STATE OF TENNESSEE
DEPARTMENT OF REVENUE

IN THE MATTER OF:	)	
	)	
DAVID TULIS,	)	
	)	
PETITIONER,	)	
	)	
v.	)	**Docket No. 23-004**
	)	
TENNESSEE DEPARTMENT OF REVENUE,	)	
	)	
	)	
RESPONDENT.	)	

FINAL ORDER UPON AGENCY REVIEW

This matter is before the Agency on the "Petition for appeal to the agency" (the "Request for Agency Review") filed by David Tulis (the "Petitioner") related to the Tennessee Department of Revenue's (the "Department") suspension of his motor vehicle registration for noncompliance with the requirements of Tenn. Code Ann. §§ 55-12-101, *et seq.* (the "Tennessee Financial Responsibility Law of 1977," "TFRL," or "Part 1") and Tenn. Code Ann. §§ 55-12-201, *et seq.* (the "James Lee Atwood, Jr. Law," the "Atwood Law," or "Part 2")(collectively referred to as the "Financial Responsibility Laws"). The Petitioner's appeal followed an order issued by the administrative law judge (the "Administrative Judge") on February 14, 2025, which granted a motion for summary judgment filed by the Department, denied a motion for summary judgment filed by the Petitioner, and dismissed the petition initiating this action (the "Initial Order").

On March 18, 2025, the Agency granted review of the Initial Order and notified the parties that it would review the following issue: Whether summary judgment was correctly awarded to the Department under applicable law and the record in this case. The parties timely submitted

briefing regarding this issue, which has been examined and considered by the Agency in conducting this review.

RELEVANT PROCEDURAL HISTORY

The Petition in this matter was submitted on or about July 26, 2023,[1] following the Department's suspension of the Petitioner's registration for noncompliance with the Financial Responsibility Laws as part of its administration of the Electronic Insurance Verification System ("EIVS" or "EIVS Program"). On September 7, 2023, the Administrative Judge conducted an initial pre-hearing conference with Petitioner and counsel for the Department. Prior and subsequent to the initial pre-hearing conference, the parties filed numerous preliminary and discovery motions which were considered and addressed by the Administrative Judge, including Petitioner's motion for recusal, notice of subject matter jurisdiction challenge, motion for temporary injunction, motion to compel, motion for convenience letter for petitioner safety, motion to strike, and two motions for sanctions, and the Department's motion to quash and two motions for protective order. The Initial Order contains a detailed accounting of this procedural history and the disposition of the parties' motions, which is adopted by reference and incorporated herein as if fully set forth.[2]

On July 15, 2024, the Department filed a motion for summary judgment and supporting materials related to the motion (the "Department's Motion"). Petitioner filed his own motion for summary judgment on September 27, 2024, along with supporting materials (the "Petitioner's Motion"). Allowances were made by the Administrative Judge in terms of the timing for the parties to file response and replies in relation to the dispositive motions. Briefing was completed on November 12, 2024, and oral argument was held on November 22, 2024. The Administrative

[1] In a mailing postmarked July 26, 2023, the Petitioner submitted a document styled "notice of appeal," which demanded a "stay of execution on revocation of registration until this challenge is settled" (the "Petition"). This submission was treated by the Department as a timely petition for a contested case hearing.

[2] *See* Initial Order, pp. 3-11.

Judge issued the Initial Order on February 14, 2025, granting the Department's Motion, denying the Petitioner's Motion, and dismissing the Petition. The Agency granted this review by order dated March 18, 2025.

FINDINGS OF FACT

The Agency adopts the findings of fact made by the Administrative Judge in his Initial Order, as set forth below.

1. Petitioner owns a 2000 Honda Odyssey, VIN 2HKRL1859YH575510 (the "Vehicle"), which was titled and registered to "David Jonathan Tulis TTEE UDT 8 15 22" on August 30, 2022.[3]

2. The Department has developed an online verification system to verify financial responsibility for Tennessee drivers.[4]

3. On April 19, 2023, the Department issued a letter to Petitioner regarding insurance coverage for the Vehicle (the "Request for Information"). The Request for Information stated that the Department's records indicated that Petitioner had an active registration for the Vehicle, but that the Department was unable to verify that acceptable insurance coverage was currently in place. The Request for Information further provided that "if the information in the [Department's] system is not updated within 30 days to reflect coverage for this vehicle, you will receive additional notices

[3] Declaration of Merinda Anthony ("M. Anthony Decl.") at Exh. A; Department's "Statement of Undisputed Material Facts" (hereafter, "Dept. S.M.F.") at ¶ 1 (accepted by Petitioner in his "Response statement of undisputed facts" [hereafter, "Pet. S.M.F. Resp."]).

