RULES
OF
TENNESSEE MOTOR VEHICLE COMMISSION

CHAPTER 0960-01
GENERAL RULES

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0960-01-.01 DEFINITIONS.

For the purposes of these rules and *T.C.A. § 55-17-101* et seq. and unless the context requires otherwise:

(1) The term "representative" shall include regional, zone or district executive sales, service and parts personnel whose area of responsibility includes Tennessee and whose duties include contacting motor vehicle dealers or their employees in Tennessee and every other person employed by a motor vehicle manufacturer or distributor, directly or indirectly, to call upon or contact motor vehicle dealers or their employees in Tennessee concerning new motor vehicle sales, advertising, service, parts, business management, used motor vehicle sales or for any other purpose.

(2) The term "labor rate" shall mean the total labor cost including salary and benefits, overhead and profit attributable to employees of a motor vehicle dealer performing or assisting in the performance of warranty repairs or servicing.

(3) The term "labor rate per hour" shall mean the labor rate per hour attributable to employees of a motor vehicle dealer performing or assisting in the performance of warranty repairs or servicing.

(4) The term "warranty" repairs or servicing" shall mean the actual work or service, including reasonable diagnostic time, performed by a motor vehicle dealer under the terms of a valid, new car manufacturer's warranty.

(5) The term "retail labor rate" shall mean the total labor cost including salary and benefits, overhead and profit attributable to employees of a motor vehicle dealer performing or assisting in the performance of repairs or servicing of vehicles not covered by a new car manufacturer's warranty.

(Rule 0960-01-.01, continued)

(6) The term "posted retail labor rate" shall mean the "retail labor rate" as defined in Rule 0690-1-.05 (5) which has been filed by a motor vehicle dealer with the Tennessee Motor Vehicle Commission pursuant to *T.C.A.§ 55-17-121* (a).

(7) The term "manual" shall mean the standard rate manual published by the manufacturer of a line-make or trade name of motor vehicle or any component thereof stating the standard time units required or allotted to perform specific warranty repairs or servicing.

(8) The term "sales incentive" shall mean a payment made or other benefit provided by a manufacturer or distributor pursuant to a program to incentivize the retail sale of a vehicle or vehicles distributed by the manufacturer or distributor. Without limiting the foregoing, each of the following is an example of a Sales Incentive: (1) a payment made or a benefit provided by a manufacturer or distributor for which a buyer of a vehicle from a dealer becomes eligible as a result of purchasing a vehicle, whether the payment or benefit is given to the buyer or to another based on assignment of the right thereto by the buyer of a vehicle; (2) a payment made or benefit provided by a manufacturer or distributor to a dealer because of the dealer's sale of a vehicle; (3) a payment made or a benefit provided by a manufacturer or distributor to a dealer for a dealer's sale of multiple vehicles to meet a goal or objective of a manufacturer or distributor's program; (4) a payment made or a benefit provided by a manufacturer or distributor to a dealer for a dealer's sale of a vehicle or sales of vehicles where the amount of compensation or benefit is determined based on a dealer's sales in comparison to a goal or goals of a manufacturer or distributor's program; and/or (5) a payment made or benefit provided by a manufacturer or distributor to a dealer or the customer on account of the customer's status as an employee of the manufacturer or distributor, a relative of an employee of the manufacturer or distributor, a supplier to the manufacturer or distributor, or as a former customer of the brand, or as a payment or other benefit given to a buyer who currently owns a competing brand as an inducement to purchase a vehicle.

Authority**:** *T.C.A. § 55-17-107.* ***Administrative History****: Original rule certified May 31, 1974. Repealed and refiled October 23, 1978; effective January 29, 1979. Amendment filed June 22, 2011; effective September 20, 2011.*

0960-01-.02 WARRANTY SERVICE.

A franchised motor vehicle dealer shall perform warranty repairs or servicing on all motor vehicles of the same trade name or line-make that the dealer is licensed to sell whether the dealer sold the motor vehicle or not.

Authority**:** *T.C.A. § 55-17-107.* ***Administrative History****: Original rule was certified May 31, 1974. Repealed and refiled October 23, 1978, effective January 29, 1979.*

0960-01-.03 WARRANTY CHARGES AND SALES INCENTIVE AUDITS.

(1) (a) All charges made by a motor vehicle dealer to a manufacturer, distributor, manufacturer or distributor branch, or manufacturer or distributor representative for warranty repairs or servicing shall be submitted within thirty (30) days after such repairs or servicing is completed. All such claims for warranty repairs or servicing properly submitted shall be deemed approved and shall be promptly paid, unless within sixty (60) days after such claims are received, the manufacturer, distributor, manufacturer or distributor branch, or manufacturer or distributor representative provides the submitting dealer with written notice that the claim or claims are rejected and the reason therefor. A manufacturer, distributor, manufacturer or distributor branch, or manufacturer or distributor representative may, within twelve (12) months after the payment of a warranty claim,

(Rule 0960-01-.03, continued)

review its action, audit the submitting dealer's records and disallow the claim for good cause.

(b) A manufacturer, distributor, manufacturer or distributor branch, or manufacturer or distributor representative may, within twelve (12) months after the payment of sales incentives, review its action, audit the submitting dealer's records and disallow the claim for good cause. In the event of a manufacturer or distributor sales incentive audit of a dealer, if it is properly determined that a dealer must reimburse a manufacturer or distributor after a full and fair audit, the dealer shall nevertheless be entitled to a reduction in the reimbursement if the dealer qualified for some different payment or benefit as a result of the sale or sales being audited.

