

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 11-17-09
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Effective Date: 04/30/2010

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission: Department of Safety
Division: Driver Control
Contact Person: Gerry Crownover, Staff Attorney
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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. Please enter only ONE Rule Number/RuleTitle per row)

| Chapter Number | Chapter Title |
|----------------|--|
| 1340-03-03 | Rules and Regulations for School Bus Inspection Procedures |
| Rule Number | Rule Title |
| 1340-03-03-.03 | Policies for School Bus Inspections |
| 1340-03-03-.04 | Policy for School Bus Inspection Stickers |

(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 1340-03-03
Rules and Regulations for School Bus Inspection Procedures

Amendments

1340-03-03-.03, Policies for School Bus Inspections, paragraph (1), is amended by adding a subparagraph (i), so that, as amended, the subparagraph shall read:

- (i) The owners of all buses (conventional and Class D transit) that are in service shall maintain records of all maintenance actions and safety inspections performed on each bus. Such records shall be available at all times to the commissioner of safety or the commissioner's designee.

All maintenance actions and records thereof shall comply with the minimum standards set forth by the bus manufacturer.

Driver pre-trip inspection reports shall be completed and maintained and such records shall be available at all times to the commissioner of safety or the commissioner's designee. The pre-trip inspection report shall at a minimum indicate compliance with all items set forth in the CDL driver handbook, pre-trip section.

Authority: T.C.A. §§ 49-6-2102, 49-6-2109, and 4-4-102; Executive Order 45 (February 11, 1983); 2009 Tenn. Pub. Acts 436. Administrative History:

1340-03-03-.03, Policies for School Bus Inspections, paragraph (2), is amended by deleting the text of the paragraph in its entirety and substituting the following language, so that, as amended, the paragraph shall read:

(2) Extended Utilization Inspections (Class II)

- (a) All policies of the Annual School Bus inspections (Class I) shall apply to Class II Inspections.
- (b) Class II inspections shall be conducted on all Class B conventional buses (Class B) beginning the 13th year of service. No Class B bus shall be permitted to transport school pupils past 15 years of service.
 1. Any Class B bus with over 12 years of use, but not more than 15 years of use, shall be inspected by the commissioner of safety or his designated representative at least 2 times annually.
 - (i) The initial inspection each year shall be a Class II inspection.
 - (ii) The second and subsequent inspections shall be a Class I or II inspection.
 - (iii) The second inspection shall be conducted no less than 4 months or more than 6 months from the initial inspection.
- (c) Class II inspections shall be conducted on all Class C conventional buses (Class C) beginning the 13th year of service. Class C buses shall be permitted to transport school pupils past the 15th year of service provided the following requirements are met.
 1. Any Class C bus with over 12 years of use, but not more than 17 years of use, shall be inspected by the commissioner of safety or his designated representative at least 2 times annually.
 - (i) The initial inspection each year shall be a Class II inspection.
 - (ii) The second and subsequent inspections shall be a Class I or II inspection.

