

Sunset Public Hearing Questions for
TENNESSEE MOTOR VEHICLE COMMISSION
 Created by Section 55-17-103 Tennessee Code Annotated
 (Sunset Termination June 2020)

Enabling Statute, Purpose, and Rules and Regulations

1. Provide a brief introduction to the Commission, including information about its purpose, statutory duties, staff, and administrative attachment.

The Motor Vehicle Commission was created by the Tennessee General Assembly in 1955 by T.C.A. § 55-17-101 declaring that the distribution and/or sale of motor vehicles in the state vitally affects the general economy and the public interest and welfare. The purpose of the Commission is to protect the citizens against frauds, impositions and other abuses related to the sale of motor vehicles. Per T.C.A. § 55-17-107, the Commission is vested with the powers and duties necessary and proper to enable it to fully and effectively carry out the provisions and objectives of Chapter 17, including but not limited to: (1) the authority to promulgate reasonable, substantive and procedural rules pursuant to the Uniform Administrative Procedures Act (UAPA); and (2) the authority to prescribe all forms to be used by the Commission in the transaction of its business.

The Commission is attached to the Department of Commerce and Insurance in the Division of Regulatory Boards and employs an Executive Director, who serves at the pleasure of the Commission and is responsible for the supervision of seven (7) staff members who administer the activities associated with the disposition and performance of the required duties. The Department employs investigators and field investigators for proper disposition of the other duties of this part.

2. Has the Commission promulgated rules and regulations? If yes, please cite the reference.

Rules and regulations of the Commission are found in Tenn. Comp. Rules and Regs. Chapters 0960-01-.01 through 0960-01-.29; 0960-02-.01 through 0960-01-.10; and 0960-05-.01 through 0960-05-.09.

3. Provide a list of current members of the Commission. For each member, please indicate who appointed the member, statutory member representation, the beginning and end of the member's term, and whether the member is serving a consecutive term.

BOARD MEMBER	FUNCTION	TERM BEGINNING	TERM EXPIRATION	APPOINTING AUTHORITY
John Roberts	Chairman (Industry)	March 27, 2019	January 21, 2023	Governor Bill Lee
Stan Norton	Independent Dealer	October 6, 2014	June 30, 2020	Governor Bill Haslam
Steven Tomaso	Manufacturer Member	June 18, 2015	January 21, 2023	Governor Bill Haslam
Ian Leavy	Manufacturer Member	June 16, 2015	January 19, 2023	Governor Bill Haslam
Kahren White	Consumer Member	November 23, 2015	January 21, 2023	Governor Bill Haslam
Nate Jackson	Consumer	March 14, 2003	January 21, 2023	Governor Bill Haslam

	Member			
John Chobanian	Consumer Member	May 16, 2018	January 21, 2023	Governor Bill Haslam
Victor Evans	Consumer Member	December 14, 2015	January 21, 2023	Governor Bill Haslam
Christopher Lee	First Congressional District	July 1, 2016	June 30, 2022	Governor Bill Haslam
Charles E. West	Second Congressional District	July 1, 2018	June 30, 2024	Governor Bill Haslam
Ronald Fox	Third Congressional District	April 28, 2009	June 30, 2022	Governor Phil Bredesen
Debbie Melton	Fourth Congressional District	September 14, 2016	June 30, 2022	Governor Bill Haslam
John Barker, Jr.	Fifth Congressional District	August 8, 2017	June 30, 2024	Governor Bill Haslam
Jim Galvin, Jr.	Sixth Congressional District	October 2, 2014	June 30, 2020	Governor Bill Haslam
John S. Murrey	Seventh Congressional District	July 12, 2012	June 30, 2024	Governor Bill Haslam
Karl Kramer	Eighth Congressional District	September 8, 2016	June 30, 2022	Governor Bill Haslam
Farrar Vaughan	Ninth Congressional District	August 1, 2008	July 31, 2020	Governor Phil Bredesen

All Members are serving consecutive terms with the exceptions of John Roberts (1st term), Debbie Melton (1st term) and Charles E. West (1st term).

