



Office of the Governor
Regulatory Compliance Division
Rule Submission Memorandum

To: Erin Bennett, Regulatory Compliance Division Director

From: Aline Aucoin, Acting General Counsel

Date: May 3, 2022

Subject: 43 TAC §211.6

The Texas Department of Motor Vehicles (department) proposed new 43 Texas Administrative Code §211.6 in the April 22, 2022, issue of the *Texas Register* (47 *TexReg.* 2122). The proposed rule may affect market competition and is, thus, submitted to the Regulatory Compliance Division for review.

To facilitate the Regulatory Compliance Division's review of the proposed rule, the department provides answers to the following questions.

1. Briefly describe the proposed rule.

The department proposes new §211.6 concerning fingerprint requirements for license applicants for and holders of a general distinguishing number (GDN) under Transportation Code Chapter 503 for all dealer types under Transportation Code §503.029(a)(6).

2. What is the purpose of the proposed rule?

The purpose of the proposed rule is to prevent fraud in the application process by verifying an applicant's identity through submitted fingerprints and obtaining a complete and comprehensive Texas Department of Public Safety (DPS) and Federal Bureau of Investigation (FBI) criminal background check.

The department currently has access, via a name-based search, to the criminal history record information that DPS maintains. However, criminals can circumvent the name-based background check by using false or stolen identities. A fingerprint-based background check increases the likelihood that the department can verify the identity of the applicant, as well as the applicant's representatives who are included in the license application. The fingerprints would be collected through a service that requires the individual to be present and show identification prior to having their fingerprints collected electronically. The department must be able to verify the identity of the applicant, as well as its representatives who are listed in the application, to properly administer Transportation Code §503.034 and Occupations Code §53.021. For GDN applications, the department

also checks each person listed on the application for possible affiliation with any other individual, business entity, or license that may have been deemed unfit to hold a license.

The fingerprint-based background check will also be used to evaluate the applicant's criminal history under the department's criminal offense guidelines in 43 TAC §211.3. The DPS criminal history record information is limited to crimes committed in Texas. The FBI criminal history record information includes crimes committed in other states, as well as federal crimes. Human and drug trafficking crimes are commonly prosecuted on a federal level. Also, the FBI fingerprint-based criminal history background check enables the department to obtain the FBI "Rap Back" subscription service, which notifies the department when a person's criminal history record has changed. DPS also provides a "Rap Back" service, which requires fingerprints. The department intends to use information from the FBI and DPS Rap Back services to determine if an associated license should be revoked or not renewed as authorized under applicable statutes and department rules.

The department must be able to verify the identity of the license holder and to obtain relevant criminal history record information on the license holder, as well as its representatives who are listed in the application, to properly administer Transportation Code §503.038 and Occupations Code §53.021 and §2301.651.

3. Describe any relevant factual background to the proposed rule and the impetus for the state agency to consider rulemaking.

The impetus for proposed new §211.6 was the recent bad actor license holders that have taken advantage of their licenses by printing fraudulent temporary tags, which enable criminals to operate stolen vehicles, facilitating crimes such as human and drug trafficking. Criminals use fraudulently obtained temporary tags that are registered under fake names and addresses to make it harder for law enforcement to trace the vehicles. Fraudulent temporary tags are also used to operate motor vehicles that violate environmental and safety regulations, thus endangering the public. The proposed rule applies to all dealer types under Transportation Code §503.029(a)(6), all of which have access to the department's system through which temporary tags can be issued.

The proposed new §211.6 is also designed to protect the public even when a fraudulent temporary tag is not at issue. Licenses issued by the department create positions of trust. Abuse of this trust provides license holders opportunities to engage in fraud, theft, money laundering and related crimes. In addition, licensure provides persons who are predisposed to commit assaultive or sexual crimes with greater opportunities to engage in such conduct.

Holders of a GDN license for all dealer types under Transportation Code §503.029(a)(6), as well as their representatives, provide services that involve access to confidential information, conveyance, titling, and registration of private property. Further, license holders and their representatives obtain possession of monies belonging to or owed to private individuals, creditors, and governmental entities. Lastly, license holders and their representatives must comply with federal and state environmental and safety regulations.