(2) Unless a motor vehicle dealer's franchise agreement with a manufacturer or distributor provides to the contrary, a motor vehicle dealer is required to retain parts replaced during warranty repairs or services for a period of thirty (30) days after the date the dealer submits a claim for warranty reimbursement to the manufacturer or distributor for the repairs or servicing in which the part or parts were replaced.

Authority: *T.C.A. § 55-17-107.* ***Administrative History****: Original rule certified May 31, 1974. Repealed and refiled October 23, 1978; effective January 29, 1979. Repeal and new rule filed July 23, 2010; effective October 21, 2010. Repeal and new rule filed June 22, 2011; effective September 20, 2011.*

0960-01-.04 COMPUTATION OF WARRANTY CHARGES.

A motor vehicle dealer's charge for warranty repairs or servicing of a vehicle shall be computed by multiplying the sum of the hours or portions thereof allotted to the particular warranty repair or service by the manual of the manufacturer of the line-make of motor vehicle being repaired or services and the actual hours or portions thereof spent diagnosing the condition or problem requiring warranty repair or service multiplied by the "labor rate per hour".

Authority*: T.C.A. § 55-17-107****. Administrative History****: Original rule certified May 31, 1974. Repealed and refiled October 23, 1978; effective January 29, 1979.*

0960-01-.05 APPROVAL OF REQUESTED LABOR RATES.

A manufacturer, distributor, manufacturer or distributor branch or manufacturer or distributor representative shall either approve or disapprove, in writing, a motor vehicle dealer's request for an adjustment in labor rate charged to the manufacturer or distributor for warranty repairs of servicing within thirty (30) days following receipt of the request for warranty labor rate adjustment.

Authority: *T.C.A. § 55-17-107.* ***Administrative History****: Original rule certified May 31, 1974. Repealed and refiled October 23, 1978; effective January 29, 1979.*

0960-01-.06 NOTICE OF TERMINATION, CANCELLATION OR NON-RENEWAL.

(1) In the event that a manufacturer, distributor, manufacturer or distributor branch or manufacturer or distributor representative determines that the franchise of an existing motor vehicle dealer should be terminated or cancelled or should not be renewed, it shall give written notice to the dealer and to the Tennessee Motor Vehicle Commission at least sixty (60) days prior to the effective date of the termination, cancellation or non-renewal. This notice shall contain a concise statement of the reasons for the termination, cancellation or non-renewal of the franchise. Upon application of the person cancelling, terminating or failing to renew a franchise and with notice to the dealer affected thereby, the Commission may permit a cancellation, termination or non-renewal of a franchise upon less than sixty (60)

(Rule 0960-01-.06, continued)

days notice, if it determines in writing that a lesser notice period is justified in light of the circumstances surrounding the cancellation, termination or non-renewal.

(2) Where a manufacturer, distributor, manufacturer or distributor branch or manufacturer or distributor representative has issued the notice of termination or non-renewal as provided above, has taken such action without issuing the notice, or has otherwise threatened to terminate the dealership, the affected dealer shall have the right, within the 60 day period following receipt of the notice or action, to petition the Tennessee Motor Vehicle Commission for a declaratory order in accordance with T.C.A. § 4-5-223 as to the applicability of T.C.A. § 55-17-114(c)(3) and/or (c)(21) to the proposed or threatened termination. Upon the filing of such petition, the Tennessee Motor Vehicle Commission shall convene a contested case hearing for the purpose of determining whether the action of the manufacturer or distributor is (a) unfair, (b) without due regard to the equities, or (c) without just provocation as provided within T.C.A. § 55-17-114(c)(3) and/or (c)(21). The manufacturer or distributor thereof shall be served with the petition and shall be a party to the contested case hearing.

(3) Failure of a manufacturer, distributor, manufacturer or distributor branch or manufacturer or distributor representative to give adequate notice pursuant to Rule 0960-01-.06(1) or to keep the franchise in full force and effect pending a final determination by the Commission or to abide by the Commission's final order may result in the Commission's refusal to issue a motor vehicle dealer's license to another dealership selling the same trade name and line-make of motor vehicles as the affected dealer or doing business in the same relevant market area as the affected dealer. This remedy is in addition to any other remedy provided in T.C.A. § 55-17-101 et seq.

Authority: *T.C.A. §§ 55-17-107 and 55-17-114.* ***Administrative History****: Original rule certified May 31, 1974. Repealed and refiled October 23, 1978; effective January 29, 1979. Repeal and new rule filed June 22, 2011; effective September 20, 2011. Amendments filed July 7, 2016; effective October 5, 2016.*

0960-01-.07 ZONING RESTRICTIONS.

All applicants for a motor vehicle dealer's license shall file with their application a statement from the proper local authority that the location or the proposed location of the dealer's established place of business complies with all applicable local zoning requirements.

Authority*: T.C.A. §§ 55-17-107 and 55-17-111 (a).* ***Administrative History****: Original rule filed February 5, 1979; effective May 28, 1979.*

0960-01-.08 DEALER APPLICATIONS.

(1) An applicant for a license to sell motor vehicles shall comply with T.C.A. § 55-17-111 and shall provide the Commission with all information required by this section.

(2) Applicants are required to provide the Commission, and keep current, the names of any inventory financers, i.e. "floor planners" used by the dealership.

