

**Department of State  
Division of Publications**

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Sequence Number: 03-12-14  
Rule ID(s): 5077  
File Date: 3/20/14  
Effective Date: 8/29/14

## Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 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 sixty (60) days of the first day of the month subsequent to 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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

<b>Agency/Board/Commission:</b>	Tennessee Department of Safety & Homeland Security
<b>Division:</b>	Legal Division, Driver Improvement Section
<b>Contact Person:</b>	Gerry Crownover, Staff Attorney IV
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**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
1340-01-04	Tennessee Driver Improvement Program
Rule Number	Rule Title
1340-01-04-.03	Schedule of Points
1340-01-04-.06	Suspension of Driver License for Physical or Mental Disabilities
1340-01-04-.07	Suspension of Driver License for Failing to Pass or Submit to Re-Examination


(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://state.tn.us/sos/rules/1360/1360.htm>)

Rules  
of  
Tennessee Department of Safety  
Driver Improvement  
  
Chapter 1340-01-04  
Tennessee Driver Improvement Program

Amendments

Rule 1340-01-04-.03 Schedule of Points is amended by deleting the language in its entirety and substituting new language, so that, as amended, the Rule shall read:

1340-01-04-.03 Schedule of Points.

- (1) Definitions. As used in this Chapter 1340-01-04, unless the context otherwise requires:
- (a) "Commercial Motor Vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
1. Has a gross vehicle weight rating or gross combination weight rating of twenty-six thousand one (26,001) or more pounds;
  2. Is designed to transport more than fifteen (15) passengers, including the driver; or
  3. Is of any size and is used in the transportation of hazardous materials, as defined in this section.
  4. The following vehicles and groups of vehicles shall not be considered commercial motor vehicles for the purposes of this Chapter:
    - (i) Vehicles that are controlled and operated by a farmer or nursery worker that are used to transport either agricultural products, farm machinery, or farm supplies to or from a farm or nursery, and are not used in the operations of a common or contract motor carrier and are used within one hundred fifty (150) miles of the person's farm or nursery;
    - (ii) Vehicles designed and used solely as emergency vehicles that are necessary for the preservation of life or property or the execution of emergency governmental functions performed under emergency conditions and not subject to normal traffic regulation. This exemption shall apply to vehicles operated by paid or non-paid personnel;
    - (iii) Vehicles operated for military purposes by active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. This exception is not applicable to United States reserve technicians;
    - (iv) Vehicles designed and used primarily as recreational vehicles (i.e., vehicles primarily designed as temporary living quarters for recreational camping or travel);
    - (v) Vehicles leased strictly and exclusively to transport personal possessions or

family members for nonbusiness purposes.

- (b) "Commercial Motor Vehicle Hauling Hazardous Materials" means a Commercial Motor vehicle carrying any material that has been designated as hazardous under 49 U.S.C. § 5103 and is required to be placarded under subpart F of 49 C.F.R. § 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. § 73.
- (c) "Non-Commercial Motor Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks that is not considered a Commercial Motor Vehicle.

(2) Moving Traffic Violations - Points for Non-Commercial Motor Vehicles

(a) Speeding – non-commercial motor vehicle  
T.C.A. § 55-8-152

- 1. Tickets and court abstracts where speed not indicated 3
- 2. Speeding 1 through 5 m.p.h. in excess of speed zone 1
- 3. Speeding 6 through 15 m.p.h. in excess of speed zone 3
- 4. Speeding 16 through 25 m.p.h. in excess of speed zone 4
- 5. Speeding 26 through 35 m.p.h. in excess of speed zone 5
- 6. Speeding 36 through 45 m.p.h. in excess of speed zone 6
- 7. Speeding 46 and above in excess of speed zone 8
- 8. Speed less than posted minimum 3  
T.C.A. § 55-8-154

(b) Speeding in construction zone – non-commercial motor vehicle  
T.C.A. § 55-8-153

- 1. Tickets and court abstracts where speed not indicated 4
- 2. Speeding 1 through 5 m.p.h. in excess of posted speed 2
- 3. Speeding 6 through 15 m.p.h. in excess of posted speed 4
- 4. Speeding 16 through 25 m.p.h. in excess of posted speed 5
- 5. Speeding 26 through 35 m.p.h. in excess of posted speed 6
- 6. Speeding 36 m.p.h. and above in excess of posted speed 8

(c) Driving too fast for conditions, failure to reduce speed to avoid an accident 3  
T.C.A. § 55-8-152

(d) Operating at erratic or suddenly changing speeds 3  
T.C.A. § 55-8-152

(e) Reckless endangerment by vehicle – misdemeanor 8  
T.C.A. § 39-13-103

(f) Reckless driving 6

	T.C.A. § 55-10-205	
(g)	Careless or negligent driving T.C.A. § 55-8-136	4
(h)	Failure to obey traffic instructions T.C.A. § 55-8-109	4
(i)	Improper passing T.C.A. §§ 55-8-116, 55-8-117, 55-8-118, 55-8-119, 55-8-120 & 55-8-121	4
(j)	Wrong way, side or direction T.C.A. § 55-8-120	4
(k)	Following improperly T.C.A. § 55-8-124	3
(l)	Following emergency vehicles unlawfully T.C.A. § 55-8-132	3
(m)	Failure to yield the right-of-way T.C.A. §§ 55-8-128 & 55-8-197	4
(n)	Failure to yield right of way to emergency vehicles; Failure to change lane/slow down for authorized vehicles on roadside T.C.A. § 55-8-132	6
(o)	Making improper turn T.C.A. §§ 55-8-140, 55-8-141 & 55-8-142	3
(p)	Failure to signal direction or to reduce speed suddenly T.C.A. § 55-8-142	3
(q)	Stopping, standing, obstructing, or blocking traffic T.C.A. §§ 55-8-158, 55-8-159, 55-8-159 & 55-8-160	3
(r)	Coasting; operating gears disengaged T.C.A. § 55-8-167	3
(s)	Improper backing T.C.A. § 55-8-163	3
(t)	Improper starting, burning rubber, spinning tires, peeling out T.C.A. § 55-8-136(b)	3
(u)	Driver view or mechanism obstructed T.C.A. § 55-8-165	3
(v)	Driving mountain highway – control/audible warning T.C.A. § 55-8-166	3
(w)	Inability to maintain control of vehicle T.C.A. § 55-8-136(b)	3
(x)	Improper operation of or riding on a motorcycle T.C.A. § 55-8-164	3
(y)	Improper lane or location, driving on roadways laned for traffic T.C.A. § 55-8-123	3

