

**Department of State  
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Email: [publications.information@tn.gov](mailto:publications.information@tn.gov)

**For Department of State Use Only**

Sequence Number: 09-30-16  
Rule ID(s): 6312  
File Date: 9/21/16  
Effective Date: 12/20/16

## Proposed Rule(s) Filing Form

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

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

**Agency/Board/Commission:** Tennessee Motor Vehicle Commission  
**Division:** Department of Commerce and Insurance Regulatory Boards Division  
**Contact Person:** Matthew Reddish  
**Address:** 500 James Robertson Parkway, Nashville, TN  
**Zip:** 37243  
**Phone:** 615-770-0089  
**Email:** [Matthew.E.Reddish@tn.gov](mailto:Matthew.E.Reddish@tn.gov)

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0960-01	General Rules
Rule Number	Rule Title
0960-01-.07	Zoning Restrictions
0960-01-.08	Dealer Applications
0960-01-.09	Signs
0960-01-.10	Reasonable Business Hours
0960-01-.11	Inspection of Business Records
0960-01-.12	Advertising of Motor Vehicles
0960-01-.14	License Fees
0960-01-.15	Liability Insurance and Workers' Compensation
0960-01-.16	Automobile Auction Minimum Requirements
0960-01-.18	Exemptions for Auctions of Motor Vehicles for Estate Sales and for Nursing or Health Care Home Expenses
0960-01-.20	Sales of Used Motor Vehicles by Unlicensed Individuals

0960-01-.21	Motor Vehicle Dealer Facilities
0960-01-.22	Surety Bonds
0960-01-.24	Sales Tax Identification Number
0960-01-.25	Business License
0960-01-.26	Salesperson License

Amendments

Chapter 0960-01 [General Rules] Table of Contents is amended by deleting the table of contents and substituting the following language subject to the effectiveness of Proposed Rule filed 7/7/16, sequence 07-13-16 for purposes of Rule 0960-01-.29.

Rules  
of  
Tennessee Motor Vehicle Commission

Chapter 0960-01  
General Rules

Table of Contents

0960-01-.01 Definitions	0960-01-.19 Compliance with State and Federal Laws and Regulations
0960-01-.02 Warranty Service	0960-01-.20 Sales of Used Motor Vehicles or Recreational Vehicles by Unlicensed Individuals
0960-01-.03 Warranty Charges and Sales Incentive Audits	0960-01-.21 Motor Vehicle or Recreational Vehicle Dealer Facilities
0960-01-.04 Computation of Warranty Charges	0960-01-.22 Surety Bonds
0960-01-.05 Approval of Requested Labor Rates	0960-01-.23 Mail from Commission and Complaints
0960-01-.06 Notice of Termination, Cancellation	0960-01-.24 Sales Tax Identification Number
0960-01-.07 Zoning Restrictions	0960-01-.25 Business License
0960-01-.08 Dealer Applications	0960-01-.26 Salesperson Licenses
0960-01-.09 Signs	0960-01-.27 Lemon Law
0960-01-.10 Reasonable Business Hours	0960-01-.28 Military Applicants – Spouses – Expedited Licensure
0960-01-.11 Inspection of Business Records	0960-01-.29 Disclosure of Rebuilt or Salvage Motor Vehicles
0960-01-.12 Advertising of Motor Vehicles or Recreational Vehicles	
0960-01-.13 Civil Penalties	
0960-01-.14 License Fees	
0960-01-.15 Liability Insurance and Workers' Compensation	
0960-01-.16 Automobile Auction Minimum Requirements	
0960-01-.17 Motor Vehicle Shows	
0960-01-.18 Exemptions for Auctions of Motor Vehicles or Recreational Vehicles for Estate Sales and for Nursing or Health Care Home Expenses	

0960-01-.07 Zoning Restrictions is amended by deleting the rule in its entirety and substituting the following language so as amended the rule reads:

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

Authority: T.C.A. §§ 55-17-107, 55-17-111(a), 55-17-402, and 55-17-405.

0960-01-.08(1) & (3) Dealer Applications is amended by deleting paragraphs (1) and (3) in their entirety and substituting the following language so as amended paragraphs (1) and (3) read:

- (1) An applicant for a license to sell motor vehicles shall comply with T.C.A. § 55-17-111 and shall provide the Commission with all information required by this section. An applicant for a license to sell recreational vehicles shall comply with T.C.A. § 55-17-405 and shall provide the Commission with all information required by this section.
- (3) A motor vehicle or recreational vehicle dealer applicant shall provide to the Commission a compiled financial statement indicating a minimum net worth of at least Ten Thousand Dollars (\$10,000.00). The compiled financial statement must be prepared in accordance with generally accepted accounting principles by a certified public accountant or public accountant dated not

earlier than twelve (12) months prior to the date of the application, and a copy of the same must be furnished to the Commission along with any changes to the statement.

Authority: T.C.A. §§ 55-17-107, 55-17-111, 55-17-402, and 55-17-405.

0960-01-.09 Signs is amended by deleting the rule in its entirety and substituting the following so the rule as amended reads:

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

Authority: T.C.A. §§ 55-17-107 and 55-17-402.

0960-01-.10 Reasonable Business Hours is amended by deleting the rule in its entirety and substituting the following language so the rule as amended reads:

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

Authority: T.C.A. §§ 55-17-107 and 55-17-402.

0960-01-.11(1) and (2) Inspection of Business Records is amended by inserting the phrase "or recreational vehicles" after the phrase "motor vehicles" in paragraph (1). The rule is further amended by inserting the phrase "or recreational vehicle" to paragraph (2) after the phrase "motor vehicle" so as amended paragraphs (1) and (2) read:

- (1) All persons licensed by the Commission shall make available for inspection during normal business hours by the Commission or its duly authorized representative, all books, records and other memorandums of all transactions, transfers and/or sales of motor vehicles or recreational vehicles, and dead files (any paperwork from an uncompleted deal where a credit application is received or a buyer's/purchase order is prepared).
- (2) All records shall be kept on site or at a location where the records can be accessed in a reasonable amount of time. Proof of ownership and consignment agreements of each motor vehicle or recreational vehicle possessed shall be maintained at the location of the dealership or at a dealership which owns the licensee. Temporary tag logs shall be kept at the dealership of the licensee to which the tags were issued. Records may be kept in written or electronic format.