T. C. A. § 55-17-103 governs the makeup of the Commission.

4. **Are there any vacancies on the Commission? If so, please indicate how long the position has been vacant and explain the steps that have been taken to fill any vacancy.**

There are currently no vacancies on the Commission.

5. **How many times did the Commission meet in Fiscal Years 2018 and 2019? How many members were present at each meeting? Please note meetings where the Commission did not have a quorum.**

MEETING DATE	COMMISSIONERS PRESENT	QUORUM
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July 24, 2017	15	YES
October 23, 2017	16	YES
January 22, 2018	14	YES
April 23, 2018	13	YES
July 16, 2018	15	YES
October 15, 2018	16	YES
January 14, 2019	13	YES
April 29, 2019	16	YES

*MVC Minutes

6. **What were the Commission's revenues and expenditure for Fiscal Years 2018 and 2019? Does the Commission carry a fund balance? If yes, please provide additional relevant information regarding the fund balance.**

The annual operating budget for the Motor Vehicle Commission averages \$2 million.

	Net Revenues	Expenditures	Reserve Balance
FY 17-18	\$1,718,642	\$1,811,473	\$2,103,537
FY 18-19	\$2,103,268	\$1,751,750	\$2,455,055

*Financial Statement Provided by Department of Commerce and Insurance

*Due to the two year licensing cycle for Motor Vehicle Auctions, Manufacturers/Distributors, RV Manufacturers/Distributors and Representatives, the Motor Vehicle Commissioner licensing revenue should be expected to increase during odd numbered fiscal years.

7. **What per diem or travel reimbursements do Commission members receive? How much was paid to Commission members in Fiscal Years 2018 and 2019?**

Each Commissioner who elects to receive per diem, receives fifty (\$50 USD) dollars per day. Travel reimbursements are based on current U.S. General Services Administration CONAS rates that are calculated within the state's EDISON system. Per diems issued for FY 17-18 and FY 18-19 are below:

COMMISSION PER DIEM FY 17-18	COMMISSION PER DIEM FY 18-19
\$3,550.00	\$2,950.00

*Edison

8. **Please provide a list of fees collected and indicate whether these fees were established through rule or state law.**

All Licensing Fees are based on a biennial (2-year) license and are established by Tenn. Comp. Rules and Regs.

PROFESSION	FEE	ESTABLISHED BY
Motor Vehicle Dealer	\$400 per line make	Rule
Automobile Auction	\$800	Rule
Manufacturer/Distributor	\$1600	Rule

Manufacturer/Distributor Franchised Dealership	\$50 per dealer	Rule
Motor Vehicle Salesperson	\$35	Rule
Representative	\$400	Rule
Dismantler/Recycler	\$400	Rule
Recreational Vehicle Dealer	\$400	Rule
Recreational Vehicle Manufacturer/Distributor	\$1600	Rule
Recreational Vehicle Franchised Dealership	\$50 per dealer	Rule
Automotive Mobility Dealer	\$400	Rule
Name Change	\$400	Rule
Show Permit	\$200	Rule
Duplicate License	\$25	Rule
Re-Inspection (in case of failure)	\$400	Rule

*Tenn. Comp. Rules and Regs. 0960-01-.14

9. **Is the Commission subject to Sunshine law requirements (Section 8-44-101 et. Seq., Tennessee Code Annotated) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the Commission have for informing the public of meetings and making minutes available to the public?**

Yes. The Commission is subject to the Sunshine law requirements found in Tennessee Code Annotated § 8-77-101 et. Seq. All meetings of the Commission are open to the public at all times, except as provided by the Constitution of Tennessee. The dates for quarterly meetings of the Commission are decided well in advance and public notice is given of each meeting date and time. The schedule and locations for 2019 meetings were approved and announced to the public at the July 2018 meeting, and was posted to the website for the public shortly thereafter. The agenda for the meetings is posted no later than five (5) business days prior to the meeting date, and is available on the website of the Commission, located at www.tn.gov/commerce/regboards/mvc.