(z)	Use of controlled access roadway T.C.A. §§ 55-8-126 & 55-8-127	4
(aa)	Inattentive driving, due care, failure to drive in careful manner, unsafe lookout, improper driving T.C.A. § 55-8-136	3
(bb)	Miscellaneous traffic violation; any offense involving the unsafe operation of a Non-Commercial Motor Vehicle not herein specified	3
(cc)	Cross private property to avoid stop sign or signal T.C.A. § 55-8-109	4
(dd)	Operating vehicle while using cell phone (under 18) T.C.A. § 55-50-311	6
(ee)	Passing stopped school, church or youth bus taking on or discharging passengers T.C.A. § 55-8-151	8
(ff)	Violation of driver license restrictions; operating contrary to conditions specified on driver license T.C.A. §§ 55-50-311 & 55-50-331(f)	6
(gg)	Failure to stop at railroad crossing T.C.A. §§ 55-8-145, 55-8-146 & 55-8-147	8
(hh)	Leaving scene of a crash (no revocation action) T.C.A. §§ 55-10-101 & 55-10-102	5
(ii)	Failure to report a crash T.C.A. § 55-10-111	4
(jj)	Operating without driver license in possession T.C.A. § 55-50-351	2
(kk)	Operating without being licensed or without license required for type of vehicle operated T.C.A. §§ 55-50-302 & 55-50-331	3
(ll)	Operating while driver license required for type of vehicle operated is under suspension, revocation or cancellation T.C.A. § 55-50-504	8
(mm)	Fleeing law enforcement officer (Misdemeanor) T.C.A. § 39-16-602	8
(nn)	Child endangerment (Misdemeanor) T.C.A. § 55-10-403	8
(3)	Contributing to occurrence of a Crash (both Commercial Motor Vehicle & Non-Commercial Motor Vehicle) T.C.A. §§ 55-10-101 & 55-10-102	
(a)	Contributing to a crash involving property damage (including crashes occurring on private property or in government vehicle)	3
(b)	Contributing to a crash resulting in bodily injury (including crashes occurring on private property or in government vehicle)	4

(c)	Contributing to a crash resulting in another's death (including crashes occurring on private property or in government vehicle)	8
(4)	Moving Traffic Violations - Points for Commercial Motor Vehicles	
(a)	Speeding in a Commercial Motor Vehicle: T.C.A. § 55-8-152	
1.	Tickets and court abstracts where speed not indicated	4
2.	Speeding, 1-5 m.p.h. in excess of posted speed zone	2
3.	Speeding, 6-14 m.p.h. in excess of posted speed zone	4
4.	Excessive speeding where speed not indicated	6
5.	Excessive speeding, 15-25 m.p.h. in excess of posted speed zone	5
6.	Excessive speeding, 26-35 m.p.h. in excess of posted speed zone	6
7.	Excessive speeding, 36 m.p.h. and above in excess of posted speed zone	7
8.	Speed less than posted minimum T.C.A. § 55-8-154	4
(b)	Speeding in a Commercial Motor Vehicle in a construction zone: T.C.A. § 55-8-153	
1.	Tickets and abstracts where speed not indicated	5
2.	Speeding, 1-5 m.p.h. in excess of posted speed zone	3
3.	Speeding, 6-14 m.p.h. in excess of posted speed zone	5
4.	Speeding, 15-25 m.p.h. in excess of posted speed zone	5
5.	Speeding, 26-35 m.p.h. in excess of posted speed zone	6
6.	Speeding, 36 m.p.h. and above in excess of posted speed zone	7
(c)	Reckless driving T.C.A. § 55-10-205	7
(d)	Careless or negligent driving T.C.A. § 55-8-136	5
(e)	Improper passing T.C.A. §§ 55-8-116, 55-8-117, 55-8-118, 55-8-119, 55-8-120 & 55-8-121	4
(f)	Improper or erratic lane change T.C.A. § 55-8-123	5
(g)	Following Improperly T.C.A. § 55-8-124	4
(h)	Failure to obey traffic instructions T.C.A. § 55-8-109	4

(i)	Wrong way, side or direction T.C.A. § 55-8-120	4
(j)	Failure to yield right of way T.C.A. §§ 55-8-128 & 55-8-197	4
(k)	Making improper turn T.C.A. §§ 55-8-140, 55-8-141, & 55-8-142	4
(l)	Failure to signal direction T.C.A. § 55-8-142	3
(m)	Passing stopped school, church or youth bus taking on or discharging passengers T.C.A. § 55-8-151	8
(n)	Miscellaneous traffic violations; any offense involving the unsafe operation of a commercial motor vehicle not herein specified	3
(o)	Following emergency vehicle unlawfully T.C.A. § 55-8-132	3
(p)	Failure to yield to emergency vehicles T.C.A. § 55-8-132	6
(q)	Operating improperly due to drowsiness 49 C.F.R. § 1327 & 49 C.F.R. § 392.3; T.C.A. §§ 55-8-136 & 55-50-202	5
(r)	Violation of truck lane restriction T.C.A. § 55-8-195	3
(s)	Driving Commercial Motor Vehicle without obtaining a Commercial Driver License 49 C.F.R. § 383.23; T.C.A. §§ 55-50-302 & 55-50-202	8
(t)	Driving Commercial Motor Vehicle without a current Commercial Driver License on person 49 C.F.R. § 383.23 & 49 C.F.R. § 383.41; T.C.A. §§ 55-50-351, 55-50-404, 55-50-413 & 55-50-202	3
(u)	Driving Commercial Motor Vehicle without proper endorsement or class of Commercial Driver License 49 C.F.R. § 383.23 & 49 C.F.R. § 383.91; T.C.A. §§ 55-50-302, 55-50-404 & 55-50-202	6
(v)	Conviction driving while disqualified or while canceled 49 C.F.R. § 383.23 & 49 C.F.R. § 383.91; T.C.A. §§ 55-50-504 & 55-50-202	8
(5)	Moving Traffic Violations - Points for Commercial Motor Vehicles Hauling Hazardous Material	
(a)	Speeding in a Commercial Motor Vehicle Hauling Hazardous Material T.C.A. § 55-8-152	
	1. Tickets and abstracts where speed not indicated	5
	2. Speeding 1-5 m.p.h. in excess of posted speed zone	3
	3. Speeding 6-14 m.p.h. in excess of posted speed zone	5

4.	Speeding, 15-25 m.p.h. in excess of posted speed zone	5
5.	Speeding, 26-35 m.p.h. in excess of posted speed zone	6
6.	Speeding, 36 m.p.h. and above in excess of posted speed zone	7
7.	Speed less than posted minimum T.C.A. § 55-8-154	5
(b)	Reckless driving T.C.A. § 55-10-205	8
(c)	Improper passing T.C.A. §§ 55-8-116, 55-8-117, 55-8-118, 55-8-119, 55-8-120 & 55-8-121	5
(d)	Improper or erratic lane change T.C.A. § 55-8-123	6
(e)	Following Improperly T.C.A. § 55-8-124	5
(f)	Careless or negligent driving T.C.A. § 55-8-136	6
(g)	Failure to obey traffic instructions T.C.A. § 55-8-109	5
(h)	Wrong way, side or direction T.C.A. § 55-8-120	5
(i)	Failure to yield right of way T.C.A. § 55-8-128 & 55-8-197	5
(j)	Making improper turn T.C.A. §§ 55-8-140, 55-8-141 & 55-8-142	5
(k)	Failure to signal direction or reduce speed T.C.A. § 55-8-142	4
(l)	Passing stopped school, church or youth bus taking or discharging passengers T.C.A. § 55-8-151	8
(m)	Following emergency vehicle unlawfully T.C.A. § 55-8-132	3
(n)	Miscellaneous traffic violations; any offense involving the unsafe operation of a commercial motor vehicle hauling hazardous material not herein specified	4
(o)	Conviction of driving while disqualified or cancelled T.C.A. § 55-50-504	8