Authority: T.C.A. §§ 55-17-107 and 55-17-402.

0960-01-.12(1) through (7) Advertising of Motor Vehicles or Recreational Vehicles is amended by deleting paragraphs (1)-(7) in their entirety and substituting the following language so that as amended, paragraphs (1) through (7) read:

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

- (b) False, misleading or deceptive advertising of motor vehicles or recreational vehicles is prohibited.
  - (c) Any disclosures of material facts in the advertising of motor vehicles or recreational vehicles must be made in a clear and conspicuous manner.
- (2) Advertising of New Motor Vehicles or Recreational Vehicles.
- (a) If a motor vehicle or recreational vehicle advertisement pertains to a specific new vehicle, the advertisement must indicate the stock number of that vehicle.
  - (b) If a motor vehicle or recreational vehicle advertisement pertains to a new vehicle which is not then in stock, the advertisement must disclose that the vehicle is to be ordered from a manufacturer, distributor, wholesaler or other identified source.
  - (c) A group of similar motor vehicles or recreational vehicles may be advertised by one stock number, as long as the advertised price of each vehicle of that group is the same.
- (3) Advertising of Used Motor Vehicles or Recreational Vehicles.
- (a) If an advertised motor vehicle or recreational vehicle is required by T.C.A. Title 55, Chapter 3 to be titled as a used motor vehicle or recreational vehicle, the advertisement shall disclose that the motor vehicle or recreational vehicle is "used", or "pretitled", or "previously owned", or words of similar import or intent.
  - (b) If a motor vehicle or recreational vehicle advertisement pertains to either a specific used vehicle or group of used vehicles, the advertisement must indicate the stock number of at least one of the vehicles.
- (4) Price Advertising.
- (a) If the price of a motor vehicle or recreational vehicle is advertised, the advertisement:
    1. Shall include in the advertised price all costs and charges and any additional fees payable by the purchaser of the vehicle advertised.
    2. Shall separately describe any additional fee includable under (a)(1) of this paragraph, and state clearly and conspicuously the amount thereof.
    3. Shall state the following are not included in the advertised price:
      - (i) the cost of optional equipment selected by the purchaser; and
      - (ii) State and local taxes, tags, registration and title fees.
    4. Shall not state an advertised price which includes any trade-in allowance, down payment, capitalized cost reduction or any funds which the consumer is expected to pay in order to reduce the cost of the vehicle to the advertised price, other than rebates from the manufacturer or distributor to all consumers. However, the use of a down payment or a capitalized cost reduction as a term of credit is acceptable. If the rebate from manufacturers or distributors to all customers is utilized in order to reduce the price, then that fact must be disclosed in the advertisement.
    5. If on a new motor vehicle or recreational vehicle, shall not state that the advertised price has been discounted unless the price is discounted from the manufacturer's suggested retail price (M.S.R.P.).
  - (b) When the "suggested retail price" of a new motor vehicle or recreational vehicle is advertised by a manufacturer, distributor, factory representative, or distributor

representative, that price must include all charges (other than those for optional equipment); except, however, that destination charges and sales taxes must be specifically excluded.

- (c) No motor vehicle or recreational vehicle advertisement may indicate the price of a motor vehicle or recreational vehicle in terms of the "invoice," "factory invoice," or "dealer invoice" unless:
  - 1. The invoiced price is the actual price of the manufacturer or distributor to the dealer; and
  - 2. The advertisement discloses any other material factors that may affect the ultimate cost to the dealer, such as manufacturer incentives and awards and dealer hold back.
- (d) Unsubstantiated selling claims and misleading statements or inferences including the use of superlatives are strictly prohibited. Examples include: "write your own deal," "name your own price," "we are number 1 in car sales," "lowest price in the south."
- (e) If the price and/or terms of sale or lease of a specific motor vehicle or recreational vehicle, or group of motor vehicles or recreational vehicles is advertised, the motor vehicle or recreational vehicle(s) shall be presented and sold at the advertised price and/or terms. Unless the advertisement states that the advertised price and/or terms are effective for only a specific time period or expire at a specific time, the period of time the price and/or terms remain effective is five (5) days following the last date said advertisement is published in any advertising medium.
- (5) Reduced interest rates. No reduced interest rate on motor vehicle or recreational vehicle financing may be advertised if the cost thereof should be directly or indirectly borne by the buyer unless the advertisement discloses that such rate will affect the negotiated price of the vehicle to the buyer.
- (6) Trade-in allowance. No motor vehicle or recreational vehicle advertisement may include a "guarantee" or "minimum" trade-in allowance unless the advertisement also states the price of the vehicle in accordance with paragraph (4) of this rule.
- (7) Identification. All advertising in all forms of media, including computer generated advertising, initiated from this state shall identify the motor vehicle or recreational vehicle dealer by name and/or dealer license number.

Authority: T.C.A. §§ 55-17-107(1) and 55-17-402.

0960-01-.14(1) License Fees is amended by inserting the phrase "or recreational vehicle" to subparagraph (i) after the phrase "motor vehicle." Paragraph (1) is further amended by inserting a new subparagraph after existing subparagraph (l) and renumbering the remaining subparagraphs. The rule is further amended by adding paragraph (2) to the rule, so as amended subparagraphs (i), (m) through (o), and paragraph (2) shall read:

- (1)
  - (i) For each motor vehicle or recreational vehicle show permit, two hundred dollars (\$200.00);
  - (m) For each recreational vehicle dealer, four hundred dollars (\$400.00) after January 1, 2017;
  - (n) 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;
  - (o) Twenty-five percent (25%) of all license application fees will be forfeited if the applicant fails to submit all required documentation within ninety (90) days of receipt of the application. Any applicant refund must be requested in writing. Documents will be

returned to the applicant after ninety (90) days from the initial receipt.