When the department adopted current Chapter 211, it determined which offenses directly relate to the duties and responsibilities of license holders and their representatives, either because the offense entails a violation of the public trust; issuance of a license would provide an opportunity to engage in further criminal activity of the same type; or the offense demonstrates the person's inability to act with honesty, trustworthiness, and integrity. Such offenses include crimes under the laws of another state and the United States. In proposing new §211.6, the department determined that requiring fingerprints to verify identity and obtain a comprehensive

DPS and FBI criminal history record for applicants for and holders of licenses, along with their representatives, will prevent individuals with disqualifying criminal histories from being licensed or renewing their licenses, thus substantially decreasing fraud and providing enhanced protection for citizens of Texas.

4. Describe the legal authority for the proposed rule.

a. Is the proposed rule specifically required or authorized by state statute? If so, list the statute(s).

The proposed rule is not specifically required by state statute; however, it is authorized by state statute. The department proposes new §211.6 under its rulemaking authority under Occupations Code §2301.155; and Transportation Code §503.002 and §1002.001. Subchapter F of Government Code Chapter 411 authorizes the department to obtain criminal history record information from the FBI using a fingerprint-based search. The proposed rule implements the department's authority under Government Code §§411.084, 411.087 and 411.122.

b. Is the proposed rule within the scope of the state agency's general authority to regulate in a given occupation or industry? If so, describe how the rule is within the scope, and reference the applicable state statute(s).

The proposed rule is within the scope of the department's general authority to regulate in a given industry. The department is authorized to grant or deny a GDN to an applicant under Transportation Code §503.034 and Occupations Code §53.021. The department is also authorized to cancel a GDN under Transportation Code §503.038. The department is further authorized to revoke or suspend a GDN under Occupations Code §53.021 and §2301.651.

Occupations Code §2301.155 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code Chapter 2301 and to govern practice and procedure before the board.

Transportation Code §503.002 authorizes the board to adopt rules for the administration of Transportation Code Chapter 503.

Transportation Code §1002.001, authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department must be able to verify the identity of the applicant, as well as its representatives who are listed in the application, to properly administer Transportation Code §503.034 and Occupations Code §53.021. The department must be able to verify the identity of the license holder and to obtain relevant criminal history record information on the license holder, as well as its representatives who are listed in the application, to properly administer Transportation Code §503.038 and Occupations Code §53.021 and §2301.651.

5. Describe the process that the state agency followed in developing the proposed rule, including any public hearings held, public comments invited, studies conducted, and data collected or analyzed.

The department reviewed fingerprinting rules that other state agencies adopted, as well as information on other state agency websites regarding their fingerprinting requirements for a license. See Appendix D of the eBook for the department's Motor Vehicle Industry Regulation Advisory Committee (MVIRAC) meeting on December 16, 2021.

The MVIRAC voted at its December 16, 2021, meeting to recommend that the department pass a rule to require all new independent dealer applicants to be electronically fingerprinted at their expense with a records review by the department's licensing staff prior to being issued a GDN. Although the MVIRAC talked about fingerprinting requirements at meetings prior to December 16, 2021, fingerprinting requirements were not expressly included as an agenda item for the prior MVIRAC meetings, and the MVIRAC did not take any action regarding fingerprinting prior to December 16, 2021.

The department talked to DPS regarding whether the department was eligible to obtain criminal history record information from the FBI under Government Code Chapter 411. Government Code §411.087(d) requires a complete set of the individual's fingerprints and a fee approved by the FBI to obtain the criminal history record information from the FBI. DPS confirmed that the department is eligible to obtain criminal history record information from the FBI under Government Code Chapter 411.

The board of the Texas Department of Motor Vehicles (board), in an open meeting on January 27, 2022, voted to authorize the department to initiate rulemaking to require fingerprinting of applicants for a franchised or independent dealer GDN, as well as for existing licensees who apply to renew their franchised or independent dealer GDN. Although the board of the Texas Department of Motor Vehicles talked about fingerprinting requirements at meetings prior to January 27, 2022, fingerprinting requirements were not expressly included as an agenda item for the prior meetings, and the board did not take any action regarding fingerprinting prior to January 27, 2022.

The department analyzed data regarding three different approaches to fingerprinting applicants: 1) fingerprinting all license holders; 2) only fingerprinting license holders whose licenses allow eTAG access (the system that produces temporary tags); and 3) only fingerprinting independent motor vehicle dealers. See Agenda Item #11.C in the eBook for the board meeting dated February 10, 2022.