Authority: T.C.A. §§ 4-5-202, 39-13-103, 39-16-602, 55-8-101 et seq., 55-10-205, 55-50-102, 55-50-202, 55-50-301 et seq., 55-50-401 et seq., and 55-50-504; 49 C.F.R. § 383, 49 C.F.R. § 392, 49 C.F.R. § 397 and 49 C.F.R. § 1327.

Administrative History:

Rule 1340-01-04-.06 Suspension of Driver License for Physical or Mental Disabilities is amended by deleting the SS-7038 (September 2011)

language in its entirety and substituting new language, so that, as amended, the Rule shall read:

1340-01-04-.06 Suspension of Driver License for Physical or Mental Disabilities.

(1) Mental Standards:

- (a) Any driver who has been adjudged by a court of competent jurisdiction or has been evaluated by a psychiatrist, psychologist, or mental health facility and found to be suffering from any mental disease or substance abuse, may have the driver's driving privileges suspended until such time as the driver has been restored to competency by court order, order from the superintendent of the mental facility, or other such method provided by law. The driver must apply through the Driver Improvement Unit to receive a clearance/reinstatement order in order to recover, retain or obtain driving privileges.
- (b) If the driver claims to have been restored to competency, a certified copy of the court order or a written statement from a licensed psychiatrist or psychologist or mental health facility must first be mailed to the Driver Improvement Unit by such court, psychiatrist, psychologist or mental health facility.
- (c) After reviewing the certified court order or statement, the Department shall determine if the driver's driving privilege shall be reinstated. If approved, the driver will receive a clearance/reinstatement order from the Driver Improvement Unit.

(2) Physical Standards

- (a) When the Department receives information about the ability of a driver to safely operate a motor vehicle, that driver shall be sent notice stating that the Department received information regarding his/her ability to safely operate a motor vehicle. The notice shall state the driver's driving privileges may be suspended. It shall also state that if the driver disagrees with a suspension, the driver may request an administrative hearing within thirty (30) days from the date of the notice. No action will be taken until the conclusion of the investigation or hearing. Throughout the investigation and/or hearing process, the driver may be questioned concerning the driver's physical condition and may be requested to submit a medical report. The Department shall provide the medical report forms to the driver to be completed by the appropriate licensed medical professional.
- (b) In all cases where medical reports are needed, the complaint/data must first be reviewed by the Department. Drivers who may be physically or mentally unfit to operate a motor vehicle upon the streets or highways of Tennessee may be identified in the following manner, and the review process invoked:
  - 1. A written complaint from law enforcement or driver license examiner;
  - 2. Data contained in a crash report;
  - 3. Data provided by any reliable individual or person within the medical profession as determined by the Department obtained through the receipt of a signed letter by that individual;
  - 4. Drivers previously suspended and requesting a re-evaluation of their record due to a purported change in the status of mental or physical health;
  - 5. Data obtained from courts, private citizens, newspaper stories, or information that would appear to be reliably obtained through other sources;
  - 6. Information from a person who has witnessed the driver's inability to drive because of a seizure or other condition through the receipt of a signed letter from that person; or
  - 7. Information from friends or relatives who know the driver's condition who submit

information that a driver has a condition through the receipt of a signed letter.

- (c) The medical report forms must be completed by a licensed physician, physician assistant, or nurse practitioner (herein referred to as licensed medical professional) and should contain sufficient information regarding the driver's medical condition to enable the Department to determine whether the driver should be permitted to retain or obtain driving privileges. The information provided by the licensed medical professional must have been obtained within the last twelve (12) months. The licensed medical professional shall be requested to provide an opinion about the driver's ability to drive. The licensed medical professional's opinion, which is not binding on the Department, will be given consideration in conjunction with other available information.
- (d) The Department may use independent medical review boards to review and make recommendations if a driver is reported to have a mental or physical condition. The review boards will consist of licensed physicians in fields of specialized or general medicine. Physicians may serve on the medical review board in a voluntary capacity, or they may be paid by the Department if the Department deems such payment appropriate. The recommendations of the medical review board shall not be binding upon the Department.
- (e) The medical report forms completed by the licensed medical professional will be reviewed and one or more of the following actions shall take place:
  - 1. If the licensed medical professional documents that the driver does not have a medical problem relating to the operation of a motor vehicle, the case may be closed. If the case is not closed, it may be referred to the medical review board to reconcile differences in the complaint and the medical report.
  - 2. If the licensed medical professional determines that the person should not be allowed to drive because of a medical condition, the driver shall have his/her driving privileges suspended. If the licensed medical professional cannot determine with certainty whether or not the person has a medical condition relating to the safe operation of a motor vehicle, the Department may refer the case to the medical review board.
  - 3. The medical review board may recommend that the case be closed or it may recommend the suspension of the driver's driving privileges and state the conditions for the suspension. Upon receipt of the medical review board's recommendation, the Commissioner shall determine the status of the driver's driving privileges. Such determination may be appealed pursuant to the provisions of the Uniform Administrative Procedures Act.
  - 4. At any time during the process, the Department and/or the medical review board may require additional medical information or evaluation before making a decision.
- (f) The Department may require the driver to submit to a special driver examination in lieu of, or in addition to, the medical review process.
- (g) Drivers who fail to furnish the Department with the required medical information or request an administrative hearing within thirty (30) days shall have their driving privileges suspended until such time as a favorable medical report is received and restoration of driving privileges is approved.
- (h) The Department shall suspend and/or shall not issue a driver license to anyone who suffers from uncontrolled epilepsy (also known as a seizure disorder), momentary lapse of consciousness or control due to epilepsy, cardiac syncope, diabetes, or other conditions until the driver has remained seizure-free or lapse free for a period of one (1) year, and then only upon receipt of a favorable medical statement from the driver's licensed medical professional. Provided, however, the driver may be approved for driving privileges if the driver's condition has been controlled for six (6) months and the Department receives a favorable medical report or statement from the driver's licensed medical professional and the Department approves the issuance of the driver

license.