(3) A motor vehicle dealer applicant shall provide to the Commission a compiled financial statement indicating a minimum net worth of at least Ten Thousand Dollars ($10,000.00). The compiled financial statement must be prepared in accordance with generally accepted accounting principles by a certified public accountant or public accountant dated not earlier than twelve (12) months prior to the date of the application, and a copy of the same must be furnished to the Commission along with any changes to the statement.

Authority*: T.C.A. §§ 55-17-107 and 55-17-111.* ***Administrative History:*** *Original rule filed February 5, 1979; effective May 28, 1979. Amendment filed November 15, 2000; effective January 30, 2001. Repeal*

(Rule 0960-01-.08, continued)

and new rule filed August 20, 2008; effective November 3, 2008. Repeal and new rule filed June 22, 2011; effective September 20, 2011.

0960-01-.09 SIGNS.

All motor vehicle dealers shall install signs at their established place of business identifying them as a motor vehicle dealer. Such sign shall consist of letters no less than eight (8) inches in height and shall not advertise any other business or product.

Authority: *T.C.A. §§ 59-1702(a) and 59-1707(a).* ***Administrative History****: Original rule filed February 5, 1979; effective May 28, 1979.*

0960-01-.10 REASONABLE BUSINESS HOURS.

All motor vehicle dealers shall be open at their established place of business during reasonable business hours, and these hours shall be posted either on the door to the dealership, in a window of the dealership or on the dealership's sign. For this section, "reasonable business hours" means at least three days a week for a minimum of twelve hours (12) total during the week. The reasonable business hours must be between 8:00 a.m. and 7:00 p.m., and at least eight (8) of the hours must be on Monday, Tuesday, Wednesday, Thursday or Friday.

Authority*: T.C.A. § 55-17-107.* ***Administrative History****: Original rule filed February 5, 1979; effective May 28, 1979. Repeal and new rule filed August 20, 2008; effective November 3, 2008.*

0960-01-.11 INSPECTION OF BUSINESS RECORDS.

(1) All persons licensed by the Commission shall make available for inspection during normal business hours by the Commission or its duly authorized representative, all books, records and other memorandums of all transactions, transfers and/or sales of motor vehicles, and dead files (any paperwork from an uncompleted deal where a credit application is received or a buyer's/purchase order is prepared).

(2) All records shall be kept on site or at a location where the records can be accessed in a reasonable amount of time. Proof of ownership and consignment agreements of each motor vehicle possessed shall be maintained at the location of the dealership or at a dealership which owns the licensee. Temporary tag logs shall be kept at the dealership of the licensee to which the tags were issued. Records may be kept in written or electronic format.

(3) All business records shall be kept for the period of time required by state or federal law or regulation.

Authority*: T.C.A. § 55-17-107.* ***Administrative History****: Original rule filed February 5, 1979; effective May 28, 1979. Repeal and new rule filed August 20, 2008; effective November 3, 2008. Repeal and new rule filed June 22, 2011; effective September 20, 2011.*

0960-01-.12 ADVERTISING OF MOTOR VEHICLES.

(1) General Principles.

(a) All advertising in any form of media including any oral, written, graphic or pictorial statement made in the course of soliciting business, including without limitation, a statement or representation contained in a notice, sign, poster, display, circular, pamphlet, or letter, on radio, the Internet, via an on-line computer service, or on television, must conform to all applicable provisions of this chapter in addition to any other applicable Tennessee state or federal laws and regulations.

(Rule 0960-01-.12, continued)

(b) False, misleading or deceptive advertising of motor vehicles is prohibited.

(c) Any disclosures of material facts in the advertising of motor vehicles must be made in a clear and conspicuous manner.

(2) Advertising of New Motor Vehicles.

(a) If a motor vehicle advertisement pertains to a specific new vehicle, the advertisement must indicate the stock number of that vehicle.

(b) If a motor vehicle advertisement pertains to a new vehicle which is not then in stock, the advertisement must disclose that the vehicle is to be ordered from a manufacturer, distributor, wholesaler or other identified source.

(c) A group of similar motor vehicles may be advertised by one stock number, as long as the advertised price of each vehicle of that group is the same.

(3) Advertising of Used Motor Vehicles.

(a) If an advertised motor vehicle is required by T.C.A. Title 55, Chapter 3 to be titled as a used motor vehicle, the advertisement shall disclose that the motor vehicle is “used”, or “pretitled”, or “previously owned”, or words of similar import or intent.

(b) If a motor vehicle advertisement pertains to either a specific used vehicle or group of used vehicles, the advertisement must indicate the stock number of at least one of the vehicles.

(4) Price Advertising.

(a) If the price of a motor vehicle is advertised, the advertisement:

1. Shall include in the advertised price all costs and charges and any additional fees payable by the purchaser of the vehicle advertised.

2. Shall separately describe any additional fee includable under (a)(1) of this paragraph, and state clearly and conspicuously the amount thereof.

3. Shall state the following are not included in the advertised price:

(i) the cost of optional equipment selected by the purchaser; and

(ii) State and local taxes, tags, registration and title fees.

4. Shall not state an advertised price which includes any trade-in allowance, downpayment, capitalized cost reduction or any funds which the consumer is expected to pay in order to reduce the cost of the vehicle to the advertised price, other than rebates from the manufacturer or distributor to all consumers. However, the use of a down payment or a capitalized cost reduction as a term of credit is acceptable. If the rebate from manufacturers or distributors to all customers is utilized in order to reduce the price, then that fact must be disclosed in the advertisement.

5. If on a new motor vehicle, shall not state that the advertised price has been discounted unless the price is discounted from the manufacturers suggested retail price (M.S.R.P.).

