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: Department of Safety & Homeland Security
Division: Driver License Issuance
Contact Person: Elizabeth Stroecker
Address: 312 Rosa L. Parks Ave, 25th Floor, Nashville TN
Zip: 37243
Phone: 615-251-5199
Email: Elizabeth.stroecker@tn.gov

Revision Type (check all that apply):
X 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 Please make sure that ALL new rule and repealed rule numbers are listed in the chart below.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)

<table>
<thead>
<tr>
<th>Chapter Number</th>
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<tbody>
<tr>
<td>1340-01-13</td>
<td>Classified and Commercial Drivers Licenses and Temporary Driver Licenses</td>
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<td>Federally Compliant Licenses</td>
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Amendments:

RULES
OF
TENNESSEE DEPARTMENT OF SAFETY
DIVISION OF DRIVER LICENSE ISSUANCE
CHAPTER 1340-01-13
CLASSIFIED AND COMMERCIAL DRIVERS LICENSES
AND TEMPORARY DRIVER LICENSES

1340-01-13-.24 FEDERALLY COMPLIANT LICENSES

(1) As used in this section:

(a) "Federally Compliant License" means a driver license or photo identification license, including a temporary driver license or temporary photo identification license, that complies with the Rules and Regulations of the United States Department of Homeland Security, 6 C.F.R. Part 37, in addition to the requirements of state law and regulations.

(b) "DHS" means the United States Department of Homeland Security.

(c) "Official purposes" means accessing Federal facilities, boarding Federally-regulated commercial aircraft, and entered nuclear power plants.

(d) "USCIS" means the United States Customs and Immigration Services.

(2) An applicant who applies for a Federally Compliant License shall be required to comply with the document and verification requirements of this section 1340-01-13-.24.

(3) The Driver License Examiner will require positive proof of identity, date of birth, citizenship, lawful permanent residency, and Tennessee residency of any person applying for any class of Federally Compliant License.

(4) The Department reserves the right to require primary proof of identity on other transactions as determined by the Department.

(5) Primary Identity Documents

(a) For applicants seeking to obtain a Federally Compliant License the acceptable primary identity documents are limited to those approved by DHS pursuant to 6 C.F.R Part 37 that include original or certified documents with applicant’s full legal name and date of birth. Acceptable documents are:

1. Certified Birth Certificate registered with the applicant’s State Office of Vital Statistics or equivalent agency in the individual’s State of birth;

2. Valid, unexpired U.S. passport;

3. Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State (DS-1350 or FS-545) or Report of Birth Abroad (FS-240);

4. Valid, unexpired Permanent Resident Card (Form I-551) issued by DHS or INS;
5. Unexpired employment authorization document (EAD) issued by DHS, (I-766 or I-688B);

6. Unexpired foreign passport with a valid, unexpired U.S. visa affixed and accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States;

7. Certificate of Naturalization issued by DHS (N-550 or N-570);

8. Certificate of Citizenship issued by DHS (N-560 or N-561);

9. Federally compliant driver license or identification card issued in compliance with the standards established by 6 C.F.R. Part 37; and

10. Such other documents as DHS may designate by notice published in the Federal Register.

(6) Social Security Number

(a) In addition to providing primary identification, an applicant must provide proof of their Social Security Number, which shall be verified by the Department, for issuance of a Federally Compliant License or Federally Compliant CDL. Acceptable proof includes the following items as authorized by 6 C.F.R. Part 37:

1. Social Security Card (does not include metal or plastic replicas);

2. IRS Forms (W-2; SSA-1099); Non-SSA 1099 forms may also be accepted such as those issued for gambling winnings or other non-work compensation that may be on local jurisdiction 1099 forms;

3. Computerized Paycheck Stubs with the applicant's name and SSN printed on it; and

4. Such other documents as DHS may designate by notice published in the Federal Register.

(b) Individuals presenting the unexpired foreign passport (1340-01-13-24(5)(f)) as primary identity document must present a verified SSN or demonstrate non-work authorized status through DHS or USCIS.