- (i) In the following cases, the driver may be immediately suspended until the driver submits the medical information required by subparagraph (c) and the medical information is reviewed in accordance with this rule:
    - 1. The driver admits to a history of seizures or other conditions that seriously affects driving ability; or
    - 2. A person practicing in the medical profession submits information that a driver has a condition that renders them unsafe to drive.
  - (j) The procedures set forth in this rule also apply to other physical or mental disabilities where the Department has good cause to believe the driver would not be able to safely operate a motor vehicle.
  - (k) Drivers who have physical disabilities that can be compensated for by the use of physical controls or mechanical devices which enable the driver to safely operate a motor vehicle may be approved for licensing if they meet all other appropriate eligibility criteria.
  - (l) Drivers who are hearing impaired shall be restricted to the operation of vehicles equipped with left and right outside rear-view mirrors.
  - (m) Vision standards, including telescopic/biopic lens use by drivers with low vision, are located in the rules of the Driver Services Division of the Department of Safety.
- (3) Any driver who is alleged to have a mental or physical disability may request an administrative hearing before a hearing officer within thirty (30) days from the date of written notification of the proposed suspension action. Any driver whose driving privileges have been suspended as a result of a physical or mental disability may appeal the decision of the Department by filing a petition pursuant to the Uniform Administrative Procedures Act (T.C.A. § 4-5-101 et seq.).

Authority: T.C.A. §§ 55-50-202, 55-50-303, 55-50-502 and 55-50-505. Administrative History:

Rule 1340-01-04-.07 Suspension of Driver License for Failing to Pass or Submit to Re-Examination is revised by deleting the language in Paragraphs (1), (2), (3) and (6) in its entirety and substituting new language, so that, as amended, the Rule shall read:

1340-01-04-.07 Suspension of Driver License for Failing to Pass or Submit to Re-Examination.

- (1) Upon receiving information that a driver may be unable to safely operate a motor vehicle or is otherwise not qualified to be licensed, the Department may require the driver to submit to a driver re-examination and/or submit other information as deemed appropriate within thirty (30) days of receipt of said information. Such notice shall also inform the driver that he/she may request an administrative hearing within thirty (30) days from the date of the notice. If a driver fails to submit to re-examination, submit other appropriate information, or request a hearing within the required timeframe, the Department shall suspend the driver's driving privileges.
- (2) Periodic re-examinations may be required, such as once a year, in the case of mental or physical conditions.
- (3) A driver required to undergo re-examination by the Department may take the written and/or vision portion of the driver examination test without limitation. If the driver fails the written portion, there may be a seven (7) day waiting period between each retest.
- (4) A driver required to undergo re-examination by the Department may take the on-the-road skills portion of the driver examination test three (3) times at thirty (30) day intervals. If successful, driving privileges shall be reinstated. If the driver does not pass on-the-road skills portion in three (3) attempts or less, the driver shall not be eligible to re-test for six (6) months from the date of the third test. If the driver does not pass

the re-test(s) taken after waiting the six (6) month period, the driver shall not be eligible to re-test for twelve (12) months from the date of the last driver examination.

- (5) Drivers with a commercial driver license may be required to submit to re-examination in their commercial vehicle or school bus. If the driver fails the re-examination in the driver's commercial vehicle or school bus but wishes to downgrade to a Class D license, the driver may do so after successfully passing a complete examination in their personal vehicle.
- (6) Drivers who fail to submit to re-examination within thirty (30) days of written notification as required, or who fail to pass any part of the re-examination, or who do not ask for an administrative hearing within thirty (30) days of written notification shall have their driving privileges suspended until such time as they comply with the re-examination requirement.
- (7) Any driver required by the Department to undergo re-examination shall be notified that the driver may request an administrative hearing, provided such request is submitted in writing within thirty (30) days after the date of the written notice. Upon receipt of a request for an administrative hearing, the Department shall provide the driver a hearing before a hearing officer.
- (8) Any driver whose driving privilege is suspended under the Driver Improvement Program may appeal the suspension through the appeals process contained in the Uniform Administrative Procedures Act (T.C.A. § 4-5-101 et seq.).

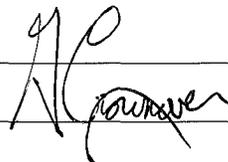
Authority: T.C.A. §§ 55-50-202, 55-50-303, 55-50-322, 55-50-502 and 55-50-505. Administrative History:

\* 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 Department of Safety & Homeland Security on 01/22/14, 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 sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: 1/23/14

Signature: 

Name of Officer: Gerry Crowover

Title of Officer: Staff Attorney IV

Subscribed and sworn to before me on: 1/23/2014

Notary Public Signature: 

My commission expires on: 1/26/2014

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.

  
Robert E. Cooper, Jr.  
Attorney General and Reporter  
3-18-14  
Date

**Department of State Use Only**

Filed with the Department of State on: 3/26/14

Effective on: 8/29/14

  
Tre Hargett  
Secretary of State

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**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.

This proposed rule has no impact on 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)

This proposed rule has no projected 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 proposal amends the existing Tennessee Driver Improvement Program, Chapter 1340-01-04, by revising three (3) sections.

Rule 1340-01-04-.03, Schedule of Points, has been reorganized to better distinguish between points for violations in non-commercial vehicles and points for violations in commercial vehicles. Also, the T.C.A. and/or federal regulation cites have been added to more clearly identify each moving violation. Definitions have been added for commercial and non-commercial vehicles. In addition, the schedule has been updated to include certain specific violations that are identified in the existing rule as "miscellaneous violations". The schedule has been further updated to include certain violations for which points are currently being assessed, but have not yet been included in the rules. Other minor housekeeping updates have been made as well.

Rule 1340-01-04-.06, Suspension of Driver License for Physical and Mental Disabilities, has been revised and reorganized to be more reader friendly. The major revision being made will allow drivers to have their required medical evaluations completed and signed by a physician, nurse practitioner or physician assistant. The current rule requires such evaluations to be completed and signed by a physician only.

Rule 1340-01-04-.07, Suspension of Driver License for Failing to Pass or Submit to Re-Examination, has also been revised and clarified to be more reader friendly.

- (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. § 55-50-505 requires the Department of Safety to conduct a driver improvement program and authorizes the Commissioner to promulgate rules and regulations thereto.

- (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;

Tennessee drivers.

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

None.

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

Minimal or no impact on revenues and expenditures.