The agenda is also posted in advance of the meeting for the public at the entrance to the room where the meeting is scheduled to be held. Pursuant to T.C.A. § 8-44-144, minutes of every meeting of the Commission are promptly and fully recorded and are available to the public as soon as they are approved by the Commission. They can be obtained by contacting the Commission or by viewing the PDF file on the website at the address listed above.

All meetings of the Commission are recorded by the Department of Commerce and Insurance and published to the Department's YouTube channel. Currently, videos of all meetings held by the Commission since October 2012 are available for viewing by the public. The videos of the Commission meetings are generally posted within days of the meeting.

10. **Does the Commission allow for public comments at meetings? Is prior notice required for public comments to be heard? If public comment is not allowed, how does the Commission obtain feedback from the public and those they regulate?**

Yes. The Commission adheres to parliamentary procedures from Robert's Rules of Order when conducting meetings. Those of the public whom wish to address the Commission may contact

the staff office in order to be placed on the agenda for the meeting and are recognized by the Chair at a duly convened meeting.

11. Does the Commission have policies to address potential conflict of interest by Commission members, employees, or other state employees who work with the Commission?

When Commissioners are appointed, they are given an orientation during which conflicts of interest and the need for impartiality are discussed. All Commissioners are required to sign an annual conflict of interest statement. Additionally, complaints against members of the profession are presented to the Commission in an anonymous manner so the Commissioners can avoid conflicts during the disciplinary hearing process. A copy of the disclosure statement is attached.

12. Does the Commission have a website? If so, please provide the web address. What kind of public information is available on the website?

Yes. The web address is www.tn.gov/commerce/regboards/mvc The site contains the following information:

- Public meeting agendas and notifications
- Post-meeting minutes and videos
- Staff and Commission member contact information
- Complaint forms available for online submission
- Applicant resources for those seeking licensure
- Downloadable forms
- Legislative and rule making updates
- Links to information and updates relevant to the motor vehicle industry including:
 - Related laws
 - Rules and Commission (viewable in audio-visual formats).
- Consumer resources including:
 - “Tips for Buying a Car”
 - Links to external agencies that have an impact on the industry or provide resources to the consumers such as the “Better Business Bureau” and the “National Highway Traffic Administration”.

Application and Licensure Process

13. Describe the criteria for issuing a license. How were these criteria determined? How long does the licensing process take? What are the established time goals for obtaining a license? Are those goals being met?

Pursuant to T.C.A. § 55-17-111(a), “The Commission shall prescribe forms to be used for applications for licenses and for the renewals thereof to be issued under the terms and provisions of this part, and require all applicants and their enfranchised manufacturers, as a condition precedent to the issuance of a license, to provide information touching on and concerning the applicant’s character, honesty, integrity, reputation and business relationships and ability, as the Commission may deem necessary; provided, that every application for a new dealer’s license shall contain, in addition to any information that the Commission may require...”

These requirements and all constituent parts are outlined in T.C.A. § 55-17-111, et.al.

The division's goal is to process initial licenses within an average of 29 days. For fiscal years 2018 and 2019, the Commission has processed applications for licensure in an average of 4 days.

*Metrics provided by Department of Commerce and Insurance

14. How many individuals and/or businesses are currently licensed by the Commission?

LICENSE TYPES	NUMBER OF LICENSEES AS OF 10/7/19
MOTOR VEHICLE DEALER	3,681
MANUFACTURERS/DISTRIBUTORS	133
AUCTIONS	29
REPRESENTATIVES	533
SALESPERSON	17,063
DISMANTLER/RECYCLERS	246
RECREATIONAL VEHICLE DEALERS	39
RECREATIONAL VEHICLE MANUFACTURERS	75

15. How many applications did the Commission receive in Fiscal Years 2018 and 2019? By category, how many applications were approved and license granted? How many applications were rejected? Of those rejected, what was the primary reason for rejection?

