

# PROPOSED RULEMAKING

## STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

[ 49 PA. CODE CH. 19 ]

### Fee Increase

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. This proposed rulemaking provides for increased application fees and biennial renewal fees for vehicle salespersons, factory representatives or distributor representatives, manufacturers, manufacturer branches, distributors, dealers, auction and dealer branches.

#### *Effective Date*

The amendments will be effective upon final-form publication in the *Pennsylvania Bulletin*. It is anticipated that application fees will be implemented on a graduated basis on July 1, 2023, and on July 1, 2025.

The increased biennial renewal fees will be implemented beginning with the June 1, 2023—May 31, 2025 biennial renewal period. Thereafter, the subsequent graduated increase will be implemented with the biennial renewal for June 1, 2025—May 31, 2027.

#### *Statutory Authority*

Under section 302(a)(9) of the Board of Vehicles Act (act) (63 P.S. § 818.302(a)(9)), the Board is authorized to adopt, promulgate and enforce such rules and regulations consistent with the act as are deemed necessary and proper to effectuate the provisions of the act. Section 304 of act (63 P.S. § 818.304) requires license holders to pay a biennial renewal fee. Section 321(c) of act (63 P.S. § 818.321(c)) requires applications for licensure to be accompanied by the required fee. Under section 330(a) of the act (63 P.S. § 818.330(a)), all fees shall be fixed by the Board by regulation and shall be subject to review in accordance with the Regulatory Review Act (71 P.S. § 745.1—745.14). Section 330(a) further requires the Board to increase fees when revenues generated by fees, fines and civil penalties are insufficient to match expenditures over a 2-year period.

#### *Background and Purpose*

Section 330(a) of the act requires the Board to increase fees if the revenues generated by fees, fines and civil penalties imposed is not sufficient to meet the expenditures over a 2-year period. The Board raises approximately 85% of its revenue through initial application and renewal fees. The remaining 15% of its revenue comes from other fees, fines and civil penalties. The Board last increased its fees in 2007.

The Board receives an annual report from the Department of State's Bureau of Finance and Operations (BFO) regarding the Board's income and expenses. In Fiscal Year (FY) 2017-2018, the Board incurred \$2,963,270.71 in expenditures and generated only \$947,667.84 in revenue, with a remaining balance of \$1,130,724.10. In FY 2018-2019, the Board incurred \$3,153,485.29 in expenditures and generated \$4,584,031.19 in revenue, with a remaining balance of \$2,635,652.66. Finally, in FY 2019-2020, as of October 20, 2020, it was estimated that the Board

would incur \$2,880,000.00 in expenditures and generate only \$594,639.35 in revenue, with a remaining balance of \$350,292.01. In FYs 2020-2021 and 2021-2022, the Board is projected to incur \$6.293 million in expenditures and generate \$4.939 million in revenue, with a deficit balance of (\$817,347.34) at the end of FY 2021-2022. In FY 2022-2023, the Board is projected to incur \$3.266 million in expenditures and generate \$3.19 million in revenue, resulting in a deficit balance of (\$76,347.34).

On November 27, 2019, the BFO advised the Board that it would be necessary to raise its application and biennial renewal fees for vehicle salespersons, factory representatives or distributor representatives, manufacturers, manufacturer branches, distributors, dealers, auction and dealer branches. As part of its annual report, the Board analyzed the cost of the Board's operations to determine if the current application fees reflected the actual cost of the services provided. While application fees only make up less than 15% of the Board's revenue, the Board, with the encouragement and support of the Bureau of Professional and Occupational Affairs (Bureau), determined that a re-evaluation of all application fees was appropriate. Actual cost calculations are based upon the following formula:

$$\begin{aligned} & \text{number of minutes to perform the function} \\ & \quad \times \\ & \text{pay rate for the classification of the personnel performing} \\ & \quad \text{the function} \\ & \quad + \\ & \text{a proportionate share of administrative overhead} \end{aligned}$$

Application fees are based on time study reports created within the Bureau giving each step in the process and the amount of time it takes to process one application. That amount is multiplied by the anticipated application requests for 1 year (times two since the increases are biennial). Application fee increases, which will be effective July 1, 2023, are calculated at a 9.5% increase as pay increases for staff that process applications are 2.5% in July and 2.25% in January or 4.75% annually (9.5% biennially) and the fees are primarily dependent upon personnel-related costs. The analysis determined that the current application fees do not accurately reflect the actual cost of processing the following applications: vehicle salespersons, factory representatives or distributor representatives, manufacturers, manufacturer branches, distributors, dealers, auction and dealer branches.

