

**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: 06-21-16  
Rule ID(s): 6203  
File Date: 6/24/16  
Effective Date: 9/22/16

# 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).*

<b>Agency/Board/Commission:</b>	Tennessee Motor Vehicle Commission
<b>Division:</b>	Department of Commerce and Insurance
<b>Contact Person:</b>	Matthew Reddish
<b>Address:</b>	500 James Robertson Parkway, Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	615-741-3072
<b>Email:</b>	Matthew.E.Reddish@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
0960-01	General Rules
Rule Number	Rule Title
0960-01-.21(3)	Motor Vehicle Dealer Facilities

Chapter 0960-01  
General Rules  
Amendments

Rule 0960-01-.21 [MOTOR VEHICLE DEALER FACILITIES] is amended by deleting the phrase "Mobile and/or cellular telephones are not acceptable as the primary business telephone." in paragraph (3) of the rule so that, as amended, paragraph (3) shall read:

(3) The facility shall have a primary telephone number listed in the local directory under the name of the dealership. 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.

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

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

Board Member (if required)	Aye	No	Abstain	Absent	Signature
Eddie Roberts	X				
Stan Norton	X				
George Bass		X			
Nathaniel Jackson	X				
Don Parr		X			
Billy Keck				X	
Lynn Webb	X				
B. Joe Clayton		X			
Ronald Fox	X				
Stan McNabb		X			
Reed Trickett	X				
Jim Galvin Jr.	X				
John S. Murrey	X				
Donnie Hatcher	X				
Farrar Schaeffer Vaughan		X			

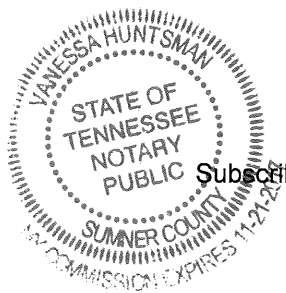
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commission on 07/13/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being 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: 5-4-16

Signature: Matthew Reddish

Name of Officer: Matthew Reddish

Title of Officer: Assistant General Counsel, Regulatory Boards



Subscribed and sworn to before me on: May 4, 2016

Notary Public Signature: Yvessa Huntsman

My commission expires on: Nov. 21, 2017

Rules of the Tennessee Motor Vehicle Commission  
Chapter 0960-01 General Rules  
Rule 0960-01-.21(3) Motor Vehicle Dealer Facilities

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  
6/16/2016  
Date

**Department of State Use Only**

Filed with the Department of State on: 6/24/16

Effective on: 9/22/16

Tre Hargett  
Tre Hargett  
Secretary of State

RECEIVED  
2016 JUN 24 PM 1:02  
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 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.

### Regulatory Flexibility Analysis - Methods of Reducing Impact of Rule on 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.

It is believed that allowing for the use of cell phones as a primary business phone will directly benefit small businesses. There are approximately 3,802 licensed motor 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 motor vehicle dealers in Tennessee would qualify as a small business and, therefore, this rule will impact substantially all of those identified above.

(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.

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

This rule is expected to have a positive impact on small businesses by allowing more flexibility in compliance with the standards for having a primary business phone. Allowing use of cellular and mobile phones is expected to have a positive impact for consumers by allowing motor vehicle dealers to be easier to reach. Other changes are not expected to have a probable impact on consumers.

(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.

Some states, such as New Jersey and Louisiana appear to require landlines for some or all motor vehicle dealers. Other states, such as New York and North Dakota appear to either allow cell phones or not provide guidance regarding the type of phone that is acceptable. 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, as existing standards are either stricter or less clear.

## **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 has 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;

Rule 0960-01-.21 [MOTOR VEHICLE DEALER FACILITIES] is amended by allowing for mobile or cellular phones to be used as the primary business phone of a motor vehicle dealer.

- (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;

This rule is not mandated by any federal or state law or regulation.

- (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;

This rule affects all licensed motor vehicle dealers. This rule was urged by the Tennessee Automotive Association.

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

There are no opinions of the Attorney General and Reporter or any other judicial ruling that directly relates to the 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;

There is no expected substantial impact on state or local government revenue and expenditures.