- (2)
  - (a) Any motor vehicle dealer licensed to sell new recreational vehicle line-makes whose license is issued or renewed on or before December 31, 2016, shall receive a pro-rated recreational vehicle dealer license for the length of term stated on its license without further payment of licensure fees. This subparagraph applies only to those line-makes such dealer is licensed to sell on or before December 31, 2016. Additional line-makes added on or after January 1, 2017 shall require payment of all applicable licensure fees.
  - (b) Any motor vehicle dealer licensed to sell both new motor vehicle and new recreational vehicle line-makes under a single license issued prior to December 31, 2016 who sells new recreational and motor vehicles after December 31, 2016, shall apply for and obtain a new recreational vehicle dealer license for each line-make it intends to sell on or after January 1, 2017.
  - (c) This paragraph (2) shall expire on January 1, 2019.

Authority: T.C.A. §§ 55-17-107, 55-17-111, 55-17-112, 55-17-112, 55-17-302, 55-17-402, 55-17-405, and 55-17-406.

0960-01-.15(1) & (3) Liability Insurance and Workers' Compensation is amended by inserting "or recreational vehicle" after each instance the phrase "motor vehicle" appears so as amended paragraphs (1) and (3) read:

- (1) An applicant for a motor vehicle or recreational 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.
- (3) All motor vehicle or recreational vehicle dealers shall comply with the applicable workers' compensation laws of the State of Tennessee.

Authority: T.C.A. §§ 55-17-107 and 55-17-402.

0960-01-.16(1) Automobile Auction Minimum Requirements is amended by deleting the paragraph in its entirety and substituting with the following language so the paragraph as amended reads:

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

Authority: T.C.A. §§ 55-17-107, 55-17-109, 55-17-111, and 55-17-402.

0960-01-.18(1) Exemptions for Auctions of Motor Vehicles for Estate Sales and for Nursing or Health Care Home Expenses is amended by deleting paragraph (1) in its entirety and substituting instead the following language so as amended the rule reads:

- (1) The following shall be exempt from the licensing provisions of this Chapter:
  - (a) Estate Auctions. Up to five (5) motor vehicle or recreational vehicles owned and titled to the individual decedent may be placed for sale at auction with the decedent's other personal property.

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

Authority: T.C.A. §§ 55-17-107(1) and 55-17-402.

0960-01-.20(1) & (3) Sales of Used Motor Vehicles by Unlicensed Individuals is amended by inserting the phrase "or recreational vehicle" after each instance the phrase "motor vehicle" appears. The rule is further amended by inserting the phrase "or recreational vehicles" after each instance the phrase "motor vehicles" appears so that as amended paragraphs (1) and (3) read:

- (1) Unless otherwise provided by T.C.A. Title 55, Chapter 17 et seq., and these regulations, an individual may sell or offer to sell up to five (5) used motor vehicles or recreational vehicles registered and titled in his/her name within a twelve (12) month period without a motor vehicle or recreational vehicle dealer's license.
- (3) If an individual sells or offers to sell more than five (5) vehicles within a twelve (12) month period, he/she shall be found in violation of this rule for engaging in the unlicensed sale of motor vehicles or recreational vehicles.

Authority: T.C.A. §§ 55-17-107, 55-17-109, 55-17-110, and 55-17-402.

0960-01-.21(1)-(2) and (4)-(5) Motor Vehicle Dealer Facilities is amended by deleting the language of those paragraphs in their entirety and substituting the following language so as amended paragraphs (1)-(2) and (4)-(5) read:

- (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 or recreational 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 or recreational vehicles. The facility shall also contain restroom accommodations.
- (4) The facility shall have immediate and contiguous access to and exclusive dedicated use of a motor vehicle or recreational vehicle storage or display lot capable of accommodating fifteen (15) motor vehicle or recreational vehicles of the dealership's product line. A lot shall consist of compacted gravel, chert, stone or similar materials and shall not include public lands, unimproved land or residential driveways. The facility shall also contain a minimum of three (3) parking spots dedicated for customer parking.
- (5) The facility shall be used exclusively for buying, selling, renting, displaying, advertising, demonstrating, servicing or repairing motor vehicles or recreational vehicles or selling functional or nonfunctional parts, including accessories, safety equipment and vehicle branded clothing.

Authority: T.C.A. §§ 55-17-107, 55-17-114, and 55-17-402.

0960-01-.22(1) Surety Bonds is amended by deleting the paragraph in its entirety and substituting the following language so that the paragraph as amended reads:

- (1) The surety bond required by T.C.A. Title 55, Chapter 17, Section 111(g) and T.C.A. Title 55, Chapter 17, section 405(g) must remain and continue in force for as long as the licensee remains licensed. Upon notice of cancellation, the licensee shall either cease business operations until proof of minimum coverage is provided, or provide evidence of minimum coverage from another provider.

Authority: T.C.A. §§ 55-17-107, 55-17-111, and 55-17-402.

0960-01-.24 Sales Tax Identification Number is amended by adding "or recreational vehicle" after each instance the phrase "motor vehicle" appears so as amended the rule shall read:

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

Authority: T.C.A. §§ 55-17-107, 55-17-111, and 55-17-402.

0960-01-.25 Business License is amended by adding "or recreational vehicle" after each instance that the phrase "motor vehicle" appears so as amended the rule shall read:

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

Authority: T.C.A. §§ 55-17-107, 55-17-111, and 55-17-402.

0960-01-.26 Salesperson Licenses is amended by deleting the rule in its entirety and substituting with the following language, so as amended, the rule reads:

- (1) An individual who has submitted a complete application and the required fees to the Motor Vehicle Commission for a motor vehicle salesperson's license may work as a trainee under the supervision of a licensed salesperson while the license application is pending. An individual whose salesperson's license has been denied, suspended or revoked may not work as a trainee.
- (2) A licensed motor vehicle salesperson may sell motor vehicles or recreational vehicles at any motor vehicle or recreational vehicle dealership owned by the employer listed on the salesperson's license.
- (3) An individual may not hold a motor vehicle salesperson's license for more than one (1) motor vehicle or recreational vehicle dealer at any time.

Authority: T.C.A. §§ 55-17-107, 55-17-109, 55-17-110, 55-17-113, and 55-17-402.

