

Proposed Rules
of the
Tennessee Department of Safety
Highway Patrol Division

Chapter 1340-03-04
Municipal Enforcement of Rules of the Road

Presented herein are proposed amendments and new rules of the Highway Patrol Division of the Department of Safety submitted pursuant to T.C.A. §4-5-202 in lieu of a rulemaking hearing. It is the intent of the Department of Safety to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within thirty (30) days of the publication date of the issue of Tennessee Administrative Register in which the proposed amendments are published. Such petition to be effective must be filed with the Department of Safety, 1150 Foster Avenue, Nashville, TN 37249, and in the Department of State, 8th Floor, Tennessee Tower, William Snodgrass Building, 312 Rosa L. Parks Avenue, Nashville, TN 37243, and must be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly.

For copies of the entire text of the proposed amendments and new rules, contact: Lizabeth Hale, Staff Attorney, Tennessee Department of Safety, 1150 Foster Avenue, Nashville, TN 37249-1000; (615) 251-5349.

The text of the proposed new rules is as follows:

New Rules

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1340-03-04-.13 Compliance Oversight.

- (1) The Department of Safety reserves the right to visit and/or inspect any municipality authorized to enforce the rules of the road on the interstate highways to ensure that the municipality is complying with these rules and all General Orders listed in 1340-03-04-.05(5)(c).

Authority: T.C.A. §§4-3-2009, 4-7-112, 55-10-308.

1340-03-04-.14 Revocation of Authorization.

- (1) Upon determining that a municipality is not complying with these rules and all General Orders listed in 1340-03-04-.05(5)(c), the Commissioner (or the Commissioner's designee) shall revoke the authorization for the municipality to enforce the rules of the road on the interstate highways.
- (2) Such revocation shall be made in writing and sent by certified mail, return receipt requested, thirty (30) days prior to the effective date of the revocation of authority to the chief law enforcement officer of the municipality.
- (3) The municipal law enforcement agency shall have twenty (20) days from receipt of the revocation notification to provide proof to the department that the municipal law enforcement agency is or will be compliant with these rules and all General Orders listed in 1340-03-04-.05(5)(c). Timely submission of proof to the department shall stay the revocation until the department has made a determination whether or not to rescind the revocation.

- (4) If the proof submitted under paragraph (3) is acceptable to the department, the Commissioner (or the Commissioner's designee) shall inform the chief law enforcement officer in writing, by facsimile and mail, that the revocation is being rescinded.
- (5) If the proof submitted under paragraph (3) is not acceptable to the department, the Commissioner (or the Commissioner's designee) shall inform the chief law enforcement officer in writing, by facsimile and mail, that the revocation will be effective either:
 - (a) on the thirtieth (30th) day after the initial revocation letter was sent; or,
 - (b) if the determination is made more than thirty (30) days after the initial revocation letter was sent, that the revocation will be effective immediately.

Authority: T.C.A. §§4-3-2009, 4-7-112, 55-10-308.

The text of the proposed amendments is as follows:

Amendment

Rule 1340-03-04-.05 is amended by deleting the rule in its entirety and substituting the following language so that, as amended, the rule shall read:

1340-03-04-.05 Annual Enforcement Notice.

- (1) The chief law enforcement officer of each municipality properly authorized by the local legislative body to enforce rules of the road on interstate highways shall file with the Commissioner notification of a municipal law enforcement agency's intent to enforce rules of the road on interstate highways.
- (2) A law enforcement agency intending to enforce the rules of the road on the interstate highways shall file its notice:
 - (a) Between November 1 and December 31 of a calendar year for authorization for the next calendar year;
 - (b) Between January 1 and October 31 of a calendar year for authorization between the date of approval by the Commissioner and December 31 of that same calendar year;
 - (c) Between November 1 and December 31 of a calendar year for authorization for the remainder of the same calendar year, only if the notification is accompanied by a letter, on agency letterhead, stating the notification is for the remainder of the calendar year.
 - 1. The law enforcement agency will need to file a separate notification for the next calendar year in accordance with subparagraph (2)(a).
- (3) In no event shall a notification for a law enforcement agency's authority to enforce the rules of the road on the interstate highways be valid prior to the date of approval by the Commissioner.
- (4) In no event shall a notification for a law enforcement agency's authority to enforce the rules of the road on the interstate highways be valid for any period of time beyond the calendar year for which it is authorized.
- (5) The notification by a law enforcement agency shall include, at a minimum, the following information:

- (a) A statement indicating the anticipated frequency of enforcement activities expressed as the anticipated number of hours per week in which the municipal law enforcement agency will have one or more officers engaged in enforcement of the rules of the road on interstate highways.
- (b) A statement indicating whether enforcement efforts will include active patrols or other methods of enforcement.
- (c) A statement that all officers engaged in enforcement of the rules of the road have read, understand, and will follow the General Orders listed herein and addendums thereto issued by the Tennessee Highway Patrol to ensure their safety, the safety of the public, and to ensure uniform enforcement procedures and standards:

- G.O. # 405 – Traffic Direction and Control
- G.O. # 411 – Pursuit Driving; Routine and Emergency Operations of the Patrol Vehicle
- G.O. # 412 – The Use of Tire Deflation Devices
- G.O. # 415 – Motorcycle Operations
- G.O. # 430 – Traffic Crash Investigations
- G.O. # 501 – Enforcement Policy and Professional Conduct
- G.O. # 505 – Stop and Approach
- G.O. # 506 – Profiling
- G.O. # 513 – Vehicle Inventory and Searches
- G.O. # 520 – Uniform Citations
- G.O. # 521 – Use of a Warning Ticket
- G.O. # 555 – Speed Measurement
- G.O. # 710-1 – Use and Investigation of Deadly Force Incidents
- G.O. # 712-1 – Cameras (In-Car)
- G.O. # 730 – Maintenance, Assignment and Inventory of Radar Equipment

Authority: T.C.A. §§4-3-2009, 4-7-112, 55-10-308.
(615) 251-5349

The proposed rules set out herein were properly filed in the Department of State on the 21st day of August, 2008, and pursuant to the instructions set out above, and in the absence of the filing of an appropriate petition calling for a rulemaking hearing, will become effective on the 29th day of December, 2008. (FS08-16-08; DBID 2941)