(Rule 0960-01-.12, continued)

(b) When the "suggested retail price" of a new motor vehicle is advertised by a manufacturer, distributor, factory representative, or distributor representative, that price must include all charges (other than those for optional equipment); except, however, that destination charges and sales taxes must be specifically excluded.

(c) No motor vehicle advertisement may indicate the price of a motor vehicle in terms of the "invoice," "factory invoice," or "dealer invoice" unless:

1. The invoiced price is the actual price of the manufacturer or distributor to the dealer; and

2. The advertisement discloses any other material factors that may affect the ultimate cost to the dealer, such as manufacturer incentives and awards and dealer hold back.

(d) Unsubstantiated selling claims and misleading statements or inferences including the use of superlatives are strictly prohibited. Examples include: "write your own deal," "name your own price," "we are number 1 in car sales," "lowest price in the south."

(e) If the price and/or terms of sale or lease of a specific motor vehicle, or group of motor vehicles is advertised, the motor vehicle(s) shall be presented and sold at the advertised price and/or terms. Unless the advertisement states that the advertised price and/or terms are effective for only a specific time period or expire at a specific time, the period of time the price and/or terms remain effective is five (5) days following the last date said advertisement is published in any advertising medium.

(5) Reduced interest rates. No reduced interest rate on motor vehicle financing may be advertised if the cost thereof should be directly or indirectly borne by the buyer unless the advertisement discloses that such rate will affect the negotiated price of the vehicle to the buyer.

(6) Trade-in allowance. No motor vehicle advertisement may include a "guarantee" or "minimum" trade-in allowance unless the advertisement also states the price of the vehicle in accordance with paragraph (4) of this rule.

(7) Identification. All advertising in all forms of media, including computer generated advertising, initiated from this state shall identify the motor vehicle dealer by name and/or dealer license number.

(8) Credit Sales Advertising and Federal Regulation Z as issued by the Board of Governors of the Federal Reserve System. An advertisement which complies with the Federal Truth in Lending Act (15 U.S.C. § 160 et seq.) and amendments thereto, and any regulations issued or which may be issued thereunder, shall be deemed in compliance with the provisions of this section. Any advertisement not in compliance with these Federal provisions constitutes violation(s) of this rule.

(9) Lease Advertising and Federal Regulation M as issued by the Board of Governors of the Federal Reserve System. An advertisement which complies with the Consumer Leasing Act of 1976 (15 U.S.C. § 1601 et seq.) and amendments thereto, and any regulations issued or which may be issued thereunder, shall be deemed in compliance with the provisions of this section. Any advertisement not in compliance with these Federal provisions constitutes violation(s) of this rule.

(10) Free offers. "Free," "at no cost" or other words to that effect shall not be used unless the "free" item, merchandise, or service is available without a purchase. The provision shall not

(Rule 0960-01-.12, continued)

apply to advertising placed by manufacturers, distributors, or line-make marketing groups. An advertisement which complies with the Federal Trade Commission guidelines at 16 CFR 251.1 and the Consumer Protection Act of 1977, Tennessee Code Annotated, Section 47-18-120, concerning free offers in connection with negotiated sales shall be deemed in compliance with the provisions of this section. Any advertisement not in compliance with these provisions constitutes violation(s) of this rule.

(11) Advertising Repossessed Vehicles or Special Loans on Vehicles. Advertising of "repossessed" vehicles, or any inference made to that effect, will be construed to be misleading or deceptive unless such vehicle has been repossessed from an immediate former owner. Additionally, a dealer shall not advertise in any manner as to infer that a purchaser will be receiving benefits of any existing loan on a vehicle when no such benefit or loan exists.

***Authority**: T.C.A. § 55-17-107(1). **Administrative History**: Original rule filed August 16, 1988; effective September 30, 1988. Amendment filed January 18, 1991; effective March 4, 1991. Amendment filed November 15, 2000; effective January 30, 2001.*

0960-01-.13 CIVIL PENALTIES.

(1) The Commission may, in a lawful proceeding respecting any individual or entity required to be licensed, registered or certified or who is otherwise subject to regulation by the Commission, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty for each separate violation of a statute, rule, or order pertaining to such individual/entity. The amount of any such civil penalty assessed shall be a minimum of one hundred dollars ($100.00) and shall not exceed five thousand dollars ($5000.00) for each day of violation or for each act of violation.

(2) In determining the amount of a civil penalty the Commission may consider the following factors:

(a) whether the amount imposed will be a substantial economic deterrent to the violator;

(b) the circumstances leading to the violation;

(c) the severity of the violation and the risk of harm to the public;

(d) the economic benefits gained by the violator as a result of non-compliance; and

(e) the interest of the public.

(3) For purposes of the assessment of civil penalties pursuant to this rule, each separate act shall constitute a separate violation, and each day of continued violation shall constitute a separate violation.

***Authority:** T.C.A. §§ 55-17-107, 55-17-117, and 56-1-308. **Administrative Histor**y: Original rule filed February 16, 1990; effective April 2, 1990. Amendment filed March 17, 2005; effective May 31, 2005. Repeal and new rule filed August 20, 2008; effective November 3, 2008.*

0960-01-.14 LICENSE FEES.

