

Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Department of State, Bureau of Professional and Occupational Affairs, State Board of Vehicle Manufacturers, Dealers and Salespersons

(2) I.D. Number (Governor's Office Use)

16A-6010

IRRC Number

INDEPENDENT REGULATORY
RENEWAL COMMISSION

2007 MAR 30 AM 10:16

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(3) Short Title

Biennial Renewal Fees

(4) PA Code Cite

49 Pa. Code §19.4

(5) Agency Contacts & Telephone Numbers

Primary Contact: **Teresa Lazo, Counsel**
State Board of Vehicle Manufacturers, Dealers & Salespersons (717) 783-7200
Secondary Contact: **Joyce McKeever,**
Deputy Chief Counsel (717) 783-7200

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
 Final Order Adopting Regulation
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
 Yes: By the Attorney General
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The Board amends its fee schedule to increase the biennial renewal fees for its licensees so that it may meet its statutory mandate that it be self-sustaining.

The Board increases the biennial fees for all license classes by 150%. The fees were first set in 1989 and have not since been amended. This increase will ensure that the Board's revenues will meet its projected expenditures.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Section 30 of the Board of Vehicles Act (act) (63 P.S. §818.30) requires the Board to increase its fees if revenue is not sufficient to meet expenditures.

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

Yes. Section 30 of the act (63 P.S. §818.30) requires the Board to set fees by regulation and to increase fees whenever income is not sufficient to meet Board expenditures.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The new fees will allow the Board to comply with the legislative mandate of its enabling statute that the Board sustain its operating and enforcement costs through fees imposed on its licensees.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

If the Board had not increased its fees in accordance with its statutory mandate, the citizens of the Commonwealth may suffer from the Board's inability to effectively enforce the act and ensure the integrity of individuals in the vehicle dealer and sales industry.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

The general public and regulated practitioners will benefit from fee increases which assure that the Board will have sufficient revenue to carry out its operating and enforcement activities and ensure the Commonwealth's citizens are protected from unscrupulous practitioners when purchasing or leasing vehicles.

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(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

On a biennial basis approximately 8,228 vehicle dealers, 40,262 vehicle salespersons, 382 dealer branch lots, 67 auctions, 344 manufacturers, 28 manufacturer branches, 1,262 vehicle representatives and 82 distributors licenses are renewed. The increased renewal fees will represent an increase of \$105 to each vehicle dealer, \$55 to each vehicle salesperson, \$105 to each dealer branch lot, \$105 to each auction, \$150 to each manufacturer, \$105 to each manufacturer branch, \$55 to each vehicle representative and \$105 to each distributor.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

All of the Board's licensees will be required to comply with the regulation. See Item 14.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The amendment was developed in consultation with the Department of State, Bureau of Finance and Operations. In drafting the regulation, the Board considered the fees as both required by law and the least restrictive means of covering the costs of services required to be performed by the Board.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

No legal, accounting or consulting costs are anticipated as a result of the amendment.

Regulatory Analysis Form

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

Local governments would not be affected by this amendment.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

Because the Board must charge fees that reflect its actual costs in enforcing the act, implementing the amendment will produce no identifiable costs or savings to state government.

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(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

| | 2006-2007 | 2007-2008 | 2008-2009 | 2009-2010 | 2010-2011 | 2011-2012 |
|------------------------|-----------|-----------|-----------|-----------|-----------|-----------|
| SAVINGS: | NA | \$NA | NA | NA | NA | NA |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Savings | | | | | | |
| COSTS: | 0 | 0 | | 0 | | 0 |
| Regulated Community | 0 | 3,255,955 | 0 | 3,255,955 | 0 | 3,255,955 |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Costs | 0 | 3,255,955 | 0 | 3,255,955 | 0 | 3,255,955 |
| REVENUE LOSSES: | NA | NA | NA | NA | NA | NA |
| Regulated Community | | | | | | |
| Local Government | | | | | | |
| State Government | | | | | | |
| Total Revenue Losses | | | | | | |

(20a) Explain how the cost estimates listed above were derived.

