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Sequence Number: 05-11-15
Rule ID(s): 5950
File Date: 5/26/15
Effective Date: 8/24/15

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission:	State Board of Education
Division:	
Contact Person:	Angela C. Sanders
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Revision Type (check all that apply):
X Amendment
___ New
___ Repeal

Rule(s) Revised (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only **ONE** Rule Number/Rule Title per row)

Chapter Number	**Chapter Title**
0520-01-05	Pupil Transportation
Rule Number	**Rule Title**
0520-01-05-.01	Operation of School Buses

Chapter Number	**Chapter Title**
Rule Number	**Rule Title**

Substance of Proposed Rule

CHAPTER 0520-01-05
PUPIL TRANSPORTATION

Amendment

Rule 0520-01-05-.01 Operation of School Buses sections (5) and (6) are amended so that, as amended, the statutory reference in section (5) shall now read T.C.A. § 49-6-2109(b)(5), and in section (6) subsections (a) and (b) are revised to reflect a change of service years of buses from seventeen (17) to eighteen (18) years and a change of years for annual bus approval after twelve (12) years to after fifteen (15) years, so that as amended, sections (5) and (6) shall read:

0520-01-05-.01 OPERATION OF SCHOOL BUSES

(5) Pre-titled school buses shall meet additional requirements pursuant to T.C.A. § 49-6-2109(b)(5).

(6) Approved buses are identified as:

(a) Type C conventional buses with eighteen (18) years or less of service. After fifteen (15) years of service, year-to-year approval is required from the Commissioner of Safety.

(b) Type D transit buses with eighteen (18) years or less of service.

(c) Type C or D transit buses with two hundred thousand (200,000) miles or less of recorded travel.

(d) Type A buses with single rear wheels and ten (10) years or less of service.

(e) Type A buses with dual rear wheels and twelve (12) years or less of service.

(f) Type B buses with fifteen (15) year or less years of service.

Authority: T.C.A. §§ 49-1-302 and 49-6-2109.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Chancey	X				
Edwards				X	
Hartrgrove	X				
Johnson	X				
Pearre	X				
Roberts	X				
Rolston	X				
Tucker	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the State Board of Education on 10/31/2014, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 4/8/15

Signature:

Name of Officer: Dr. Sara Heyburn

Title of Officer: Executive Director

Subscribed and sworn to before me on: 4/8/15

Notary Public Signature: Phyllis E. Childress

My commission expires on:

PHYLLIS E. CHILDRESS
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY

MY COMMISSION EXPIRES:
January 9, 2016

State Board of Education Rules
Chapter 0520-01-05 – Pupil Transportation
Rule 0520-01-05-.01 – Operation of School Buses

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III
Attorney General and Reporter

5/15/2015
Date

Department of State Use Only

Filed with the Department of State on: 5/26/15

Effective on: 8/24/15

Tre Hargett
Secretary of State

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PUBLICATIONS

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

Not applicable.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (http://state.tn.us/sos/acts/106/pub/pc1070.pdf) of the 2010 Session of the General Assembly)

This rule will have no impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

(A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Public Chapter 743 of the 108th General Assembly amended T.C.A. § 49-6-2109(b) by revising the language in its entirety. This amendment brings the State Board Rule into compliance with the newly-amended law allowing for conventional and Class D school buses to be used until the buses reach the eighteenth year from the in-service date of the buses, and complies with mileage restrictions in the revised statute.

(B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

N/A

(C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Local Education Agencies, Supervisors of Transportation and the Commissioner of Safety were made aware of this rule. State Board staff urged adoption. No verbal or written comments were received at the time of rulemaking as this rule merely complies with existing statute.

(D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

N/A

(E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars ($500,000), whichever is less;

N/A

(F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Angela C. Sanders
Angela.C.Sanders@tn.gov

(G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

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(H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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1st Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
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(l) Any additional information relevant to the rule proposed for continuation that the committee requests.