The department met with several law enforcement agencies throughout the state. These law enforcement agencies think that this fingerprinting rule is the single most important solution to curtail temporary tag fraud and should solve more than 90 percent of the problem that exists today regarding temporary tag fraud. The department previously reduced temporary tag fraud by adopting rules, such as 43 TAC §215.152 to limit the number of temporary tags a person may issue from the department's temporary tag system, as well as 43 TAC §215.505 to deny access to the department's temporary tag system for fraudulently obtained temporary tags.

The department proposed new 43 Texas Administrative Code §211.6 in the April 22, 2022, issue of the *Texas Register* (47 *TexReg.* 2122). The department received one comment as of May 2, 2022.

6. Describe the harm that the proposed rule is intended to address and how the proposed rule will address the harm. If applicable, attach any documentation or records of the harm.

See responses to questions #2 and #3 above.

7. Do any less restrictive alternatives to the proposed rule exist for addressing the same harm? If so, include a comparison of the proposed rule to the alternatives and a justification for not pursuing a less restrictive alternative. If no less restrictive alternatives exist, explain why.

A less restrictive alternative does not exist. See responses to questions #2 and #3 above.

Even though the Office of Consumer Credit Commissioner (OCCC) obtains a fingerprint-based criminal history record search on its applicants that are motor vehicle dealers that want to engage in sales financing through retail installment contracts, the OCCC is not authorized to share the applicant's criminal history record information with the department under Government Code §411.087(d)(1). Because state agencies aren't authorized to share an applicant's criminal history record information with other state agencies, the OCCC requires applicants to submit fingerprints under 7 TAC §84.602(2)(A)(v) even though the applicant previously submitted fingerprints to another state agency.

Also, the OCCC rule (7 TAC §84.613) under Occupations Code §53.021 is different than the department's rules (43 TAC §211.1, *et seq.*) under Occupations Code §53.021. For example, §211.3(d)(5) and (6) contain the following offenses that render a dealer unfit to hold a license; however, these offenses don't appear to be included in §84.613: felony offenses under a state or federal statute or regulation involving the manufacture of motor vehicles or related to emissions standards, waste disposal, water contamination, air pollution, or other environmental offenses. It is possible that OCCC would issue a license to an applicant that the department would deny because our rules are different regarding the offenses for which a licensing authority may disqualify an applicant for a license under Occupations Code §53.021.

In addition, the department needs the RAP back subscription for both the DPS and FBI criminal history record information as described in response to question #2 above. The department must be able to obtain relevant criminal history record information on the license holder, as well as its representatives who are listed in the application, to properly administer Transportation Code §503.038 and Occupations Code §53.021 and §2301.651. There is no guarantee that a license holder under OCCC's statutes will continue to be a license holder with OCCC for the entire duration that the license holder has a GDN from the department. Further, it would put an unnecessary burden on OCCC to provide information to the department that the department can obtain from DPS.

8. Indicate how the proposed rule affects market competition (See Section 57.105(d), Texas Occupations Code).

The proposal:

- It creates a barrier to market participation in the state.
- It results in higher prices or reduced competition for a product or service provided by or to a license holder in the state.
- It both creates a barrier to market participation in the state and results in higher prices or reduced competition for a product or service provided by or to a license holder in the state.

9. Describe the specific impact that the proposed rule will have on market competition and how that effect is consistent with state policy as established by the Legislature in state statute.

The proposed rule may impact market competition because it may result in a higher cost to obtain or maintain a GDN. Transportation Code §503.021 says a person may not engage in the business as a dealer without a dealer GDN in one of the categories described by Transportation Code §503.029(a)(6) for each location from which the person conducts business as a dealer. A “dealer” is defined in Transportation Code §503.001(4) as a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location. The proposed rule does not establish the fee for obtaining the fingerprint-based criminal history record information. However, the proposed rule imposes the requirement that the applicant, as well as the applicant’s representatives who are required to be listed on the application under 43 TAC §215.133(c), must submit fingerprints and pay the fee to the DPS-authorized service provider. The applicant’s representatives who are required to be included on the application include the applicant's or holder's officers, directors, members, managers, trustees, partners, principals, or managers of business affairs.