Cost estimates to the regulated community were derived by multiplying the proposed fee increase by the number of licensees. The biennial renewal fee will become effective for licenses renewed for the June 1, 2007 – May 31, 2009, biennial renewal period.

| | |
|---|--------------------|
| 8228 vehicle dealers x \$105 (increase) | = \$ 861,840 |
| 40,262 vehicle salespersons x \$55 (increase) | = \$ 2,214,410 |
| 382 dealer branch lots x \$105 (increase) | = \$ 40,110 |
| 67 auctions x \$105 (increase) | = \$ 7,035 |
| 344 manufacturers x \$150 (increase) | = \$ 51,600 |
| 28 manufacturer branches x \$105 (increase) | = \$ 2,940 |
| 1,262 vehicle representatives x \$55 (increase) | = \$ 69,410 |
| 82 distributors x \$105 (increase) | = \$ 8,610 |
| | <u>\$3,255,955</u> |

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

| Program | FY -03-04 | FY -04-05 | FY -05-06 Projected | Budgeted 06-07 |
|--|--------------|--------------|------------------------|----------------|
| State Board of Vehicle Manufacturers, Dealers and Salespersons | 1,679,624.53 | 1,739,720.79 | 1,754,126.70 | 2,268,000.00 |
| | | | | |
| | | | | |
| | | | | |

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

By the amendment, licensees will pay for the Board's operation and enforcement costs through biennial fees. The Board's biennial revenue, by law, must meet or exceed the Board's biennial expenditures.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

No non-regulatory approaches were considered, as Section 30 of the act requires that fees be set by regulation.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

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(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no federal standards that apply.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The fees compare favorably with the fees charged in other states. For example, West Virginia charges vehicle dealers an initial licensure fee of \$250 (Pennsylvania's initial licensure fee is \$65); the renewal fee for a biennium for a vehicle dealer in West Virginia is \$200 (the proposed biennial fee for Pennsylvania dealers is \$175). Delaware charges vehicle dealers an initial licensure fee of \$100; biennially, dealers pay \$200. In Maryland, vehicle dealers pay an initial \$500 with their licensure application, and renew biennially at the rate of \$500. Salespersons in Maryland pay an initial application fee of \$75 and renew at the rate of \$75 biennially. The initial and renewal fees for manufacturers in Maryland are based on volume, and is in the \$1000 range. New York vehicle dealers pay \$450 for their initial license and biennial renewal of their license. New Jersey dealers have a \$100 initial fee (the license is valid for one year) and pay a biennial renewal fee of \$200.

The fee increases should not put Pennsylvania at a competitive disadvantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The regulation amends § 19.4 (relating to fees) in existing regulations. The amendment will not affect other regulations of the Board or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Board provides an opportunity for public input into its activities, including its rulemaking proposals, at its regulatory scheduled monthly meetings. The dates, times and places of the Board's meetings are available at the Department of State's website, www.dos.state.pa.us/bpoa.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

The amendment will not change existing reporting, record keeping or other paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

The Board has identified no group or subset of a group with particular needs which would be affected by the amendment. Therefore, no special provisions have been developed or are anticipated.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

The amendment will be effective on publication of the final-form rulemaking in the Pennsylvania Bulletin. The Board will extend the date for licensure renewal one time for the biennial renewal period scheduled to commence June 1, 2007. Instead, the biennial renewal period will run from December 1, 2007, to May 31, 2009.

(31) Provide the schedule for continual review of the regulation.

As part of its annual review process, the Board will review the effectiveness of this regulation.

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INDEPENDENT REGULATORY
REVIEW COMMISSION

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

2586

DO NOT WRITE IN THIS SPACE

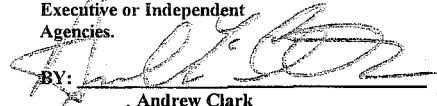
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BY: _____
(DEPUTY ATTORNEY GENERAL)

State Board of Vehicle
Manufacturers, Dealers and Salespersons
(AGENCY)

BY: 

Andrew Clark
Andrew C. Clark

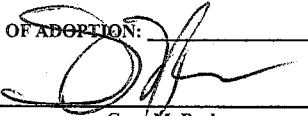
DOCUMENT/FISCAL NOTE NO. 16A-6010

MAR 13 2007

DATE OF APPROVAL

DATE OF ADOPTION: _____

DATE OF APPROVAL

BY: 
Gary M. Barbera

(Executive Deputy General Counsel
~~Strike inapplicable title~~)

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

Check if applicable
Copy not approved.
Objections attached.