The specific registered owner is listed as "David Jonathan Tulis TTEE UDT 8 15 22," apparently a trust for which Petitioner acts as trustee. The exact nature of this arrangement has not been elaborated in these proceedings, but the Department has not contested Petitioner's right to prosecute this case. Because Petitioner is the operator of the vehicle based on all of the facts adduced, this order as accepts Petitioner as the owner and operator regardless of the specific legal form through which he exercises those roles.

[4] M. Anthony Decl. at Exh. B.

from the Department," along with instructions outlining the process for submission of proof of insurance to the Department.[5]

4. A true and correct copy of the "Request for Information" referenced in ¶ 3, above, is attached to the Declaration of Merinda Anthony, submitted in support of the Department's motion for summary judgment, at Exhibit B.

5. On May 19, 2023, the Department issued a notice to Petitioner regarding insurance coverage for the vehicle (the "First Notice"). The First Notice notified Petitioner that the Department's records indicated that Petitioner had an active registration for the Vehicle, but that the Department was unable to verify that acceptable insurance coverage was currently in place for it. The First Notice further provided that "failure to provide proof of insurance within 30 days of the date of this notice will result in a $25 coverage failure fee and future correspondence, along with instructions outlining the process for submission of proof of insurance to the Department.[6] A true and correct copy of the "First Notice" referenced in ¶ 5, above, is attached to the Declaration

[5] M. Anthony Decl. at ¶ 4 and Exh. B.; Dept. S.M.F. at ¶ 2. Petitioner responded to this statement of fact by "object[ing] to the form and premise of the question," but made "no objection or denial that, for respondent, this statement constitutes a material fact." Pet. S.M.F. Resp. at ¶ 2.

Tenn. R. Civ. P. 56.03 requires the responding party to respond to each of the opposing party's statements of undisputed material fact by doing one of three things: "(i) agreeing that the fact is undisputed, (ii) agreeing that the fact is undisputed for purposes of ruling on the motion for summary judgment only, or (iii) demonstrating that the fact is disputed." And a disputed fact "must be supported by specific citation to the record."

Petitioner has attempted to qualify his response by "object[ing] to the form and premise of the question," but offers no explanation for why the form and premise of Dept. S.M.F. No. 2 is flawed. Petitioner also misinterprets the statement as a question. Because Petitioner did not dispute the statement of fact and made no citation to the record that would support such a dispute, the Agency views his statement that he "makes no objection or denial that, for respondent, this statement constitutes a material fact" to be agreement that the fact is "undisputed for purposes of ruling on summary judgment" within the meaning of Rule 56.03.

[6] M. Anthony Decl. at ¶ 5 and Exh. C; Dept. S.M.F. at ¶ 3. Petitioner responded to this statement of fact by "object[ing] to the form and premise of the question," but made "no objection or denial that, for respondent, this statement constitutes a material fact." Pet. S.M.F. Resp. at ¶ 3. For the reasons given in footnote 5 above, the Agency views Petitioner's response as agreement that the fact is "undisputed for purposes of ruling on summary judgment" within the meaning of Rule 56.03.

of Merinda Anthony, submitted in support of the Department's motion for summary judgment, at Exhibit C.

6. On June 21, 2023, the Department issued a final notice to Petitioner regarding insurance coverage for the Vehicle (the "Final Notice"). The Final Notice advised Petitioner that the Department remained unable to confirm insurance coverage for the Vehicle and that Petitioner was therefore assessed a coverage failure fee of $25. The Final Notice further provided that "[f]ailure to provide proof of insurance within 30 days from the date of this notice will result in the assessment of an additional $100 coverage failure fee and suspension of your vehicle registration," along with instructions outlining the process for submission of proof of insurance to the Department.[7]

7. A true and correct copy of the "Final Notice" referenced in ¶ 7, above, is attached to the Declaration of Merinda Anthony, submitted in support of the Department's motion for summary judgment, at Exhibit D.

8. On July 21, 2023, the Department issued a vehicle registration suspension notice to Petitioner regarding the Vehicle (the "Vehicle Registration Suspension Notice"). The Vehicle Registration Suspension Notice notified Petitioner that the Department was unable to confirm insurance coverage for the Vehicle. The Vehicle Registration Suspension Notice further provided, "[y]ou have been assessed $125 in coverage failure fees, and your vehicle registration has been suspended. Two separate notices have been mailed to your attention on previous dates notifying

[7] M. Anthony Decl. at ¶ 6 and Exh. D; Dept. S.M.F. at ¶ 4. Petitioner responded to this statement of fact by "object[ing] to the form and premise of the question," but made "no objection or denial that, for respondent, this statement constitutes a material fact." Pet. S.M.F. Resp. at ¶ 4. For the reasons given in footnote 5 above, the Agency views Petitioner's response as agreement that the fact is "undisputed for purposes of ruling on summary judgment" within the meaning of Rule 56.03.

you of the coverage failure fees associated with failure to provide proof of insurance coverage or a verifiable exemption."[8]

9. A true and correct copy of the "Vehicle Registration Suspension Notice" referenced in ¶ 9, above, is attached to the Declaration of Merinda Anthony, submitted in support of the Department's motion for summary judgment, at Exhibit E.