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

Gerry Crownover, Staff Attorney IV  
TN Department of Safety & Homeland Security  
1150 Foster Avenue

Nashville, TN 37243  
(615) 251-5277  
Gerry.Crownover@tn.gov

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

Gerry Crownover, Staff Attorney IV  
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1150 Foster Avenue  
Nashville, TN 37243  
(615) 251-5277  
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- (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

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

None

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**For Department of State Use Only**

Sequence Number: \_\_\_\_\_

Rule ID(s): \_\_\_\_\_

File Date: \_\_\_\_\_

Effective Date: \_\_\_\_\_

## Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to T.C.A. §§4-5-205, 4-5-207 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 sixty (60) days of the first day of the month subsequent to 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 twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The Agency shall forward such petition to the Secretary of State.*

<b>Agency/Board/Commission:</b>	Department of Safety
<b>Division:</b>	Legal Division, Driver Improvement Section
<b>Contact Person:</b>	Gerry Crownover, Staff Attorney
<b>Address:</b>	1150 Foster Avenue, Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	(615) 251-5277
<b>Email:</b>	Gerry.Crownover@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
1340-01-04	Tennessee Driver Improvement Program
Rule Number	Rule Title
1340-01-04-.03	Schedule of Points
1340-01-04-.06	Suspension of Driver License for Physical or Mental Disabilities
1340-01-04-.07	Suspension of Driver License for Failing to Pass or Submit to Re-Examination

(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://state.tn.us/sos/rules/1360/1360.htm>)

Rules  
of  
Tennessee Department of Safety  
Driver Improvement  
  
Chapter 1340-01-04  
Tennessee Driver Improvement Program

Amendments

Rule 1340-01-04-.03 Schedule of Points is amended by deleting the language in its entirety and substituting new language, so that, as amended the Rule shall read:

1340-01-04-.03 Schedule of Points.

- (1) **Definitions.** As used in this Chapter 1340-01-04, unless the context otherwise requires:
- (a) "Commercial Motor Vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
1. Has a gross vehicle weight rating or gross combination weight rating of twenty-six thousand one (26,001) or more pounds;
  2. Is designed to transport more than fifteen (15) passengers, including the driver; or
  3. Is of any size and is used in the transportation of hazardous materials, as defined in this section.
  4. The following vehicles and groups of vehicles shall not be considered commercial motor vehicles for the purposes of this Chapter:
    - (i) Vehicles that are controlled and operated by a farmer or nursery worker that are used to transport either agricultural products, farm machinery, or farm supplies to or from a farm or nursery, and are not used in the operations of a common or contract motor carrier and are used within one hundred fifty (150) miles of the person's farm or nursery;
    - (ii) Vehicles designed and used solely as emergency vehicles that are necessary for the preservation of life or property or the execution of emergency governmental functions performed under emergency conditions and not subject to normal traffic regulation. This exemption shall apply to vehicles operated by paid or non-paid personnel;
    - (iii) Vehicles operated for military purposes by active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. This exception is not applicable to United States reserve technicians;
    - (iv) Vehicles designed and used primarily as recreational vehicles (i.e., vehicles primarily designed as temporary living quarters for recreational camping or travel);
    - (v) Vehicles leased strictly and exclusively to transport personal possessions or family members for nonbusiness purposes.

- (b) "Commercial Motor Vehicle Hauling Hazardous Materials" means a Commercial Motor vehicle carrying any material that has been designated as hazardous under 49 U.S.C. § 5103 and is required to be placarded under subpart F of 49 C.F.R. § 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. § 73.
- (c) "Non-Commercial Motor Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human power or used exclusively upon stationary rails or tracks that is not considered a Commercial Motor Vehicle.

(2) **Moving Traffic Violations - Points for Non-Commercial Motor Vehicles**

- (a) **Speeding – non-commercial motor vehicle**  
T.C.A. § 55-8-152
  - 1. Tickets and court abstracts where speed not indicated 3
  - 2. Speeding 1 through 5 m.p.h. in excess of speed zone 1
  - 3. Speeding 6 through 15 m.p.h. in excess of speed zone 3
  - 4. Speeding 16 through 25 m.p.h. in excess of speed zone 4
  - 5. Speeding 26 through 35 m.p.h. in excess of speed zone 5
  - 6. Speeding 36 through 45 m.p.h. in excess of speed zone 6
  - 7. Speeding 46 and above in excess of speed zone 8
  - 8. Speed less than posted minimum 3  
T.C.A. § 55-8-154
- (b) **Speeding in construction zone – non-commercial motor vehicle**  
T.C.A. § 55-8-153
  - 1. Tickets and court abstracts where speed not indicated 4
  - 2. Speeding 1 through 5 m.p.h. in excess of posted speed 2
  - 3. Speeding 6 through 15 m.p.h. in excess of posted speed 4
  - 4. Speeding 16 through 25 m.p.h. in excess of posted speed 5
  - 5. Speeding 26 through 35 m.p.h. in excess of posted speed 6
  - 6. Speeding 36 m.p.h. and above in excess of posted speed 8
- (c) **Driving too fast for conditions, failure to reduce speed to avoid an accident** 3  
T.C.A. § 55-8-152
- (d) **Operating at erratic or suddenly changing speeds** 3  
T.C.A. § 55-8-152
- (e) **Reckless endangerment by vehicle – misdemeanor** 8  
T.C.A. § 39-13-103
- (f) **Reckless driving** 6  
T.C.A. § 55-10-205
- (g) **Careless or negligent driving** 4

	T.C.A. § 55-8-136	
(h)	Failure to obey traffic instructions T.C.A. § 55-8-109	4
(i)	Improper passing T.C.A. §§ 55-8-116, 55-8-117, 55-8-118, 55-8-119, 55-8-120 & 55-8-121	4
(j)	Wrong way, side or direction T.C.A. § 55-8-120	4
(k)	Following improperly T.C.A. § 55-8-124	3
(l)	Following emergency vehicles unlawfully T.C.A. § 55-8-132	3
(m)	Failure to yield the right-of-way T.C.A. §§ 55-8-128 & 55-8-197	4
(n)	Failure to yield right of way to emergency vehicles; Failure to change lane/slow down for authorized vehicles on roadside T.C.A. § 55-8-132	6
(o)	Making improper turn T.C.A. §§ 55-8-140, 55-8-141 & 55-8-142	3
(p)	Failure to signal direction or to reduce speed suddenly T.C.A. § 55-8-142	3
(q)	Stopping, standing, obstructing, or blocking traffic T.C.A. §§ 55-8-158, 55-8-159, 55-8-159 & 55-8-160	3
(r)	Coasting; operating gears disengaged T.C.A. § 55-8-167	3
(s)	Improper backing T.C.A. § 55-8-163	3
(t)	Improper starting, burning rubber, spinning tires, peeling out T.C.A. § 55-8-136(b)	3
(u)	Driver view or mechanism obstructed T.C.A. § 55-8-165	3
(v)	Driving mountain highway – control/audible warning T.C.A. § 55-8-166	3
(w)	Inability to maintain control of vehicle T.C.A. § 55-8-136(b)	3
(x)	Improper operation of or riding on a motorcycle T.C.A. § 55-8-164	3
(y)	Improper lane or location, driving on roadways laned for traffic T.C.A. § 55-8-123	3
(z)	Use of controlled access roadway T.C.A. §§ 55-8-126 & 55-8-127	4
(aa)	Inattentive driving, due care, failure to drive in careful manner, unsafe lookout,	3