(c) The SSN will be verified through a Social Security Administration verification process that is compliant with 6 C.F.R § 37.13(b)(2).

(7) Citizenship, Permanent Residence, or Lawful Presence

(a) Applicants applying for a Federally Compliant License shall present proof acceptable to the Department that such applicant is a United States citizen or a lawful permanent resident of the United States. Such proof is limited to the following items as authorized by 6 C.F.R. Part 37:

1. Certified Birth Certificate issued by a U.S. state, jurisdiction or territory (Puerto Rico, U.S. Virgin Islands, Northern Mariana Islands, American Samoa, Guam);

2. U.S. Consular Report of Birth Abroad (DS-1350 or FS-545);

3. Report of Birth Abroad of a Citizen of the U.S. (FS-240);

4. Valid, unexpired U.S. Passport;

5. Certificate of Naturalization (N550, N570 or N578);

6. Valid, unexpired Permanent Resident Card (I-551);
7. Valid, unexpired Conditional Resident Card (I-551);

8. Form I-94 Record of Arrival and Departure stamped Refugee, Asylee or Asylum; however, applicants who present the Refugee/Asylee I-94 must also present another USCIS document as supporting evidence such as:

(i) Valid employment authorization document (I-688B or I-766);

(ii) Notice of Action (I-797 or I-797C) indicating USCIS receipt of a pending or approved application for lawful permanent residency or adjustment of status (I-485) or application for employment authorization (I-765).

9. Such other documents as DHS may designate by notice published in the Federal Register.

(b) Applicants applying for a Federally Compliant License who are not US Citizens or Lawful Permanent Residents shall present proof acceptable to the Department that such applicant lawfully present in the United States.

1. An applicant who has submitted the following identity documents will not need to provide additional proof of lawful presence:

(i) Certified Birth Certificate issued by a U.S. state, jurisdiction or territory (Puerto Rico, U.S. Virgin Islands, Northern Mariana Islands, American Samoa, Guam);

(ii) U.S. Consular Report of Birth Abroad (DS-1350 or FS-545);

(iii) Report of Birth Abroad of a Citizen of the U.S. (FS-240);

(iv) Valid, unexpired U.S. Passport;

(v) Certificate of Naturalization issued by DHS, Form N-550 or Form N-570.

(vi) Certificate of Citizenship, Form N-560 or Form N-561, issued by DHS.

2. An applicant who has submitted any other approved identity document will also need to present a second identity document or documentation issued by DHS or other Federal agencies demonstrating lawful status as determined by USCIS.

(8) Renewals and Duplicates

(a) Persons holding a Federally Compliant License shall be required to renew their license or obtain a duplicate in person if the previous renewal or duplicate was not obtained in person.

(b) Persons holding temporary Federally Compliant Licenses shall be required to renew in person to present updated lawful presence documents.

(c) The Department shall take an updated photograph of the applicant at any in person transaction.

(d) The Department shall re-verify the renewal applicant’s SSN and lawful status, if applicable, prior to renewing the Federally Compliant License.

(e) Any material change of name or other personally identifiable information shall require a person to renew or obtain a duplicate in person, and the person shall present acceptable documentation of the change.

(9) Federally Compliant License Documents

(a) Any Federally Compliant License card shall conform to the requirements of 6 C.F.R. Part 37.
(b) Any driver license or photo identification license, including temporary driver license or temporary photo identification license that is not Federally Compliant shall clearly state on the face of the card that it is not acceptable for official purposes and shall be distinguishable from Federally Compliant Licenses.

(10) The Tennessee Department of Safety, Division of Driver License Issuance hereby adopts the REAL ID Driver Licenses and Identification Cards regulations, and all subsequent amendments thereto, promulgated, approved, and adopted by the United States Department of Homeland Security and contained in Title 6 of the C.F.R. Part 37.