10. On July 26, 2023, Petitioner submitted a request for an administrative hearing to contest the Department's suspension of his motor vehicle registration.[9]

11. As of the date of this filing, Petitioner has not submitted proof of insurance coverage for the Vehicle or other form of financial responsibility to the Department.[10]

CONCLUSIONS OF LAW

This matter was heard on the Department's Motion, the Administrative Judge having found the Department complied with the requirements of Tenn. R. Civ. P. 56 in filing its Motion. The Initial Order is now under agency review pursuant to Tenn. Code Ann. § 4-5-315(b).

SUMMARY JUDGMENT STANDARD

"Summary judgment is appropriate where no genuine issues of material fact exist, and the movant meets its burden of proving that it is entitled to a judgment as a matter of law."[11] Summary

[8] M. Anthony Decl. at ¶ 7 and Exh. E; Dept. S.M.F. at ¶ 5. Petitioner responded to this statement of fact by "object[ing] to the form and premise of the question," but made "no objection or denial that, for respondent, this statement constitutes a material fact." Pet. S.M.F. Resp. at ¶ 5. For the reasons given in footnote 5 above, the Agency views Petitioner's response as agreement that the fact is "undisputed for purposes of ruling on summary judgment" within the meaning of Rule 56.03.

[9] M. Anthony Decl. at ¶ 8 and Exh. F; Dept. S.M.F. at ¶ 6. Petitioner responded to this statement of fact by "object[ing] to the form and premise of the question," but made "no objection or denial that, for respondent, this statement constitutes a material fact." Pet. S.M.F. Resp. at ¶ 6. For the reasons given in footnote 5 above, the Agency views Petitioner's response as agreement that the fact is "undisputed for purposes of ruling on summary judgment" within the meaning of Rule 56.03. Moreover, the Agency has viewed the letter in question, and Petitioner has presented no basis for disputing the statement.

[10] M. Anthony Decl. at ¶ 9; Dept. S.M.F. at ¶ 7. Petitioner failed to respond to this statement, and the Agency views it as undisputed based on the Declaration of Merinda Anthony.

[11] *White v. Bradley County Gov't,* 639 S.W.3d 568, 576 (Tenn. Ct. App. 2021) (citing Tenn. R. Civ. P. 56.04*; Bryant*

judgment is also "a preferred vehicle for disposing of purely legal issues."[12] An award of summary judgment under Tenn. R. Civ. P. 56 requires "that the filings supporting the motion show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law."[13] The tribunal "must take the strongest view of the evidence in favor of the nonmoving party, allowing all reasonable inferences in its favor."[14]

DEPARTMENT'S ENTITLEMENT TO SUMMARY JUDGMENT AWARD

The Initial Order's award of summary judgment to the Department was correct if the suspension of the Petitioner's registration was within the Department's statutory authority. In the Initial Order, the Administrative Judge addressed in detail whether the Department had a factual and legal basis for suspending the Petitioner's registration and concluded that the Department did. Upon review, the Agency agrees with this conclusion, as detailed below.

1. The TFRL requires that vehicles subject to title and registration requirements be covered by an adequate form of financial responsibility.

In Tennessee, motor vehicle registration is a "condition precedent to the operation of any motor vehicle upon the streets or highways of this state." Tenn. Code Ann. § 55-4-101(a). Certain requirements accompany a registrant's obligation to keep their motor vehicle registration active, including the payment of annual registration renewal fees and other state and local fees and taxes.[15]

v. Bryant, 522 S.W.3d 392, 399 (Tenn. 2017)).

[12] *Id.* at 576-77 (citing *Hawkins v. Case Mgmt., Inc*., 165 S.W.3d 296, 299 (Tenn. Ct. App. 2004).

[13] *Id.* at 577 (citing Tenn. R. Civ. P. 56.04).

[14] *Id.* (citing *Perkins v. Metro. Gov't of Nashville*, 380 S.W.3d 73, 80 (Tenn. 2012).

[15] *See* Tenn. Code Ann. § 55-4-101(a)(2)("the registration and the fees provided for registration shall constitute a privilege tax on the operation of motor vehicles"). *See also* Tenn. Code Ann. § 55-4-111(a)(establishing a registration fee schedule); Tenn. Code Ann. § 5-8-102(b)(authorizing county governments to "levy for county purposes by action of its governing body a motor vehicle privilege tax as a condition precedent to the operation of a motor vehicle within the county.").

Additionally, owners and lessees of vehicles that are registered for on-road use must demonstrate financial responsibility, which is a term that refers to the registrant's established capacity to recompense injury or damage sustained in the event of an accident.