(1) The biennial license fees for licenses issued and renewed and other related fees shall be as follows:

(a) For each manufacturer, distributor, factory branch, distributor branch, one thousand six hundred dollars ($1,600.00);

(Rule 0960-01-.14, continued)

(b) For each manufacturer, distributor, fifty dollars ($50.00) per franchised dealer in Tennessee;

(c) For each motor vehicle dealer selling new or used motor vehicles, four hundred dollars ($400.00);

(d) For each factory representative or distributor representative, four hundred dollars ($400.00);

(e) For each motor vehicle salesperson, thirty-five dollars ($35.00);

(f) For each application for endorsement of change of employer of a motor vehicle salesperson by an employer, thirty-five dollars ($35.00);

(g) For each automotive dismantler and recycler, four hundred dollars ($400.00);

(h) For each automobile auction, eight hundred dollars ($800.00);

(i) For each motor vehicle show permit, two hundred dollars ($200.00);

(j) For each duplicate license, twenty-five dollars ($25.00);

(k) For each name change, including additional line-make, four hundred dollars ($400.00);

(l) For each automotive mobility dealer, four hundred dollars ($400.00);

(m) A four hundred dollar ($400.00) fee will be assessed per re-inspection of an applicant when re-inspection is necessitated by an action or inaction of the applicant;

(n) Twenty-five percent (25%) of all license application fees will be forfeited if the applicant fails to submit all required documentation within ninety (90) days of receipt of the application. Any applicant refund must be requested in writing. Documents will be returned to the applicant after ninety (90) days from the initial receipt.

Authority: *T.C.A. §§ 55-17-107, 55-17-111, 55-17-112, and 55-17-302.* ***Administrative History****: Original rule filed July 14, 1989; effective August 28, 1989. Amendment filed March 29, 1993; effective May 13, 1993. Amendment filed November 15, 2000; effective January 30, 2001. Repeal and new rule filed July 23, 2010; effective October 21, 2010. Repeal and new rule filed June 22, 2011; effective September 20, 2011.*

0960-01-.15 LIABILITY INSURANCE AND WORKERS' COMPENSATION.

(1) An applicant for a motor vehicle dealer license or an automobile auction license shall submit to the Commission with each application for license a certificate of comprehensive garage liability insurance, which covers all premises and operations as listed in the application for license, in a minimum amount of coverage of Three Hundred Thousand Dollars ($300,000.00) per occurrence.

(2) The minimum required coverage must remain and continue in force for as long as the dealer or automobile auction remains licensed. Upon notice of cancellation, the licensee shall either cease business operations until proof of minimum coverage is provided, or provide evidence of minimum coverage from another provider.

(3) All motor vehicle dealers shall comply with the applicable workers' compensation laws of the State of Tennessee.

(Rule 0960-01-.15, continued)

Authority: *T.C.A. § 55-17-107.* ***Administrative History:*** *Original rule filed November 15, 2000; effective January 30, 2001. Repeal and new rule filed August 20, 2008; effective November 3, 2008. Repeal and new rule filed July 23, 2010; effective October 21, 2010.*

0960-01-.16 AUTOMOBILE AUCTION MINIMUM REQUIREMENTS.

(1) Except as otherwise provided in this Chapter or state law, automobile auctions shall be licensed by the Motor Vehicle Commission and shall be wholesale transactions wherein the buyers are licensed motor vehicle dealers or their authorized agents. Unlicensed individuals are prohibited from buying automobiles or other motor vehicles at automobile auctions. Motor vehicle dealers may bring no more than five (5) employees with them to an automobile auction to assist them in the evaluation of automobiles offered for auction and/or the transportation of those automobiles purchased. These employees are not permitted to participate in the auction process (bidding, buying or selling).

(2) The following are minimum requirements for licensed automobile auctions:

(a) Zoning – The automobile auction must have a letter of compliance with local ordinances from the local zoning authority.

(b) Insurance

1. The automobile auction must have garage keepers legal liability insurance in an amount not less than five hundred thousand dollars ($500,000.00); and

2. Check and title insurance approved by the Commission.

(c) Surety Bond – The automobile auction must have a $50,000.00 surety bond issued by a licensed bonding company.

(d) Financial

1. The automobile auction must have a compiled financial statement prepared in accordance with generally accepted accounting principles by a certified public accountant or public accountant dated not earlier than twelve (12) months prior to the date of the application and must furnish a copy of the same to the Commission along with any changes to the statement; and

2. The automobile auction must have a minimum net worth of at least $100,000.00.

(e) Building – The automobile auction lot must have a building suitable for vehicles to pass through for viewing and auctioning purposes, an office space for processing sales and for retention of records, and adequate rest room facilities.

(f) Auction Lot – The automobile auction lot must be graveled or paved and large enough to accommodate parking for 100 vehicles.

(g) Fence – The auction building and lot must be fenced to keep out unauthorized people (e.g. chain link fence).

(h) Employee at entrance – An employee must be at entrances at least one hour prior to the auction sale and on station until the auction is completed to check for dealer/salesman licensing credentials. In the alternative, subject to the Commission's approval, a licensed automobile auction may establish a registration procedure by

(Rule 0960-01-.16, continued)

which licensure and other credentials are verified and identification cards issued which are checked at the entrance to the auction.

(i) Telephone – The automobile auction must have a business telephone in the auction company name. Cellular telephones are not acceptable.

(j) Sign – All signs must be visible, and a permanent professional business sign must be installed and must have letters which are at least 8 inches tall.

(k) Business Tax – The automobile auction must hold a current business tax license as required by local applicable law.

(l) The automobile auction must obtain and have displayed on its premises a valid license from the Motor Vehicle Commission.

(m) The automobile auction must obtain and have displayed on its premises a valid license from the Tennessee Auctioneer Commission.

