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Effective Date: 10/5/16

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).

Agency/Board/Commission:	Tennessee Motor Vehicle Commission
Division:	Department of Commerce and Insurance
Contact Person:	Matthew Reddish
Address:	500 James Robertson Parkway, Nashville, TN
Zip:	37243
Phone:	615-741-3072
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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 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-.29	Disclosure of Rebuilt or Salvage Motor Vehicles

Chapter 0960-01
General Rules
New Rule

Chapter 0960-01 Table of Contents is amended by adding new rule 0960-01-.29 Disclosure of Rebuilt Motor Vehicles so that the Table of Contents will read as follows:

TABLE OF CONTENTS

0960-01-.01 Definitions	0960-01-.18 Exemptions for Auctions of Motor Vehicles for Estate Sales and for Nursing or Health Care Home Expenses
0960-01-.02 Warranty Service	0960-01-.19 Compliance with State and Federal Laws and Regulations
0960-01-.03 Warranty Charges and Sales Incentive Audits	0960-01-.20 Sales of Used Motor Vehicles by Unlicensed Individuals
0960-01-.04 Computation of Warranty Charges	0960-01-.21 Motor Vehicle Dealer Facilities
0960-01-.05 Approval of Requested Labor Rates	0960-01-.22 Surety Bonds
0960-01-.06 Notice of Termination, Cancellation	0960-01-.23 Mail from Commission and Complaints
0960-01-.07 Zoning Restrictions	0960-01-.24 Sales Tax Identification Number
0960-01-.08 Dealer Applications	0960-01-.25 Business License
0960-01-.09 Signs	0960-01-.26 Salesperson Licenses
0960-01-.10 Reasonable Business Hours	0960-01-.27 Lemon Law
0960-01-.11 Inspection of Business Records	0960-01-.28 Military Applicants – Spouses - Expedited Licensure
0960-01-.12 Advertising of Motor Vehicles	0960-01-.29 Disclosure of Rebuilt or Salvage Motor Vehicles
0960-01-.13 Civil Penalties	
0960-01-.14 License Fees	
0960-01-.15 Liability Insurance and Workers' Compensation	
0960-01-.16 Automobile Auction Minimum Requirements	
0960-01-.17 Motor Vehicle Shows	

Rule 0960-01-.29 [DISCLOSURE OF REBUILT OR SALVAGE MOTOR VEHICLES] is created by adding the following language as 4 new paragraphs so that, as created, the rule shall read:

(1) The motor vehicle dealer or salesperson who knows that a motor vehicle has a salvage history, or that a motor vehicle's title was previously branded as rebuilt or salvage, shall disclose, acknowledged in writing by the purchaser prior to the consummation of the sale, that the motor vehicle has a rebuilt title, salvage title or salvage history.

(2) The disclosure in writing as required by subsection (a) shall be completed on a form prescribed by the Commission which states the following:

NOTICE
DISCLOSURE OF REBUILT OR SALVAGE VEHICLE

Pursuant to Tenn. Comp. R. & Regs. 0960-01-.29, the following disclosure is required prior to the sale of any vehicle with a rebuilt title, salvage title or salvage history along with the signature of the purchaser acknowledging such disclosure.

The motor vehicle you are purchasing has a rebuilt title, salvage title, or salvage history. The value of this vehicle may be significantly less than a similar vehicle that is not branded with a rebuilt title, salvage title, or does not have a salvage history.

(Purchaser's Printed Name) _____
(Purchaser's Signature) _____ (Date) _____
(Dealer or Authorized Representative's Printed Name) _____
(Dealer or Authorized Representative's Signature) _____
(Dealer's Business Name and License Number) _____

Year _____ Make _____ Model _____ VIN _____

“Rebuilt title” means the passenger motor vehicle ownership document issued by any state to the owner of a rebuilt vehicle. Ownership of the passenger motor vehicle may be transferred on a rebuilt title, and a passenger motor vehicle for which a rebuilt title has been issued may be registered for use on the roads and highways. A rebuilt title shall be conspicuously labeled with the words “Rebuilt Vehicle--Anti-theft Inspections Passed” across the front (T.C.A. § 55-3-211(6)).

“Salvage title” means a passenger motor vehicle ownership document issued by any state to the owner of a salvage vehicle. Ownership of the passenger motor vehicle may be transferred on a salvage title; however, a passenger motor vehicle for which a salvage title has been issued shall not be registered for use on the roads or highways unless it has been issued a rebuilt title. A salvage title shall be conspicuously labeled with the word “Salvage” across the front (T.C.A. § 55-3-211(8)).

“Salvage history” means:

(a) Any passenger motor vehicle which has been wrecked, destroyed, or damaged to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the passenger motor vehicle to its pre-accident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the passenger motor vehicle, as set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values, or

(b) Without regard to whether such passenger motor vehicle meets the seventy-five percent (75%) threshold specified in subparagraph (a), any passenger motor vehicle which the owner may wish to designate as a salvage vehicle by obtaining a salvage title, without regard to the extent of the passenger motor vehicle's damage and repairs. This designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligations or liabilities (Pursuant to Tenn. Comp. R. & Regs. 0960-01-.29(3)).

