

**Department of State
Division of Publications**

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Sequence Number: 07-20-10
Rule ID(s): 4792
File Date: 07/23/2010
Effective Date: 10/21/2010

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Tennessee Motor Vehicle Commission
Division:	Division of Regulatory Boards
Contact Person:	Anthony Glandorf
Address:	500 James Robertson Parkway, Nashville, Tennessee
Zip:	37243
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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
0960-01	General Rules
Rule Number	Rule Title
0960-01-.03	Warranty Charges
0960-01-.14	License Fees
0960-01-.15	Liability Insurance and Workers' Compensation
9060-01-.21	Motor Vehicle Dealer Facilities

(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>)

Chapter 0960-01
General Rules
Amendments

Rule 0960-01-.03 Warranty Charges is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended, the rule shall read as follows:

Rule 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 therefore. A manufacturer, distributor, manufacturer or distributor branch, or manufacturer or distributor representative may, within twelve (12) months after the payment of a warranty claim, 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.
- (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

Rule 0960-01-.14 License Fees is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended the rule shall read as follows:

- (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);
 - (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 salesman, thirty-five dollars (\$35.00);
 - (f) For each application for endorsement of change of employer for a motor vehicle salesman 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) 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;
- (m) 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. 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 and 55-17-112

Rule 0960-01-.15 Liability Insurance and Workers' Compensation is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended the rule shall read as follows:

- (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.

Authority: T.C.A. § 55-17-107

Rule 0960-01-.21 Motor Vehicle Dealer Facilities is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended, the rule shall read as follows:

The following minimum requirements apply to all 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. Mobile and/or cellular telephones are not acceptable as the primary business telephone. 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 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 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

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Brent Smith	X				
Kevin Cullum	X				
Chad Jones	X				
Ronald Ray Fox	X				
Nathaniel Jackson	X				
John Barker				X	
Eddie Roberts	X				
William L. Tarr	X				
George Bass, Jr.	X				
Farrar Schaeffer	X				
Donnie Hatcher	X				
Melissa Blankenship	X				
Brenda Speer	X				
Allen Lewis				X	
Travis McDonough				X	
Stan McNabb				X	

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Motor Vehicle Commission on January 11, 2010 and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 11/17/2009

Rulemaking Hearing(s) Conducted on: (add more dates). 1/11/2010

Date: 13 July 2010

Signature: *Anthony M. Glandorf*

Name of Officer: Anthony M. Glandorf

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 7/13/2010

Notary Public Signature: *[Signature]*

My commission expires on: 5/6/2012

All rulemaking hearing 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.

[Signature]
 Robert E. Cooper, Jr.
 Attorney General and Reporter

7-20-10

Date

Department of State Use Only

Filed with the Department of State on:

7/23/10

Effective on:

10/21/10

Tre Hargett

Tre Hargett
Secretary of State

RECEIVED
2010 JUL 23 AM 11:17
SECRETARY OF STATE
PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

Mr. Robert Weaver of the Tennessee Automotive Association submitted oral testimony in support of increasing the licensing fees for licensees based on it being imperative that the Commission be self-sustaining as it is required by statute; that the fee increases to his knowledge are in-line with similar fees imposed by other states.

Response: The Commission appreciates these comments and they have been taken into consideration. The Commission agrees that the Commission is required to be self-sustaining and in order to increase its revenue generation has proposed to increase its required fees.

Mr. Steve Majchrzak, Assistant Commissioner for the Department of Commerce and Insurance submitted oral testimony regarding the increase of licensing fees for licensees. Asst. Comm. Majchrzak stated that the Commission realized a deficit for Fiscal Year 2009; that there was a need for the Commission to adjust fees. Asst. Comm. Majchrzak also stated that in the Commission's assessment of fee increases, it should focus on adjusting its licensing fees in a manner that would cover expenses including any anticipated future expenses due to increased regulatory activity in order to achieve self-sufficiency.

Response: The Commission appreciates these comments and they have been taken into consideration. The Commission is concerned over the recent decrease in revenue. The decrease in revenue generated is due in part to a decrease in the number of applicants for licenses over the past year along with an apparent decrease in the generation of revenue due to a lack of advertising violations recorded by investigators. The Commission recognizes that the increase in fees is in line with other similar states and the increase has been raised by the Commission members who are dealers themselves. The Commission points out that fee increases were not introduced upon motor vehicle salesperson's licenses.