Profession	Apps Received Fiscal Years 18-19	Apps Approved Fiscal Years 18-19	Apps Rejected Fiscal Years 18-19	Reason for Rejection
Dealers	826	823	3	Failed Eligibility, Revoked in another state, Ownership Change
Auctions	0	0	0	N/A
Man./Dist.	10	10	0	N/A
Salesperson	15,572	15,557	15	Felony Convictions prior to Fresh Start
Representatives	251	251	0	N/A
Dis./Recycler	28	28	0	N/A
RV Dealers	8	8	0	N/A
RV Manufacturers	14	14	0	N/A
Mobility Dealers	0	0	0	N/A

16. How many licenses were revoked during the same time period? What were the primary reasons for revocation? Please provide information by type of license.

Profession	Number of Revocations	Primary Reason for Revocation
Dealers	8	Failure to meet terms of consent orders/Deceptive Business Practices

Auction	0	
Man/Distributor	0	
Salesperson	4	Failure to meet terms of consent orders
Representatives	0	
Dis/Recycler	0	
RV Dealer	0	
RV Manufacturer	0	
Mobility Dealer	0	

***Legal Staff Report**

- 17. Describe the complaint handling process. Please explain how consumers are made aware of the process for filing a complaint, how complaints are taken and investigated, how complaints are resolved and what actions may be taken as a result.**

There are several ways in which a complaint may be submitted to the Commission, including an online application, via phone, or by mailing in a complaint. Anyone from the public, or the industry, can file a complaint through the Department’s centralized complaint process that applies to all regulatory boards at www.core.tn.gov. Consumers are made aware of the complaint process each time the Department provides information to consumers regarding consumer protection. Complaints are received by the Centralized Complaints Division. Each complaint is opened in CORE, the database of record. Once received, the complaint is forwarded to the named Respondent for a response within a timeframe provided. Any response is provided to the Complainant for rebuttal. Once a response is received, or if no response is received, the complaint is forwarded to the Commission’s legal representative to be opened as a case file for review. The legal office reviews the substance of the complaint and determines if an investigation is warranted and makes any such request. Once an investigation report is returned, or if no investigation is needed, the legal counsel provides an overview of the complaint, any investigation, and findings to the Commission with a recommendation for disciplinary action authorized in statute or rule. The Commission may approve or modify the recommendation which legal counsel will attempt to effectuate via a settlement process initially, or if unsuccessful, via a contested case authorized under the UAPA. This process may be modified for allegations of unlicensed activity in order to request an immediate investigation to make a rapid determination as to whether the allegations can be substantiated or in the instance when the allegations propose an immediate harm to the public.

As a result of disciplinary action, the Board may statutorily deny, suspend, or revoke any registration or issue civil penalties.

- 18. What are the time goals for resolving complaints and are those goals being met?**

The Board’s metric for resolution of complaints is to resolve 90% of all complaints within 180 days from the date of receipt of any complaint to the date that a settlement offer is presented to the Respondent. Currently, the goals are being met.

- 19. How many complaints were received in Fiscal Years 2018 and 2019? What types of Complaints were received? What, if any, enforcement actions did the Commission take as a result of complaints filed?**

Complaints Received FY 17-18	Complaints Received FY 18-19
628	670

Generally, complaints received are unlicensed activity, deceptive business practices, and failure to disclose. Dependent upon the nature of the infraction, the Commission has the authority to deny, suspend and revoke any violation of T.C.A. § 55-17-114, et. al., and can impose civil penalties between \$100-\$5,000 per day, per occurrence.

Reports, Major Accomplishments, and Proposed Legislative Changes

20. What reports does the Commission prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any such reports issued in Fiscal Years 2018 and 2019.

The Executive Director prepares a quarterly operations report for the Commission and reports during the quarterly Commission Meetings. The report is captured in the meeting minutes. She also prepares weekly reports that are submitted to Departmental leadership. A legislative summary is prepared each year for public release with regular reporting on legislative changes to the Commission at its quarterly meetings. The Department prepares performance metric and financial reports used for internal management.