\* 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)
Eddie Roberts	x				
Stan Norton	x				
Ian Leavy	x				
Nathaniel Jackson	x				
Don Parr				x	
Stephen Tomaso	x				
Lynn Webb				x	
B. Joe Clayton	x				
Ronald Fox	x				
Kahren White				x	
Stan McNabb	x				
Reed Trickett				x	
Jim Galvin Jr.	x				
John S. Murrey	x				
Donnie Hatcher				x	
Farrar Schaeffer Vaughan	x				

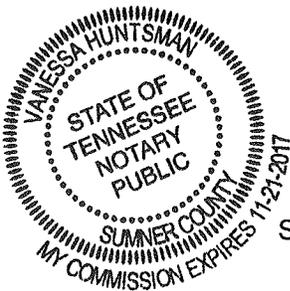
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Motor Vehicle Commission on July 25, 2016 and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 9-7-16

Signature: Matthew Reddish

Name of Officer: Matthew Reddish

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: Sept. 7, 2016

Notary Public Signature: Vanessa Huntsman

My commission expires on: Nov 21, 2017

Rules of the Tennessee Motor Vehicle Commission

- 0960-01-.07 Zoning Restrictions
- 0960-01-.08 Dealer Applications
- 0960-01-.09 Signs
- 0960-01-.10 Reasonable Business Hours
- 0960-01-.11 Inspection of Business Records
- 0960-01-.12 Advertising of Motor Vehicles
- 0960-01-.14 License Fees
- 0960-01-.15 Liability Insurance and Workers' Compensation
- 0960-01-.16 Automobile Auction Minimum Requirements
- 0960-01-.18 Exemptions for Auctions of Motor Vehicles for Estate Sales and for Nursing or Health Care Home Expenses
- 0960-01-.20 Sales of Used Motor Vehicles by Unlicensed Individuals
- 0960-01-.21 Motor Vehicle Dealer Facilities
- 0960-01-.22 Surety Bonds
- 0960-01-.24 Sales Tax Identification Number
- 0960-01-.25 Business License
- 0960-01-.26 Salesperson License

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

*Herbert H. Slatery III*

Herbert H. Slatery III  
Attorney General and Reporter

*9/19/2016*

Date

Department of State Use Only

Filed with the Department of State on: 9/21/16

Effective on: 12/20/16

*Tre Hargett*

Tre Hargett  
Secretary of State

RECEIVED  
2016 SEP 21 PM 1:48  
SECRETARY OF STATE  
PUBLICATIONS

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

This rule would only have an effect on current licensed motor vehicle dealers that sell new recreational vehicles. There are approximately 28 licensed recreational vehicle dealers in Tennessee. Using the guidelines set by the Governor's Office of Diversity Business Enterprise, a small business is considered one that has total gross receipts of no more than ten million dollars (\$10,000,000) averaged over a three-year period or employs no more than ninety-nine (99) persons on a full-time basis. Given this definition, it is believed that the vast majority of recreational vehicle dealers in Tennessee would qualify as a small business. An additional cost is not associated with these rules. The legislature through 2016 Tenn. Pub. Ch. 781 requires current licensed motor vehicle dealers who sell recreational vehicles to obtain a distinctively named "recreational vehicle dealer" license to sell what is newly defined as "recreational vehicles" (separate from motor vehicles).

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

This rule is not expected to have any substantial reporting, recordkeeping or other administrative costs because all of these rules are currently in place against these recreational vehicle dealers who currently hold a motor vehicle dealer license.

(3) A statement of the probable effect on impacted small businesses and consumers.

Small businesses will see no probable effect because the compliance impact will be net-neutral. These amendments to the dealer license will provide consumers with all the same protections they receive against motor vehicle dealers.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The Commission believes that this change is not burdensome, intrusive or costly and – as such – there do not appear to be any alternatives that would reasonably be expected to be less burdensome.

(5) A comparison of the proposed rule with any federal or state counterparts.

States, such as Florida, Arkansas, Georgia and Kentucky have separate licensing schemes between recreational vehicle dealers and motor vehicle dealers. There are no known federal counterparts to these rules.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Exemption from these rules would not be expected to be beneficial for small businesses because these rules set the requirements in order to obtain the new license created by the legislature under 2016 Tenn. Pub. Ch. 781. Such new license requires a fee, however, that fee is the same as previously paid by all motor vehicle dealers of \$400. Further, this set of rules provides for a pro-rated fee for all currently licensed motor vehicle dealers who require a recreational vehicle dealer license on January 1, 2017 (other than those who sell both new motor vehicles and recreational 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)

This rule will not have a 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 rule creates a new licensing classification for recreational vehicle dealers as required pursuant to 2016 Tenn. Pub. Ch. 781. Previously, recreational vehicle dealers were subsumed within the general motor vehicle dealer classification.

- (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;

Tennessee Code Annotated § 55-17-402 provides the Commission with those powers and duties necessary and proper to enable it to carry out the provisions and objectives of this part including but not limited to the authority to promulgate reasonable substantive and procedural rules as they relate to the operation of Chapter 17, part 4. T.C.A. § 55-17-406 authorizes the Commission to set biennial fees for recreational vehicle dealer licenses. There is no federal law or regulation mandating promulgations of such rule or establishing guidelines relevant for such.

- (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;

All current and future recreational vehicle dealers, recreational vehicle manufacturers, and their professional organization, the Recreational Vehicle Industry Association (RVIA) will be most directly affected by this rule. Those persons and association urge adoption of this rule in order to allow them to obtain licensure and conduct business in the state of Tennessee.

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

There are no known attorney general opinions or judicial rulings that directly relate to this rule.

- (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;

This rule is not estimated to have a probable increase or decrease in state and local government revenue and expenditures. This rule will maintain the current status quo for recreational vehicle dealers to be able to sell such in the state of Tennessee without a lapse in sales.

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

Matthew Reddish – Assistant General Counsel  
TN Department of Commerce and Insurance

Paula Shaw – Executive Director  
TN Motor Vehicle Commission  
TN Department of Commerce and Insurance

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

Matthew Reddish – Assistant General Counsel  
TN Department of Commerce and Insurance

Paula Shaw – Executive Director  
TN Motor Vehicle Commission  
TN Department of Commerce and Insurance

**(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

Matthew Reddish  
500 James Robertson Parkway  
Nashville, TN 37243  
615-770-0089  
Matthew.e.reddish@tn.gov

Paula Shaw  
500 James Robertson Parkway  
Nashville, TN 37243  
615-253-1312  
Paula.j.shaw@tn.gov

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

None.