New §211.6(b) requires all persons applying for a new license, license amendment due to change in ownership, or license renewal, to submit a complete and acceptable set of fingerprints to DPS and pay required fees for the purposes of obtaining criminal history record information from DPS and the FBI, unless previously submitted to the department by an applicant for an active license issued by the department under Transportation Code Chapter 503. Stated differently, the applicant and its representatives who are required to be listed on a licensing application are only required to submit their fingerprints once if an active license is maintained. The DPS-authorized service provider currently charges approximately \$38.25 per person for the fingerprinting service.

All applicants for a dealer GDN and all dealer GDN holders who apply for an amendment to their license or for the renewal of their license under Transportation Code §503.029 must comply with proposed new §211.6. Both franchised and independent dealers are eligible to sell used vehicles. Also, if the department only requires applicants for and holders of an independent dealer GDN to comply with proposed new §211.6, criminals may apply for a franchised dealer GDN with a stolen or false identity. Importantly, our existing background check process has found franchised dealer GDN applicants that have been convicted of other forms of fraud and serious crimes, so a fingerprint requirement is warranted and will provide increased protection for the citizen of Texas. These crimes include:

- Aggravated Assault Causing Serious Bodily Injury
- Deadly Conduct
- Delivery of Controlled Substance - Cocaine
- Forgery of a Government Instrument
- Making a False Statement to a Bank (Federal Charge)
- Tampering with a Government Record
- Theft of Property Greater than \$200,000

The effect of this rule is consistent with state policy as established by the Legislature in state statute. The legislature provided the department with the statutory authority for this rule as stated in response to question #4. The department must be able to verify the identity of the applicant, as well as its representatives who are listed in the application, to determine whether to issue or deny the application for a dealer GDN under Transportation Code §503.034 and Occupations Code §53.021. The department must be able to verify the identity of the license holder and to obtain relevant criminal history record information on the license holder, as well as its representatives who are listed in the application, to properly administer Transportation Code §503.038 and Occupations Code §53.021 and §2301.651.

10. Does the proposed rule relate to a question that is the subject of an opinion request pending before the Office of the Attorney General? Does the proposed rule relate to an opinion previously issued by the Office of the Attorney General?

No, the proposed rule does not relate to a question that is the subject of an opinion request pending before the Office of the Attorney General or to an opinion previously issued by the Office of the Attorney General.

11. Does the proposed rule relate to a matter on which there is pending litigation or a final court order?

The department does not have any evidence that the proposed rule relates to a matter on which there is pending litigation or a final court order.

12. Is there anything else that you would like the Regulatory Compliance Division to know about the proposed rule?

The department respectfully requests an expedited review. The department would like to request our board to approve the adoption of this rule at the June 2022 board meeting. At the February 10, 2022, board meeting, the board requested the department to move quickly on the fingerprinting rule and to bring the rule back to the board for adoption as quickly as possible. The rule will reduce fraud and criminal activity.

Also attached are the following documents, which provide additional information regarding proposed new §211.6:

1. Excerpts from the MVIRAC eBook for the December 16, 2021, meeting
2. Excerpts from the MVIRAC transcript for the December 16, 2021, meeting
3. Excerpts from the TxDMV Board eBook for the January 27, 2022, meeting
4. Excerpts from the TxDMV Board transcript for the January 27, 2022, meeting
5. Excerpts from the TxDMV Board eBook for the February 10, 2022, meeting
6. Excerpts from the TxDMV Board transcript for the February 10, 2022, meeting
7. Comment from David Kohler on May 2, 2022, regarding proposed new §211.6 as published in the April 22, 2022, issue of the Texas Register (47 TexReg. 2122)

Sincerely,

Aline Aucoin
Acting General Counsel
Texas Department of Motor Vehicles

testing and management protocols prescribed by the department following a trap site assessment performed by the department that stipulates specific testing and management protocols the department deems necessary to assure that adequate disease surveillance exists and will be maintained at the trap site.

(4) In addition to the testing requirements prescribed elsewhere in this section, all deer trapped under the provisions of a Triple T permit must be subjected to ante-mortem testing as provided by this paragraph and the applicable provisions of §65.92 of this title (relating to CWD Testing).

(A) An ante-mortem test sample under this section:

(i) may be collected from a deer of any age;

(ii) must be collected after trapping and prior to transport; and

(iii) is not valid unless it is submitted within seven days of collection.