	improper driving T.C.A. § 55-8-136	
(bb)	Miscellaneous traffic violation; any offense involving the unsafe operation of a Non-Commercial Motor Vehicle not herein specified	3
(cc)	Cross private property to avoid stop sign or signal T.C.A. § 55-8-109	4
(dd)	Operating vehicle while using cell phone (under 18) T.C.A. § 55-50-311	6
(ee)	Passing stopped school, church or youth bus taking on or discharging passengers T.C.A. § 55-8-151	8
(ff)	Violation of driver license or <del>certificate</del> restrictions; operating contrary to conditions specified on driver license T.C.A. §§ 55-50-311 & 55-50-331(f)	6
(gg)	Failure to stop at railroad crossing T.C.A. §§ 55-8-145, 55-8-146 & 55-8-147	8
(hh)	Leaving scene of a <del>accident</del> crash (no revocation action) T.C.A. §§ 55-10-101 & 55-10-102	5
(ii)	Failure to report a <del>accident</del> crash T.C.A. § 55-10-111	4
(jj)	Operating without driver license or <del>certificate</del> in possession T.C.A. § 55-50-351	2
(kk)	Operating without being licensed or without license required for type of vehicle operated T.C.A. §§ 55-50-302 & 55-50-331	3
(ll)	Operating while driver license required for type of vehicle operated is under suspension, revocation or cancellation T.C.A. § 55-50-504	8
(mm)	Fleeing law enforcement officer (Misdemeanor) T.C.A. § 39-16-602	8
(nn)	Child endangerment (Misdemeanor) T.C.A. § 55-10-403	8
(3)	Contributing to occurrence of a Crash (both Commercial Motor Vehicle & Non-Commercial Motor Vehicle) T.C.A. §§ 55-10-101 & 55-10-102	
(a)	Contributing to a <del>accident</del> crash involving property damage (including crashes occurring on private property or in government vehicle)	3
(b)	Contributing to a <del>accident</del> crash resulting in bodily injury (including crashes occurring on private property or in government vehicle)	4
(c)	Contributing to a <del>accident</del> crash resulting in another's death (including crashes occurring on private property or in government vehicle)	8
(4)	Moving Traffic Violations - Points for Commercial Motor Vehicles	

(a)	Speeding in a Commercial Motor Vehicle: T.C.A. § 55-8-152	
1.	Tickets and court abstracts where speed not indicated	4
2.	Speeding, 1-5 m.p.h. in excess of posted speed zone	2
3.	Speeding, 6-14 m.p.h. in excess of posted speed zone	4
4.	Excessive speeding where speed not indicated	6
5.	Excessive speeding, 15-25 m.p.h. in excess of posted speed zone	5
6.	Excessive speeding, 26-35 m.p.h. in excess of posted speed zone	6
7.	Excessive speeding, 36 m.p.h. and above in excess of posted speed zone	7
8.	Speed less than posted minimum T.C.A. § 55-8-154	4
(b)	Speeding in a Commercial Motor Vehicle in a construction zone: T.C.A. § 55-8-153	
1.	Tickets and abstracts where speed not indicated	5
2.	Speeding, 1-5 m.p.h. in excess of posted speed zone	3
3.	Speeding, 6-14 m.p.h. in excess of posted speed zone	5
4.	Speeding, 15-25 m.p.h. in excess of posted speed zone	5
5.	Speeding, 26-35 m.p.h. in excess of posted speed zone	6
6.	Speeding, 36 m.p.h. and above in excess of posted speed zone	7
(c)	Reckless driving T.C.A. § 55-10-205	7
(d)	Careless or negligent driving T.C.A. § 55-8-136	5
(e)	Improper passing T.C.A. §§ 55-8-116, 55-8-117, 55-8-118, 55-8-119, 55-8-120 & 55-8-121	4
(f)	Improper or erratic lane change T.C.A. § 55-8-123	5
(g)	Following Improperly T.C.A. § 55-8-124	4
(h)	Failure to obey traffic instructions T.C.A. § 55-8-109	4
(i)	Wrong way, side or direction T.C.A. § 55-8-120	4
(j)	Failure to yield right of way T.C.A. §§ 55-8-128 & 55-8-197	4

(k)	Making improper turn T.C.A. §§ 55-8-140, 55-8-141, & 55-8-142	4
(l)	Failure to signal direction T.C.A. § 55-8-142	3
(m)	Passing stopped school, church or youth bus taking on or discharging passengers T.C.A. § 55-8-151	8
(n)	Miscellaneous traffic violations; any offense involving the unsafe operation of a commercial motor vehicle not herein specified	3
(o)	Following emergency vehicle unlawfully T.C.A. § 55-8-132	3
(p)	Failure to yield to emergency vehicles T.C.A. § 55-8-132	6
(q)	Operating improperly due to drowsiness 49 C.F.R. § 1327 & 49 C.F.R. § 392.3; T.C.A. §§ 55-8-136 & 55-50-202	5
(r)	Violation of truck lane restriction T.C.A. § 55-8-195	3
(s)	Driving Commercial Motor Vehicle without obtaining a Commercial Driver License 49 C.F.R. § 383.23; T.C.A. §§ 55-50-302 & 55-50-202	8
(t)	Driving Commercial Motor Vehicle without a current Commercial Driver License on person 49 C.F.R. § 383.23 & 49 C.F.R. § 383.41; T.C.A. §§ 55-50-351, 55-50-404, 55-50-413 & 55-50-202	3
(u)	Driving Commercial Motor Vehicle without proper endorsement or class of Commercial Driver License 49 C.F.R. § 383.23 & 49 C.F.R. § 383.91; T.C.A. §§ 55-50-302, 55-50-404 & 55-50-202	6
(v)	Conviction driving while disqualified or while canceled 49 C.F.R. § 383.23 & 49 C.F.R. § 383.91; T.C.A. §§ 55-50-504 & 55-50-202	8
(5)	Moving Traffic Violations - Points for Commercial Motor Vehicles Hauling Hazardous Material	
(a)	Speeding in a Commercial Motor Vehicle Hauling Hazardous Material T.C.A. § 55-8-152	
1.	Tickets and abstracts where speed not indicated	5
2.	Speeding 1-5 m.p.h. in excess of posted speed zone	3
3.	Speeding 6-14 m.p.h. in excess of posted speed zone	5
4.	Speeding, 15-25 m.p.h. in excess of posted speed zone	5
5.	Speeding, 26-35 m.p.h. in excess of posted speed zone	6
6.	Speeding, 36 m.p.h. and above in excess of posted speed zone	7
7.	Speed less than posted minimum T.C.A. § 55-8-154	5

