

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 12-07-14
Rule ID(s): 5844, 5845
File Date: 12/3/2014
Effective Date: 3/3/2015

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

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 Board of Funeral Directors and Embalmers
Division:	Department of Commerce and Insurance, Division of Regulatory Board
Contact Person:	Ellery Richardson
Address:	Office of Legal Counsel 500 James Robertson Parkway Davy Crockett Tower Nashville, Tennessee 37243
Phone:	615-741-8689
Email:	Ellery.Richardson@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
0660-03	Fees
Rule Number	Rule Title
0660-03-.11	Removal Service Fees

Chapter Number	Chapter Title
0660-12	Removal Service
Rule Number	Rule Title
0660-12-.01	Removal Service

(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>)

New Rules

Chapter 0660-03
Fees

Rule 0660-03 Fees

0660-03-.11 Removal Service Fees

- (1) An application for registration as a removal service shall be submitted on a form prescribed by the Board and shall be accompanied by proof of liability insurance in the amount of one million dollars (\$1,000,000.00) and a nonrefundable fee in the amount of three hundred fifty dollars (\$350.00).
- (2) The Board may renew a certificate of registration provided that an application for renewal, accompanied by proof of liability insurance in the amount of one million dollars (\$1,000,000.00) and a nonrefundable fee in the amount of two hundred fifty dollars (\$250.00), is received by the Board no later than the date of expiration.

Authority: T.C.A. §§ 62-5-203 and 62-5-318

Chapter 0660-12
Removal Service

Rule 0660-12 Removal Service

Rule 0660-12-.01 Removal Service

- (1) No removal service, as defined in T.C.A. Title 62, Chapter 5, Part 1, shall operate in this state without first registering with the Board as a removal service.
- (2) An application for registration as a removal service shall be submitted on a form prescribed by the Board and shall be accompanied by a nonrefundable fee as set by the Board and proof of liability insurance in an amount set by the Board.
- (3) The Board may renew a certificate of registration provided that an application for renewal, accompanied by a nonrefundable fee set by the Board and proof of liability insurance in an amount set by the Board, is received by the Board no later than the date of expiration.

Authority: T.C.A. §§ 62-5-203 and 62-5-318

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Wayne Hinkle	X				
Robert Helms	X				
David Neal	X				
W.T. Patterson				X	
Jane Gray Sowell	X				
Robert Starkey	X				
Anita Taylor	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Funeral Directors and Embalmers on 9/9/2014, and it is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 7/14/2014

Rulemaking Hearing(s) Conducted on: (add more dates). 9/9/2014

Date: 9-30-14

Signature: Ellery Richardson

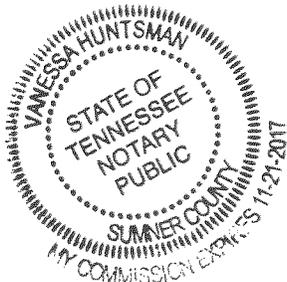
Name of Officer: Ellery Richardson

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: Sept. 30, 2014

Notary Public Signature: Vanessa Huntsman

My commission expires on: 11/21/2017



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

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
November 25, 2014
Date

Department of State Use Only

Filed with the Department of State on: 12/3/2014

Effective on: 3/3/2015

Tre Hargett
Tre Hargett
Secretary of State

CLERK OF STATE
RECEIVED
2014 DEC -3 PM 1:57

Public Hearing Comments

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

There were no comments.

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.

- (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:

There is no foreseeable impact specifically affecting small businesses in general. The proposed rules would apply equally to all removal services located in the state of Tennessee, regardless of size, unless they are exempt through T.C.A. §§ 62-5-203 and 62-5-318. Small businesses would have to pay the registration and renewal fees and insurance under the rules. These requirements are necessary, however, to achieve the purpose of the statute. Currently, there are about nineteen companies registered as a removal service under the emergency rules. The majority of these companies are small businesses, but the costs do not seem to be a hurdle to these businesses.