N/A

CHAPTER 0520-01-05
PUPIL TRANSPORTATION

0520-01-05-.01 OPERATION OF SCHOOL BUSES

(1) Records and Reports - The superintendent of schools shall keep records of transportation costs and the number of pupils transported on a monthly basis, and make such reports as required by the Commissioner of Education.

(2) The State Department of Education shall report annually on school bus accidents to the State Board of Education and to the State Department of Safety, Pupil Transportation Division.

(a) School bus accidents shall be reported to the Department of Education, in the following manner:

1. Pupil injury and/or fatality accidents: By telephone within twenty-four (24) hours of the accident; by written report within ten (10) days on the department provided School Bus Accident Report Form.

2. Property damage accidents: At the end of the school year on the Annual Pupil Transportation Report.

(b) School bus accidents shall also be reported to the Department of Safety pursuant to rule 1340-03-03-.03(1)(h).

(3) Liability Insurance (T.C.A. § 49-6-2111).

(a) Minimum liability and property damage coverage shall be not less than the amount specified in the table below:

Kind of equipment passenger equipment (seating capacity)	Limit for bodily injuries to, or death of, one person	Limit of bodily injuries to, or death of, all persons injured or killed in any one accident (subject to maximum of $100,000 for bodily injuries to, or death of, one person)	Limit for loss or damage in any one accident to property of others (including occupants)
All Capacities	$100,000	$300,000	$50,000

In the event that the local board of education (or the governmental entity with liability under the Governmental Tort Liability Act of 1973, as amended, T.C.A. § 29-20-101 et. seq.) is unable to purchase insurance to cover its obligations hereunder except through an assigned risk pool, then the limits of liability in the three preceding categories shall be $20,000/$40,000/$10,000. If insurance is not purchased through an assigned risk pool or if the board of education or governmental entity elects to self-insure, then the greater limits above apply.

(4) Allocation of Funds - The allocation of minimum program funds for pupil transportation shall be based on a formula for the distribution of available funds.

(5) Pre-titled school buses shall meet additional requirements pursuant to T.C.A. § 49-6-2109(b)(5)~~1)(G) and (H)~~.

(6) Approved buses are identified as:

(a) Type C conventional buses with ~~seventeen~~ eighteen (18~~7~~) years or less of service. After ~~twelve~~ fifteen (15~~2~~) years of service, year~~-to-~~year approval is required from the Commissioner of Safety.

(b) Type D transit buses with ~~seventeen~~ eighteen (18~~7~~) years or less ~~years~~ of service.

(c) Type C or D transit buses with two hundred thousand (200,000) miles or less of recorded travel. ~~and a maximum of seventeen (17) years in service.~~

(d) Type A buses with single rear wheels and ten (10) years or less of service.

(e) Type A buses with dual rear wheels and twelve (12) years or less of service.

(f) Type B buses with fifteen (15) year or less years of service.

(7) School bus drivers shall meet the following requirements:

(a) School bus drivers shall have an appropriate commercial driver license issued by the State Department of Safety and shall meet all other rules and regulations of the State Department of Safety as set forth in Chapter 1340-3-3.

(b) All school bus drivers shall be required to pass annually a physical and mental examination for commercial drivers as prescribed by the United States Department of Transportation.

(c) No person shall be issued a certificate by a local board of education until an investigation has been made to determine whether or not such person has been found guilty of any criminal offense and such criminal records, if any, made a part of his or her permanent file.

(8) Local school systems shall adopt policies providing for the safe operation of school buses.

(9) For Cross References to Pupil Transportation Laws see T.C.A. §§ 49-3-1006, 49-6--2101 et seq., 49-6-3104, 55-7-106, and 55-8-151.

(10) A school bus shall not transport more students than the manufacturer's rated capacity. In order to allow for periods of adjustment, the Commissioner of Education may issue temporary permits of no more than thirty (30) school days in accordance with T.C.A § 49-6-2110. When applying for a permit, the local board of education shall submit a plan stating how it will achieve compliance with the manufacturer's rated capacity. The Department of Education and the Department of Safety will work collaboratively to ensure that buses are brought into compliance.