(b)	Reckless driving T.C.A. § 55-10-205	8
(c)	Improper passing T.C.A. §§ 55-8-116, 55-8-117, 55-8-118, 55-8-119, 55-8-120 & 55-8-121	5
(d)	Improper or erratic lane change T.C.A. § 55-8-123	6
(e)	Following Improperly T.C.A. § 55-8-124	5
(f)	Careless or negligent driving T.C.A. § 55-8-136	6
(g)	Failure to obey traffic instructions T.C.A. § 55-8-109	5
(h)	Wrong way, side or direction T.C.A. § 55-8-120	5
(i)	Failure to yield right of way T.C.A. § 55-8-128 & 55-8-197	5
(j)	Making improper turn T.C.A. §§ 55-8-140, 55-8-141 & 55-8-142	5
(k)	Failure to signal direction or reduce speed T.C.A. § 55-8-142	4
(l)	Passing stopped school, church or youth bus taking or discharging passengers T.C.A. § 55-8-151	8
(m)	Following emergency vehicle unlawfully T.C.A. § 55-8-132	3
(n)	Miscellaneous traffic violations; any offense involving the unsafe operation of a commercial motor vehicle hauling hazardous material not herein specified	4
(o)	Conviction of driving while disqualified or cancelled T.C.A. § 55-50-504	8

Authority: T.C.A. §§ 4-5-202, 39-13-103, 39-16-602, 55-8-101 et seq., 55-10-205, 55-50-102, 55-50-202, 55-50-301 et seq., 55-50-401 et seq., and 55-50-504; 49 C.F.R. § 383, 49 C.F.R. § 392, 49 C.F.R. § 397 and 49 C.F.R. § 1327.

Administrative History:

Rule 1340-01-04-.06 Suspension of Driver License for Physical or Mental Disabilities is amended by deleting the language in its entirety and substituting new language, so that, as amended, the Rule shall read:

1340-01-04-.06 Suspension of Driver License or ~~Certificate for Driving~~ for Physical or Mental Disabilities.

(1) Mental Standards:

- (a) Any driver who has been adjudged by a court of competent jurisdiction or has been evaluated by a psychiatrist, psychologist, or mental health facility and found to be suffering from any mental disease or ~~disease including~~ substance abuse, may have the driver's driving privileges suspended until such time as the driver has been restored to competency by court order, order from the superintendent of the mental facility, or other such method provided by law. The driver

must apply through the Driver Improvement Unit to receive a clearance/reinstatement order in order to recover, retain or obtain driving privileges.

- (b) If the driver claims to have been restored to competency, a certified copy of the court order or a written statement from a licensed psychiatrist or psychologist or mental health facility must first be mailed to the Driver Improvement Unit by such court, psychiatrist, psychologist or mental health facility.
- (c) After reviewing the certified court order or statement, the Department shall determine if the driver's driving privilege shall be reinstated. If approved, the driver will receive a clearance/reinstatement order from the Driver Improvement Unit.

(2) Physical Standards

~~(a) (a) In cases where the Department receives such reports from other sources, e.g., private citizens, newspaper stories, accident reports not investigated by officers, or confidential information, written notice shall be sent notifying the driver that the information has been received, that the driver license or certificate for driving may be suspended and that the driver has the opportunity to~~ When the Department receives information about the ability of a driver to safely operate a motor vehicle, that driver shall be sent notice stating that the Department received information regarding his/her ability to safely operate a motor vehicle. The notice shall state the driver's driving privileges may be suspended. It shall also state that if the driver disagrees with a suspension, the driver may request an administrative hearing within thirty (30) days from the date of the notice. ~~The driver may be required to submit additional information. No action will be taken until the conclusion of the investigation or hearing, and any action at such time will be determined by the results of the investigation or hearing.~~ Throughout the investigation and/or hearing process, the driver may be questioned concerning the driver's physical condition and may be asked requested to submit a medical statement report. The Department shall provide medical report forms to the driver to be completed by the appropriate licensed medical professional.

(a) (b) In all cases where medical statements reports are needed, the complaint/data must first be reviewed by the Department. Drivers who may be physically or mentally unfit to operate a motor vehicle upon the streets or highways of Tennessee may be identified in the following manner, and the review process invoked:

1. A written complaint from law enforcement or driver license examiner;
2. Data contained in ~~an accident report completed by a police officer or data voluntarily submitted by the driver in question~~ a crash report;
3. Data provided by any reliable individual or person within the medical profession as determined by the Department obtained through the receipt of a signed letter by that individual;
4. Drivers previously suspended and requesting a re-evaluation of their record due to a purported change in the status of mental or physical health;
5. ~~Written referrals or complaints from physicians or medical professionals;~~ Data obtained from courts, private citizens, newspaper stories, ~~individuals~~ or information that would appear to be reliably obtained through other sources;
6. Information from a person who has witnessed the driver's inability to drive because of a seizure or other condition through the receipt of a signed letter from that person; or
7. Information from friends or relatives who know the driver's condition through the receipt of a signed letter.

(c) ~~The Department shall notify in writing drivers reported to have a medical problem and the Department shall provide the appropriate medical statement forms and instructions to each driver undergoing a review to determine if the driver's driving privileges should~~

~~be suspended.~~ The medical ~~statement(s)~~ report forms must be completed by a licensed physician, physician assistant, or nurse practitioner (herein referred to as licensed medical professional) and should contain sufficient information regarding the driver's medical condition to enable the Department to determine whether the driver should be permitted to retain or obtain driving privileges. The information provided by the licensed medical professional must have been obtained within the last twelve (12) months. ~~The physician licensed medical professional shall be requested to provide an opinion about the driver's ability to drive. The physician's licensed medical professional's opinion, which is not binding on the Department, will be given consideration in conjunction with other available information.~~

(d) ~~The medical statement must contain the following information:~~

- ~~1. The cause of the seizures, lapse, blackouts or loss of consciousness or control;~~
- ~~2. The frequency of the seizures, lapse, blackouts or loss of consciousness or control;~~
- ~~3. The medication taken, if any, and the affect the medication will have on the driver's ability to drive;~~
- ~~4. The driver's compliance with treatment and/or medication; and~~
- ~~5. The physician's recommendation regarding driving ability.~~

The Department may use independent medical review boards to review and make recommendations if a driver is reported to have a mental or physical condition. The review boards will consist of licensed physicians in fields of specialized or general medicine. Physicians may serve on the medical review board in a voluntary capacity, or they may be paid by the Department if the Department deems such payment appropriate. The recommendations of the medical review board shall not be binding upon the Department.