- (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;

Any reported, recordkeeping and /or other administrative costs resulting from these proposed rules is necessary to protect the citizens of the State of Tennessee, which is accomplished by the removal service registration program authorized by T.C.A. §§ 62-5-203 and 62-5-318. Under the statutes and the rules, the Board staff will do the necessary recordkeeping and reporting, and associated administrative costs will apply.

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

There is no foreseeable substantial effect on small businesses by the imposition of these rules. Removal services are already required to be registered in accordance with T.C.A. §§ 62-5-203 and 62-5-318. These rules are designed to carry out the statutory scheme. The projected effect on consumers is to create more confidence in relying on these companies for the transport of their loved ones.

- (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 businesses;

The proposed rules appear to be the least burdensome, least intrusive and least costly methods of achieving the purpose and objectives of the rules and T.C.A. §§ 62-5-203 and 62-5-318.

- (5) A comparison of the proposed rule with any federal or state counterparts; and

There are no federal counterparts to the issues addressed by 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 of small businesses from these rules would result in less protection for the citizens of the State of Tennessee.

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)

There is no projected impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Public Chapter 437 of the Public Acts of 2013 authorized the creation of a removal services program within the Board of Funeral Directors and Embalmers, effective on January 1, 2014. These rules are unchanged from the emergency rules filed at the first of the year to implement the program. The rules include guidelines for applications, fees, and renewals.

- (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;

Public Chapter 437 of the Public Acts of 2013 authorized these rules. Public Chapter 437 was codified in T.C.A. §§ 62-5-101(10) and 62-5-318. This act mandates that all removal services be registered with the Department. Properly licensed funeral establishments, licensed funeral directors and embalmers, ambulance services, and governmental entities are exempt from the Act.

- (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;

Those affected by this rule are companies and people who provide the removal or transfer of deceased human remains who are not already licensed as a funeral establishment, a funeral director, or embalmer. It is unknown whether these persons or organizations urge adoption or rejection of this rule. However, the Department has seen no complaints or negative comments, even relating to the fee requirements.

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

N/A

- (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 has no projected impact on governmental revenues and expenditures.

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

Robert Gribble 500 James Robertson Parkway Davy Crockett Tower, 5 th Floor Nashville, TN 37243 (615) 253-1725	Ellery Richardson 500 James Robertson Parkway Davy Crockett Tower, 5 th Floor Nashville, TN 37243 (615) 741-3072
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- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Robert Gribble, Executive Director, Burial Services
Ellery Richardson, Assistant General Counsel

- (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

Robert Gribble SS-7039 (July 2014)	Ellery Richardson	RDA 1693
---------------------------------------	-------------------	----------

500 James Robertson Parkway
Davy Crockett Tower, 5th Floor
Nashville, TN 37243
(615) 253-1725
Robert.Gribble@tn.gov

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Nashville, TN 37243
(615) 741-3072
Ellery.Richardson@tn.gov

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

N/A

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Agency/Board/Commission:	Tennessee Board of Funeral Directors and Embalmers
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Fees

Rule 0660-03 Fees

0660-03-.11 Removal Service Fees

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Rule 0660-12 Removal Service

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Board Member	Aye	No	Abstain	Absent	Signature (if required)
Wayne Hinkle	X				
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W.T. Patterson				X	
Jane Gray Sowell	X				
Robert Starkey	X				
Anita Taylor	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Board of Funeral Directors and Embalmers on 9/9/2014, and it is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 7/14/2014

Rulemaking Hearing(s) Conducted on: (add more dates). 9/9/2014

Date: _____

Signature: _____

Name of Officer: Ellery Richardson

Title of Officer: Assistant General Counsel

Subscribed and sworn to before me on: _____

Notary Public Signature: _____

My commission expires on: _____

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

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

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(615) 741-3072
Ellery.Richardson@tn.gov

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

N/A

2014 DEC -3 PM 1:58
SECRETARY OF STATE