During the BFO's presentation to the Board on November 27, 2019, the BFO reported that the new application and biennial renewal fee structure is projected to produce biennial revenues of: \$6.500 million in FYs 2022-2023 and 2023-2024, which will allow the Board to meet or exceed its projected expenditures of \$6.482 million; biennial revenues of \$7.895 million in FYs 2024-2025 and 2025-2026, which will allow the Board to meet or exceed its projected expenditures of \$6.829 million, and will result in a positive remaining balance of \$266,652.66 in FY 2025-2026.

Accordingly, the BFO recommended, and the Board agreed, to amend a total of 16 fees, consisting of 8 application fees and 8 biennial renewal fees on a graduated basis.

On August 6, 2020, the Board released an exposure draft of a proposed annex reflecting proposed increases for application and biennial renewal fees and invited stakeholders to submit comments. As a result of the

Board's exposure draft, one comment was received from a stakeholder. Specifically, on August 17, 2020, the Pennsylvania Automotive Association (PAA) submitted a comment to proposed fee increases, expressing their concern as to the amount of the increase to the fees that the Board was proposing. The Board discussed PAA's concerns and noted that the fee increase amount is based upon recommendations made by the BFO and is necessary to support the Board's expenditures. While the Board appreciates the concerns relating to increasing fees, especially during the novel coronavirus (COVID-19) pandemic, the Board has provided sufficient time for licensees to plan for and adjust to the increased fees, as the increases would not go into effect until 2023.

As a part of the BFO's fee increase recommendations, the BFO recommended graduated application and biennial renewal fee increases so that the application fee increases are reflective of actual costs to process applications and biennial renewal fees coincide more closely with the projected expenses for each biennium. The Board adopted the graduated fee schedule in an effort to minimize the impact of fee increases to licensees and to ensure that fee increases only occur when it is fiscally necessary to do so.

The Board proposes to amend the term "factory" to manufacturer in § 19.4 of the regulation. The Board would note that "factory" is an outdated term that was used interchangeably in the past with the term "manufacturer." The term "factory" is no longer used within the industry and deleting it would allow the Board to update its terminology and provide consistency between the initial application fee section and the renewal fee section of § 19.4 of the regulations. Finally, the Board proposes adding the word "lot" to the term "dealer branch license" in the license renewal fees and the word "distributor" to the term "manufacturer branch license" in the initial license application fees to ensure consistency of terms throughout § 19.4.

#### *Proposed Initial Application Fees*

As set forth as follows and in § 19.4, the proposed graduated increases will impact applicants as follows:

#### *Manufacturer or Distributor Representatives and Salespeople*

The Board receives approximately 600 manufacturer or distributor representative applications and 11,000 vehicle salespeople applications per biennial period. The graduated application fee increases will generate additional revenue as follows:

*FY 2022-2023 through FY 2023-2024:* The fee increase from \$25 to \$65 will generate an additional \$464,000 in application fees.

*FY 2024-2025 through FY 2025-2026:* The fee increase from \$65 to \$70 will generate an additional \$58,000 in application fees.

#### *Vehicle Dealers, Dealer Branch Lot and Vehicle Auctions*

The Board receives approximately 900 vehicle dealer applications, 100 dealer branch lot applications and 10 vehicle auction applications per biennial period. The graduated application fee increases will generate additional revenue as follows:

*FY 2022-2023 through FY 2023-2024:* The fee increase from \$65 to \$175 will generate an additional \$111,100 in application fees.

*FY 2024-2025 through FY 2025-2026:* The fee increase from \$175 to \$190 will generate an additional \$15,150 in application fees.

#### *Vehicle Manufacturer, Manufacturer Branch, Distributor and Distributor Branch*

The Board receives approximately 50 vehicle manufacturer applications, 2 manufacturer or distributor branch applications and 40 vehicle distributor applications per biennial period. The graduated application fee increases will generate additional revenue as follows:

*FY 2022-2023 through FY 2023-2024:* The fee increase from \$30 to \$90 will generate an additional \$5,520 in application fees.

*FY 2024-2025 through FY 2025-2026:* The fee increase from \$90 to \$100 will generate an additional \$920 in application fees.