(3) For purposes of this rule, “salvage history” means:

(a) Any passenger motor vehicle which has been wrecked, destroyed, or damaged to the extent that the total estimated or actual cost of parts and labor to rebuild or reconstruct the passenger motor vehicle to its pre-accident condition and for legal operation on the roads or highways exceeds seventy-five percent (75%) of the retail value of the passenger motor vehicle, as set forth in a current edition of any nationally recognized compilation (to include automated databases) of retail values, or

(b) Without regard to whether such passenger motor vehicle meets the seventy-five percent (75%) threshold specified in subparagraph (a), any passenger motor vehicle which the owner may wish to designate as a salvage vehicle by obtaining a salvage title, without regard to the extent of the passenger motor vehicle's damage and repairs. This designation by the owner shall not impose on the insurer of the passenger motor vehicle or on an insurer processing a claim made by or on behalf of the owner of the passenger motor vehicle any obligations or liabilities.

(4) Compliance with subparagraphs (1)-(3) may not be waived by the purchaser.

Authority: §§ 55-17-101; 55-17-107; 55-17-114.

* 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)
Eddie Roberts	x				
Nathaniel Jackson	x				
Reed Trickett	x				
John Murrey	x				
Stan McNabb	x				
Steve Tomaso	x				
B. Joe Clayton	x				
Ronald Fox	x				
Lynn Webb	x				
Don Parr				x	
Stan Norton				x	
Ian Leavy				x	
Jim Galvin Jr.	x				
John S. Murrey	x				
Donnie Hatcher				x	
Farrar Schaeffer Vaughan	x				

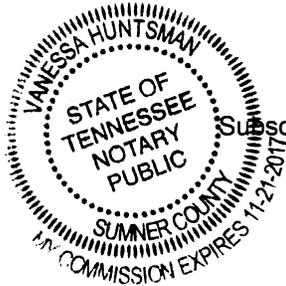
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Commission on 10/06/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being 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



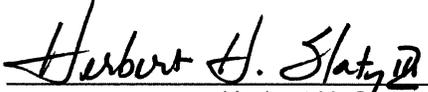
Subscribed and sworn to before me on: May 4, 2016

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-.29 Disclosure of Rebuilt or Salvage Motor Vehicles

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
6/28/2016
Date

Department of State Use Only

Filed with the Department of State on: 7/7/16

Effective on: 10/5/16


Tre Hargett
Secretary of State

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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.

Requiring motor vehicle dealers to disclose that a motor vehicle has a salvage history, salvage title or rebuilt title will only affect small businesses that buy and sell motor vehicles that have previously been rebuilt or salvaged. The cost of compliance with the rule will be minimal, while motor vehicle dealers will benefit by reducing the potential for Motor Vehicle Commission complaints and negative interactions with unhappy consumers.

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.

The rule is not expected to have any substantial reporting, recordkeeping or other administrative costs. Motor vehicle dealers already are required to keep a file of certain documents pertaining to each transaction. When the motor vehicle dealer sells a motor vehicle that the dealer knows has a salvage history, salvage title or rebuilt title, the dealer will have one additional form to print and retain. The skills necessary for preparation of the document are the ability to print the form, present the form to purchasers for signature, and internally file the form with other relevant documentation.

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

The rule is expected to have a positive impact on small businesses by creating a document that allows small businesses to produce evidence of a purchaser's knowledge regarding a material fact should a consumer allege they were deceived.

The rule is expected to have a positive impact on consumers because the rule will create a requirement that motor vehicle dealers notify a consumer when the consumer is about to purchase a motor vehicle with a salvage history, salvage title or rebuilt title. By requiring this disclosure, consumers are made aware of a material fact that often reduces the value of, increases the difficulty of insuring, and may indicate the potential for future mechanical issues for a motor vehicle.

(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 only requires the motor vehicle dealer to disclose what they have knowledge of; therefore, the Commission believes that these changes are 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.

Several states, such as North Carolina, Michigan and Virginia, among others, require a disclosure when a motor vehicle dealer sells a motor vehicle with a salvage history, salvage title or rebuilt title. There are no known federal

counterparts to this rule.

(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 rule for small business would not be expected to be beneficial.

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-.29 [DISCLOSURE OF REBUILT OR SALVAGE MOTOR VEHICLES] is created to include definitions for rebuilt title, salvage title and salvage history. The rule paragraphs explicitly state that a motor vehicle dealer or salesperson who sells a motor vehicle with a salvage title, rebuilt title or salvage history must disclose the salvage title, rebuilt title or salvage history to the consumer on the included form.

- (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;

Used motor vehicle dealers and motor vehicle consumers are most directly affected by this rule. The Tennessee Automotive Association provided input in the drafting of this rule and will support the rule.

- (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 th Floor Nashville, TN 37243 (615) 741-2711	Matthew Reddish 500 James Robertson Parkway Davy Crockett Tower 5 th Floor Nashville, TN 37243 (615) 770-0089
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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;

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

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

None