Mr. Tony Moorby of Eastgate Properties which owns and operates a complex providing motor vehicle dealers with facilities as their permanent established place of business submitted oral testimony against prohibiting motor vehicle dealers licensed after July 1, 2010 to operate in facilities connected to more than one other business facility. Mr. Moorby stated this amendment would prohibit the occupation of this complex by motor vehicle dealers licensed after July 1, 2010, placing a potential economic burden on this facility and requested that the Commission adopt or propose with the rule a grandfathering amendment to the rule which would allow those facilities in existence at the time of the amendment adoption to be exempt from this amendment.

Response: The Commission appreciates these comments and they have been taken into consideration. Based on these comments, similar comments and economic factors, the Commission has decided not to adopt this amendment. The amendment to the rule as proposed was intended to prohibit future facilities from being opened that connected more than two businesses together for motor vehicle dealers to occupy and to allow current facilities that motor vehicle dealers occupied to be unaffected by this proposed change. The comments made by Mr. Moorby brings to light other unconsidered ramifications of the proposed amendment; the future economic impact to existing facilities catering to motor vehicle dealers where those facilities lose a tenant after July 1, 2010. After this date, the facility will not be able to lease unoccupied space to a new occupant who is a motor vehicle dealer due to the existing requirement that a new license be applied for in the event of establishment or relocation of the permanent place of business. The Commission recognizes that there are potential negative economic impacts to other businesses similar to this. The rule as proposed addresses prohibitions to motor vehicle dealers licensed after July 1, 2010 and does not contemplate an exception to facilities operating prior to July 1, 2010 that would not meet the requirements of the proposed amendment, where those facilities are not owned by motor vehicle dealers but lease facilities primarily to motor vehicle dealers.

Mr. Darryl Noble of the Tennessee Independent Auto Dealers Association submitted oral comments against creating a fee for the reassessment of motor vehicle dealer facilities when re-inspection is necessary due to the applicant's action or inaction and proposes to increase salesperson license fees to raise revenue for the Commission in lieu of the proposed fee increases and against the proposed amendment regarding the prohibition

for motor vehicle dealers licensed after July 1, 2010 to occupy a facility occupied by more than one other business.

Response: The Commission appreciates these comments and they have been taken into consideration. The creation of a fee for the re-assessment of a motor vehicle dealer facility when the re-assessment is due to the action or inaction of the motor vehicle dealer is to address a recurring problem wherein an applicant provides notice that its facilities are ready to be inspected to determine their compliance when in fact their facility is not in compliance. After the facility is deemed not in compliance, the applicant addresses the issues according to their deficiencies and a re-assessment is needed wherein the inspector must revisit the same location to do a second inspection, which must be conducted again from the beginning. The Commission incurs a significant financial burdening when it must send an inspector to the facility after an initial inspection has already been conducted. This burden includes the time and money used to send an inspector to the facility a second time. The requirement for an applicant to pay an additional fee for a re-inspection would be required only when the re-inspection was necessary due to an action or inaction of the applicant, such as their failure to be in compliance. This additional re-inspection fee is for the Commission to recover the expenses incurred due to the additionally needed inspection. The Commission has decided not to adopt Mr. Noble's suggestion regarding fees for re-inspections of facilities. The Commission also considered Mr. Noble's comment towards to lack of increase in salesperson fees. When considering the increase of fees, the Commission decided that while it must be self-sustaining, it wanted to avoid passing this burden upon the individual salespersons; that the dealerships and other licensees as businesses would be in a better position financially to sustain an increase in licensee fees. The Commission decided against Mr. Noble's suggestion to increase fees to salespersons in lieu of other proposed fee increases. The Commission also considered Mr. Noble's comment against the amendment to the facility requirements for motor vehicle dealers. The amendment to the rule as proposed was intended to prohibit future facilities from being opened that connected more than two businesses together for motor vehicle dealers to occupy and to allow current facilities that motor vehicle dealers occupied to be unaffected by this proposed change. The comments bring to light other unconsidered ramifications of the proposed amendment; the future economic impact to existing facilities catering to motor vehicle dealers where those facilities lose a tenant after July 1, 2010. After this date, the facility will not be able to lease unoccupied space to a new occupant who is a motor vehicle dealer due to the existing requirement that a new license be applied for in the event of establishment or relocation of the permanent place of business. The Commission recognizes that there are potential negative economic impacts to other businesses similar to this. The rule as proposed addresses prohibitions to motor vehicle dealers licensed after July 1, 2010 and does not contemplate an exception to facilities operating prior to July 1, 2010 that would not meet the requirements of the proposed amendment, where those facilities are not owned by motor vehicle dealers but lease facilities primarily to motor vehicle dealers. The Commission has decided not to adopt the proposed amendment.