As explained in the Initial Order,[16] this requirement has been in place since the Tennessee General Assembly enacted Tenn. Code Ann. § 55-12-139 ("Section 139") in 2001, which requires registrants to maintain liability insurance coverage or other acceptable form of financial responsibility[17] on their vehicle and provide proof of financial responsibility upon request. *See* Tenn. Code Ann. § 55-12-139(a)(making compliance with financial responsibility requirements mandatory for "every vehicle subject to the registration and certificate of title provisions"); Tenn. Code Ann. § 55-12-139(c)(1)(providing that failure to provide evidence of financial responsibility is a misdemeanor offense).[18] The Agency concurs with the Administrative Judge's determination that the TFRL in Section 139 imposes a mandatory financial responsibility requirement on all vehicles subject to title and registration requirements.[19]

[16] Initial Order, p. 23 ("[I]n 2001, the General Assembly amended the TFRL by adding Section 55-12-139, which included subsection (a): Every vehicle driven on the highways of this state must be in compliance with the financial responsibility law. 2001 Tenn. Pub. Acts 292, § 1. The meaning of this language is unmistakable—the TFRL now applied to every vehicle driven on Tennessee highways, not just those that had been involved in a "qualifying accident" under Tenn. Code Ann. § 55-12-105 (consistent with the Department's reference, [the Administrative Judge refers] to this as the '2002 Language' because it went into effect on January 1, 2002).").

[17] Acceptable forms of financial responsibility include adequate liability insurance coverage, a qualifying bond, a cash deposit of $65,000, or a certificate of self-insurance. *See* Tenn. Code Ann. § 55-12-102(12)(D)(i); Tenn. Code Ann. § 55-12-119.

[18] Section 139 further directs law enforcement officers to request proof of financial responsibility in the event of a moving violation or accident. In the case of an accident, officers are directed to request proof of financial responsibility from all drivers involved, "without regard to apparent or actual fault." Tenn. Code Ann. § 55-12-139(b)(1)(A)-(B).

[19] *See* Initial Order, p. 30 ("Based on the plain language of Tenn. Code Ann. § 55-12-139(a) and the sequence of its initial version (the 2002 Language) and its revision (the 2005 Language), I conclude as a matter of law that all motor vehicles subject to Tennessee's vehicle registrations and certificate of title provisions are subject to the requirements of the Tennessee Financial Responsibility Law of 1977.").

2. The Atwood Law directs the Department to establish EIVS as an additional means of enforcing the TFRL, including granting registration suspension authority to the Department where the registrant does not cure noncompliance following a series of notices.

In 2015, the General Assembly enacted the Atwood Law, which requires the Department to "develop and implement an efficient insurance verification program" to verify whether registrants have satisfied their financial responsibility obligation with a liability insurance policy. Tenn. Code Ann. § 55-12-202. The Atwood Law directs the Department to check vehicle registrations against insurance company records to verify that active liability insurance coverage is in place for vehicles operating on Tennessee roads.[20] Tenn. Code Ann. § 55-12-210 ("Section 210") further states as follows:

> If there is evidence . . . that a motor vehicle is not insured, the department of revenue shall, or shall direct its designated agent to, provide notice to the owner of the motor vehicle that the owner has thirty (30) days from the date of the notice to provide to the department of revenue:
>
> (A) The owner or operator's proof of financial security in a form approved by the department of revenue;
>
> (B) Proof of exemption from the owner or operator's financial security requirements under this chapter;
>
> (C) Proof that the motor vehicle is no longer in the owner's possession; or
>
> (D) A statement, under penalty of perjury, that the vehicle is not in use on any public road.

Tenn. Code Ann. § 55-12-210(a)(1). The Request for Information described above is the first of four letters the Department is instructed to send to a registrant whose vehicle is identified by the EIVS Program as unconfirmed (the "EIVS Notices" or "Notices"). Tenn. Code Ann. § 55-12-

[20] Tenn. Code Ann. § 55-12-205 ("The program shall . . . Verify, on an on-demand basis . . . the liability insurance status of a motor vehicle, whose status is determined: (A) As of the time of the inquiry; or (B) At other times not exceeding six (6) months prior to the inquiry unless otherwise agreed upon by the commissioner of revenue, or its designated agent, and the insurer.").

210(a)-(c). Each of the EIVS Notices includes instructions about how a registrant may cure EIVS noncompliance by providing or obtaining proof of financial responsibility or by demonstrating an exclusion from EIVS requirements.[21] The first three Notices further advise that the registrant has 30 days to provide verification of financial responsibility or exemption, after which a subsequent notice will be issued and coverage failure fee imposed as applicable.[22]

In the event a registrant does not cure EIVS noncompliance after receiving the first three Notices, Section 210 directs that the Department issue a fourth Notice in which the Department "shall impose on the owner of the motor vehicle a one hundred-dollar continued coverage failure fee [and] . . . shall suspend or revoke the motor vehicle owner's registration." Tenn. Code Ann. § 55-12-210(c)(1)-(2). This statutory directive is clear—when the EIVS Program identifies a vehicle as unconfirmed and the registrant fails to cure EIVS noncompliance in response to the first three Notices, the Department is required to suspend the registration.