**Department of State  
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Email: [publications.information@tn.gov](mailto:publications.information@tn.gov)

**For Department of State Use Only**

Sequence Number: \_\_\_\_\_  
Rule ID(s): \_\_\_\_\_  
File Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

## Proposed Rule(s) Filing Form - Redline

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

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

**Agency/Board/Commission:** Tennessee Motor Vehicle Commission  
**Division:** Department of Commerce and Insurance Regulatory Boards Division  
**Contact Person:** Matthew Reddish  
**Address:** 500 James Robertson Parkway, Nashville, TN  
**Zip:** 37243  
**Phone:** 615-770-0089  
**Email:** [Matthew.E.Reddish@tn.gov](mailto:Matthew.E.Reddish@tn.gov)

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that ALL new rule and repealed rule numbers are listed in the chart below. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0960-01	General Rules
Rule Number	Rule Title
0960-01-.07	Zoning Restrictions
0960-01-.08	Dealer Applications
0960-01-.09	Signs
0960-01-.10	Reasonable Business Hours
0960-01-.11	Inspection of Business Records
0960-01-.12	Advertising of Motor Vehicles
0960-01-.14	License Fees
0960-01-.15	Liability Insurance and Workers' Compensation
0960-01-.16	Automobile Auction Minimum Requirements
0960-01-.18	Exemptions for Auctions of Motor Vehicles for Estate Sales and for Nursing or Health Care Home Expenses
0960-01-.20	Sales of Used Motor Vehicles by Unlicensed Individuals

0960-01-.21	Motor Vehicle Dealer Facilities
0960-01-.22	Surety Bonds
0960-01-.24	Sales Tax Identification Number
0960-01-.25	Business License
0960-01-.26	Salesperson License

## Amendments

Chapter 0960-01 [General Rules] Table of Contents is amended by deleting the table of contents and substituting the following language subject to the effectiveness of Proposed Rule filed 7/7/16, sequence 07-13-16 for purposes of Rule 0960-01-.29.

### Rules of Tennessee Motor Vehicle Commission

#### Chapter 0960-01 General Rules

#### Table of Contents

0960-01-.01 Definitions	0960-01-.19 Compliance with State and Federal Laws and Regulations
0960-01-.02 Warranty Service	0960-01-.20 Sales of Used Motor Vehicles <u>or Recreational Vehicles</u> by Unlicensed Individuals
0960-01-.03 Warranty Charges and Sales Incentive Audits	0960-01-.21 Motor Vehicle <u>or Recreational Vehicle Dealer</u> Facilities
0960-01-.04 Computation of Warranty Charges	0960-01-.22 Surety Bonds
0960-01-.05 Approval of Requested Labor Rates	0960-01-.23 Mail from Commission and Complaints
0960-01-.06 Notice of Termination, Cancellation	0960-01-.24 Sales Tax Identification Number
0960-01-.07 Zoning Restrictions	0960-01-.25 Business License
0960-01-.08 Dealer Applications	0960-01-.26 Salesperson Licenses
0960-01-.09 Signs	0960-01-.27 Lemon Law
0960-01-.10 Reasonable Business Hours	0960-01-.28 Military Applicants – Spouses – Expedited Licensure
0960-01-.11 Inspection of Business Records	0960-01-.29 Disclosure of Rebuilt or Salvage Motor Vehicles
0960-01-.12 Advertising of Motor Vehicles <u>or Recreational Vehicles</u>	
0960-01-.13 Civil Penalties	
0960-01-.14 License Fees	
0960-01-.15 Liability Insurance and Workers' Compensation	
0960-01-.16 Automobile Auction Minimum Requirements	
0960-01-.17 Motor Vehicle Shows	
0960-01-.18 Exemptions for Auctions of Motor Vehicles <u>or Recreational Vehicles</u> for Estate Sales and for Nursing or Health Care Home Expenses	

0960-01-.07 Zoning Restrictions is amended by deleting the rule in its entirety and substituting the following language so as amended the rule reads:

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

Authority: T.C.A. §§ 55-17-107, ~~and 55-17-111(a)~~, ~~55-17-402~~, and 55-17-405.

0960-01-.08(1) & (3) Dealer Applications is amended by deleting paragraphs (1) and (3) in their entirety and substituting the following language so as amended paragraphs (1) and (3) read:

- (1) An applicant for a license to sell motor vehicles shall comply with T.C.A. § 55-17-111 and shall provide the Commission with all information required by this section. An applicant for a license to sell recreational vehicles shall comply with T.C.A. § 55-17-405 and shall provide the Commission with all information required by this section.
- (3) A motor vehicle or recreational vehicle dealer applicant shall provide to the Commission a compiled financial statement indicating a minimum net worth of at least Ten Thousand Dollars (\$10,000.00). The compiled financial statement must be prepared in accordance with generally accepted accounting principles by a certified public accountant or public accountant dated not

earlier than twelve (12) months prior to the date of the application, and a copy of the same must be furnished to the Commission along with any changes to the statement.

Authority: T.C.A. §§ ~~55-17-107, and 55-17-111, 55-17-402, and 55-17-405.~~

0960-01-.09 Signs is amended by deleting the rule in its entirety and substituting the following so the rule as amended reads:

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

Authority: T.C.A. §§ ~~59-1702(a) and 59-1707(a).~~ 55-17-107 and 55-17-402.

0960-01-.10 Reasonable Business Hours is amended by deleting the rule in its entirety and substituting the following language so the rule as amended reads:

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

Authority: T.C.A. §§ ~~55-17-107-~~ and 55-17-402.