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.

Regulatory Flexibility Analysis:

1. Overlap, duplicate, or conflict with other federal, state and local governmental rules:

There is no overlap, duplication, or conflict with federal, state or local governmental rules.

2. Clarity, conciseness and lack of ambiguity in the rule or rules:

The proposed amendments are clear, concise and unambiguous.

3. Flexible compliance and/or reporting requirements for small businesses:

In order to effectuate the purpose of the statute by serving the public interest and welfare by protecting citizens from fraud and other abuses, the proposed rules require that small businesses comply with the above amendments in the same manner as larger businesses.

4. Friendly schedules or deadlines for compliance and/or reporting requirements:

All license applications are given ninety (90) days to submit any additionally needed documents after the initial application receipt. This time limit provides adequate time for those small businesses to provide the Commission with the necessary documents.

5. Consolidation or simplification of compliance or reporting requirements:

The amendments proposed do not complicate compliance or reporting requirements. In two cases, clarifications are made. The garage liability insurance requirement is clarified for the type of garage liability insurance needed.

6. Performances standards for small businesses:

There are no performance standards for small businesses as a result of these amendments.

7. Barriers or other effects that stifle entrepreneurial activity, curb innovation or increase costs:

The amendments to Rule 0960-01-14 License Fees effectively double all licensing fees except for salespersons licenses, duplicate licenses and salesperson transfer licenses, which remain the same. New fees were created for new licenses due to the transfer of ownership, a fee for a dealership re-inspection when one is needed and the forfeiture of twenty five (25) percent of all application fees if the applicant fails to provide requisite documentation after ninety (90) days from the date of application. The increased fees do not have an undue adverse impact on small businesses when compared to the overall overhead funding needed to implement a small business dealership.

Economic Impact Statement:

1. Types of small businesses directly affected:

All small businesses that are motor vehicle dealers and automotive dismantler and recyclers doing business within the State of Tennessee will be directly affected.

2. Projected reporting, recordkeeping, and other administrative costs:

There are possible foreseeable administrative cost increases for those small businesses who currently do not comply with the applicable worker's compensation laws of this state. There are no foreseeable increased reporting or recordkeeping requirements and therefore, increased costs to small businesses are not expected.

3. Probable effect on small businesses:

Increased licensure fees and fees for the transfer of dealership ownership, re-inspections are newly created and as such, will be an additional expense of ownership changeover to small businesses. The increased coverage of garage liability insurance will increase costs to small businesses. While the increased costs will create a greater economic burden upon small businesses, it is not foreseeable that their ability to operate or continue to operate will be affected by the licensure and insurance increases.

4. Less burdensome, intrusive, or costly alternative methods:

The proposed changes to the existing rules are minimally burdensome/intrusive to small businesses. The necessary costs to small businesses to implement the changes required by the proposed amendments and additions to the rules are offset by the protections provided to citizens of Tennessee.

5. Comparison with federal and state counterparts:

There are no federal counterparts to the issues addressed by these rules.

6. Effect of possible exemption of small businesses:

In order to ensure the health, safety and welfare of the citizens of Tennessee, it is imperative that small businesses are held to the same standards as larger businesses regarding the disallowance of service claims, increased garage liability insurance, increased licensure fees and additional fees for ownership changeover, line-make additions, re-inspections and compliance with the state worker compensation laws. An exemption to small businesses would jeopardize the state's effectiveness in its ability to provide consumer protection for the purchase and sale of motor vehicles.

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)

These amendments do not create a foreseeable 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 TCA 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;

Rule 0960-01-.03 Warranty Charges is amended to additionally allow manufacturers and distributors to review sales incentive claims and disallow claims for good cause in the same existing manner for warranty charge claims. Rule 0960-01-.14 License Fees is amended to increase existing fees except salesperson licenses and duplicate certificates and to create new fees for name changes, additional line increases, ownership changes, site inspections and forfeited applications. Rule 0960-01-.15 Liability Insurance and Worker's Compensation is amended to clarify the requirement of comprehensive garage liability insurance, increase the coverage amount and increase dealer compliance with worker's compensation law. Rule 0960-01-.21 Motor Vehicle Dealer Facilities is amended to require that motor vehicle dealer facilities have fifteen (15) parking spaces available for their particular line-make vehicle.