The facts in this cased align with the process described above. The EIVS Program identified the Petitioner's vehicle as unconfirmed. The Department initiated the notice procedures set forth in Section 210 as required, and the Petitioner failed to either provide proof of financial responsibility or demonstrate that he fits within an available exemption.[23] In accordance with its statutory mandate, the Department suspended the Petitioner's registration.[24] The Administrative

[21] Exclusions from EIVS requirements include vehicles that are not in use on Tennessee roads, vehicles covered under a commercial insurance policy, and vehicles that are no longer in possession of the registrant at issue. *See* Tenn. Code Ann. § 55-12-210(a)(1); Tenn. Code Ann. § 55-12-209(f)("This part shall not apply to motor vehicles insured under commercial automobile coverage.").

[22] *See* Tenn. Code Ann. § 55-12-210(a)-(c).

[23] Initial Order, Findings of Fact, ¶¶ 3-12.

[24] M. Anthony Decl. at ¶ 7 and Exh. E.

Judge concluded that the Department's suspension of the Petitioner's registration was within its statutory authority as explained below:

> I have concluded that the TFRL and the Atwood Law together authorize and direct the Department of Revenue to create the EIVS Program and use it to identify uninsured vehicles. And I have concluded that Tenn. Code Ann. § 55-12-210 specifically directs the Department, once it has identified those vehicles, to initiate a process through which vehicle owners can either document their compliance with the financial security requirements or have their vehicle registrations suspended or revoked. I must now determine whether the Department's actions in Petitioner's case complied with its statutory authority to issue the suspension. I conclude that they did and that the Department properly and lawfully suspended Petitioner's vehicle registration under Tenn. Code Ann. § 55-12-210.

Initial Order, p. 38.[25] The Agency agrees that the Department's suspension of the Petitioner's Vehicle registration was within its statutory authority under Section 210 and was properly undertaken in accordance with the Department's mandate.

3. <u>The Petitioner's reading of the TFRL and the Atwood Law is not supported by the plain language of the statutes or relevant case law.</u>

The Petitioner rejects the construction of the TFRL and the Atwood Law outlined in the two preceding sections. In Petitioner's view, the TFRL imposes a mandatory financial responsibility obligation only with respect to registrants that have been involved in an accident, with registrants otherwise free to "buy insurance—or not."[26] In support of his contentions,

[25] *See also* Initial Order, pp. 38-42 (noting that the Department's compliance with the notice procedures set forth in Section 210 is undisputed, as is Petitioner's registration status and the fact that he does not maintain liability insurance or other form of financial responsibility on the vehicle).

[26] Petitioner's Motion, p. 13 ("TFRL is an 'after-accident' and 'voluntary insurance' law. Owners of motor vehicles can buy insurance—or not. An accident-free motorist "is at liberty to own and operate a motor vehicle without any insurance coverage or with as little insurance coverage as desired. *McManus v. State Farm Mut. Auto. Ins. Co.*, 225 Tenn. at 109, 463 S.W.2d at 703. TFRL in Part 1 nowhere requires petitioner to show proof of financial security or financial responsibility absent a qualifying wreck, or decision by the commissioner of safety"); p. 24 ("[h]aving had no qualifying accident, [Petitioner] is not subject to TFRL.").

Petitioner cites to Tenn. Code Ann. §§ 55-12-104 and 105,[27] which describe the procedure followed by the Department of Safety and Homeland Security ("DSHS") in the event of an accident.[28] Petitioner believes that the EIVS Program should seek to verify insurance coverage only for those registrants that have been involved in an accident and accordingly fall within the scope of Tenn. Code Ann. §§ 55-12-104 and 105, rather than attempting to verify coverage for all vehicles with an active registration.[29] Petitioner similarly rejects the notion that Section 139 imposes a mandatory financial responsibility requirement on the general public.[30]

Petitioner's reading of the TFRL and the Atwood Law is not supported by a plain reading of the statutes at issue. As an initial matter, the post-accident reporting procedures administered by DSHS under the TFRL operate independently from the Department's administration of the EIVS Program under the Atwood Law. As explained by the Administrative Judge in the Initial Order and in the Order Denying Injunction:

> It is simply not plausible to conclude that, with the suspension grounds and process described in Tenn. Code Ann. §§ 55-12-104 and 105 already in place, the General Assembly would describe a separate process in [Section 210] that makes no mention of [DSHS] or of accidents and yet intend the separate process to operate only in conjunction with [DSHS] and the after-accident regime.