<https://www.tn.gov/commerce/regboards/mvc/public-meeting-information.html>.

21. What were the Commission's major accomplishments during Fiscal Years 2018 and 2019?

The Commission has taken an active interest in improving the service and operational efficiencies and maintains an active committee structure. Noted items are listed below:

- Implementation of active Standing Committee Process for Commission
- Temporary Tag Log Compliance Revision
- Redesign of all Applications for Online Use
- All Inspection Forms Revised and Implemented
- Developed Felony Denial and Applicant Appeal Form and Process Alignment with Legal Division opening a successful path for post-release individuals to gainful employment
- Consignment Form Implementation in conjunction with Law 55-17-114(b)(1)(N)
- Salesperson Recidivism Project Completed
- Redesign of Corrective Action Process-Priority Place on Educating the Licensee
- Dedicated Staff/Function to manage Insurance Certificates and Surety Bond Renewals, Expirations and Cancellation
- Dedicated Error/Exception function
- All Letters Updated Into Standardized Language and Automated Using Drop-Down Lists in Internal Computer System
- Systems Implemented to Monitor Performance, Budget, Exceptions to Goals
- Develop Dealer Drive-by/Reinstatement process (Form for Enforcement Requests) - Needed to align with the Enforcement Division.

All licensing services are now available online processing utilizing CORE, the Departmental computer system. The Commission made aligning this implementation with other Departmental divisions, ie. fiscal, enforcement, mailroom and other state and county Departments a priority during the redesign. Items of interest are noted below:

- All Initial Applications available online
- Annual Sales Reporting Online
- All Profession Renewals Online
- Salesperson Terminations Online
- Online Usage increased from 3% to 83% for initial applications from January 2017 to June 2019
- Online Payment Capability
- Align with Department of Revenue to Create Online Temporary Tag Service

22. Please describe any items related to the Commission that require legislative attention and your proposed legislative changes.

None.

23. Should the Commission be continued? To what extent and in what ways would the absence of the Commission affect the public health, safety or welfare of the citizens of Tennessee?

Yes, the Commission should be continued because it is in the interest of public welfare. The Commission serves the purpose of regulating the motor vehicle industry by licensing and policing motor vehicle manufacturers, distributors, dealers, salespersons, and their representatives doing business in Tennessee in order to protect the consuming public and legitimate businesses from frauds, impositions, and other abuses. The lawful distribution and/or sale of motor vehicles in the state vitally affect the general economy of the state.

Tennessee Motor Vehicle Commission

At the request of the Chairman of the House Government Operations Committee, all agencies who provide responses to questions as part of the Q&A process should also provide the following information.

1. Identification of the appropriate agency representative or representatives possessing substantial knowledge and understanding of the responses provided to the sunset review questions.

Toby Compton, Assistant Commissioner for Regulatory Boards
Jennaca Harris, Director of Departmental Operations
Maria P. Bush, Assistant General Counsel for Regulatory Boards

2. Identification of the appropriate agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

Toby Compton, Assistant Commissioner for Regulatory Boards
Jennaca Harris, Director of Departmental Operations
Maria P. Bush, Assistant General Counsel for Regulatory Boards

3. Office address, telephone number, and email address of the agency representative or representatives who will respond to the questions at the scheduled sunset hearing.

Toby Compton, Assistant Commissioner for Regulatory Boards
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500 James Robertson Parkway
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DEPARTMENT OF COMMERCE AND INSURANCE
DIVISION OF REGULATORY BOARDS
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615-741-3449 FAX 615-741-6470

**BOARD OR COMMISSION MEMBER CONFLICT OF INTEREST
STATEMENT**

1. **Conflicts Generally.** Each board or commission member shall avoid any action, whether or not specifically prohibited by statute or regulation, which might result in or create the appearance of:
 - i. Using public office for private gain;
 - ii. Giving preferential treatment to any person;
 - iii. Impeding government efficiency or economy;
 - iv. Losing complete independence or impartiality;
 - v. Making a government decision outside of official channels; or
 - vi. Affecting adversely the confidence of the public in the integrity of the government.