Authority: *T.C.A. §§ 55-17-107, 55-17-109, and 55-17-111.* ***Administrative History:*** *Original rule filed November 15, 2000; effective January 30, 2001. Amendment filed August 20, 2008; effective November 3, 2008.*

0960-01-.17 MOTOR VEHICLE SHOWS.

(1) A motor vehicle show is any display, except as provided herein below, of motor vehicles by one or more manufacturers, distributors, or motor vehicle dealers.

(2) A motor vehicle show permit must be obtained from the Motor Vehicle Commission by the sponsor or promoter thereof no later than ten (10) days prior to the commencement of the motor vehicle show. The permit, or copy thereof, shall be prominently displayed at any entrance into the motor vehicle show.

(3) A motor vehicle show permit shall be valid for seven (7) consecutive days and may be renewed one (1) time for an additional seven (7) consecutive days. Any such renewal shall begin the day after the expiration of the original permit. A sponsor or promoter may obtain only one motor vehicle show permit and renewal per calendar year for the same location.

(4) The applicant shall provide to the Commission the names and addresses of each manufacturer, distributor or motor vehicle dealer displaying motor vehicles at the show.

(5) The sales price of each motor vehicle displayed at the show shall be prominently displayed with the vehicle. Any warranty information associated with the vehicle must be available upon request.

(6) Any manufacturer, distributor, motor vehicle dealer or other person displaying motor vehicles at the motor vehicle show shall have a representative present at all times during the motor vehicle show.

(7) No sales, or negotiations leading to the sale, of motor vehicles, other than non-motorized camping trailers and travel trailers as provided by T.C.A. Title 55, Chapter 17 et seq., may take place at the motor vehicle show.

(8) A manufacturer, distributor, or motor vehicle dealer may display at a single location without obtaining a motor vehicle show permit, provided that no representatives of the displayer are present and that no sales solicitations or activities take place, at the following locations:

(Rule 0960-01-.17, continued)

(a) The interior common areas of shopping malls, hotels or convention centers;

(b) The interior of wholesale shopping clubs;

(c) County, regional or state fairs;

(d) Agricultural events and educational demonstrations;

(e) Sporting and entertainment events in conjunction with the sponsorship thereof;

(f) Commercial airport terminals.

Authority**: T.C.A. § 55-17-107.* ***Administrative History: *Original rule filed November 15, 2000; effective January 30, 2001. Repeal and new rule filed August 20, 2008; effective November 3, 2008. Repeal and new rule filed June 22, 2011; effective September 20, 2011.*

0960-01-.18 EXEMPTIONS FOR AUCTIONS OF MOTOR VEHICLES FOR ESTATE SALES AND FOR NURSING OR HEALTH CARE HOME EXPENSES.

(1) The following shall be exempt from the licensing provisions of this Chapter:

(a) Estate Auctions. Up to five (5) motor vehicles owned and titled to the individual decedent may be placed for sale at auction with the decedent's other personal property.

(b) Auction Sales for Expenses to be Utilized for Nursing or Health Care Home Expenses Purposes. Up to five (5) motor vehicles owned and titled to the individual for whom proceeds from the sale will be used to fund nursing or health care home expenses may be placed at auction.

Authority: *T.C.A. § 55-17-107(1).* ***Administrative History:*** *Original rule filed November 15, 2000; effective January 30, 2001.*

0960-01-.19 COMPLIANCE WITH STATE AND FEDERAL LAWS AND REGULATIONS.

(1) All motor vehicle licensees licensed pursuant to this Chapter shall comply with all applicable Tennessee and federal laws and regulations.

(2) These rules shall in no way be construed to exempt any person from any other provision of Tennessee or federal laws and regulations.

Authority: *T.C.A. §§ 55-17-107(1) and 55-17-118. .* ***Administrative History:*** *Original rule filed November 15, 2000; effective January 30, 2001.*

0960-01-.20 SALES OF USED MOTOR VEHICLES BY UNLICENSED INDIVIDUALS.

(1) Unless otherwise provided by T.C.A. Title 55, Chapter 17 et seq., and these regulations, an individual may sell or offer to sell up to five (5) used motor vehicles registered and titled in his/her name within a twelve (12) month period without a motor vehicle dealer's license.

(2) Selling for or contracting with other unlicensed third parties for the sale of used vehicles titled in a third party's name is strictly prohibited.

(3) If an individual sells or offers to sell more than five (5) vehicles within a twelve (12) month period, he/she shall be found in violation of this rule for engaging in the unlicensed sale of motor vehicles.

(Rule 0960-01-.20, continued)

(4) "Individual," as used in this section, includes, but is not limited to, any person or persons living together in a single household.

Authority: *T.C.A. §§ 55-17-107, 55-17-109, and 55-17-110.* ***Administrative History:*** *Original rule filed November 15, 2000; effective January 30, 2001. Repeal and new rule filed August 20, 2008; effective November 3, 2008.*

0960-01-.21 MOTOR VEHICLE DEALER FACILITIES.

(1) The facility must be physically separate and apart from any other businesses and shall not include any private residence, tent or temporary stand. The facility may be connected to another business facility provided there is a permanent wall from floor to ceiling between the two businesses and the motor vehicle facility has a separate outside entrance and exit. Any doors between the businesses shall be permanently sealed.

(2) The facility shall contain adequate office space (a minimum of 288 square feet) for processing sales and purchases of motor vehicles. The facility shall also contain restroom accommodations.