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

Paula Shaw 500 James Robertson Parkway Davy Crockett Tower 5 <sup>th</sup> Floor Nashville, TN 37243 (615) 741-2711	Matthew Reddish 500 James Robertson Parkway Davy Crockett Tower 5 <sup>th</sup> Floor Nashville, TN 37243 (615) 770-0089
---	--

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

Paula Shaw, Executive Director, Motor Vehicle Commission  
Matthew Reddish, 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

Paula Shaw 500 James Robertson Parkway Davy Crockett Tower 5 <sup>th</sup> Floor	Matthew Reddish 500 James Robertson Parkway Davy Crockett Tower 5 <sup>th</sup> Floor
--	---

Nashville, TN 37243  
(615) 741-2711

Nashville, TN 37243  
(615) 770-0089

(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).*

<b>Agency/Board/Commission:</b>	Tennessee Motor Vehicle Commission
<b>Division:</b>	Department of Commerce and Insurance
<b>Contact Person:</b>	Matthew Reddish
<b>Address:</b>	500 James Robertson Parkway, Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	615-741-3072
<b>Email:</b>	Matthew.E.Reddish@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
0960-01	General Rules
Rule Number	Rule Title
0960-01-.21(3)	Motor Vehicle Dealer Facilities

Chapter 0960-01  
General Rules  
Amendments

Rule 0960-01-.21 [MOTOR VEHICLE DEALER FACILITIES] is amended by deleting the phrase "Mobile and/or cellular telephones are not acceptable as the primary business telephone." in paragraph (3) of the rule so that, as amended, paragraph (3) shall read:

(3) 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.

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

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

Board Member (if required)	Aye	No	Abstain	Absent	Signature
Eddie Roberts	X				
Stan Norton	X				
George Bass		X			
Nathaniel Jackson	X				
Don Parr		X			
Billy Keck				X	
Lynn Webb	X				
B. Joe Clayton		X			
Ronald Fox	X				
Stan McNabb		X			
Reed Trickett	X				
Jim Galvin Jr.	X				
John S. Murrey	X				
Donnie Hatcher	X				
Farrar Schaeffer Vaughan		X			

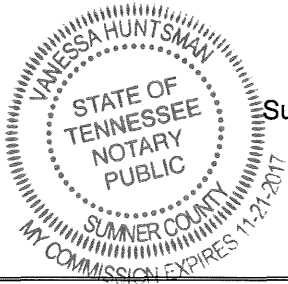
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commission on 07/13/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being 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: 5-4-16

Signature: Matthew Reddish

Name of Officer: Matthew Reddish

Title of Officer: Assistant General Counsel, Regulatory Boards



Subscribed and sworn to before me on: May 4, 2016

Notary Public Signature: Vanessa Huntsman

My commission expires on: Nov 21, 2017

Rules of the Tennessee Motor Vehicle Commission  
Chapter 0960-01 General Rules  
Rule 0960-01-.21(3) Motor Vehicle Dealer Facilities

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 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.

### Regulatory Flexibility Analysis - Methods of Reducing Impact of Rule on 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.

It is believed that allowing for the use of cell phones as a primary business phone will directly benefit small businesses. There are approximately 3,802 licensed motor 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 motor vehicle dealers in Tennessee would qualify as a small business and, therefore, this rule will impact substantially all of those identified above.

(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.

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

This rule is expected to have a positive impact on small businesses by allowing more flexibility in compliance with the standards for having a primary business phone. Allowing use of cellular and mobile phones is expected to have a positive impact for consumers by allowing motor vehicle dealers to be easier to reach. Other changes are not expected to have a probable impact on consumers.

(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.

Some states, such as New Jersey and Louisiana appear to require landlines for some or all motor vehicle dealers. Other states, such as New York and North Dakota appear to either allow cell phones or not provide guidance regarding the type of phone that is acceptable. 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, as existing standards are either stricter or less clear.

### **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 has 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;

Rule 0960-01-.21 [MOTOR VEHICLE DEALER FACILITIES] is amended by allowing for mobile or cellular phones to be used as the primary business phone of a motor vehicle dealer.

- (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;

This rule is not mandated by any federal or state law or regulation.

- (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;

This rule affects all licensed motor vehicle dealers. This rule was urged by the Tennessee Automotive Association.

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

There are no opinions of the Attorney General and Reporter or any other judicial ruling that directly relates to the 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;

There is no expected substantial impact on state or local government revenue and expenditures.

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

Paula Shaw 500 James Robertson Parkway Davy Crockett Tower 5 <sup>th</sup> Floor Nashville, TN 37243 (615) 741-2711	Matthew Reddish 500 James Robertson Parkway Davy Crockett Tower 5 <sup>th</sup> Floor Nashville, TN 37243 (615) 770-0089
---	--

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

Paula Shaw, Executive Director, Motor Vehicle Commission  
Matthew Reddish, 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

Paula Shaw 500 James Robertson Parkway Davy Crockett Tower 5 <sup>th</sup> Floor	Matthew Reddish 500 James Robertson Parkway Davy Crockett Tower 5 <sup>th</sup> Floor
--	---

Nashville, TN 37243  
(615) 741-2711

Nashville, TN 37243  
(615) 770-0089

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

None