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

<table>
<thead>
<tr>
<th>Board Member</th>
<th>Aye</th>
<th>No</th>
<th>Abstain</th>
<th>Absent</th>
<th>Signature (if required)</th>
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I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Department of Safety and Homeland Security on January 2, 2019, and 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: 10/26/18

Rulemaking Hearing(s) Conducted on: (add more dates) 12/17/18

Date: 1/2/2019

Signature: 

Name of Officer: Elizabeth Stroocker

Title of Officer: Assistant General Counsel, Legal Division

Subscribed and sworn to before me: January 2, 2019

Notary Public Signature: Loretta Marie Ball

My commission expires on: March 3, 2020

Agency/Board/Commission: Tennessee Department of Safety and Homeland Security

Rule Chapter Number(s): 1340-03-13

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

1/31/2019

Date

Department of State Use Only

Filed with the Department of State on: 1/31/19

Effective on: 5/1/19

Tre Hargett
Secretary of State
Public Hearing Comments

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

On December 17, 2018, the Department of Safety and Homeland Security held a rulemaking hearing regarding the proposed Rules and Regulations for Federally Compliant Licenses, Rule 1340-03-13.

At the hearing, there was no one in attendance and no public comments were presented. The record was held open for an additional two (2) weeks for further written comments to be submitted. No written comments were received during the comment period or the additional two week period.
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.

This rule will not affect small businesses.
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://publications.tnsosfiles.com/acts/106/pub/pct1070.pdf) of the 2010 Session of the General Assembly)

This rule will have no impact on local government.
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(l)(1).

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

This rule set forth the requirements and procedure for issuing Federally Compliant Licenses. This is being done pursuant to the Real ID Act of 2005.

(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;


(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;

Tennessee citizens that would like to fly domestic, commercial flights, enter nuclear plants or federal buildings will be most impacted by this rule.

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

None.

(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 will have minimal impact on the state revenues and expenditures.

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

Liz Hale, Deputy General Counsel
Elizabeth Stroecker, Assistant General Counsel
Lori Bullard, Assistant Commissioner of Driver Services
Michael Hogan, Director of Driver License Issuance

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

Liz Hale, Deputy General Counsel
Elizabeth Stroecker, Assistant General Counsel
Lori Bullard, Assistant Commissioner of Driver Services
Michael Hogan, Director of Driver License Issuance

(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

312 Rosa L. Parks Avenue, 25th Floor, Nashville, TN 37243;
Lizabeth.Hale@tn.gov, 615-251-5349;
Elizabeth.Stroecker@tn.gov, 615-251-5199
1150 Foster Ave
Nashville, TN 37243
Lori.Bullard@tn.gov, 615-251-5106;
Any additional information relevant to the rule proposed for continuation that the committee requests.
Federally Compliant Licenses Redline January 2, 2019

Amendments:

RULES
OF
TENNESSEE DEPARTMENT OF SAFETY
DIVISION OF DRIVER LICENSE ISSUANCE
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Filing Form for Stay of Effective Date on Rules, Withdrawal of Stay, and Withdrawal of Rules

Agency/Board/Commission: Department of Safety & Homeland Security
Division: Driver License Issuance
Contact Person: Doug Garrett
Address: 425 5th Ave North, Suite 922, Nashville, TN
Zip: 37243
Phone: (615) 741-9532
Email: doug.garrett@capitol.tn.gov

Type of Action on Rule:

X Stay of Effective Date of Rules

- Rule Filing Date: 01/31/19
- Rule Original Effective Date: 05/01/19
- Length of Stay (not to exceed 75 days): 60 days
- New Effective Date of Rule Filing: 06/30/19

Notice of Withdrawal of Stay

- Stay Filing Date: (mm/dd/yy)
- Stay Effective Date: (mm/dd/yy)
- New Effective Date of Rule Filing: (mm/dd/yy)

Notice of Withdrawal of Rules

- Rule Filing Date: (mm/dd/yy)
- Rule Effective Date: (mm/dd/yy)

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SS-7041 (November 2017) 1 RDA 1693
Date: 04/03/19
Signature: [Signature]
Name of Officer: Doug Garrett
Title of Officer: Legislative Attorney

Subscribed and sworn to before me on: April 3, 2019
Notary Public Signature: [Signature]
My commission expires on: 08/20/2019

Filed with the Department of State on: 04/3/19

Tre Hargett
Secretary of State