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[27] Petitioner's Motion, pp. 11-12 ("In administering the chapter, [DSHS] leads and revenue follows. By law, DOR receives notice from [DSHS] to revoke or suspend registrations of people who have been involved in a qualifying accident at 55-12-104 and -105 and yet who fail to prove financial responsibility. [DSHS] pulls the trigger. Respondent has a responsive and step-and-fetch-it secondary role.").

[28] See Tenn. Code Ann. § 55-12-105 ("The commissioner shall, upon receiving an accident report of an accident occurring in this state that has resulted in bodily injury, or death, or damage to the property . . . and upon determining that there is a reasonable possibility of a judgment against the owner . . . and upon receiving notice of a claim filed against the owner . . . revoke the license and shall request the commissioner of revenue to immediately revoke all registrations of the owner . . . of a motor vehicle involved in the accident . . . unless the operator, owner, or both, deposits security in a sum that shall be sufficient in the judgment of the commissione**r** . . . to satisfy any judgment or judgments resulting from the accident that may be recovered against the . . . owner.").

[29] Petitioner's Motion, p. 12 ("Atwood's electronic insurance verification system ('EIVS' or 'Eye of Sauron') allows the department to continually verify proof of motor vehicle liability policies from high-risk irresponsible drivers and operators subject to supervision of safety and revenue for violating T.C.A. § 55-12-105 or other laws such as DUI.")

[30] Petitioner's Motion, p. 25 ("[T]he general assembly does not convert Tennessee into a pre-accident, proof of financial security required mandatory insurance for all motorists state by the 2002 update in sect. 139.")

> Nothing in [Section 210] contradicts anything in Tenn. Code Ann. §§ 55-12-104 to 106. Both may operate fully in parallel with the other. Under §§ 55-12-104 to 106, suspension will occur under certain circumstances occurring after a motor vehicle accident. Under [Section 210], suspension may occur under an entirely different set of circumstances—the identification by the Department that a vehicle owner does not maintain liability insurance on the vehicle and fails to otherwise demonstrate financial responsibility satisfactory under the statute (or a lack of applicability of the statute).

Initial Order, p. 33; Order Denying Injunction, p. 10. Petitioner's view to the contrary imposes limitations on the EIVS Program that are not present in the text of Section 210.[31]

The Petitioner dismisses Section 139 as the source of a mandatory financial responsibility requirement imposed by the General Assembly in 2002, without engaging with the enacted version of subsection (a), which provided that "Every vehicle driven on the highways of this state must be in compliance with the financial responsibility law." 2001 Tenn. Pub. Acts 292, § 1. As recognized by the Administrative Judge, "the meaning of this language is unmistakable—the TFRL now applied to every vehicle driven on Tennessee highways, not just those that had been involved in a "qualifying accident" under Tenn. Code Ann. § 55-12-105.[32] In addition, Petitioner overlooks the indicia of legislative intent apparent in the sequential enactment of 2001 Tenn. Pub. Acts 292 and 2005 Tenn. Pub. Acts 401, as the text of these amendments "expand[ed] the application of the TRFL to, first, '[e]very vehicle driven on the highways of this state' and then to 'every vehicle subject to the registration and certificate of title provision." Initial Order, p. 26.[33]

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[31] Initial Order, p. 29 ("Because Section 55-12-139(a) imposes financial responsibility requirements on all vehicles subject to registration, the directive in Tenn. Code Ann. § 55-12-210(a) to identify vehicles without liability insurance coverage applies to all of those vehicles as well.").

[32] *See also* Initial Order, pp. 26 (explaining that the General Assembly's 2001 enactment of Tenn. Code Ann. § 55-12-139 represents a departure from the after-accident regime that existed previously, as "it is indisputable that Tennessee was no longer an after-accident state as of January 1, 2002").

[33] *See also* Initial Order, p. 25 ("If the General Assembly, only three years after changing the TFRL from an after-accident regime to one requiring financial responsibility as a prerequisite for almost all vehicles regularly using Tennessee roads, intended to reverse that course, it makes no sense to merely massage the verbiage of Section 139(a) when more obvious means are at hand, including repealing Section 139(a) entirely or making a clear pronouncement specifically referencing an accident as a condition precedent to the application of the TFRL. The General Assembly

Finally, the case law to which Petitioner cites in favor of his construction of the Financial Responsibility Laws does not provide support for his position. The majority of the cases Petitioner references were decided prior to the General Assembly's imposition of a mandatory financial responsibility requirement in 2002. As explained in the Initial Order, "[w]ith the enactment of Section 139(a), the 'after-accident' holdings in *McManus*[34] and other pre-2002 decisions cited by Petitioner were superseded by statute." Of the few post-2002 cases Petitioner offers, none demonstrate the persistence of an after-accident regime following the enactment of Section 139(a).[35] The Agency agrees with the Initial Order's conclusion that "there is no case law that contravenes [the Administrative Judge's] construction of the TFRL and the Atwood Law as applying the financial responsibility requirements to all vehicles subject to registration." Initial Order, p. 37.