0960-01-.11(1) and (2) Inspection of Business Records is amended by inserting the phrase "or recreational vehicles" after the phrase "motor vehicles" in paragraph (1). The rule is further amended by inserting the phrase "or recreational vehicle" to paragraph (2) after the phrase "motor vehicle" so as amended paragraphs (1) and (2) read:

- (1) All persons licensed by the Commission shall make available for inspection during normal business hours by the Commission or its duly authorized representative, all books, records and other memorandums of all transactions, transfers and/or sales of motor vehicles or recreational vehicles, and dead files (any paperwork from an uncompleted deal where a credit application is received or a buyer's/purchase order is prepared).
- (2) All records shall be kept on site or at a location where the records can be accessed in a reasonable amount of time. Proof of ownership and consignment agreements of each motor vehicle or recreational vehicle possessed shall be maintained at the location of the dealership or at a dealership which owns the licensee. Temporary tag logs shall be kept at the dealership of the licensee to which the tags were issued. Records may be kept in written or electronic format.

Authority: T.C.A. §§ ~~55-17-107-~~ and 55-17-402.

0960-01-.12(1) through (7) Advertising of Motor Vehicles or Recreational Vehicles is amended by deleting paragraphs (1)-(7) in their entirety and substituting the following language so that as amended, paragraphs (1) through (7) read:

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

- (b) False, misleading or deceptive advertising of motor vehicles or recreational vehicles is prohibited.
  - (c) Any disclosures of material facts in the advertising of motor vehicles or recreational vehicles must be made in a clear and conspicuous manner.
- (2) Advertising of New Motor Vehicles or Recreational Vehicles.
- (a) If a motor vehicle or recreational vehicle advertisement pertains to a specific new vehicle, the advertisement must indicate the stock number of that vehicle.
  - (b) If a motor vehicle or recreational vehicle advertisement pertains to a new vehicle which is not then in stock, the advertisement must disclose that the vehicle is to be ordered from a manufacturer, distributor, wholesaler or other identified source.
  - (c) A group of similar motor vehicles or recreational vehicles may be advertised by one stock number, as long as the advertised price of each vehicle of that group is the same.
- (3) Advertising of Used Motor Vehicles or Recreational Vehicles.
- (a) If an advertised motor vehicle or recreational vehicle is required by T.C.A. Title 55, Chapter 3 to be titled as a used motor vehicle or recreational vehicle, the advertisement shall disclose that the motor vehicle or recreational vehicle is "used", or "pretitled", or "previously owned", or words of similar import or intent.
  - (b) If a motor vehicle or recreational vehicle advertisement pertains to either a specific used vehicle or group of used vehicles, the advertisement must indicate the stock number of at least one of the vehicles.
- (4) Price Advertising.
- (a) If the price of a motor vehicle or recreational vehicle is advertised, the advertisement:
    1. Shall include in the advertised price all costs and charges and any additional fees payable by the purchaser of the vehicle advertised.
    2. Shall separately describe any additional fee includable under (a)(1) of this paragraph, and state clearly and conspicuously the amount thereof.
    3. Shall state the following are not included in the advertised price:
      - (i) the cost of optional equipment selected by the purchaser; and
      - (ii) State and local taxes, tags, registration and title fees.
    4. Shall not state an advertised price which includes any trade-in allowance, down payment, capitalized cost reduction or any funds which the consumer is expected to pay in order to reduce the cost of the vehicle to the advertised price, other than rebates from the manufacturer or distributor to all consumers. However, the use of a down payment or a capitalized cost reduction as a term of credit is acceptable. If the rebate from manufacturers or distributors to all customers is utilized in order to reduce the price, then that fact must be disclosed in the advertisement.
    5. If on a new motor vehicle or recreational vehicle, shall not state that the advertised price has been discounted unless the price is discounted from the manufacturer's suggested retail price (M.S.R.P.).
  - (b) When the "suggested retail price" of a new motor vehicle or recreational vehicle is advertised by a manufacturer, distributor, factory representative, or distributor

representative, that price must include all charges (other than those for optional equipment); except, however, that destination charges and sales taxes must be specifically excluded.

- (c) No motor vehicle or recreational vehicle advertisement may indicate the price of a motor vehicle or recreational vehicle in terms of the "invoice," "factory invoice," or "dealer invoice" unless:
1. The invoiced price is the actual price of the manufacturer or distributor to the dealer; and
  2. The advertisement discloses any other material factors that may affect the ultimate cost to the dealer, such as manufacturer incentives and awards and dealer hold back.
- (d) Unsubstantiated selling claims and misleading statements or inferences including the use of superlatives are strictly prohibited. Examples include: "write your own deal," "name your own price," "we are number 1 in car sales," "lowest price in the south."
- (e) If the price and/or terms of sale or lease of a specific motor vehicle or recreational vehicle, or group of motor vehicles or recreational vehicles is advertised, the motor vehicle or recreational vehicle(s) shall be presented and sold at the advertised price and/or terms. Unless the advertisement states that the advertised price and/or terms are effective for only a specific time period or expire at a specific time, the period of time the price and/or terms remain effective is five (5) days following the last date said advertisement is published in any advertising medium.
- (5) Reduced interest rates. No reduced interest rate on motor vehicle or recreational vehicle financing may be advertised if the cost thereof should be directly or indirectly borne by the buyer unless the advertisement discloses that such rate will affect the negotiated price of the vehicle to the buyer.
- (6) Trade-in allowance. No motor vehicle or recreational vehicle advertisement may include a "guarantee" or "minimum" trade-in allowance unless the advertisement also states the price of the vehicle in accordance with paragraph (4) of this rule.
- (7) Identification. All advertising in all forms of media, including computer generated advertising, initiated from this state shall identify the motor vehicle or recreational vehicle dealer by name and/or dealer license number.

Authority: T.C.A. §§ 55-17-107(1)– and 55-17-402.

0960-01-14(1) License Fees is amended by inserting the phrase "or recreational vehicle" to subparagraph (i) after the phrase "motor vehicle." Paragraph (1) is further amended by inserting a new subparagraph after existing subparagraph (l) and renumbering the remaining subparagraphs. The rule is further amended by adding paragraph (2) to the rule, so as amended subparagraphs (i), (m) through (o), and paragraph (2) shall read:

- (1)
- (i) For each motor vehicle or recreational vehicle show permit, two hundred dollars (\$200.00);
  - (m) For each recreational vehicle dealer, four hundred dollars (\$400.00) after January 1, 2017;
  - ~~(n)~~ 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;
  - ~~(o)~~ Twenty-five percent (25%) of all license application fees will be forfeited if the applicant fails to submit all required documentation within ninety (90) days of receipt of the application. Any applicant refund must be requested in writing. Documents will be

returned to the applicant after ninety (90) days from the initial receipt.

