

**Department of State
Division of Publications**

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Nashville, TN 37243
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For Department of State Use Only

Sequence Number: 01-11-16
Rule ID(s): 6103
File Date: 1/11/16
Effective Date: 4/10/16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Department of Safety & Homeland Security
Division: Legal
Contact Person: Lizabeth Hale
Address: 312 Rosa L. Parks Avenue, 25th Floor, Nashville, TN
Zip: 37243
Phone: 615-251-5349
Email: Lizabeth.Hale@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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 enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1340-08-01	Rules And Regulations for Access to Public Records
Rule Number	Rule Title
1340-08-01-.04	Sale of Motor Vehicle Records

Chapter Number	Chapter Title
Rule Number	Rule Title

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to

http://sos.tn.gov/sites/default/files/forms/Rulemaking_Guidelines_August2014.pdf)

Rule 1340-08-01-.04 is amended by deleting paragraph (3) and substituting instead the following language, and adding new paragraphs (4) and (5):

(3) Recurrent Bulk Purchases

(a) For the purposes of this rule:

1. "Recurrent" means monthly or other frequent periodic time interval determined by the department.
2. "Standard Format" means the three files furnished by the Department which include the following:
 - (i) All Driver File: contains demographic information on all drivers in Tennessee at the time the file is created, other than the social security number.
 - (ii) Monthly Violations File: contains demographic information of all drivers that had a violation event during the previous month, including the date of any violation event, but excluding the social security number.
 - (iii) Monthly Revocations and Suspensions File: contains all drivers who had a revocation event during the previous month, including the date of any revocation event, but excluding the social security number.
3. "Expanded Format" means the three files furnished by the Department which include the following:
 - (i) All Driver File: contains demographic information on all drivers in Tennessee at the time the file is created, other than the social security number.
 - (ii) Monthly Violations File: contains demographic information of all drivers that had a violation event during the previous month, including the nature of any violation event, furnished as a history action code, but excluding the social security number.
 - (iii) Monthly Revocations and Suspensions File: contains all drivers who had a revocation event during the previous month, including the nature of any revocation event, furnished as a history action code, but excluding the social security number.

(b) For the recurrent preparing and furnishing of portions of multiple or all individual MVRs in Standard Format, the department shall be paid 4/100 of a dollar, per year, for each licensed driver in the state of Tennessee for that year. The total fee per year shall be based on the total number of licensed drivers in the state as of January 1, 2010, and shall be divided and paid in 12 equal monthly payments. The number of licensed records used for calculating the payment shall be adjusted on January 1 of every year.

(c) For the recurrent preparing and furnishing of portions of multiple or all individual MVRs in Expanded Format, the department shall be paid 5/100 of a dollar, per year, for each licensed driver in the state of Tennessee for that year. The total fee per year shall be based on the total number of licensed drivers in the state as of January 1, 2010, and shall be divided and paid in 12 equal monthly payments. The number of licensed records used for calculating the payment shall be adjusted on January 1 of every year.

(d) Recurrent requests shall be furnished in electronic format only.

- (e) Requests made for less than twelve (12) months of recurring data in a calendar year shall be priced at the monthly fee calculated under subparagraph (b) for Standard Format or subparagraph (c) for Expanded Format for each month requested.
- (4) Historical Driver License Data
- (a) For the purposes of this rule, "Historical Driver License Data" means data, either in Expanded or Standard Format, which is more than sixty (60) days old, determined from the date of the request.
 - (b) For the preparing and furnishing of portions of Historical Driver License Data for multiple or all individual MVRs, the Department shall charge 1/12 of the fee calculated under subparagraph (3)(b) for Standard Format requests or subparagraph (3)(c) for Expanded Format requests in the year in which the request is made, for each separate request made.
 - (c) Historical Driver License Data requests shall be furnished in electronic format only.
- (5) All bulk requests, whether one time or recurrent, and all Historical Driver License data requests shall be accompanied by a statement on form SF-1289 (available at <http://www.tn.gov/assets/entities/safety/attachments/dppa.pdf>), filled out in its entirety, indicating the request falls under one of the approved categories authorized by the Driver Privacy Protection Act of 1994 (18 U.S.C. §§ 2721-2725) and the Uniform Motor Vehicle Records Disclosure Act (Tenn. Code Ann. § 55-25-101 et seq.) A new form may be required at the start of the calendar year for recurrent requests to verify the approved categories are still applicable to the requestor.