(B) Deer may be transported immediately following the collection of the test samples required by this paragraph.

(C) In the event that a test result of "insufficient follicles" is returned for a sample submitted to comply with the requirements of this paragraph, the department will not issue additional Triple T permits for the associated trap site until sufficient post-mortem tests on deer at the trap site have been submitted at a 1:1 ratio. The provisions of this subparagraph are in addition to any other testing requirements imposed by this section.

(D) Failure to submit a test sample or meet a testing requirement under this paragraph will result in the associated trap site being ineligible to be a trap site for Triple T permit activities until testing has been conducted in compliance with a custom testing plan developed by the department.

(E) It is an offense to transport or release a deer under the provisions of this section unless the tissue sample required by this section has been collected.

(c) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 11, 2022.

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James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 211. CRIMINAL HISTORY OFFENSE AND ACTION ON LICENSE

SUBCHAPTER A. CRIMINAL OFFENSE AND ACTION ON LICENSE

43 TAC §211.6

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes new §211.6 concerning fingerprint requirements for licensing applicants for and holders of a general distinguishing number (GDN) under Transportation Code Chapter 503 for all dealer types under Transportation Code §503.029(a)(6). The amendments are necessary to prevent fraud in the application process by verifying an applicant's identity through submitted fingerprints and obtaining a complete and comprehensive Texas Department of Public Safety (DPS) and Federal Bureau of Investigation (FBI) criminal background check.

EXPLANATION. The fingerprint requirements for licensing proposed in new §211.6 are intended to prevent and detect fraud in the application process by requiring certain license applicants to be fingerprinted as part of the application process. The fingerprints will be used to generate an FBI criminal history report which will verify the applicant's identity and be used in evaluating the applicant's criminal history under the department's criminal offense guidelines in §211.3 of this chapter.

Licenses issued by the department create positions of trust. Abuse of this trust provides license holders opportunities to engage in fraud, theft, money laundering and related crimes. Recently, bad actor license holders have taken advantage of their licenses by printing fraudulent temporary tags, which enable criminals to operate stolen vehicles, facilitating crimes such as human and drug trafficking. Criminals use fraudulently obtained temporary tags that are registered under fake names and addresses to make it harder for law enforcement to trace the vehicles. Fraudulent temporary tags are also used to operate motor vehicles that violate environmental and safety regulations, thus endangering the public. In addition, licensure provides persons who are predisposed to commit assaultive or sexual crimes with greater opportunities to engage in such conduct. Fingerprint requirements will help the department better screen potential bad actors with criminal offense histories by verifying the identity of the applicant and producing a more accurate and comprehensive criminal history report based on data from both DPS and FBI databases. The FBI fingerprint-based criminal history record information includes crimes that are committed in other states, in addition to human and drug trafficking crimes, which are commonly prosecuted on a federal level. Fingerprinting will also help prevent license holders whose licenses have been revoked from re-applying using a false identity. Further, the FBI fingerprint-based criminal history background check enables the department to obtain the FBI and DPS "Rap Back" subscription services, which notify the department when a person's criminal history record has changed. The department intends to use information from the FBI and DPS Rap Back services to determine if an associated license should be revoked or not renewed as authorized under applicable statutes and department rules.

The following paragraphs address the amendments in this proposal.

New §211.6(a) is added to state that the proposed fingerprint requirements apply to applicants for and holders of a GDN for all dealer types under Transportation Code §503.029(a)(6). These license holders and their representatives provide services that involve access to confidential information, conveyance, titling, and registration of private property. Further, license holders and

their representatives obtain possession of monies belonging to or owed to private individuals, creditors, and governmental entities. Lastly, license holders and their representatives must comply with federal and state environmental and safety regulations. When the department adopted current Chapter 211, it determined which offenses directly relate to the duties and responsibilities of license holders and their representatives, either because the offense entails a violation of the public trust; issuance of a license would provide an opportunity to engage in further criminal activity of the same type; or the offense demonstrates the person's inability to act with honesty, trustworthiness, and integrity. Such offenses include crimes under the laws of another state and the United States. In proposing new §211.6, the department determined that requiring a biometric identifier to verify identity and obtain a comprehensive DPS and FBI criminal history record for applicants for and holders of licenses, along with their representatives, will prevent individuals with disqualifying criminal histories from being licensed or renewing their licenses, thus substantially decreasing fraud and providing enhanced protection for citizens of Texas.

