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Watercraft

Dear Reader:

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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 1995 Chapter 116

SECTION 1. As used in this act, unless the context clearly requires otherwise:

- (1) "Admission" means admission for an amusement for consideration, and shall apply on admission fees or charges whether or not a ticket is issued.
- (2) "Amusement" includes any ride, excursion or float trip by canoe, raft or similar floating device on a whitewater river where consideration is charged.
- (3) "Consideration" means the consideration charged if received for an admission for an amusement valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash credits, property and services of any kind or nature, without any deduction therefrom whatsoever; provided, however, nothing in this definition shall be construed to imply that consideration is charged when the service provided is complimentary and no consideration is charged or received from any person by the operator.
- (4) "Consumer" or "Customer" means any person who pays consideration for an amusement.
- (5) "County Legislative Body" means the county legislative body of Cocke County, Tennessee.
- (6) "Operator" means the person operating an amusement.
- (7) "Person" means any individual, firm, partnership, joint venture, association, social club, religious organization, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate, governmental or quasi-governmental entity, or any other entity, group or combination.
- (8) "Watercraft" or "Rivercraft" means any canoe, raft, kayak or similar floating or powered device.
- (9) "Whitewater River" means the portions of the Pigeon River and the French Broad River located within the boundaries of Cocke County, but shall not include any portion of Douglas Lake.
- (10) "TWRA" means the Tennessee Wildlife Resources Agency;

SECTION 2. The county legislative body is authorized to issue to an operator, and to set a fee for issuance of a license, and for the use of the amusement in the following manner:

- (a) The county legislative body is authorized to limit the total number of licenses issued and outstanding at one (1) time to a number that the county legislative body determines will promote safe and uncrowded conditions. Each license shall state the maximum number of customers which the operator is entitled to disembark per day.
- (b) An operator shall be required to furnish proof of liability insurance in the minimum amount of five hundred thousand dollars (\$500,000) or such additional amount as may be established by the Cocke County legislative body. Such liability insurance policy shall name Cocke County, its officials, agents and employees, as additional insureds and shall contain a provision requiring the insurance company to notify Cocke County in writing at least fifteen (15) days prior to cancellation of the policy for any reason. Failure to provide the required insurance policy shall result in denial or revocation of the license.
- (c) Issuance of license shall be based upon the operator's knowledge and experience and demonstrated ability to comply with the provisions of the act and the regulations established by the county legislative body.
- (d) A license shall be issued by the county legislative body through the office of the County Clerk of Cocke County.
- (e) Each license shall be valid for a specified period of time, which shall be established by the county legislative body. The county legislative body shall establish a procedure for renewal so a license may be renewed in adequate time for an operator to prepare for the next season.
- (f) The county legislative body shall establish a fee for the issuance and renewal of a license.
- (g) The county legislative body may charge a fee for the use of watercraft as an amusement on a whitewater river. The rate of the user fee shall be a fixed amount per person; to be established by the County Legislative Body. The fee shall be added to the consideration charged for admission to the amusement, and shall be collected by the operator from the consumer and remitted by the operator to Cocke County at such times and in such manner as established by the county legislative

body. The fee shall not be assumed by the operator. No operator shall advertise or state in any manner, directly or indirectly, that the fee or any portion thereof will be assumed or absorbed by the operator or that it will not be added to the consideration, or that if added, any part will be refunded. The county legislative body may establish a penalty for failure to file reports and/or remit fees when due. Interest may be charged on delinquent fees at the same rate established by general law for delinquent real property taxes. Such interest and penalty shall become a part of the fees required to be remitted. The county legislative body shall designate an official responsible for collection of the fees, which collector shall have, as additional powers, those powers granted by general law to collectors of delinquent privilege taxes. In addition, delinquent fees may be referred to an attorney for collection in accordance with regulations established by the county legislative body. It is the duty of every operator to keep and preserve for a period of three (3) years all records necessary to determine the amount of the fees due, and keep such records open for inspection at all reasonable times by the official responsible for collection of the fees.

As amended by: Private Acts of 1997, Chapter 26

(h) All fees collected hereunder shall be deposited in the general fund of Cocke County, or such other fund as the County Legislative Body shall designate, and used to defray costs and expenses associated with the commercial use of watercraft on the whitewater rivers in Cocke County.

As amended by: Private Acts of 1997, Chapter 26.

(i) The county legislative body may establish and impose civil penalties for failure to comply with the provisions of this act or any regulations established by the county legislative body pursuant to the act. The county legislative body shall establish guidelines for the imposition of any civil penalties. In addition, a license may be suspended and/or revoked by the county legislative body for failure to comply with the provisions of this act or any regulations established by the county legislative body pursuant to this act. The county legislative body shall establish guidelines for suspension or revocation of permits or licenses. Such guidelines shall include procedures affording a reasonable opportunity for notice and a hearing before such suspension or revocation.

SECTION 3. The county legislative body is authorized to establish regulations providing minimum safety standards for operation of watercraft on whitewater river in Cocke County, which include but are not limited to standards for types of equipment, requirement for guides and trip leaders and any other standards reasonably intended to promote safety. Such safety standards shall not become effective without prior written approval of TWRA. In no event shall a safety standard be approved which is in conflict with the Tennessee Boating Safety Act of 1965, as amended, codified at Tennessee Code Annotated, Title 69, Chapter 10, Part 2, and the rules and regulations promulgated thereunder, or any applicable federal boating statute, including but not limited to the Federal Boat Safety Act of 1971, as amended, codified at 46 U.S.C. Section 1451, and the Recreational Boating Safety Act, as amended, codified at 46 U.S.C. Section 13101, and regulations promulgated thereunder. It is not the intent of the General Assembly that any numbering or fee authorizing under the provisions of Tennessee Code Annotated, Title 69, Chapter 10, Part 2, should apply to activities regulated pursuant to this act.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 5. This act shall have no effect unless it is approved by a two-thirds ($\frac{2}{3}$) vote of the county legislative body of Cocke County. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body of Cocke County and so certified to the Secretary of State.

SECTION 6. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 5.

Passed: May 25, 1995.

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