- (iii) The second inspection shall be conducted no less than 4 months or more than 6 months from the initial inspection.
 - 2. Class C buses operating in the 16th or 17th year of service shall have less than 200,000 miles of recorded travel; provided, however, the owner of the bus shall have a period of 90 calendar days to replace such bus after the bus reaches 200,000 miles of recorded travel. The bus shall meet all requirements for continued safe use and operation during the 90-day period and the owner of the bus shall notify the department of safety in writing, via certified mail, that the bus has reached 200,000 miles of recorded travel.
 - 3. Class C buses shall not exceed 17 years of service; provided, however, the owner of the bus shall have a period of 90 calendar days to replace such bus after the bus reaches 17 years of service. The bus shall meet all requirements for continued safe use and operation during the 90-day period and the owner of the bus shall notify the department of safety in writing, via certified mail, that the bus has reached 17 years of service.
 - 4. A Class C bus that has reached the 15th year of service and is not eligible for or the owner has declined extended utilization for the 16th year shall have a 90 calendar day replacement period. The bus shall meet all requirements for continued safe use and operation during the 90-day period and the owner of the bus shall notify the department of safety in writing, via certified mail, that the bus has reached 15 years of service.
- (d) Class II inspections shall be conducted on all Class D transit buses (Class D) beginning the 16th year of service. Class D buses shall be permitted to transport school pupils past the 15th year of service provided the following requirements are met.
- 1. Any Class D bus with over 15 years of use, but not more than 17 years of use, shall be inspected by the commissioner of safety or his designated representative at least 2 times annually.
 - (i) The initial inspection each year shall be a Class II inspection.
 - (ii) The second and subsequent inspections shall be a Class I or II inspection.
 - (iii) The second inspection shall be conducted no less than 4 months or more than 6 months from the initial inspection.
 - 2. Class D buses operating in the 16th or 17th year of service shall have less than 200,000 miles of recorded travel; provided, however, the owner of the bus shall have a period of 90 calendar days to replace such bus after the bus reaches 200,000 miles of recorded travel. The bus shall meet all requirements for continued safe use and operation during the 90-day period and the owner of the bus shall notify the department of safety in writing, via certified mail, that the bus has reached 200,000 miles of recorded travel.
 - 3. Class D buses shall not exceed 17 years of service; provided, however, the owner of the bus shall have a period of 90 calendar days to replace such bus after the bus reaches 17 years of service. The bus shall meet all requirements for continued safe use and operation during the 90-day period and the owner of the bus shall notify the department of safety in writing, via certified mail, that the bus has reached 17 years of service.
 - 4. A Class D bus that has reached the 15th year of service and is not eligible for or the owner has declined extended utilization for the 16th year shall have a 90 calendar day replacement period. The bus shall meet all requirements for continued safe use and operation during the 90-day period and the owner of the bus shall notify the department of safety in writing, via certified mail, that the bus has reached 15 years of service.
- (e) At such inspections, the inspector/trooper shall have the authority to require repairs or reconditioning to be made which he/she considers necessary for the continued safe use and operation of the bus.

In addition to any other repairs, replacements or reconditioning required by the inspector/trooper, the steering, braking and exhaust system of all Class B and C buses with over 12 years of service and all Class D buses with over 15 years of service shall be thoroughly reconditioned or replaced, as necessary, prior to any continued use.

If the local authority or owner refuses to take the required actions, or if the inspector/trooper considers continued use of a bus to be unsafe, he/she shall order its removal from service.

- (f) Any Class C or D bus with 15 years of service shall not be eligible for additional years of service unless such bus was in service by the local education agency (LEA) as of January 1 of the previous school year; and
- (g) Any Class C or D bus purchased from an out-of-state entity shall be in service in Tennessee for a minimum period of 4 consecutive years in order to be eligible for additional years of service beyond 15 years.
- (h) Application for extended utilization of Class C buses shall be submitted in the summer prior to the 13th year of use and each year in the summer thereafter. Application for extended utilization of Class D buses shall be made in the summers prior to the 16th and 17th years of use.
 - 1. Application must be made using the department's Request for Extended Utilization Form SF-0721.
 - 2. Completed application forms must be mailed to the Tennessee Highway Patrol, Pupil Transportation, 1148 Foster Avenue, Nashville, TN 37249-1000, or the completed form may be submitted electronically to Pupil.Transportation@tn.gov.
- (i) The owner of any Class C or D bus utilized in year 16 or 17 must pay to the department of safety an inspection fee for each extended utilization inspection.
 - 1. For the school year 2010-2011 the fee will be \$890.00 per inspection.
 - 2. For the school year 2011-2012 and thereafter the fee will be \$385.00 per inspection.
 - 3. Inspection fees must be paid to the department prior to the inspections be conducted.
 - 4. Owners are encouraged to pay for both extended service utilization inspections at the time application is made for the bus to be used in the 16th or 17th year.
 - 5. Fees shall be made payable to the Tennessee Department of Safety and mailed to the department's Cashiers Office, 1150 Foster Avenue, Nashville, TN 37249-1000. Vehicle Identification Number(s) (VIN) must be included on the check.
 - 6. Inspection fees will not be reimbursed in the event that the bus does not pass inspection requirements.
 - 7. Any bus for which application has been made for extended utilization shall be placed out of service if the required inspection fee has not been paid.
- (j) School Bus Inspection Report (SF-0722)/Electronic Inspection Report shall be completed on all Class II inspections and distribution made in accordance with the procedures of Class I inspections.