2. **Use of Information.** No board or commission member shall, directly or indirectly:
 - i. Use, disclose, or allow the use of official information which was obtained through or in connection with his or her appointment to the respective board or commission and which has not been made available to the general public for the purpose of furthering the private interest or personal profit of any person, including the board or commission member; or
 - ii. Engage in a financial transaction as a result of, or primarily relying upon, information obtained through his or her board or commission appointment.

3. **Use of Government Property.** No board or commission member shall make use of the facilities, equipment, personnel, or supplies of the State or its agencies for private use or gain, except to the extent that the use is incidental or de minimis or is lawfully available to the general public.

4. **Notification and Recusal.** The board or commission member will avoid all known conflicts of interest, and to the extent he or she becomes aware of a conflict of interest in connection with any matter brought before the board or commission on which he or she serves, he or she will disclose such conflict to the appropriate person and will further recuse himself or herself from participating in any consideration of the matter.

5. **Family, Employees and Appearances of Bias.** While serving on any board or commission, the board or commission member will not participate in any deliberations of or actions involving individuals in his or her immediate family, individuals employed by him or her or his or her organization, services provided by him or her or his or her organization, or any other matter in which his or her participation may create an appearance of bias or impropriety.

6. **Trade and Professional Associations.** While serving on any board or commission, the board or commission member shall not serve as an officer, or otherwise serve in a policy-making role, for any trade or professional association directly related to the trade or profession regulated by the board or commission on which he or she serves. Otherwise, service on committees of trade or professional associations is permissible; provided, however, that while in such service, the board or commission member does not participate in deliberations or actions concerning the board or commission of which he or she is a member.

7. **Lobbyists and Employers of Lobbyists.** The acceptance of gifts from an employer of a lobbyist or a lobbyist by a member of a board or commission is subject to the provisions of Tenn. Code Ann. § 3-6-305. All board and commission members should be aware of the requirements of that provision. Further, board and commission members should be aware that acceptance of such a gift, even if it falls within the exceptions of Tenn. Code Ann. 3-6-305(b), may be considered a conflict of interest pursuant to this policy if it meets one of the requirements of Paragraph 1 of this statement.

8. **Questions Regarding Interpretation.** When a board or commission member is in doubt as to the proper interpretation of this conflict of interest statement, he or she is expected to seek the advice of the Commissioner of Commerce and Insurance or the Ethics Compliance Officer of the Department of Commerce and Insurance.

Board or Commission Member Signature

Date

Print Name

Board or Commission Name

BOARD OR COMMISSION MEMBER CONFLICT DISCLOSURE FORM

Please disclose the following:

- a. The names of all current and former employers for the past ten (10) years regulated by the board or commission on which you serve or will serve if those employers are in any manner regulated by the board or commission upon which you serve or will serve;
- b. The employer's name for all jobs currently held by your immediate family members (including self-employed jobs) if your immediate family member and/or his employer are in any manner regulated by the board or commission upon which you serve or will serve;
- c. The name, address and phone number of all persons and entities in which you or any member of your immediate family have an ownership interest or indebtedness greater than a *de minimis* (trifling) ownership interest or indebtedness if the person or entity is any manner regulated by the board or commission upon which you serve or will serve; and
- d. The name of any other person or entity about which you feel you have a conflict of interest or your deliberation on a matter related to that person or entity could create the appearance of bias or impropriety if the person or entity is any manner regulated by the board or commission upon which you serve or will serve.

Please disclose information required above and list any conflicts of interest:

Victor Evans is a registered lobbyist with the State of Tennessee through work at TennesseeCAN.



Board or Commission Member Signature

01/25/2019

Date

Victor Evans

Print Name

Motor Vehicle Commission

Board or Commission Name