Check if applicable. No
Attorney General approval or
objection within 30 day after
submission.

FINAL RULEMAKING
COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS AND SALESPERSONS
49 PA. CODE, CHAPTER 19, SECTION 19.4
BIENNIAL RENEWAL FEES

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) hereby amends §19.4 (relating to fees) to read as set forth in Annex A. The amendment increases the biennial license renewal fee for all classes of the Board's licensees.

Statutory Authority

The Board is required by law to support its operations from revenue it generates from fees, fines and civil penalties. Section 30(a) of the Board of Vehicles Act (act) (63 P.S. § 818.30(a)) requires the Board to increase fees so that adequate revenue is raised to meet the Board's expenditures in enforcing the act. While many of the Board's fees are based on the cost of providing a service to an individual licensee, such as processing an application for licensure, biennial renewal fees are charged to licensees across the Board and are thus most appropriately increased to meet the Board's general enforcement costs.

Response to Comments

Proposed rulemaking was published in the *Pennsylvania Bulletin* on December 16, 2006, at 36 Pa.B. 7619, for 30 days of public comment. The Board did not receive any comments from the public. The House Professional Licensure Committee (HPLC) submitted two comments on February 13, 2007. On February 15, 2007, the Independent Regulatory Review Commission (IRRC) submitted notice to the Board that it had no objections, comments or recommendations to offer and that, if the committees did not take any action, the regulation would be deemed approved by IRRC when delivered. The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) and did not submit comments.

The HPLC asked for additional fiscal information explaining the major costs centers where significant increases had occurred in the past five years. As noted in the preamble to proposed rulemaking, the most significant increases in expenses have occurred in the investigative and legal divisions. The following chart sets forth the Board's expenses in these two categories from fiscal year 2000-2001 through the projections for fiscal year 2005-2006.

| | 2000-2001 | 2001-2002 | 2002-2003 | 2003-2004 | 2004-2005 | Projected 2005-2006 |
|-------------------------------------|-----------|-----------|-----------|-----------|-----------|------------------------|
| Legal Division | \$250,506 | \$303,541 | \$354,299 | \$399,560 | \$439,963 | \$528,129 |
| Investigation and Enforcement | \$408,699 | \$501,005 | \$539,861 | \$673,549 | \$518,480 | \$603,581 |

As is the case with all 27 licensing boards and commissions within the Bureau of Professional and Occupational Affairs, the Board's investigation, enforcement and prosecution of matters is directly related to the number and seriousness of complaints filed by the public. The Board has seen an increase in the number and seriousness of complaints filed/cases opened. The increase in seriousness is indicated by the increased number of serious sanctions – revocation of licenses and active suspension of licenses. The following table lists the number of cases opened from 1999 to the close of fiscal year 2006 and the type of disciplinary action imposed.

| Year | Cases Opened | Revocations | Suspensions | Other Discipline | Act 48 Citations | Warning Letters |
|----------|--------------|-------------|-------------|------------------|------------------|-----------------|
| 1999 | 368 | 5 | 13 | 61 | 46 | 47 |
| 2000 | 491 | 10 | 9 | 47 | 95 | 64 |
| 2001 | 335 | 13 | 15 | 64 | 42 | 22 |
| 2002 | 345 | 7 | 22 | 72 | 27 | 16 |
| 2003 | 629 | 12 | 15 | 94 | 68 | 33 |
| FY 03-04 | 812 | 15 | 19 | 83 | 88 | 54 |
| FY 04-05 | 430 | 39 | 32 | 112 | 23 | 65 |
| FY 05-06 | 653 | 25 | 27 | 71 | 55 | 72 |

In addition to investigating complaints filed, the investigation and enforcement division also inspects all new vehicle dealerships to ensure compliance with the Board of Vehicles Act. For fiscal year 2000-2001, a total of 14,850 new, routine and other inspections were performed. For fiscal year 2001-2002, 14,662 total inspections were performed. For fiscal year 2002-2003, 15,038 total inspections were performed. For fiscal year 2003-2004, 16,326 total inspections were performed. For fiscal year 2004-2005, 12,748 total inspections were performed.