(2)

- (a) Any motor vehicle dealer licensed to sell new recreational vehicle line-makes whose license is issued or renewed on or before December 31, 2016, shall receive a pro-rated recreational vehicle dealer license for the length of term stated on its license without further payment of licensure fees. This subparagraph applies only to those line-makes such dealer is licensed to sell on or before December 31, 2016. Additional line-makes added on or after January 1, 2017 shall require payment of all applicable licensure fees.
- (b) Any motor vehicle dealer licensed to sell both new motor vehicle and new recreational vehicle line-makes under a single license issued prior to December 31, 2016 who sells new recreational and motor vehicles after December 31, 2016, shall apply for and obtain a new recreational vehicle dealer license for each line-make it intends to sell on or after January 1, 2017.
- (c) This paragraph (2) shall expire on January 1, 2019.

Authority: T.C.A. §§ 55-17-107, 55-17-111, 55-17-112, 55-17-112, and 55-17-302, 55-17-402, 55-17-405, and 55-17-406.

0960-01-.15(1) & (3) Liability Insurance and Workers' Compensation is amended by inserting "or recreational vehicle" after each instance the phrase "motor vehicle" appears so as amended paragraphs (1) and (3) read:

- (1) An applicant for a motor vehicle or recreational 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.
- (3) All motor vehicle or recreational vehicle dealers shall comply with the applicable workers' compensation laws of the State of Tennessee.

Authority: T.C.A. §§ 55-17-107, ~~and 55-17-402.~~

0960-01-.16(1) Automobile Auction Minimum Requirements is amended by deleting the paragraph in its entirety and substituting with the following language so the paragraph as amended reads:

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

Authority: T.C.A. §§ 55-17-107, 55-17-109, ~~and 55-17-111,~~ and 55-17-402.

0960-01-.18(1) Exemptions for Auctions of Motor Vehicles for Estate Sales and for Nursing or Health Care Home Expenses is amended by deleting paragraph (1) in its entirety and substituting instead the following language so as amended the rule reads:

- (1) The following shall be exempt from the licensing provisions of this Chapter:
  - (a) Estate Auctions. Up to five (5) motor vehicle or recreational vehicles owned and titled to the individual decedent may be placed for sale at auction with the decedent's other personal property.

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

Authority: T.C.A. §§ 55-17-107(1), ~~and 55-17-402.~~

0960-01-20(1) & (3) Sales of Used Motor Vehicles by Unlicensed Individuals is amended by inserting the phrase "or recreational vehicle" after each instance the phrase "motor vehicle" appears. The rule is further amended by inserting the phrase "or recreational vehicles" after each instance the phrase "motor vehicles" appears so that as amended paragraphs (1) and (3) read:

- (1) Unless otherwise provided by T.C.A. Title 55, Chapter 17 et seq., and these regulations, an individual may sell or offer to sell up to five (5) used motor vehicles or recreational vehicles registered and titled in his/her name within a twelve (12) month period without a motor vehicle or recreational vehicle dealer's license.
- (3) If an individual sells or offers to sell more than five (5) vehicles within a twelve (12) month period, he/she shall be found in violation of this rule for engaging in the unlicensed sale of motor vehicles or recreational vehicles.

Authority: T.C.A. §§ 55-17-107, 55-17-109, ~~and 55-17-110,~~ and 55-17-402.

0960-01-21(1)-(2) and (4)-(5) Motor Vehicle Dealer Facilities is amended by deleting the language of those paragraphs in their entirety and substituting the following language so as amended paragraphs (1)-(2) and (4)-(5) read:

- (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 or recreational 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 or recreational vehicles. The facility shall also contain restroom accommodations.
- (4) The facility shall have immediate and contiguous access to and exclusive dedicated use of a motor vehicle or recreational vehicle storage or display lot capable of accommodating fifteen (15) motor vehicle or recreational vehicles of the dealership's product line. A lot shall consist of compacted gravel, chert, stone or similar materials and shall not include public lands, unimproved land or residential driveways. The facility shall also contain a minimum of three (3) parking spots dedicated for customer parking.
- (5) The facility shall be used exclusively for buying, selling, renting, displaying, advertising, demonstrating, servicing or repairing motor vehicles or recreational 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,~~ and 55-17-402.

0960-01-22(1) Surety Bonds is amended by deleting the paragraph in its entirety and substituting the following language so that the paragraph as amended reads:

- (1) The surety bond required by T.C.A. Title 55, Chapter 17, Section 111(g) and T.C.A. Title 55, Chapter 17, section 405(g) must remain and continue in force for as long as the licensee remains licensed. Upon notice of cancellation, the licensee shall either cease business operations until proof of minimum coverage is provided, or provide evidence of minimum coverage from another provider.

Authority: T.C.A. §§ ~~55-17-107, and 55-17-111, and 55-17-402.~~

0960-01-.24 Sales Tax Identification Number is amended by adding "or recreational vehicle" after each instance the phrase "motor vehicle" appears so as amended the rule shall read:

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

Authority: T.C.A. §§ ~~55-17-107, and 55-17-111, and 55-17-402.~~

0960-01-.25 Business License is amended by adding "or recreational vehicle" after each instance that the phrase "motor vehicle" appears so as amended the rule shall read:

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

Authority: T.C.A. §§ ~~55-17-107, and 55-17-111, and 55-17-402.~~

0960-01-.26 Salesperson Licenses is amended by deleting the rule in its entirety and substituting with the following language, so as amended, the rule reads:

- (1) An individual who has submitted a complete application and the required fees to the Motor Vehicle Commission for a motor vehicle salesperson's license may work as a trainee under the supervision of a licensed salesperson while the license application is pending. An individual whose salesperson's license has been denied, suspended or revoked may not work as a trainee.
- (2) A licensed motor vehicle salesperson may sell motor vehicles or recreational vehicles at any motor vehicle or recreational vehicle dealership owned by the employer listed on their salesperson's license.
- (3) An individual may not hold a motor vehicle salesperson's license for more than one (1) motor vehicle or recreational vehicle dealer at any time.