(3) The facility shall have a primary telephone number listed in the local directory under the name of the dealership. The primary phone number of the dealership shall be posted either on the door to the dealership, in a window of the dealership or on the dealership's sign.

(4) The facility shall have immediate and contiguous access to and exclusive dedicated use of a motor vehicle storage or display lot capable of accommodating fifteen (15) motor vehicles of the dealership's product line. A lot shall consist of compacted gravel, chert, stone or similar materials and shall not include public lands, unimproved land or residential driveways. The facility shall also contain a minimum of three (3) parking spots dedicated for customer parking.

(5) The facility shall be used exclusively for buying, selling, renting, displaying, advertising, demonstrating, servicing or repairing motor vehicles or selling functional or nonfunctional parts, including accessories, safety equipment and vehicle branded clothing.

Authority: *T.C.A. §§ 55-17-107 and 55-17-114.* ***Administrative History:*** *Original rule filed August 20, 2008; effective November 3, 2008. Repeal and new rule filed July 23, 2010; effective October 21, 2010. Repeal and new rule filed June 22, 2011; effective September 20, 2011. Amendment filed June 24, 2016; effective September 22, 2016.*

0960-01-.22 SURETY BONDS.

(1) The surety bond required by T.C.A. Title 55, Chapter 17, Section 111(g) must remain and continue in force for as long as the licensee remains licensed. Upon notice of cancellation, the licensee shall either cease business operations until proof of minimum coverage is provided, or provide evidence of minimum coverage from another provider.

(2) Any surety is required to provide sixty (60) days notice of cancellation to the Commission.

Authority: *T.C.A. §§ 55-17-107, 55-17-111, and 55-17-114.* ***Administrative History:*** *Original rule filed August 20, 2008; effective November 3, 2008. Amendment filed July 22, 2016; effective October 20, 2016.*

0960-01-.23 MAIL FROM COMMISSION.

Except as otherwise provided, a licensed individual or entity or any individual or entity required to be licensed, or who is otherwise subject to regulation by the Commission, shall respond in writing to any communication from the Commission requesting a response within thirty (30) days of the mailing of such communication by registered or certified mail to the last address furnished to the Commission by the licensee, unless otherwise granted an extension of time.

Authority: *T.C.A. § 55-17-107.* ***Administrative History:*** *Original rule filed August 20, 2008; effective November 3, 2008.*

0960-01-.24 SALES TAX IDENTIFICATION NUMBER.

All motor vehicle dealers and automobile auctions shall obtain and hold a current sales tax identification number indicating their business as that of a motor vehicle dealer. Upon expiration of a sales tax identification number, the licensee shall either cease business operations, or provide evidence of a valid sales tax identification number. The dealer's or automobile auction's license shall be invalid during the period of time without a sales tax identification number.

Authority: *T.C.A. §§ 55-17-107 and 55-17-111.* ***Administrative History:*** *Original rule filed August 20, 2008; effective November 3, 2008.*

0960-01-.25 BUSINESS LICENSE.

All motor vehicle dealers and automobile auctions shall obtain and hold a current city and county business license indicating their business as that of a motor vehicle dealer. Upon expiration of a business license, the licensee shall either cease business operations, or provide evidence of licensure. The dealer's or automobile auction's license shall be invalid during the period of time without a business license.

Authority: *T.C.A. §§ 55-17-107 and 55-17-111.* ***Administrative History:*** *Original rule filed August 20, 2008; effective November 3, 2008.*

0960-01-.26 SALESPERSON LICENSES.

(1) An individual who has submitted a complete application and the required fees to the Motor Vehicle Commission for a motor vehicle salesperson's license may work as a trainee under the supervision of a licensed salesperson while the license application is pending. An individual whose salesperson's license has been denied, suspended or revoked may not work as a trainee.

(2) A licensed motor vehicle salesperson may sell motor vehicles at any motor vehicle dealership owned by the employer listed on their salesperson's license.

(3) An individual may not hold a motor vehicle salesperson's license for more than one (1) motor vehicle dealer at any time.

Authority: *T.C.A. §§ 55-17-107, 55-17-109, 55-17-110, and 55-17-113.* ***Administrative History:*** *Original rule filed August 20, 2008; effective November 3, 2008.*

0960-01-.27 LEMON LAW.

Sellers of new motor vehicles shall make available to customers information regarding T.C.A. § 55-24-201 et seq. (Lemon Law). This may be done by directing customers to the Motor Vehicle Commission's website.

(Rule 0960-01-.28, continued)
Authority: *T.C.A. §§ 55-17-107 and 55-17-114.* ***Administrative History:*** *Original rule filed August 20, 2008; effective November 3, 2008.*

0960-01-.28 MILITARY APPLICANTS – SPOUSES – EXPEDITED LICENSURE.

(1) An applicant for licensure meeting the requirements of T.C.A. § 4-3-1304(d)(1) may:

(a) Be issued a license upon application and payment of all fees required for the issuance of such license if, in the opinion of the commission, the requirements for licensure of such other state are substantially equivalent to that required in Tennessee; or

(b) Be issued a temporary permit as described herein if the commission determines that the applicant's license does not meet the requirements for substantial equivalency, but that the applicant could perform additional acts, including – but not limited to - education, training, or experience, in order to meet the requirements for the license to be substantially equivalent. The commission may issue a temporary permit upon application and payment of all fees required for issuance of a regular license of the same type which shall allow such person to perform services as if fully licensed for a set period of time that is determined to be sufficient by the commission for the applicant to complete such requirements.