The HPLC also requested an explanation as to why 17 years have elapsed since the last biennial fee increase. The Board receives annual reports from the Bureau of Finance and Revenue related to its income and expenditures. In the report provided in July 2002, it was projected that the Board would have a balance of \$737,311 in FY 2004-2005. In the report provided in August 2003, it was projected that the Board would have a balance of \$602,305 in FY 2004-2005. In the report provided in August 2004, it was projected that the Board would have a balance of \$258,519 in FY 2004-2005. In the report provided in June 2005, it was projected that the Board would be in a serious deficit situation by FY 2005-2006, with a deficit of \$804,513, increasing to \$1,633,513 by FY 2007-2008. Although the Board was reluctant to raise the fees charged to its licensees, it was apparent by June 2005, that an increase was imperative.

Fiscal Impact

The amendments will increase the biennial renewal fee for all classes of the Board's licensees. The final rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The rulemaking will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, it should not create additional paperwork for the private sector.

Sunset Date

The act requires the Board to monitor its revenue and costs on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, (71 P.S. §745.5(a)), on December 5, 2006, the Board submitted a copy of the notice of proposed rulemaking to IRRC and the Legislative Reference Bureau. Courtesy copies were provided to the Committees on that same date. The proposed rulemaking was published at 36 Pa.B. 7619 (December 16, 2006). No comments were received from the public. In accordance with section 5(f) of the Regulatory Review Act, (71 P.S. §745.5(f)), the Board submitted a copy of the notice of proposed rulemaking to the Chairpersons of the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

The HPLC submitted two comments, which the Board has considered and addresses in the preamble to final rulemaking. IRRC did not submit any comments, suggestions or recommendations.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on _____, the final-form rulemaking was approved by the HPLC. On _____, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC deemed the final-form rulemaking approved on _____.

Additional Information

Further information may be obtained by contacting Pamela Marsden, Administrative Assistant, State Board of Vehicle Manufacturers, Dealers and Salespersons, P.O. Box 2649, Harrisburg, PA 17105-2649, or from the Department website, www.dos.state.pa.us.

Findings

The Board finds that:

1. Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240), (45 P.S. §§ 1201 – 1202), and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 – 7.2.
2. A public comment period was provided as required by law and all comments were considered.
3. This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in this Preamble.

The Board, acting under its authorizing statute, orders that:

- (A) The regulation of the Board at 49 Pa. Code § 19.4 is amended to read as set forth in Annex A.
- (B) The Board shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General as required by law.
- (C) The Board shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.
- (D) This order shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

Gary M. Barbera
Board Chairman

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 19. STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND
SALESPERSONS

GENERAL PROVISIONS

* * * * *

§ 19.4. Fees.

The following is the schedule of fess charged by the Board:

* * * * *

| | |
|---|--------------------|
| Biennial renewal – salesperson license..... | \$[35] <u>90</u> |
| Biennial renewal – vehicle representative license | \$[35] <u>90</u> |
| Biennial renewal – manufacturer license | \$[100] <u>250</u> |
| Biennial renewal – manufacturer branch license | \$[70] <u>175</u> |
| Biennial renewal – distributor license..... | \$[70] <u>175</u> |
| Biennial renewal – dealer license..... | \$[70] <u>175</u> |
| Biennial renewal – auction license..... | \$[70] <u>175</u> |
| Biennial renewal – dealer branch license..... | \$[70] <u>175</u> |

10. Reporting requirements.

The monthly collections data reporting requirements are specified at § 56.231. Under this regulation, electric, gas and steam heating utilities report to the Commission monthly on a variety of collection variables including the number of service terminations, overdue customers, service restorations and arrearages. Policy makers, utilities and the general public use this information to measure the effectiveness of utility collection activities. We propose revising this section to also include Class A water utilities. Water utility rates have increased significantly since this section was first promulgated and concerns with collection issues in the water industry are now sufficient to amend this section to include major water utilities.

In addition, we propose revising this section to incorporate the *Interim Guidelines for Residential Collections Data Reporting Requirements of the Electric, Natural Gas and Water Distribution Companies in Accordance with the Provisions of Chapter 14 at § 1415* as contained in the Final Order of July 24, 2006 re: *Biennial Report to the General Assembly and Governor Pursuant to Section 1415* (M-00041802F0003).

Rulemaking to Amend the Provisions of 52 Pa. Code, Chapter 56 to Comply with the Provisions of 66 Pa.C.S., Chapter 14 General Review of Regulations; NOV-2006-BCS-0013* Doc. No. L00060182

Statement of Commissioner Kim Pizzigrilli

Before the Commission is an Advance Notice of Proposed Rulemaking (ANOPR) to comply with the requirements of the Responsible Utility Customer Protection Act, which amended Title 66 by adding Chapter 14. See 66 Pa.C.S. §§ 1401—1418. During the implementation process, many Chapter 14 application issues were addressed with the input of interested parties and Commission staff. Now, we must amend Chapter 56 to comply with the provisions of Chapter 14, and if necessary, promulgate other regulations to administer and enforce Chapter 14.

The ANOPR contains an Appendix listing ten issues. The intent of this list is to bring additional focus to the more challenging questions as we proceed with the rulemaking. Within the Appendix, the Commission has made some proposed findings. While I concur with the adoption of the ANOPR and the form of the Appendix, I request that commentators address the question of whether it is appropriate or necessary to incorporate portions of the statute directly into the regulations.

In addition, I note that the ANOPR proposes that utilities report to the Commission when they become aware of a death following a termination of utility service where it appears that the death may be linked to the lack of utility service. As a relatively new issue that was brought to our attention by the Consumer Advisory Council, I request that commentators provide input on specific recommendations regarding the implementation of this proposed requirement, including what situations should be reported and the need to establish a requisite time frame linking an incident and lack of utility service.

I look forward to reviewing the comments filed in response to our ANOPR and encourage parties to bring to our attention other pertinent issues that could be addressed in this rulemaking. The input from affected

parties will aid the Commission in carrying out the goals of Chapter 14 while ensuring that service is available to all customers based on equitable terms and conditions.

[Pa.B. Doc. No. 06-2453. Filed for public inspection December 15, 2006, 9:00 a.m.]

[52 PA. CODE CH. 57]

Proposed Rulemaking for Revision of 52 Pa. Code Chapter 57 Pertaining to Adding Inspection and Maintenance Standards for the Electric Distribution Companies

Notice of the Pennsylvania Public Utility Commission's (Commission) proposal to amend 52 Pa. Code Chapter 57 was published at 36 Pa.B. 6097 (October 7, 2006). The Commission will now accept public comments until April 16, 2007. The Commission intends to hold a Technical Conference in January 2007 to gather more information before the end of the comment period.

Written Comments

Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Pennsylvania Public Utility Commission, Attention: Secretary James J. McNulty, P. O. Box 3265, Harrisburg PA 17105-3265. An electronic copy of the comments should be electronically mailed to Elizabeth Barnes, Assistant Counsel, ebarnes@state.pa.us. These comments will be placed on the Commission's website for public viewing at www.puc.state.pa.us.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 06-2454. Filed for public inspection December 15, 2006, 9:00 a.m.]

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

[49 PA. CODE CH. 19]

Biennial Renewal Fees

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) proposes to amend § 19.4 (relating to fees) to read as set forth in Annex A. The proposed rulemaking would increase the biennial license renewal fees for all classes of the Board's licensees.

Effective Date

The proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*. The new biennial renewal fees will take effect for the biennial period beginning June 1, 2007.

Statutory Authority

The Board is required by law to support its operations from revenue it generates from fees, fines and civil penalties. Section 30(a) of the Board of Vehicles Act (act) (63 P. S. § 818.30(a)) requires the Board to increase fees

so that adequate revenue is raised to meet the Board's expenditures in enforcing the act. While many of the Board's fees are based on the cost of providing a service to an individual licensee, such as processing an application for licensure, biennial renewal fees are charged to licensees across the Board and are thus most appropriately increased to meet the Board's general enforcement costs.

Background and Need for Amendment

The Board last increased its renewal fees in 1989. In the 17 years since the Board established the existing biennial renewal fees, the Board has seen a significant increase in its law enforcement budget, thus necessitating a fee increase.

At the July 13, 2006, Board meeting, the Bureau of Finance and Operations for the Department of State (Department) presented a summary of the Board's actual revenue and expenses for the past 3 fiscal years and projected revenues and expenses through Fiscal Year (FY) 2016-2017.

At the close of FY 2004-2005, a year in which the Board's revenue was high because licenses are renewed in odd numbered years, the Board carried a balance of \$594,546.31. At the close of FY 2005-2006, however, the Board carried a deficit of \$454,564.57. The projected deficit for FY 2006-2007 is \$539,514; and the projected deficit for FY 2007-2008 is \$2,048,514. By FY 2016-2017, the deficit is projected to reach \$13,338,514. The Bureau of Finance and Operations anticipates that the proposed fee increases will enable the Board to recapture the current deficit and meet its estimated expenditures through at least FY 2016-2017.

The Board, as with other licensing boards and commissions within the Bureau of Professional and Occupational Affairs (Bureau), budgets on the basis of the following categories: administrative costs, which includes Board administration (Bureau-wide operating expenses such as printed forms, office supplies and interagency billings), Commissioner's office (staff expenses) and Departmental services (centralized support services such as the executive office, public information office and legislative affairs office); legal costs, which includes legal office (staff expenses), hearing expenses (staff of hearing examiner's office and stenographer services) and legislative and regulatory analysis (staff expenses); enforcement and investigation costs, which includes nontravel (staff expenses) and travel expenses; professional health monitoring program expenses (staff expenses); and Board member expenses (travel to meetings, accommodations when necessary).

Because it has been 17 years since the Board set the biennial renewal fees, it is difficult to ascertain any particular cost centers that have led to the need to increase the fees. Costs have risen across the spectrum of the Board's activities. The increases in the Board's biennial expenses occurred due to increases in costs of both Board services and Departmental expenses. The increases experienced by the Board itself are primarily in cost centers allocated to law enforcement costs and legal office costs. These increased expenditures are directly related to increases in the number of complaints filed. Each complaint filed produces costs in law enforcement and in the professional compliance office and prosecution division of the legal office. The Board received an average of 404

complaints per year from FY 1996-1997 through FY 2000-2001. The Board received an average of 499 complaints per year from FY 2001-2002 to FY 2005-2006. The number of serious disciplinary sanctions imposed by the Board, which includes any sanction that suspends or revokes a license, increased from 37 in FY 1996-1997 to 70 in FY 2005-2006. The total number of disciplinary sanctions imposed by the Board increased from 150 in FY 1996-1997 to 178 in FY 2005-2006.

During FY 2003-2004, additional costs were incurred as a result of one-time charges to the Department for personnel costs. This one-time charge was split equitably within the Professional Licensure Augmentation Account and other related restricted accounts administered by the Bureau.

Description of Proposed Amendments

The proposed amendments will increase the biennial renewal fees as follows:

| | |
|-----------------------------|---------------------|
| Vehicle dealer | from \$70 to \$175 |
| Vehicle dealer branch | from \$70 to \$175 |
| Vehicle auction | from \$70 to \$175 |
| Vehicle manufacturer | from \$100 to \$250 |
| Manufacturer branch..... | from \$70 to \$175 |
| Vehicle distributor | from \$70 to \$175 |
| Vehicle representative..... | from \$35 to \$90 |
| Vehicle salesperson | from \$35 to \$90 |

The proposed increases are based on the expense and revenue estimates provided to the Board as set forth in Annex A. By this increase, the Board seeks to recoup its current deficit and avoid the projected deficits.

Fiscal Impact

It is estimated that the proposed rulemaking will have a modest fiscal impact on the cost of doing business of licensees over the next several biennial periods. The increase in fees should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed rulemaking will require the Board to alter some of its forms to reflect the new biennial renewal fees. However, the proposed rulemaking should not create additional paperwork for the private sector.

Sunset Date

The act requires the Board to monitor its revenue and costs on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(f) of the Regulatory Review Act (71 P. S. § 745.5(f)), on December 5, 2006, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Legislative Reference Bureau for publication. The proposed rulemaking will be published in the *Pennsylvania Bulletin* on December 16, 2006, beginning a 30-day public comment period. On December 5, 2006, the Board sent a courtesy copy of the proposed rulemaking to the Executive Directors for the House Professional Licensure Committee (HPLC) and Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). Under the Regulatory Review Act (71 P. S. §§ 745.1—745.15), the Board will deliver the

proposed rulemaking to the HPLC and SCP/PLC by the second Monday after the date on which committee designations for the 2007-2008 session of the General Assembly are published in the *Pennsylvania Bulletin*.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Pamela Marsden, Administrator, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

EDWIN K. GALBREATH, Jr.,
Chairperson

Fiscal Note: 16A-6010. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS
PART I. DEPARTMENT OF STATE
Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS
CHAPTER 19. STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS
GENERAL PROVISIONS

§ 19.4. Fees.

The following is the schedule of fees charged by the Board:

| | |
|---|----------------|
| * * * * * | |
| Biennial renewal—salesperson license | \$ [35] 90 |
| Biennial renewal—vehicle representative license | \$ [35] 90 |
| Biennial renewal—manufacturer license | \$ [100] 250 |
| Biennial renewal—manufacturer branch license | \$ [70] 175 |
| Biennial renewal—distributor license | \$ [70] 175 |
| Biennial renewal—dealer license | \$ [70] 175 |
| Biennial renewal—auction license | \$ [70] 175 |
| Biennial renewal—dealer branch license | \$ [70] 175 |

[Pa.B. Doc. No. 06-2455. Filed for public inspection December 15, 2006, 9:00 a.m.]

There were no public comments on regulation 16A-6010 Biennial Renewal Fees.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS
STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS AND SALESPERSONS

Post Office Box 2649
Harrisburg, Pennsylvania 17105-2649
(717) 783-1697

March 30, 2007

The Honorable Arthur Coccodrilli, Chairman
INDEPENDENT REGULATORY REVIEW COMMISSION
14th Floor, Harrisstown 2, 333 Market Street
Harrisburg, Pennsylvania 17101

Re: Final Regulation
State Board of Vehicle Manufacturers, Dealers and Salespersons
16A-6010:Biennial Renewal Fees

Dear Chairman Coccodrilli:

Enclosed is a copy of a final rulemaking package of the State Board of Vehicle Manufacturers, Dealers and Salespersons pertaining to Biennial Renewal Fees.

The Board will be pleased to provide whatever information the Commission may require during the course of its review of the rulemaking.

Sincerely,

A handwritten signature in black ink that reads "Gary M. Barbera".

Gary M. Barbera, Chairperson
State Board of Vehicle Manufacturers,
Dealers and Salespersons

GMB/TAL:klh

Enclosure

cc: Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs
Albert H. Masland, Chief Counsel
Department of State
Joyce McKeever, Deputy Chief Counsel
Department of State
Cynthia Montgomery, Regulatory Counsel
Department of State
Herbert Abramson, Senior Counsel in Charge
Department of State
Teresa Lazo, Counsel
State Board of Vehicle Manufacturers, Dealers and Salespersons
State Board of Vehicle Manufacturers, Dealers and Salespersons

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

I.D. NUMBER: 16A-6010

SUBJECT: BIENNIAL RENEWAL FEES

AGENCY: DEPARTMENT OF STATE - STATE BOARD OF VEHICLE MANUFACTURERS,
DEALERS AND SALESPERSONS

TYPE OF REGULATION

- Proposed Regulation
- X Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

INDEPENDENT REGULATORY
REVIEW COMMISSION

2007 MAR 30 AM 10:16

RECEIVED

FILING OF REGULATION

| DATE | SIGNATURE | DESIGNATION |
|---------|---------------------|---|
| 3/30/07 | <i>Alison Bauer</i> | HOUSE COMMITTEE ON PROFESSIONAL LICENSURE |
| 3/30/07 | <i>Mary Walmer</i> | SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE |
| 3/30/07 | <i>Kathy Cooper</i> | INDEPENDENT REGULATORY REVIEW COMMISSION |
| | | ATTORNEY GENERAL (for Final Omitted only) |
| | | LEGISLATIVE REFERENCE BUREAU (for Proposed only) |