Authority: T.C.A. §§ 49-6-2102, 49-6-2109, and 4-4-102; Executive Order 45 (February 11, 1983); 2009 Tenn. Pub. Acts 436. Administrative History:

1340-03-03-.03, Policies for School Bus Inspections, is further amended by adding a paragraph (6) that shall read:

(6) Penalties for Violations

- (a) A willful violation of this Rule is a Class C misdemeanor as provided by T.C.A. §49-6-2113.
- (b) Any driver who operates a bus that has been placed out-of-service or who fails to comply with any other provision of this Rule shall be subject to downgrade licensing action (removal of the school bus endorsement on their CDL) for a period of one (1) year.
 - 1. Any downgrade licensing action against a driver shall be preceded by notification as provided by T.C.A. § 55-50-502, permitting request for a hearing before licensing action is initiated.
 - 2. Drivers that have their school bus endorsement removed may reapply for the endorsement and have operating privileges restored after one (1) year and upon satisfactorily completing the required safety training as mandated for all other Tennessee School Bus Drivers and complying with the laws and regulations for reinstatement of the endorsement through required testing by the Tennessee Department of Safety Drivers License Issuance Division.
- (c) Non-compliance with any provision of this Rule may result in notification to the state department of education for review of transportation funding.

Authority: T.C.A. §§ 49-6-2102, 49-6-2109, 49-6-2113 and 4-4-102; Executive Order 45 (February 11, 1983); 2009 Tenn. Pub. Acts 436. Administrative History:

1340-03-03-.04, Policy for School Bus Inspection Stickers, paragraph (1), is amended by deleting the text of the paragraph in its entirety and substituting the following language, so that, as amended, the paragraph shall read:

(1) School Bus Inspection Sticker Policy

- (a) The School Bus Inspection Sticker is a system of identification enabling responsible officials and law enforcement personnel to visually identify the inspection status of school buses transporting pupils.
- (b) School Bus Inspection Stickers shall consist of three (3) different and recognizable bumper and windshield decals.
 - 1. The annual inspection sticker (No. 1 sticker) shall be affixed to the lower left-hand corner of the front bus bumper upon completion of the inspection. This sticker will indicate the month and year of said inspection.
 - 2. Only Pupil Transportation Safety personnel have the authority to affix or remove inspection stickers.
 - 3. Once affixed, a No. 1 sticker indicates that the bus was determined to be in satisfactory condition at the initial inspection, having no written discrepancies requiring follow-up action.
 - 4. Department of Safety certification sticker No. 2 shall consist of the following: a green sticker 1.5" by 3" placed on the bumper over the left side of the previous school bus inspection sticker.
 - 5. Once affixed, a No. 2 sticker indicates that the bus was determined to be in need of minor repairs but not considered an immediate threat to the safety of students, but must be corrected before final approval may be given.
 - (i) School officials shall be given a reasonable period of time to correct deficiencies.

- (ii) A mutual time shall be decided upon by the school official and inspector/trooper for the follow-up inspection, not to exceed 30 days from the date of the initial inspection.
 - (iii) After completion of the follow-up inspection and providing all identified deficiencies have been corrected, the inspector/trooper shall remove the No. 2 sticker and affix a No. 1 sticker in its place.
 - (iv) If the identified deficiencies have not been corrected, the inspector/trooper shall remove the No. 2 sticker and affix a No. 3 sticker (out-of-service) in its place.
 - (v) Subsequent follow-up inspection shall be decided upon between the school officials and inspector/trooper. Once all identified deficiencies have been corrected, the No. 3 sticker shall be replaced by a No. 1 sticker.
6. Department of Safety certification sticker No. 3 (out of service) declares "the vehicle is not to be used for transporting of students to and from school until removal of this notice by the State Safety Inspector/Trooper." The international prohibition sign is super-imposed over the word "Students". This sticker shall be placed on the windshield in view of the driver. A second red sticker 1.5" by 3" shall be placed on the bumper over the left side of the previous school bus inspection sticker.

