

Rules
Committee
Minutes
October 24, 2016



**TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
MOTOR VEHICLE COMMISSION
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**TENNESSEE
MOTOR VEHICLE COMMISSION
MINUTES**

RULES COMMITTEE

DATE: October 24, 2016

PLACE: Davy Crockett Tower – Conference Room 1-A
500 James Robertson Parkway
Nashville, Tennessee

PRESENT: Rule Committee Members:
Farrar Vaughan, Chair
Christopher Lee
Ronnie Fox
John Murrey
Kahren White
Eddie Roberts

ABSENT:

CALL TO ORDER: Rules Committee Chairwoman Farrar Vaughan called the meeting to order.

Executive Director, Paula J. Shaw, read the meeting notice.

Chairwoman Vaughan called for a motion to approve the Rules Committee Agenda. Commissioner Fox made a motion to adopt the Agenda, seconded by Commissioner White.

PROPOSED RULE CHANGES

Executive Director, Paula J. Shaw, indicated there were three (3) items discussed at the last Committee Meeting which had been turned over to legal staff for language proposal for the new rules.

- **Item 1/Analysis** – The existing laws regarding applicants or entities who apply for licensure under a corporate structure are ambiguous as to the Commission’s authority when one of the owners has previously been convicted of a crime of moral turpitude.
- **Current Statutes & Rules** – T.C.A. § 55-17-114; Tenn. Comp. Rules and Regs. 0960-01-.08
- **Recommendations**– To ensure the licensure process is fair for all individuals, and to protect the consuming public, the MVC staff is recommending that a rule be enacted which would allow the Commission the ability to deny an application of any manager, director, or owner of five percent (5%) interest or greater of the entity could be denied licensure as an individual pursuant to T.C.A. § 55-17-114, et al.

Director Shaw asked staff attorney Matthew E. Reddish to speak to the language proposed by legal regarding the proposed rule. Mr. Reddish read the proposed language which states, **“The Commission may deny any applicant for a license if any manager, director or owner of five percent (5%) interest or greater of the applicant could be denied licensure as an individual pursuant to T.C.A. § 55-17-114.”**

After discussion, Commissioner Lee made a motion to accept the language of the proposed rule, seconded by Commissioner Fox.

ROLL CALL VOTE

Farrar Vaughan	YES
Ronnie Fox	YES
Christopher Lee	YES
John Murrey	YES
Kahren White	YES
Eddie Roberts	YES

MOTION CARRIED

- **Item 2/Analysis** – Currently, the MVC does not have an established rule which sets out the format for maintaining a temporary tag log either in hard copy or electronically.
- **Current Statutes and Rules** – T.C.A. § 55-17-114(b)(1)(O); Tenn. Comp. Rules & Regs. 0960-01-.11
- **Recommendations** – To clarify the required format of maintaining a temporary tag log, and to facilitate the inspection/investigation process, staff recommends enactment of a rule stipulating that licensees maintain the required hard copy tag log in sequential order, recording them in the order in which they were issued, sold to another dealer, or voided. This rule shall not apply to any temporary tag or temporary tag log that is automatically generated from a state operated system or database.

Staff Attorney, Matthew E. Reddish, read language of the proposed rule. **“Licensees must maintain a record of all temporary tags acquired during the preceding eighteen (18) months. All temporary tags shall be issued, sold to dealers, or voided in numerical order within the sequences they were received. All temporary tags shall be recorded in a temporary tag log in the order in which they were issued, sold to another dealer, or voided. This rule shall not apply to any temporary tag or temporary tag log that is automatically generated from a state operated system or database.”**

Chairwoman Vaughan asked for questions from the audience. Patrick Merkel, attorney with Cameron-Worley Assoc. wished to address the committee. Mr. Merkel was concerned the dealers were being required to maintain logs in written form. Mr. Reddish clarified the rule for Mr. Merkel that the numbers had to be recorded in sequential order, but not necessarily hand-written.

Chairwoman Vaughan called for a motion. Motion to approve the rule as proposed was made by Commissioner Fox and seconded by Chairman Roberts.

ROLL CALL VOTE

Farrar Vaughan	YES
Ronnie Fox	YES
Christopher Lee	YES
John Murrey	YES
Kahren White	YES
Eddie Roberts	YES

MOTION CARRIED

- **Item 3/Analysis** – MVC staff and the Enforcement Division are currently experiencing challenges regarding licensure and during the inspection process related to entities who seek to operate an additional business type from their location. This challenge resulted in the following passage of recently enacted legislation which allows the dealer principal to operate at least one additional business from their established place of business.
- **Current Statutes and Rules** – T.C.A. 55-17-129
- **Recommendations** – To ensure each licensee is meeting the requirements of the 66/33% rule, staff recommends all motor vehicle or recreational vehicle dealers who are operating an additional business at the dealership in accordance with the T.C.A. § 55-17-129, should maintain each such business’ records and inventory, including sales and use tax records, in a clearly marked and separate location apart from the motor vehicle or recreational vehicle dealership’s records and inventory.

Staff Attorney, Matthew E. Reddish read the proposed language of the rule, **“All motor vehicle or recreational vehicle dealers who are operating an additional business at the dealership in accordance with T.C.A. § 55-17-129, shall maintain each such business’ records and inventory, including sales and use tax records, in a clearly marked and separate location apart from the motor vehicle or recreational vehicle dealership’s records and inventory.”**

Chairwoman Vaughan recognized Mr. Darryl Noble, Executive Director of Tennessee Automobile Association. Mr. Noble spoke to the committee regarding the bill which the proposed rule is based on.

After lengthy deliberation, Commissioner White made a motion to return the proposed rule to legal for rewording, seconded by Commissioner Murrey.

ROLL CALL VOTE

Farrar Vaughan	YES
Ronnie Fox	YES
Christopher Lee	YES
John Murrey	YES
Kahren White	YES
Eddie Roberts	YES

MOTION CARRIED

NEW BUSINESS

Executive Director, Paula J. Shaw conveyed to the committee the need for an addendum to the recently passed rule regarding disclosures of rebuilt/salvaged vehicles. The language should take into account electronic disclosures, since the rule which was passed did not include this language. Chief General Counsel, Anthony Glandorf, inquired as to whether the Commission would like for legal to draft language that would address electronic disclosures and then bring that redrafted language back to the Commission.

Commissioner Lee made a motion to refer to legal for further review and report back to the committee, seconded by Commissioner Murrey.

ROLL CALL VOTE

Farrar Vaughan	YES
Ronnie Fox	YES
Christopher Lee	YES
John Murrey	YES
Kahren White	YES
Eddie Roberts	YES

MOTION CARRIED

Staff attorney, Matthew E. Reddish indicated to the committee the new RV rules were posted with the Secretary of State and they would become effective on January 1, 2017.

Chairwoman Vaughan recognized Mr. Darryl Noble, Executive Director of the Tennessee Independent Automobile Association. Mr. Noble raised concerns regarding non-motorized vehicles sellers. He indicated there were no franchised non-motorized RV dealers in Tennessee and inquired as to how the new statute would affect the non-motorized sellers. Staff provided clarification regarding the new statute, in that the same regulations being observed by RV dealers prior to the new statute taking effect, would not change after the statute takes effect in January.

After much discussion, Commissioner White made a motion to adjourn, seconded by Commissioner Fox.

MEETING ADJOURNED.

Minutes Approved _____ **Date** _____