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 312 Rosa L. Parks, 8th Floor Snodgrass Tower
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 Phone: 615.741.2650
 Fax: 615.741.5133
 Email: register.information@tn.gov

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Sequence Number: 11-22-09
 Notice ID(s): 1162
 File Date: 11/17/2009

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Commerce and Insurance
Division:	Tennessee Motor Vehicle Commission
Contact Person:	Anthony Glandorf
Address:	500 James Robertson Parkway, Nashville, Tennessee 37243
Phone:	(615) 741-3072
Email:	Anthony.Glandorf@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Don Coleman
Address:	500 James Robertson Parkway, Nashville, Tennessee 37243
Phone:	(615) 741-0481
Email:	Don.Coleman@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Davy Crockett Tower		
Address 2:	500 James Robertson Parkway, Room 160		
City:	Nashville		
Zip:	37243		
Hearing Date :	01/11/10		
Hearing Time:	09:30	<input checked="" type="checkbox"/> X CST	<input type="checkbox"/> EST

Additional Hearing Information:

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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. Please enter only **ONE** Rule Number/RuleTitle per row.)

Chapter Number	Chapter Title
0960-01	General Rules
Rule Number	Rule Title
0960-01-.03	Warranty Charges
0960-01-.14	License Fees
0960-01-.15	Liability Insurance and Workers' Compensation

Chapter 0960-01
General Rules
Amendments

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

Rule 0960-01-.03 Warranty Charges and Sales Incentive Audits

- (1) (a) All charges made by a motor vehicle dealer to a manufacturer, distributor, manufacturer or distributor branch, or manufacturer or distributor representative for warranty repairs or servicing shall be submitted within thirty (30) days after such repairs or servicing is completed. All such claims for warranty repairs or servicing properly submitted shall be deemed approved and shall be promptly paid, unless within sixty (60) days after such claims are received, the manufacturer, distributor, manufacturer or distributor branch, or manufacturer or distributor representative provides the submitting dealer with written notice that the claim or claims are rejected and the reason therefore. A manufacturer, distributor, manufacturer or distributor branch, or manufacturer or distributor representative may, within twelve (12) months after the payment of a warranty claim, review its action, audit the submitting dealer's records and disallow the claim for good cause.
- (b) A manufacturer, distributor, manufacturer or distributor branch, or manufacturer or distributor representative may, within twelve (12) months after the payment of sales incentives, review its action, audit the submitting dealer's records and disallow the claim for good cause.
- (2) Unless a motor vehicle dealer's franchise agreement with a manufacturer or distributor provides to the contrary, a motor vehicle dealer is required to retain parts replaced during warranty repairs or services for a period of thirty (30) days after the date the dealer submits a claim for warranty reimbursement to the manufacturer or distributor for the repairs or servicing in which the part or parts were replaced.

Authority: T.C.A. § 55-17-107

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

- (1) The biennial license fees for licenses issued and renewed and other related fees shall be as follows:
 - (a) For each manufacturer, distributor, factory branch, distributor branch, one thousand six hundred dollars (\$1,600.00);
 - (b) For each manufacturer, distributor, fifty dollars (\$50.00) per franchised dealer in Tennessee;
 - (c) For each motor vehicle dealer selling new or used motor vehicles, four hundred dollars (\$400.00);
 - (d) For each factory representative or distributor representative, four hundred dollars (\$400.00);
 - (e) For each motor vehicle salesman, thirty-five dollars (\$35.00);
 - (f) For each application for endorsement of change of employer a motor vehicle salesman by an employer, thirty-five dollars (\$35.00);
 - (g) For each automotive dismantler and recycler, four hundred dollars (\$400.00);
 - (h) For each automobile auction, eight hundred dollars (\$800.00);
 - (i) For each motor vehicle show permit, two hundred dollars (\$200.00);
 - (j) For each duplicate license, twenty-five dollars (\$25.00);

- (k) For each name change, including additional line-make, four hundred dollars (\$400.00);
- (l) For each new dealer application required when dealer undergoes a change of ownership or is a corporation that sells all stock, four hundred dollars (\$400.00);
- (m) 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;
- (n) Twenty-five percent (25%) of all license application fees will be forfeited if the applicant fails to submit all required documentation within ninety (90) days of receipt of the application. Documents will be returned to the applicant after ninety (90) days from the initial receipt.

Authority: T.C.A. §§ 55-17-107, 55-17-111 and 55-17-112

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

- (1) An applicant for a motor vehicle dealer license or an automobile auction license shall submit to the Commission with each application for license a certificate of comprehensive garage liability insurance, which covers all premises and operations as listed in the application for license, in a minimum amount of coverage of Three Hundred Thousand Dollars (\$300,000.00) per occurrence.
- (2) The minimum required coverage must remain and continue in force for as long as the dealer or automobile auction remains licensed. Upon notice of cancellation, the licensee shall either cease business operations until proof of minimum coverage is provided, or provide evidence of minimum coverage from another provider.
- (3) All motor vehicle dealers shall comply with the applicable workers' compensation laws of the State of Tennessee.

Authority: T.C.A. § 55-17-107

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

The following minimum requirements apply to all motor vehicle dealer facilities:

- (1) The facility must be physically separate and apart from any other businesses and shall not include any private residence, tent or temporary stand. The facility may be connected to another business facility provided there is a permanent wall from floor to ceiling between the two businesses and the motor vehicle facility has a separate outside entrance and exit. Any doors between the businesses shall be permanently sealed.
- (2) A motor vehicle dealer whose license was originally issued on or after July 1, 2010, may not operate in a facility connected to more than one other business facility.
- (3) The facility shall contain adequate office space (a minimum of 288 square feet) for processing sales and purchases of motor vehicles. The facility shall also contain restroom accommodations.
- (4) The facility shall have a primary telephone number listed in the local directory under the name of the dealership. Mobile and/or cellular telephones are not acceptable as the primary business telephone. The primary phone number of the dealership shall be posted either on the door to the dealership, in a window of the dealership or on the dealership's sign.
- (5) The facility shall have immediate access to and exclusive dedicated use of a motor vehicle storage or display lot capable of accommodating fifteen (15) motor vehicles of the dealership's product line. A lot shall consist of compacted gravel, chert, stone or similar materials and shall not include unimproved land or residential driveways. The facility shall also contain a minimum of three (3) parking spots dedicated for

customer parking.

- (6) The facility shall be used exclusively for buying, selling, renting, displaying, advertising, demonstrating, servicing or repairing motor vehicles or selling functional or nonfunctional parts, including accessories, safety equipment and vehicle branded clothing.

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

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: November 17, 2009

Signature: *Anthony M. Glandorf*

Name of Officer: Anthony M. Glandorf

Title of Officer: Assistant General Counsel



Subscribed and sworn to before me on: 11/17/2009

Notary Public Signature: *Linda L. Black*

My commission expires on: 5/16/2012

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Filed with the Department of State on: 11/17/09

Tre Hargett

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Secretary of State

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