#### *Proposed Biennial Renewal Fees*

As set forth as follows and in § 19.4, the proposed graduated increases will impact licensees, registrants and certificate holders as follows:

#### *Vehicle Dealer*

There are approximately 6,576 vehicle dealers who will be impacted by the proposed biennial renewal fee increases. The graduated biennial renewal fee increases will generate additional revenue as follows:

*FY 2022-2023:* The fee increase from \$175 to \$219 will generate an additional \$289,344 in revenue.

*FY 2024-2025:* The fee increase from \$219 to \$274 will generate an additional \$361,680 in revenue.

#### *Vehicle Salesperson*

There are approximately 31,300 vehicle salespeople who will be impacted by the proposed biennial renewal fee increases. The graduated biennial renewal fee increases will generate additional revenue as follows:

*FY 2022-2023:* The fee increase from \$90 to \$113 will generate an additional \$719,900 in revenue.

*FY 2024-2025:* The fee increase from \$113 to \$141 will generate an additional \$876,400 in revenue.

#### *Dealer Branch Lot*

There are approximately 389 vehicle dealer branches that will be impacted by the proposed biennial renewal fee increases. The graduated biennial renewal fee increases will generate additional revenue as follows:

*FY 2022-2023:* The fee increase from \$175 to \$219 will generate an additional \$17,116 in revenue.

*FY 2024-2025:* The fee increase from \$219 to \$274 will generate an additional \$21,395 in revenue.

#### *Vehicle Auction*

There are approximately 57 vehicle auctions that will be impacted by the proposed biennial renewal fee increases. The graduated biennial renewal fee increases will generate additional revenue as follows:

*FY 2022-2023:* The fee increase from \$175 to \$219 will generate an additional \$2,508 in revenue.

*FY 2024-2025:* The fee increase from \$219 to \$274 will generate an additional \$3,135 in revenue.

#### *Vehicle Manufacturer*

There are approximately 284 vehicle manufacturers that will be impacted by the proposed biennial renewal fee increases. The graduated biennial renewal fee increases will generate additional revenue as follows:

*FY 2022-2023:* The fee increase from \$250 to \$313 will generate an additional \$17,892 in revenue.

*FY 2024-2025:* The fee increase from \$313 to \$391 will generate an additional \$22,152 in revenue.

*Vehicle Manufacturer or Distributor Branch*

There are approximately 14 vehicle manufacturer or distributor branches that will be impacted by the proposed biennial renewal fee increases. The graduated biennial renewal fee increases will generate additional revenue as follows:

*FY 2022-2023:* The fee increase from \$175 to \$219 will generate an additional \$616 in revenue.

*FY 2024-2025:* The fee increase from \$219 to \$274 will generate an additional \$770 in revenue.

*Vehicle Manufacturer or Distributor Representative*

There are approximately 11,684 vehicle manufacturer or distributor representatives who will be impacted by the proposed biennial renewal fee increases. The graduated biennial renewal fee increases will generate additional revenue as follows:

*FY 2022-2023:* The fee increase from \$90 to \$113 will generate an additional \$268,732 in revenue.

*FY 2024-2025:* The fee increase from \$113 to \$141 will generate an additional \$327,152 in revenue.

*Vehicle Distributor*

There are approximately 56 vehicle distributors that will be impacted by the proposed biennial renewal fee increases. The graduated biennial renewal fee increases will generate additional revenue as follows:

*FY 2022-2023:* The fee increase from \$175 to \$219 will generate an additional \$2,464 in revenue.

*FY 2024-2025:* The fee increase from \$219 to \$274 will generate an additional \$3,080 in revenue.

*Fiscal Impact and Paperwork Requirements.*

The proposed amendments will increase the application and biennial renewal fees for all licensees of the Board. There are approximately 14 manufacturer or distributor branches; 57 vehicle auctions; 389 vehicle dealer branches; 6,576 vehicle dealers; 56 vehicle distributors; 284 vehicle manufacturers; 1,164 vehicle manufacturer or distributor representatives and 31,300 vehicle salespersons for a total of approximately 39,840 licensees who will be required to pay more to renew their licenses. Based upon the previously listed fee increases, the total economic impact per fiscal year is as follows:

FY 2022-2023:	\$1,608,882
FY 2023-2024:	\$290,310
FY 2024-2025:	\$1,652,799
FY 2025-2026:	\$37,035
<b>TOTAL:</b>	<b>\$3,589,026</b>

These fees may be paid by applicants and licensees or an employer may elect to pay the application fee of an employee. This proposed rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions of the Commonwealth.