4. Petitioner's alternative arguments do not articulate a basis for denying the Department's Motion.

As addressed above, the Petitioner's primary contention throughout the pendency of this contested case has been that he is only required to maintain financial responsibility on his Vehicle if he has been involved in an accident (or a moving violation). However, the Petitioner's Motion contains discussion of numerous adjacent claims, including the following:

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did not employ those means. Instead, it modified the universe of vehicles covered by the subsection and reiterated that they are subject to 'this chapter,' i.e., the requirements of financial responsibility laid out in the chapter. **Section 139(a) remains a clean break between the after-accident regime that prevailed before 2001 and the current era in which financial responsibility is required for operating vehicles on Tennessee highways."**) (emphasis added).

[34] *See McManus v. State Farm Mut. Auto Ins. Co.*, 463 S.W.2d 702, 703 (Tenn. 1971).

[35] *See Tennessee Farmers Mutual Insurance Company v. Debruce*, 2018 WL 3773912 (2018) (rev'd on other grounds, 586 S.W.3d 901 at *6 (Tenn. 2019))("Tennessee law requires drivers to maintain acceptable proof of financial responsibility as defined by the Tennessee Financial Responsibility Law of 1977 . . . [the TFRL does not] by its express terms, require drivers to obtain liability insurance in order to comply, the Law clearly contemplates that most drivers will comply by purchasing liability insurance."); *Purkey v. American Home Assurance Company*, 173 S.W.3d 703, 704 (Tenn. 2005)(discussing financial responsibility compliance after an accident because the situation presented involved an accident).

i. The Department's suspension of Petitioner's registration is in conflict with the state and federal constitutions in terms of due process;[36]

ii. The Petitioner has a fundamental right to the private operation of his Vehicle on Tennessee roads;[37]

iii. The Department's suspension of Petitioner's registration is a violation of purported rights of ingress and egress;[38]

iv. The Department's "denial of the use of Petitioner's car infringes on his property rights in his occupation as a press member;"[39] and

v. The Department's operation of the EIVS Program is unconstitutional.[40]

Each of these secondary claims is addressed in detail in the Initial Order at the reference points provided above. The Agency concurs in whole with the Administrative Judge's determinations on these matters and incorporates the cited portions of the Initial Order herein as if fully set forth.

Notwithstanding the above, the Request for Agency Review also includes significant discussion of a newly articulated argument advanced by Petitioner related to alleged certification requirements for liability insurance policies accepted by the Department as proof of financial responsibility for purposes of EIVS compliance. As the Department noted in its Brief on Agency Review filed April 9, 2025, Petitioner's Motion does not meaningfully assert any argument relating to policy certification.[41] As Petitioner's Motion did not raise the issue, the Initial Order does not

[36] *See* Initial Order, pp. 43-45.

[37] *See id*. at pp. 45-49.

[38] *See id.* at pp. 50-51.

[39] *See id.* at pp. 51-53.

[40] *See id.* at pp. 53-54.

[41] *See* Brief on Agency Review, p. 10, fn 11 ("Petitioner's Motion and supporting materials comprise over 250 pages of briefing, focusing primarily on his contention that Tennessee is an after-accident state. Petitioner's only substantive discussion of his New Theory in his summary judgment submissions is the following paragraph from his 'Brief on abrogated laws in support of motion for summary judgment:'

> Only "certified" policies in view — Insurers of record are those who sell motor vehicle liability insurance policies per § 55-12-122 contents of policies, suitable for SR-22 certification meeting requirements of § 55-12-102 . . . DOR revokes petitioner's registration after he stopped carrying insurance. But because he hadn't had a "certified" policy (not being under TFRL suspension), his ceasing to be a State Farm Insurance customer is of no concern to respondent. Few, if any, of the 1

address Petitioner's contentions related to policy certification included in his Request for Agency Review. In its Brief on Agency Review, the Department takes the view that Petitioner's certification argument is waived:

> Petitioner's failure to articulate his New Theory in terms of warranting an award of summary judgment in his favor or forming the basis for a denial of the Department's motion for summary judgment . . . precludes him from raising it at this stage.

Brief on Agency Review, pp. 9-10 (citing *Save Our Fairgrounds v. Metropolitan Government of Nashville*, 2019 WL 3231381 at *5 (Tenn. Ct. App. July 18, 2019)); *Sneed v. Bd. of Prof'l Responsibility of Supreme Court*, 301 S.W.3d 603, 615 (Tenn. 2010)).