When it has been determined by the school bus inspector/trooper that a bus fails to meet the criteria as outlined in this manual that vehicle will be considered out-of-service.

When this determination has been made the inspector/trooper will affix a No. 3 sticker in the appropriate location.

When the noted deficiencies have been corrected, the inspector/trooper shall remove the No. 3 sticker and affix a No. 1 sticker in its place.

Authority: T.C.A. §§ 49-6-2102, 49-6-2109, and 4-4-102, Executive Order 45 (February 11, 1983); 2009 Tenn. Pub. Acts 436. Administrative History:

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

| Board Member | Aye | No | Abstain | Absent | Signature (if required) |
|--------------|-----|----|---------|--------|-------------------------|
| | | | | | |

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on _____ (date as mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.



Date: 10/19/09

Signature: [Handwritten Signature]

Name of Officer: Dereck Stewart

Title of Officer: Captain, Tennessee Highway Patrol

Subscribed and sworn to before me on: 10-19-09

Notary Public Signature: [Handwritten Signature]

My commission expires on: 5-22-2010

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.

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

11-13-09
Date

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Filed with the Department of State on: 11/13/09

Effective on: 4/30/10

[Handwritten Signature]

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 as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

This rule has no effect on small business.

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;

The proposed amendments to Rule 1340-03-03-.03, Policies for School Bus Inspections, authorize the use of Class C and Class D buses for 17 years with annual extensions after the 12th and 15th years respectively, subject to certain inspection and safety requirements. Requires Type C buses to have two inspections per year after the 12th year of service. Requires Type D buses to have two inspections per year after the 15th year of service. Requires all buses operating on the 16th and 17th year of service to have less than 200,000 miles of recorded travel. Grants a 90-day period for replacement after such bus reaches 200,000 miles of recorded travel. Grants a 90-day period for replacement after a bus reaches 17 years of service. Requires the bus owner to notify the department of safety in writing that such buses have reached the maximum mileage or service year. Requires and sets forth procedures for maintenance records to be kept on all buses. Prohibits buses with 15 years of service from being eligible for extended service unless such bus was in service by the LEA as of January 1 of the previous year. Requires buses purchased out-of-state to be in service a minimum of 4 consecutive years to be eligible for extended service. Sets forth the application requirements for Extended Utilization. Requires the owner of any Class C or D bus utilized in year 16 or 17 to pay to the department of safety an inspection fee for each extended utilization inspection. Fee amounts are \$890.00 per inspection for the school year 2010-2011 and \$385.00 per inspection for the school year 2011-2012 and thereafter.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. § 49-6-2109(b) as amended by Public Chapter No. 436. As enacted, effective July, 1, 2009, authorizes conventional school (Class C) buses to be used an additional 5 years after initial 12 year period of service, on a year to year basis, subject to certain inspection and safety requirements; allows Class D school buses to be used up to 15 years of service, and authorizes an additional 2 years, on a year to year basis, subject to certain inspection and safety requirements. Imposes certain other requirements.

- (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;

Elementary and secondary public school systems, local school boards and school districts, pupils, parents, Tennessee Board of Education and the general public as a whole.

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

There are no Attorney General Opinions or judicial rulings that directly relate to the proposed amendments.

- (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;

It is estimated that the number of buses continuing to be run into the 16th and 17th year of service is not significant; therefore any increase in state revenue or increase in local expenditures will not be significant. The amended rule imposes inspection fees in amounts estimated to make the cost of conducting the extended service inspections revenue neutral. Any increase in local expenditures to keep maintenance records is estimated to be not significant.

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

Lt. Ray Robinson, THP

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

Lt. Ray Robinson, THP

- (H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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

The Department has not received a request for additional information.