New §211.6(b) requires all persons applying for a new license, license amendment due to change in ownership, or license renewal, to submit a complete and acceptable set of fingerprints to DPS and pay required fees for purposes of obtaining criminal history record information from DPS and the FBI.

New §211.6(c) requires that persons who are acting at the time of application, or will later act, in a representative capacity for an applicant or holder of a license, including the applicant's or holder's officers, directors, members, managers, trustees, partners, principals, or managers of business affairs, must also submit a complete and acceptable set of fingerprints and pay fees to DPS as described by new §211.6(b). New §211.6(c) is consistent with §211.2(a)(2) of this chapter because it lists the same representatives for an applicant or holder of a license.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the proposed new section is in effect, there will be no significant fiscal impact to the state or local governments as a result of the enforcement or administration of the proposal.

Monique Johnston, Director of the Motor Vehicle Division, has determined that there will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Ms. Johnston has also determined that, for each year of the first five years the proposed new section is in effect, there are several public benefits anticipated because the proposed new section will allow the department to verify the identity of license applicants, preventing fraudulent applications under false or stolen identities, while giving the department access to more accurate and comprehensive criminal history record information to use in evaluating fitness for licensure under its criminal offense guidelines in §211.3. This new section will benefit the public by preventing bad actors with a history of criminal offenses that directly relate to the duties and responsibilities of a license holder from obtaining licenses from the department and using those licenses to perpetrate fraudulent and criminal actions, or otherwise taking advantage of the position of trust created by the license.

Ms. Johnston anticipates that there will be no additional costs on regulated persons to comply with the fingerprint requirements under this proposal as the new section does not establish fees for

fingerprinting or processing criminal background checks. Fees for fingerprinting and access to criminal history reports are established by DPS under the authority of Texas Government Code Chapter 411.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. In the cost analysis in the Public Benefit and Cost Note section of this proposal, the department has determined that proposed new §211.6 will not result in additional costs for license holders, including any small businesses, micro-businesses, or rural communities. Therefore, the department is not required to prepare a regulatory flexibility analysis under Government Code §2006.002.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed new section is in effect, the proposed rule:

- will not create or eliminate a government program;
- will require the creation of at least one new employee position, and will not require the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the department;
- will not require an increase or decrease in fees paid to the department;
- will expand existing regulations;
- will not repeal existing regulations;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on May 22, 2020. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

STATUTORY AUTHORITY. The department proposes new §211.6 under Occupations Code §2301.155; and Transportation Code §503.002 and §1002.001.

Occupations Code §2301.155 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code Chapter 2301 and to govern practice and procedure before the board.

Transportation Code §503.002 authorizes the board to adopt rules for the administration of Transportation Code Chapter 503.

Transportation Code §1002.001, authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. Occupations Code §2301.651; Transportation Code §503.034 and §503.038; and Government Code §§411.084, 411.087 and 411.122.

§211.6. Fingerprint Requirements for General Distinguishing Numbers.

(a) The requirements of this section apply to applicants for and holders of a general distinguishing number under Transportation Code Chapter 503 for all dealer types under Transportation Code §503.029(a)(6).

(b) Unless previously submitted to the department by an applicant for an active license issued by the department under Transportation Code Chapter 503, a person applying for a new license, license amendment due to change in ownership, or license renewal, must submit a complete and acceptable set of fingerprints to the Texas Department of Public Safety and pay required fees for purposes of obtaining criminal history record information from the Texas Department of Public Safety and the Federal Bureau of Investigation.

(c) Persons acting in a representative capacity for an applicant or holder of a license who are required to be listed on a licensing application under §215.133(c) of this title (relating to General Distinguish-

ing Number), including the applicant's or holder's officers, directors, members, managers, trustees, partners, principals, or managers of business affairs, must submit a complete and acceptable set of fingerprints and pay fees to the Texas Department of Public Safety under subsection (b) of this section, unless the person has previously submitted fingerprints related to an active license issued by the department under Transportation Code Chapter 503.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Texas Department of Motor Vehicles

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For further information, please call: (512) 656-1463