This proposed rulemaking will require the Board to alter initial licensure applications and biennial renewal forms to reflect the new fees; however, the amendments will not create additional paperwork for the regulated community or for the private sector.

*Sunset Date*

The Board continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned. Additionally, the BFO provides the Board with an annual report detailing the Board's financial condition. In this way, the Board continuously monitors the adequacy of its fee schedule.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on May 26, 2021, 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 to the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days from the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria in section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b) 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.

*Public Comment*

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to the Board Counsel, State Board of Vehicle Manufacturers, Dealers and Salespersons, P.O. Box 69523, Harrisburg, PA 17106-9523, RA-STRegulatoryCounsel@pa.gov, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference (16A-6015—Fee Increase) when submitting comments.

DANIEL G. MURPHY, III,  
*Chairperson*

**Fiscal Note:** 16A-6015. 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:

PROPOSED RULEMAKING

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[ Salesperson license application	\$ 25
Factory representative or distributor representative license application	\$ 25
Manufacturer license application	\$ 30
Factory or distributor branch license application	\$ 30
Distributor license application	\$ 30
Dealer license application	\$ 65
Auction license application	\$ 65
Dealer branch lot license application	\$ 65 ]

		<u>Effective</u> <u>July 1, 2023</u>	<u>Effective</u> <u>July 1, 2025</u>
<u>Salesperson license application</u> .....	<u>\$ 25</u>	<u>\$ 65</u>	<u>\$ 70</u>
<u>Manufacturer representative or Distributor</u> <u>representative license application</u> .....	<u>\$ 25</u>	<u>\$ 65</u>	<u>\$ 70</u>
<u>Manufacturer license application</u> .....	<u>\$ 30</u>	<u>\$ 90</u>	<u>\$ 100</u>
<u>Manufacturer or distributor branch license</u> <u>application</u> .....	<u>\$ 30</u>	<u>\$ 90</u>	<u>\$ 100</u>
<u>Distributor license application</u> .....	<u>\$ 30</u>	<u>\$ 90</u>	<u>\$ 100</u>
<u>Dealer license application</u> .....	<u>\$ 65</u>	<u>\$ 175</u>	<u>\$ 190</u>
<u>Auction license application</u> .....	<u>\$ 65</u>	<u>\$ 175</u>	<u>\$ 190</u>
<u>Dealer branch lot license application</u> .....	<u>\$ 65</u>	<u>\$ 175</u>	<u>\$ 190</u>

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[ Biennial renewal—salesperson license	\$ 90
Biennial renewal—vehicle representative license	\$ 90
Biennial renewal—manufacturer license	\$ 250
Biennial renewal—manufacturer branch license	\$ 175
Biennial renewal—distributor license	\$ 175
Biennial renewal—dealer license	\$ 175
Biennial renewal—auction license	\$ 175
Biennial renewal—dealer branch license	\$ 175 ]

		<u>June 1, 2023—</u> <u>May 31, 2025</u> <u>Biennial</u> <u>Renewal Fee</u>	<u>June 1, 2025—</u> <u>May 31, 2027</u> <u>Biennial</u> <u>Renewal Fee</u> <u>and thereafter</u>
<u>Biennial renewal—salesperson license</u>	<u>\$ 90</u>	<u>\$ 113</u>	<u>\$ 141</u>
<u>Biennial renewal—manufacturer representative or</u> <u>distributor representative license</u>	<u>\$ 90</u>	<u>\$ 113</u>	<u>\$ 141</u>
<u>Biennial renewal—manufacturer license</u>	<u>\$ 250</u>	<u>\$ 313</u>	<u>\$ 391</u>
<u>Biennial renewal—manufacturer or distributor branch</u> <u>license</u>	<u>\$ 175</u>	<u>\$ 219</u>	<u>\$ 274</u>
<u>Biennial renewal—distributor license</u>	<u>\$ 175</u>	<u>\$ 219</u>	<u>\$ 274</u>
<u>Biennial renewal—dealer license</u>	<u>\$ 175</u>	<u>\$ 219</u>	<u>\$ 274</u>
<u>Biennial renewal—auction license</u>	<u>\$ 175</u>	<u>\$ 219</u>	<u>\$ 274</u>
<u>Biennial renewal—dealer branch lot license</u>	<u>\$ 175</u>	<u>\$ 219</u>	<u>\$ 274</u>

[Pa.B. Doc. No. 21-921. Filed for public inspection June 11, 2021, 9:00 a.m.]