(e) ~~The medical report forms completed by the physician licensed medical professional will be reviewed and one or more of the following actions shall take place:~~

1. ~~If the physician licensed medical professional documents that the driver does not have a medical problem relating to the operation of a motor vehicle, the case may be closed. If the case is not closed, it may be referred to the medical review board to reconcile differences in the complaint and the medical statement report.~~
2. ~~If the physician cannot positively document that the person does not have a medical condition relating to the operation of a motor vehicle, or if the physician feels that the person should not be allowed to drive for medical reasons, or if the Department so chooses, the medical forms may be forwarded to the medical review board. If the licensed medical professional determines that the person should not be allowed to drive because of a medical condition, the driver shall have his/her driving privileges suspended. If the licensed medical professional cannot determine with certainty whether or not the person has a medical condition relating to the safe operation of a motor vehicle, the Department may refer the case to the medical review board.~~
3. ~~The medical review board may recommend that the case be closed or it may recommend the suspension of the driver license or certificate for driving suspension of the driver's driving privileges and state the conditions for the suspension. Upon receipt of the medical review board's recommendation, the Commissioner shall determine the status of the driver's driving privileges. Such determination may be appealed pursuant to the provisions of the Uniform Administrative Procedures Act.~~
4. ~~At any time during the process, the Department and/or the medical review board may require additional medical information or evaluation before making a decision.~~

(f) The Department may require the driver to submit to a special driver examination in lieu of, or in addition to, the medical review process.

- (g) Drivers who fail to furnish the Department with the required medical information or request an administrative hearing within thirty (30) days of notice shall have their driving privileges suspended until such time as a favorable medical report is received and restoration of driving privileges is approved.
  - (h) The Department shall suspend and/or shall not issue a driver license ~~or certificate for driving~~ to anyone who suffers from uncontrolled epilepsy (also known as a seizure disorder), momentary lapse of consciousness or control due to epilepsy, cardiac syncope, diabetes, or other conditions until the driver has remained seizure-free or lapse free for a period of one (1) year, and then only upon receipt of a favorable medical statement from the driver's ~~physician~~ licensed medical professional. Provided, however, the driver may be approved for driving privileges if the driver's condition has been controlled for six (6) months and the Department receives a favorable medical report or statement ~~recommendation~~ from the driver's ~~physician and the Medical Review Board~~ licensed medical professional and the Department approves the issuance of the driver license. ~~or certificate for driving.~~
  - (i) In the following cases, the driver may be immediately suspended until the driver submits the medical ~~statement~~ information required by subparagraph (j) (c) and the medical ~~statement~~ information is reviewed in accordance with this rule:
    1. The driver admits to a history of seizures or other conditions that seriously affects driving ability; or
    2. A person practicing in the medical profession submits information that a driver has a condition that ~~affects driving ability~~ renders them unsafe to drive.
    3. ~~A person who has witnessed the driver's inability to drive because of a seizure or other condition submits information; Friends or relatives who know the driver's condition submit information that a driver has a condition that affects driving ability; or Courts or persons who have access to reliable information submit information that a driver may have a condition that affects driving ability.~~
  - (j) The procedures set forth in this rule also apply to other physical or mental disabilities where the Department has good cause to believe the driver would not be able to safely operate a motor vehicle. ~~because of lapses of consciousness or control.~~
  - (k) Drivers who have physical disabilities that can be compensated for by the use of physical controls or mechanical devices which enable the driver to safely operate a motor vehicle may be approved for licensing if they meet all other appropriate eligibility criteria.
  - (l) Drivers who are hearing impaired shall be restricted to the operation of vehicles equipped with left and right outside rear-view mirrors.
  - (m) Vision standards, including telescopic/biopic lens use by drivers with low vision, are located in the rules of the Driver License Issuance Services Division of the Department of Safety.
- (3) Any driver who is alleged to have a mental or physical disability may request an administrative hearing before a hearing officer within thirty (30) days from the date of written notification of the proposed suspension action. Any driver whose driving privileges have been suspended as a result of a physical or mental disability may appeal the decision of the Department by filing a petition pursuant to the Uniform Administrative Procedures Act (T.C.A. § 4-5-101 et seq.).

Authority: T.C.A. §§ 55-50-202, 55-50-303, 55-50-502 and 55-50-505. Administrative History:

Rule 1340-01-04-.07 Suspension of Driver License for Failing to Pass or Submit to Re-Examination is revised by deleting the language in Paragraphs (1), (2), (3) and (6) in its entirety and substituting new language, so that, as amended, the Rule shall read:

1340-01-04-.07 Suspension of Driver License or Certificate for Driving for Failing to Pass or Submit to Re-Examination.

- (1) ~~The Department may, upon receiving evidence sufficient to establish that a driver is incompetent~~ Upon receiving information that a driver may be unable to safely operate a motor vehicle or is otherwise not qualified to be licensed, ~~upon written notice of at least thirty (30) days to the driver,~~ the Department may require such the driver to submit to a driver re-examination and/or submit other information as deemed appropriate within thirty (30) days of receipt of said information. Such notice shall also inform the driver that he/she may request an administrative hearing within thirty (30) days from the date of the notice. ~~Pending the hearing, the Department may suspend the driver license or certificate for driving or permit the driver to retain the driver license or certificate for driving.~~ If a driver fails to submit to a re-examination, submit other appropriate information, or request a hearing within the required timeframe, the Department shall suspend the driver's driving privileges. ~~license or certificate for driving.~~
- (2) ~~Refusal or neglect of a driver to submit to a re-examination shall be grounds for suspension of the driver license or certificate for driving.~~ Periodic re-examinations may be required, such as once a year, in the case of mental or physical conditions. ~~or where there is a deterioration of the visual acuity or motor nerve response.~~
- (3) A driver required to undergo re-examination by the Department may take the written and/or vision portion of the driver examination test without limitation. If the driver fails the written portion, there may be a seven (7) day waiting period between each retest.
- (4) A driver required to undergo re-examination by the Department may take the on-the-road skills portion of the driver examination test three (3) times at thirty (30) day intervals. If successful, driving privileges shall be reinstated. If the driver does not pass on-the-road skills portion in three (3) attempts or less, the driver shall not be eligible to re-test for six (6) months from the date of the third test. If the driver does not pass the re-test(s) taken after waiting the six (6) month period, the driver shall not be eligible to re-test for twelve (12) months from the date of the last driver examination.
- (5) Drivers with a commercial driver license may be required to submit to re-examination in their commercial vehicle or school bus. If the driver fails the re-examination in the driver's commercial vehicle or school bus but wishes to downgrade to a Class D license, the driver may do so after successfully passing a complete examination in their personal vehicle.
- (6) Drivers who fail to submit to re-examination within thirty (30) days of written notification as required, or who fail to pass any part of the re-examination, or who do not ask for an administrative hearing within thirty (30) days of written notification shall have their driving privileges suspended until such time as they comply with the re-examination requirement.
- (7) Any driver required by the Department to undergo re-examination shall be notified that the driver may request an administrative hearing, provided such request is submitted in writing within thirty (30) days after the date of the written notice. Upon receipt of a request for an administrative hearing, the Department shall provide the driver a hearing before a hearing officer.
- (8) Any driver whose driving privilege is suspended under the Driver Improvement Program may appeal the suspension through the appeals process contained in the Uniform Administrative Procedures Act (T.C.A. § 4-5-101 et seq.).

Authority: T.C.A. §§ 55-50-202, 55-50-303, 55-50-322, 55-50-502 and 55-50-505. Administrative History: