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Regulatory Analysis Form		<p>This space for use by IRRC INDEPENDENT REGULATORY REVIEW COMMISSION</p> <p>IRRC Number: 2586</p>
<p>(1) Agency</p> <p>Department of State, Bureau of Professional and Occupational Affairs, State Board of Vehicle Manufacturers, Dealers and Salespersons</p>		
<p>(2) I.D. Number (Governor's Office Use)</p> <p>16A-6010</p>		
<p>(3) Short Title</p> <p>Biennial Renewal Fees</p>		
<p>(4) PA Code Cite</p> <p>49 Pa. Code §19.4</p>	<p>(5) Agency Contacts & Telephone Numbers</p> <p>Primary Contact: Teresa Lazo-Miller, Counsel State Board of Vehicle Manufacturers, Dealers & Salespersons (717) 783-7200</p> <p>Secondary Contact: Joyce McKeever, Deputy Chief Counsel (717) 783-7200</p>	
<p>(6) Type of Rulemaking (check one)</p> <p><input checked="" type="checkbox"/> Proposed Rulemaking <input type="checkbox"/> Final Order Adopting Regulation <input type="checkbox"/> Final Order, Proposed Rulemaking <input type="checkbox"/> Omitted</p>	<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes: By the Attorney General <input type="checkbox"/> Yes: By the Governor</p>	
<p>(8) Briefly explain the regulation in clear and nontechnical language.</p> <p>The Board proposes to 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.</p> <p>The Board proposes to increase 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.</p>		
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>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.</p>		

Regulatory Analysis Form

(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 does not increase 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.

Regulatory Analysis Form

(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.

Regulatory Analysis Form

(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
	\$3,255,955

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.

Regulatory Analysis Form

(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 proposed 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 is 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 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 proposes to amend § 19.4 (relating to fees) in existing regulations. The proposal 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 proposed 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 new fees will be required for the biennial renewal period commencing June 1, 2007.

(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.

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Copy below is approved as to form and legality. Executive or Independent Agencies.


BY: _____
(DEPUTY ATTORNEY GENERAL)

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


BY: _____
Andrew Clark

NOV 02 2006

DATE OF APPROVAL

DOCUMENT/FISCAL NOTE NO. 16A-6010

DATE OF ADOPTION: _____

BY: 
Edwin K. Galbreath, Jr.

TITLE: Chairman
(EXECUTIVE OFFICER, CHAIRMAN OR SECRETARY)

SEP 25 2006

DATE OF APPROVAL

(Deputy General Counsel
Strike inapplicable title)

Check if applicable
Copy not approved.
Objections attached.

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

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

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 amendments will be effective upon publication of the final-form rulemaking in the Pennsylvania Bulletin. The new biennial renewal fees will take effect for the biennial period commencing 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 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 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 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, budgets on the basis of the following categories: Administrative Costs, which includes Board Administration (bureau-wide operating expenses such as printed forms, office supplies, 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 Non-Travel (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 the 2003 – 2004 fiscal year, 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 of Professional and Occupational Affairs (BPOA).

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 Representativefrom \$35 to \$90
Vehicle Salespersonfrom \$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.

Compliance with Executive Order 1996-1

In accordance with the requirements of Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the proposed rulemaking, the Board considered the amendments to 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.

Fiscal Impact

It is estimated that the proposed amendment 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 regulation will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the proposed regulations 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, commencing 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). Pursuant to the Regulatory Review Act, 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 that 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 any comments, recommendations and 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, Pennsylvania 17105-2649, within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin.

Edwin K. Galbreath, Jr.
Chairperson

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]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



STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS, & SALES

P.O. BOX 2649

HARRISBURG, PA 17105-2649

TELEPHONE #: 717-783-1697

FAX #: 717-787-0250

www.dos.state.pa.us/vehicle

www.licensepa.state.pa.us

December 5, 2006

VIA HAND DELIVERY

The Honorable Alvin Bush
Chairman, Independent Regulatory Review Commission
Harristown II, 14th Floor
333 Market Street
Harrisburg, PA 17101

Re: *Proposed Rulemaking of the State Board of Vehicle Manufacturers, Dealers and Salespersons relating to Biennial Renewal Fees (16A-6010)*

Dear Chairman Bush:

Enclosed is a copy of a proposed rulemaking package of the State Board of Vehicle Manufacturers, Dealers and Salespersons related to biennial renewal fees and examination fees.

A notice of proposed rulemaking will be published in the Pennsylvania Bulletin on December 16, 2006, triggering a 30-day public comment period that ends January 15, 2007. In accordance with section 5(f) of the Regulatory Review Act, the Board will deliver copies of the proposed rulemaking package to the House Professional Licensure Committee 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.

The Board stands ready to provide information or assistance that your Commission may require during its review of the proposed rulemaking.

Sincerely,

A handwritten signature in black ink that reads "Ed Galbreath".

Edwin K. Galbreath, Jr., Chairman
State Board of Vehicle Manufacturers,
Dealers and Salespersons

EKG/TL
Enclosure

c: Albert H. Masland, Chief Counsel
Department of State

Joyce McKeever, Deputy Chief Counsel
Department of State

Cynthia Montgomery, Regulatory Counsel
Department of State

Basil L. Merenda, Commissioner
Bureau of Professional and Occupational Affairs

Herbert Abramson, Senior Counsel in Charge
Department of State

Teresa Lazo, Counsel
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
- 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

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 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
_____	_____	HOUSE COMMITTEE ON PROFESSIONAL LICENSURE
_____	_____	SENATE COMMITTEE ON CONSUMER PROTECTION & PROFESSIONAL LICENSURE
12/5/06	<i>M. Helmet</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
_____	_____	ATTORNEY GENERAL (for Final Omitted only)
12/5/06	<i>Maya Garas</i>	LEGISLATIVE REFERENCE BUREAU (for Proposed only)