The Agency agrees that Petitioner has waived any arguments not made at summary judgment. Nevertheless, the Agency will address the assertions in the Request for Agency Review for purposes of providing a complete record on any appeal. The Agency finds that Petitioner's argument regarding policy certification is not well taken. Petitioner asserts that insurance policies verified by the EIVS Program are not "certified" within the meaning of the TFRL,[42] and thus do not qualify as "proof of financial responsibility" for purposes of EIVS compliance.[43] The Department correctly notes that "Petitioner does not specify whether or why the alleged deficiency in coverage certification should result in the reinstatement of his vehicle registration" and further asserts as follows:

> [T]his appears to be another critique of the Department's administration of the EIVS Program as not sufficiently in tune with Part 1. Here too, Petitioner

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> million registrants in Tennessee threatened with criminal prosecution have — or had — "certified" policies, nor are — were — required to. People required to buy insurance on condition of regaining the privilege all have motor vehicle liability policies the companies "certify" with the SR-22 form, delivered to DOSHS.

(*citing* Brief on abrogated laws in support of motion for summary judgment, p. 9).

[42] *See* Tenn. Code Ann. § 55-12-102(7).

[43] *See* Request for Agency Review, pp. 5-16.

> mistakenly assumes that certain Part 1 provisions have bearing on the Department's administration of EIVS under Part 2, when in fact they do not.[44]

Brief on Agency Review, p. 10. The Agency agrees that Petitioner's arguments related to policy certification are a continuation of his pattern to conflate the requirements of the TFRL with the requirements of the Atwood Law. As explained above and at length in the Initial Order, the TFRL and the Atwood law create "independent and parallel processes" for enforcing financial responsibility requirements in Tennessee. Initial Order, p. 34. As the Department's administration of the EIVS Program is in accordance with the Atwood Law, Petitioner's arguments related to policy certification language found in the TFRL do not warrant adjustment of the Initial Order.

CONCLUSION

Based on the undisputed material facts, the Department complied with the directives in Section 210 in determining that Petitioner did not maintain liability insurance and did not otherwise provide evidence of compliance with Tennessee's financial responsibility law. Furthermore, the Department issued the statutorily required Notices and appropriately suspended Petitioner's registration upon his failure to respond to the Notices by providing proof of financial responsibility or applicable exclusion from financial responsibility requirements. As a matter of law, the Department properly suspended the Petitioner's Vehicle registration as required by Section 210.

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[44] *See also* Brief on Agency Review, p. 11 ("In Petitioner's view, the only form of liability insurance coverage that is "certified" are those policies for which an insurance company has completed an ['SR-22'] form deliverable to DSHS as part of its post-accident reporting procedures under Tenn. Code Ann. §§ 55-12-104 – 106. *See* Request for Agency Review, p. 5. Specifically, Petitioner points to the definition for "motor vehicle liability policy" in Tenn. Code Ann. § 55-12-102(7), which is as follows: [A]n "owner's policy" or "operator's policy" of liability insurance, certified as provided in § 55-12-120 or § 55-12-121 as proof of financial responsibility, and issued, except as otherwise provided in § 55-12-121 by an insurance carrier duly licensed or admitted to transact business in this state, to or for the benefit of the person named therein as insured. However, Petitioner provides no support or citation for his contention that only SR-22 policies are 'certified' within the meaning of this definition. The word 'certified' is not a defined term for purposes of Chapter 12. Similarly, Petitioner does not explain how the EIVS Program's verification of what he considers to be a lower tier of liability insurance coverage than what is required under Part 1 impacts the Department's action in suspending his registration. The Petitioner does not carry any form of liability insurance coverage on the Vehicle—SR-22 or otherwise.").

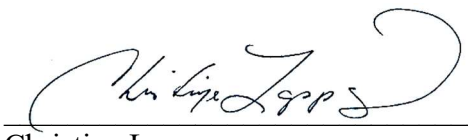
Based on the foregoing, it is hereby ORDERED that:

1. The Petition is denied and dismissed;

2. This order is final as provided by law; and

3. Review of this order is authorized as provided in Tenn. Code Ann. § 4-5-322.

Entered and effective this 5th day of June, 2025.



Christine Lapps
Deputy Commissioner
Tennessee Department of Revenue
500 Deaderick Street
Nashville, TN 37242

CERTIFICATE OF SERVICE

I certify that I have served a true and exact copy of the foregoing "Final Order Upon Agency Review" upon the interested parties via electronic mail to:

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on this the 5th day of June, 2024.

Tammy Crook

Tammy Crook
Executive Assistant to the Commissioner

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order or within fifteen (15) days after the entry date of a Final Order by the agency, a party may petition the agency for reconsideration of the Final Order. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. *See* Tenn. Code Ann. § 4-5-317.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. *See* Tenn. Code Ann. § 4-5-316.

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in the chancery court of Davidson County, unless another court is specified by statute, within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty-day period if the petition is not granted.)

The reviewing court may order a stay of the Final Order upon appropriate terms. *See* Tenn. Code Ann. §§ 4-5-322 and 4-5-317.