

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

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) amends § 19.4 (relating to fees). This final-form rulemaking 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 at 36 Pa.B. 7619 (December 16, 2006) for 30 days of public comment. The Board did not receive 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 HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not take any action, the final-form rulemaking would be deemed approved by IRRC when delivered. The SCP/PLC did not submit comments.

The HPLC asked for additional fiscal information explaining the major costs centers where significant increases had occurred in the past 5 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 (FY) 2000-2001 through the projections for FY 2005-2006.

	<i>FY 2000-2001</i>	<i>FY 2001-2002</i>	<i>FY 2002-2003</i>	<i>FY 2003-2004</i>	<i>FY 2004-2005</i>	<i>Projected FY 2005-2006</i>
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 the 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 FY 2006 and the type of disciplinary action imposed.

<i>Year</i>	<i>Cases Opened</i>	<i>Revocations</i>	<i>Suspensions</i>	<i>Other Discipline</i>	<i>Act 48 Citations</i>	<i>Warning Letters</i>
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 2003-2004	812	15	19	83	88	54
FY 2004-2005	430	39	32	112	23	65
FY 2005-2006	653	25	27	71	55	72

In addition to investigating complaints filed, the investigation and enforcement division also inspects new vehicle dealerships to ensure compliance with the act. For FY 2000-2001, a total of 14,850 new, routine and other inspections were performed. For FY 2001-2002, 14,662 total inspections were performed. For FY 2002-2003, 15,038 total inspections were performed. For FY 2003-2004, 16,326 total inspections were performed. For FY 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 regarding 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 final-form rulemaking increases the biennial renewal fee for all classes of the Board's licensees. The final-form rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The final-form rulemaking requires 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, published at 36 Pa.B. 7619, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on April 18, 2007, the final-form rulemaking was approved by the HPLC. On May 2, 2007, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC, effective May 2, 2007.

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. Information is also available from the Department of State's website at 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 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 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.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 19, are amended by amending § 19.14 to read as set forth at 36 Pa.B. 7619.

(b) The Board shall submit this order and 36 Pa.B. 7619 to the Office of General Counsel and the Office of Attorney General as required by law.

(c) The Board shall certify this order and 36 Pa.B. 7619 and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

GARY M. BARBERA,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 37 Pa.B. 2355 (May 19, 2007).)

Fiscal Note: Fiscal Note 16A-6010 remains valid for the final adoption of the subject regulation.

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