1. After completing those additional requirements and providing the commission with sufficient proof thereof as may be required, a full license shall be issued to the applicant with an issuance date of the date of the original issuance of the temporary permit and an expiration date as if the full license had been issued at that time.

2. A temporary permit shall be issued for a period no longer than the length of a renewal cycle for a full license of the same type.

3. A temporary permit shall expire upon the date set by the commission and shall not be subject to renewal except through the completion of the requirements for substantial equivalency as required by the commission or by an extension of time granted for good cause by the commission.

4. Should an extension to a temporary permit cause the permit to be in effect longer than the renewal cycle of a full license, then the holder of the temporary permit shall file a renewal application with such documentation and fees, including completion of continuing education, as are required by the commission for all other renewals of a full license of the same type.

(2) Military education, training, or experience completed by a person described at T.C.A. § 4-3-1304(d)(1)(B)(ii)(a)-(c) shall be accepted toward the qualifications, in whole or in part, to receive any license issued by the commission if such military education, training, or experience is determined by the commission to be substantially equivalent to the education, training, or experience required for the issuance of such license.

(3) Any licensee who is a member of the national guard or a reserve component of the armed forces of the United States called to active duty whose license expires during the period of activation shall be eligible for renewal upon the licensee being released from active duty without payment of late fees or other penalties.

(a) The license, certification or permit shall be eligible for renewal pursuant to this subsection for six (6) months from the person's release from active duty.

(Rule 0960-01-.28, continued)

(b) Any person renewing under this subsection shall provide the commission such supporting documentation evidencing activation as may be required by the commission prior to renewal of any license pursuant to this subsection.

Authority: *Tenn. Public Acts 2013, ch. 122, T.C.A. § 55-17-107 and 4-3-1304.* ***Administrative History:*** *Original rule filed February 11, 2015; effective May 12, 2015.*

0960-01-.29 DISCLOSURE OF REBUILT OR SALVAGE MOTOR VEHICLES.

(1) The motor vehicle dealer or salesperson who knows that a motor vehicle has a salvage history, or that a motor vehicle's title was previously branded as rebuilt or salvage, shall disclose, acknowledged in writing by the purchaser prior to the consummation of the sale, that the motor vehicle has a rebuilt title, salvage title, or salvage history.

(2) The disclosure in writing as required by subsection (a) shall be completed on a form prescribed by the Commission which states the following:

NOTICE
DISCLOSURE OF REBUILT OR SALVAGE VEHICLE

Pursuant to Tenn. Comp. R. & Regs. 0960-01-.29, the following disclosure is required prior to the sale of any vehicle with a rebuilt title, salvage title, or salvage history along with the signature of the purchaser acknowledging such disclosure.

The motor vehicle you are purchasing has a rebuilt title, salvage title, or salvage history. The value of this vehicle may be significantly less than a similar vehicle that is not branded with a rebuilt title, salvage title, or does not have a salvage history.

(Purchaser's Printed Name) _____

(Purchaser's Signature)_____ (Date) _____

(Dealer or Authorized Representative's Printed Name) _____

(Dealer or Authorized Representative's Signature) _____

(Dealer's Business Name and License Number) _____

Year_____Make_____Model_____VIN_____

_____

"Rebuilt title" means the passenger motor vehicle ownership document issued by any state to the owner of a rebuilt vehicle. Ownership of the passenger motor vehicle may be transferred on a rebuilt title, and a passenger motor vehicle for which a rebuilt title has been issued may be registered for use on the roads and highways. A rebuilt title shall be conspicuously labeled with the words "Rebuilt Vehicle--Anti-Theft Inspections Passed" across the front (T.C.A. § 55-3-211(6)).

"Salvage title" means a passenger motor vehicle ownership document issued by any state to the owner of a salvage vehicle. Ownership of the passenger motor vehicle may be transferred on a salvage title; however, a passenger motor vehicle for which a salvage title has been issued shall not be registered for use on the roads or highways unless it has been issued a rebuilt title. A salvage title shall be conspicuously labeled with the word "Salvage" across the front (T.C.A. § 55-3-211(8)).

"Salvage history" means:

(Rule 0960-01-.29, continued)

(a) Any passenger motor vehicle which has been wrecked, destroyed, or damaged to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the passenger motor vehicle to its pre-accident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the passenger motor vehicle, as set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values, or

(b) Without regard to whether such passenger motor vehicle meets the seventy-five percent (75%) threshold specified in subparagraph (a), any passenger motor vehicle which the owner may wish to designate as a salvage vehicle by obtaining a salvage title, without regard to the extent of the passenger motor vehicle's damage and repairs. This designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligations or liabilities (Pursuant to Tenn. Comp. R. & Regs. 0960-01-.29(3)).

(3) For purposes of this rule, “salvage history” means:

(a) Any passenger motor vehicle which has been wrecked, destroyed, or damaged to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the passenger motor vehicle to its pre-accident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the passenger motor vehicle, as set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values, or

(b) Without regard to whether such passenger motor vehicle meets the seventy-five percent (75%) threshold specified in subparagraph (a), any passenger motor vehicle which the owner may wish to designate as a salvage vehicle by obtaining a salvage title, without regard to the extent of the passenger motor vehicle's damage and repairs. This designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligations or liabilities.

(4) Compliance with subparagraphs (1)-(3) may not be waived by the purchaser.

Authority: *T.C.A. §§ 55-17-101, 55-17-107, and 55-17-114.* ***Administrative History:*** *New rule filed July 7, 2016; effective October 5, 2016.*