsion by the use of physical power or violence and shall be broadly construed to accomplish the purposes of this title;

(15) "Fraud" means as used in normal parlance and includes, but is not limited to, deceit, trickery, misrepresentation and subterfuge, and shall be broadly construed to accomplish the purposes of this title;

(16) "Government" means the state or any political subdivision of the state, and includes any branch or agency of the state, a county, municipality or other political subdivision;

(17) "Governmental record" means anything:

(A) Belonging to, received or kept by the government for information; or

(B) Required by law to be kept by others for information of the government;

(18) "Handgun" means any firearm with a barrel length of less than twelve inches (12") that is designed, made or adapted to be fired with one (1) hand;

(19) "Harm" means anything reasonably regarded as loss, disadvantage or injury, including harm to another person in whose welfare the person affected is interested;

(20) "Intentional" means that a person acts intentionally with respect to the nature of the conduct or to a result of the conduct when it is the person's conscious objective or desire to engage in the conduct or cause the result;

(21) "Jail" includes workhouse and "workhouse" includes jail, whenever the context so requires or will permit;

(22) "Knowing" means that a person acts knowingly with respect to the conduct or to circumstances surrounding the conduct when the person is aware of the nature of the conduct or that the circumstances exist. A person acts knowingly with respect to a result of the person's conduct when the person is aware that the conduct is reasonably certain to cause the result;

(23) "Law enforcement officer" means an officer, employee or agent of government who has a duty imposed by law to:

(A) Maintain public order; or

(B) Make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses; and

(C) Investigate the commission or suspected commission of offenses;

(24) "Legal privilege" means a particular or peculiar benefit or advantage created by law;

(25) "Minor" means any person under eighteen (18) years of age;

(26)

(A) "Obtain" means to:

(i) Bring about a transfer or purported transfer of property or of a legally recognized interest in the property, whether to the defendant or another; or

(ii) Secure the performance of service;

(B) "Obtain" includes, but is not limited to, the taking, carrying away or the sale, conveyance or transfer of title to or interest in or possession of property, and includes, but is not limited to, conduct known as larceny, larceny by trick, larceny by conversion, embezzlement, extortion or obtaining property by false pretenses;

(27) "Official proceeding" means any type of administrative, executive, legislative or judicial proceeding that may be conducted before a public servant authorized by law to take statements under oath;

(28) "Owner" means a person, other than the defendant, who has possession of or any interest other than a mortgage, deed of trust or security interest in property, even though that possession or interest is unlawful and without whose consent the defendant has no authority to exert control over the property;

(29) "Person" includes the singular and the plural and means and includes any individual, firm, partnership, copartnership, association, corporation, governmental subdivision or agency, or other organization or other legal entity, or any agent or servant thereof;

(30) "Property" means anything of value, including, but not limited to, money, real estate, tangible or intangible personal property, including anything severed from land, library material, contract rights, choses-in-action, interests in or claims to wealth, credit, admission or transportation tickets, captured or domestic animals, food and drink, electric or other power. Commodities of a public nature, such as gas, electricity, steam, water, cable television and telephone service constitute property, but the supplying of such a commodity to premises from an outside source by means of wires, pipes, conduits or other equipment is deemed a rendition of service rather than a sale or delivery of property;

(31) "Public place" means a place to which the public or a group of persons has access and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, places of business, playgrounds and hallways, lobbies and other portions

of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place;

(32) "Public servant" means:

- (A)** Any public officer or employee of the state or of any political subdivision of the state or of any governmental instrumentality within the state including, but not limited to, law enforcement officers;
- (B)** Any person exercising the functions of any such public officer or employee;
- (C)** Any person participating as an adviser, consultant or otherwise performing a governmental function, but not including witnesses or jurors; or
- (D)** Any person elected, appointed or designated to become a public servant, although not yet occupying that position;

(33) "Reckless" means that a person acts recklessly with respect to circumstances surrounding the conduct or the result of the conduct when the person is aware of, but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the accused person's standpoint;

(34)

- (A)** "Recorded device" means the tangible medium upon which sounds or images are recorded or otherwise stored;
- (B)** "Recorded device" includes any original phonograph record, disc, tape, audio, or videocassette, wire, film or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction which duplicates, in whole or in part, the original;

(35) "Security guard/officer" means an individual employed to perform any function of a security guard/officer and security guard/officer patrol service as set forth in the Private Protective Services Licensing and Regulatory Act, compiled in title 62, chapter 35;

(36) "Serious bodily injury" means **bodily injury** that involves:

- (A)** A substantial risk of death;
- (B)** Protracted unconsciousness;
- (C)** Extreme physical pain;
- (D)** Protracted or obvious disfigurement;
- (E)** Protracted loss or substantial impairment of a function of a bodily member, organ or mental faculty; or
- (F)** A broken bone of a child who is twelve (12) years of age or less;

(37) "Services" includes labor, skill, professional service, transportation, telephone, mail, gas, electricity, steam, water, cable television, entertainment subscription service or other public services, accommodations in hotels, restaurants or elsewhere, admissions to exhibitions, use of vehicles or other movable property, and any other activity or product considered in the ordinary course of business to be a service, regardless of whether it is listed in this subdivision (a)(37) or a specific statute exists covering the same or similar conduct; and

(38) "Value":

(A) Subject to the additional criteria of subdivisions (a)(38)(B)-(D), "value" under this title means:

- (i)** The fair market value of the property or service at the time and place of the offense; or
- (ii)** If the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the offense;

- (B)** The value of documents, other than those having a readily ascertainable fair market value, means:
- (i) The amount due and collectible at maturity, less any part that has been satisfied, if the document constitutes evidence of a debt; or
- (ii) The greatest amount of economic loss that the owner might reasonably suffer by virtue of loss of the document, if the document is other than evidence of a debt;
- (C) If property or service has value that cannot be ascertained by the criteria set forth in subdivisions (a)(38)(A) and (B), the property or service is deemed to have a value of less than fifty dollars (\$50.00);
- (D) If the defendant gave consideration for or had a legal interest in the property or service that is the object of the offense, the amount of consideration or value of the interest shall be deducted from the value of the property or service ascertained under subdivision (a)(38)(A), (B) or (C) to determine value; and
- (E) For a violation of § 39-14-408(b)(1), the value of the property includes the fair market value of repairing, cleaning, and restoring the property.
- (b)** The definition of a term in subsection (a) applies to each grammatical variation of the term.

History

Acts 1989, ch. 591, § 1; 1990, ch. 1030, §§ 1, 2; 1995, ch. 322, § 1; 1996, ch. 1009, § 22; 1997, ch. 437, § 2; 2009, ch. 307, § 1; 2009, ch. 325, § 1; 2011, ch. 348, § 1; 2014, ch. 984, § 1; 2019, ch. 279, §§ 1, 2; 2020 (2nd Ex. Sess.), ch. 3, § 1.

TENNESSEE CODE ANNOTATED

Copyright © 2021 by The State of Tennessee All rights reserved

[⟨ Previous](#)

[Next ⟩](#)



[About](#)

[Privacy Policy](#)

[Cookie Policy](#)

[Terms & Conditions](#)

 RELX™

Copyright © 2021 LexisNexis.