Authority: T.C.A. §§ ~~55-17-107, 55-17-109, 55-17-110, and 55-17-113, and 55-17-402.~~

\* 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)
Eddie Roberts	x				
Stan Norton	x				
Ian Leavy	x				
Nathaniel Jackson	x				
Don Parr				x	
Stephen Tomaso	x				
Lynn Webb				x	
B. Joe Clayton	x				
Ronald Fox	x				
Kahren White				x	
Stan McNabb	x				
Reed Trickett				x	
Jim Galvin Jr.	x				
John S. Murrey	x				
Donnie Hatcher				x	
Farrar Schaeffer Vaughan	x				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Motor Vehicle Commission on July 25, 2016 and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

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

Signature: \_\_\_\_\_

Name of Officer: \_\_\_\_\_

Title of Officer: \_\_\_\_\_

Subscribed and sworn to before me on: \_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

My commission expires on: \_\_\_\_\_

Rules of the Tennessee Motor Vehicle Commission

0960-01-.07 Zoning Restrictions

0960-01-.08 Dealer Applications

0960-01-.09 Signs

0960-01-.10 Reasonable Business Hours

0960-01-.11 Inspection of Business Records

0960-01-.12 Advertising of Motor Vehicles

0960-01-.14 License Fees

0960-01-.15 Liability Insurance and Workers' Compensation

0960-01-.16 Automobile Auction Minimum Requirements

0960-01-.18 Exemptions for Auctions of Motor Vehicles for Estate Sales and for Nursing or Health Care Home Expenses

0960-01-.20 Sales of Used Motor Vehicles by Unlicensed Individuals

0960-01-.21 Motor Vehicle Dealer Facilities

0960-01-.22 Surety Bonds

0960-01-.24 Sales Tax Identification Number

0960-01-.25 Business License

0960-01-.26 Salesperson License

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

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

\_\_\_\_\_  
Date

**Department of State Use Only**

Filed with the Department of State on: \_\_\_\_\_

Effective on: \_\_\_\_\_

\_\_\_\_\_  
Tre Hargett  
Secretary of State

## Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

(1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule.

This rule would only have an effect on current licensed motor vehicle dealers that sell new recreational vehicles. There are approximately 28 licensed recreational vehicle dealers in Tennessee. Using the guidelines set by the Governor's Office of Diversity Business Enterprise, a small business is considered one that has total gross receipts of no more than ten million dollars (\$10,000,000) averaged over a three-year period or employs no more than ninety-nine (99) persons on a full-time basis. Given this definition, it is believed that the vast majority of recreational vehicle dealers in Tennessee would qualify as a small business. An additional cost is not associated with these rules. The legislature through 2016 Tenn. Pub. Ch. 781 requires current licensed motor vehicle dealers who sell recreational vehicles to obtain a distinctively named "recreational vehicle dealer" license to sell what is newly defined as "recreational vehicles" (separate from motor vehicles).

(2) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record.

This rule is not expected to have any substantial reporting, recordkeeping or other administrative costs because all of these rules are currently in place against these recreational vehicle dealers who currently hold a motor vehicle dealer license.

(3) A statement of the probable effect on impacted small businesses and consumers.

Small businesses will see no probable effect because the compliance impact will be net-neutral. These amendments to the dealer license will provide consumers with all the same protections they receive against motor vehicle dealers.

(4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business.

The Commission believes that this change is not burdensome, intrusive or costly and – as such – there do not appear to be any alternatives that would reasonably be expected to be less burdensome.

(5) A comparison of the proposed rule with any federal or state counterparts.

States, such as Florida, Arkansas, Georgia and Kentucky have separate licensing schemes between recreational vehicle dealers and motor vehicle dealers. There are no known federal counterparts to these rules.

(6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

Exemption from these rules would not be expected to be beneficial for small businesses because these rules set the requirements in order to obtain the new license created by the legislature under 2016 Tenn. Pub. Ch. 781. Such new license requires a fee, however, that fee is the same as previously paid by all motor vehicle dealers of \$400. Further, this set of rules provides for a pro-rated fee for all currently licensed motor vehicle dealers who require a recreational vehicle dealer license on January 1, 2017 (other than those who sell both new motor vehicles and recreational 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)

This rule will not have a 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 rule creates a new licensing classification for recreational vehicle dealer's as required pursuant to 2016 Tenn. Pub. Ch. 781. Previously, recreational vehicle dealers were subsumed within the general motor vehicle dealer classification.

- (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;

Tennessee Code Annotated § 55-17-402 provides the Commission with those powers and duties necessary and proper to enable it to carry out the provisions and objectives of this part including but not limited to the authority to promulgate reasonable substantive and procedural rules as they relate to the operation of Chapter 17, part 4. T.C.A. § 55-17-406 authorizes the Commission to set biennial fees for recreational vehicle dealer licenses. There is no federal law or regulation mandating promulgations of such rule or establishing guidelines relevant for such.

- (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;

All current and future recreational vehicle dealers, recreational vehicle manufacturers, and their professional organization, the Recreational Vehicle Industry Association (RVIA) will be most directly affected by this rule. Those persons and association urge adoption of this rule in order to allow them to obtain licensure and conduct business in the state of Tennessee.

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

There are no known attorney general opinions or judicial rulings that directly relate to this rule.

- (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;

This rule is not estimated to have a probable increase or decrease in state and local government revenue and expenditures. This rule will maintain the current status quo for recreational vehicle dealers to be able to sell such in the state of Tennessee without a lapse in sales.

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

Matthew Reddish – Assistant General Counsel  
TN Department of Commerce and Insurance

Paula Shaw – Executive Director  
TN Motor Vehicle Commission  
TN Department of Commerce and Insurance

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

Matthew Reddish – Assistant General Counsel  
TN Department of Commerce and Insurance

Paula Shaw – Executive Director  
TN Motor Vehicle Commission  
TN Department of Commerce and Insurance

**(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

Matthew Reddish  
500 James Robertson Parkway  
Nashville, TN 37243  
615-770-0089  
Matthew.e.reddish@tn.gov

Paula Shaw  
500 James Robertson Parkway  
Nashville, TN 37243  
615-253-1312  
Paula.j.shaw@tn.gov

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

None.