- (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;

The Rules are promulgated pursuant to T.C.A. §§ 55-17-101 et seq.

- (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;

Motor Vehicle Dealers, Manufacturers, Representatives, Salespersons, Distributors, Distributor Branches and Automotive Dismantlers and Recyclers doing business within the State of Tennessee will be affected by these rules. Members of the Tennessee Automotive Association along with the Tennessee Independent Auto Dealers Association are also impacted by these rules. The Department received comments from the Tennessee Automotive Association urging adoption of the increase in fees. The Tennessee Independent Automotive Association urged rejection of the new fee for re-inspections along with rejection of the amended changes of facility requirements. The Department amended its proposal to address the concern of the amended facility requirements.

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

I am unaware of any opinion of the attorney general or any judicial ruling that directly relates to these rules.

- (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;

An increase in expenditures is not expected. An increase in revenue is estimated to be between \$600,000-\$700,000 for each fiscal year.

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

Anthony Glandorf – Assistant General Counsel, Leon Stribling – Executive Director, and Barry Whitson – Administrative Manager

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

Anthony Glandorf – Assistant General Counsel, Leon Stribling – Executive Director, and Barry Whitson – Administrative Manager

- (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

500 James Robertson Parkway, Davy Crockett Tower, Nashville TN 37243

Anthony Glandorf – 615-253-3703	anthony.glandorf@tn.gov
Leon Stribling – 615-253-1312	leon.stribling@tn.gov
Barry Whitson – 615-253-1318	barry.whitson@tn.gov

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

None.

REDLINE

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Revision Type (check all that apply):

- Amendment
 New
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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
0960-01	General Rules
Rule Number	Rule Title
0960-01-.03	Warranty Charges
0960-01-.14	License Fees
0960-01-.15	Liability Insurance and Workers' Compensation
9060-01-.21	Motor Vehicle Dealer Facilities

(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>)

Chapter 0960-01
General Rules
Amendments

Rule 0960-01-.03 Warranty Charges is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended, the rule shall read as follows:

Rule 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 ~~the claim is made for~~ 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 therefore. A manufacturer, distributor, manufacturer or distributor branch, or manufacturer or distributor representative may, within twelve (12) months after the payment of a warranty claim, 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.
- (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

Rule 0960-01-.14 License Fees is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended the rule shall read as follows:

- (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, ~~eight hundred dollars (\$800.00)~~ one thousand six hundred dollars (\$1,600.00);
 - (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, ~~two hundred dollars (\$200.00)~~ four hundred dollars (\$400.00);
 - (d) For each factory representative or distributor representative, ~~two hundred dollars (\$200.00)~~ four hundred dollars (\$400.00);
 - (e) For each motor vehicle salesman, thirty-five dollars (\$35.00);
 - (f) For each application for endorsement of change of employer for a motor vehicle salesman by an employer, thirty-five dollars (\$35.00);
 - (g) For each automotive dismantler and recycler, ~~two hundred dollars (\$200.00)~~ four hundred dollars (\$400.00);

- (h) For each automobile auction, ~~four hundred dollars (\$400.00)~~ eight hundred dollars (\$800.00);
- (i) For each motor vehicle show permit, ~~one hundred dollars (\$100.00)~~ 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) 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;
- (m) 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. 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 and 55-17-112

Rule 0960-01-.15 Liability Insurance and Workers' Compensation is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended the rule shall read as follows:

- (1) An applicant for a motor vehicle dealer license or an automobile auction license shall ~~provide~~ submit to the Commission with each application for license a certificate or affidavit of comprehensive garage liability or general liability and automobile liability insurance, which covers all premises and operations as listed in the application for license, in a minimum amount of coverage of two hundred fifty thousand dollars (\$250,000) Three Hundred Thousand Dollars (\$300,000.00) per occurrence to be submitted with each application for license, and.
- (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.

Authority: T.C.A. § 55-17-107

Rule 0960-01-.21 Motor Vehicle Dealer Facilities is amended by deleting the text of the rule in its entirety and by substituting instead the following language so that, as amended, the rule shall read as follows:

The following minimum requirements apply to all 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. Mobile and/or cellular telephones are not acceptable as the primary business telephone. 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 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 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