Authority: T.C.A. §§ 4-3-2009, 8-4-604(a)(1), 10-7-501 et seq., and 55-50-204.

* 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)

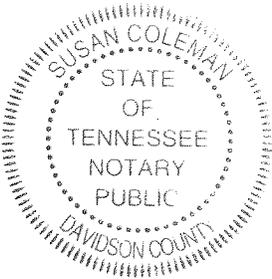
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Department of Safety & Homeland Security on 12/15/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 12/18/15

Signature: Bill Gibbons

Name of Officer: Bill Gibbons

Title of Officer: Commissioner



Subscribed and sworn to before me on: December 18, 2015

Notary Public Signature: Juwan Coleman

My commission expires on: May 8, 2019

All proposed 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.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

12/23/2015
Date

Department of State Use Only

Filed with the Department of State on: 1/11/16

Effective on: 4/10/16

Tre Hargett
Tre Hargett
Secretary of State

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PUBLICATIONS

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The proposed rule would not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

The Department of Safety states that this rule change will not have an 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;

This rule amends 1340-08-01-.04 relative to sale of bulk motor vehicle records (driver records), setting forth the cost for obtaining bulk driver record data from the Department of Safety, depending on the amount of information requested, and clarifies the charge if less than twelve (12) months of data are requested, or data more than sixty (60) days old is requested.

- (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;

T.C.A. §§ 4-3-2009, 8-4-604(a)(1), 10-7-501 et seq., and 55-50-204

- (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;

Business which purchase bulk driver record information from the Department.

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

N/A

- (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;

Minimal. Currently, only two companies would be affected by the change in rate for the Expanded format, resulting in an annual estimated state revenue increase of just under \$93,000.

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

Paul Battenfield, Director, Information Technology
Michael Hogan, Director, Driver Services Division
Lizabeth Hale, Staff Attorney, Legal Division

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

Paul Battenfield, Director, Information Technology
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Lizabeth Hale, Staff Attorney, Legal Division

- (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

Paul Battenfield Michael Hogan Tennessee Department of Safety 1150 Foster Avenue Nashville, TN 37243	Lizabeth Hale Tennessee Department of Safety 312 Rosa L. Parks Avenue, 25 th Floor Nashville, TN 37243
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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

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~~(a) For the purpose of this rule, "recurrent" means monthly or other frequent periodic time interval determined by the department.~~

~~(b) Recurrent requests shall be furnished in electronic format only.~~

(3) Recurrent Bulk Purchases

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* 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)

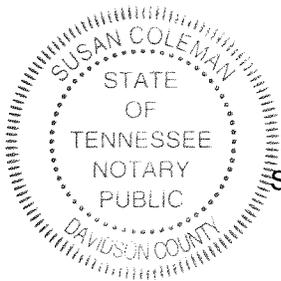
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Department of Safety & Homeland Security on 12/15/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 12/18/15

Signature: [Handwritten Signature]

Name of Officer: Bill Gibbons

Title of Officer: Commissioner



Subscribed and sworn to before me on: December 18, 2015

Notary Public Signature: [Handwritten Signature]

My commission expires on: May 6, 2019

All proposed 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.

Herbert H. Slatery III
Attorney General and Reporter

Date

Department of State Use Only

Filed with the Department of State on: _____

Effective on: _____

Tre Hargett
Secretary of State

Regulatory Flexibility Addendum

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- (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;

T.C.A. §§ 4-3-2009, 8-4-604(a)(1), 10-7-501 et seq., and 55-50-204

- (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;

Business which purchase bulk driver record information from the Department.

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

N/A

- (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;

Minimal. Currently, only two companies would be affected by the change in rate for the Expanded format, resulting in an annual estimated state revenue increase of just under \$93,000.

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

Paul Battenfield, Director, Information Technology
Michael Hogan, Director, Driver Services Division
Lizabeth Hale, Staff Attorney, Legal Division

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

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Paul Battenfield Michael Hogan Tennessee Department of Safety 1150 Foster Avenue Nashville, TN 37243	Lizabeth Hale Tennessee Department of Safety 312 Rosa L. Parks Avenue, 25 th Floor Nashville, TN 37243
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(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

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