



Office of the Governor
Regulatory Compliance Division
Rule Submission Memorandum

To: Erin Bennett, Regulatory Compliance Division Director

From: Tracey Beaver, General Counsel

Date: November 15, 2021

Subject: 43 TAC §215.152 and §215.158

The Texas Department of Motor Vehicles has proposed a rulemaking for amendments to 43 TAC §215.152 and §215.158 concerning the maximum number of temporary tags that a dealer or converter may issue from the temporary tag database, in the November 12, 2021 issue of the *Texas Register*. The proposed rule affects market competition and is, thus, submitted to the Regulatory Compliance Division for review. The proposed rule, as it appeared in the Texas Register in its entirety, is attached to this memorandum.

To facilitate the Regulatory Compliance Division's review of the proposed rule, the Texas Department of Motor Vehicles provides answers to the following questions.

1. Briefly describe the proposed rule.

The proposed rule amends §215.152 and §215.158 concerning the maximum number of temporary tags that a dealer or converter may issue from the temporary tag database under Transportation Code §503.0626 and §503.0631 and new §503.0632(a)-(e).

2. What is the purpose of the proposed rule?

The primary purpose of the proposal is to implement under House Bill 3927, 87th Legislature, Regular Session (2021), concerning the maximum number of temporary tags that a dealer or converter may issue from the temporary tag database. The department has also proposed amendments to 43 TAC §§215.150, 215.151, 215.153, 215.154, and 215.155 concerning management of and access to the temporary tag database and temporary tag requirements and new 43 TAC §215.505 concerning denial of access to the temporary tag database under HB 3927 in this issue of the *Texas Register*.

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

The impetus was the enactment of HB 3927, 87th Legislature, Regular Session (2021), and the resulting changes to Transportation Code §503.0626 and §503.0631 and new §503.0632(a)-(e).

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).

Yes. Transportation Code §503.06329(a)-(e).

Transportation Code §503.0632(a)-(e) provides that the department by rule may establish the maximum number of temporary tags that a dealer or converter may obtain in a calendar year under §§503.062, 503.0625, or 503.063.

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).

Yes. Transportation Code §§503.002, 503.0632, and 1002.001.

Transportation Code §503.002 authorizes the department to adopt rules to administer Transportation Code Chapter 503.

Transportation Code §503.0632(a) provides that the department by rule may establish the maximum number of temporary tags that a dealer or converter may obtain in a calendar year under §§503.062, 503.0625, or 503.063.

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.

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 Texas Department of Motor Vehicles reviewed legislation, met twice with the Motor Vehicle Industry Regulatory Advisory Committee, and drafted the proposed rule. The board of the Texas Department of Motor Vehicles considered the proposed rule in an open meeting, requested comments from stakeholders at the open meeting, and authorized the department to publish the proposed rule for public comment in the Texas Register.

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.

The proposed rule creates a process for the department to establish the maximum number of temporary tags that a dealer or converter may obtain in a calendar year under §§503.062, 503.0625, or 503.063. The intent is to eliminate the criminal activity of a small subset of dealers who fraudulently obtain and sell tens of thousands of temporary tags to persons seeking to engage in violent criminal activity, including armed robbery, human trafficking, and assaults on law enforcement; or to criminally operate uninsured and uninspected vehicles as a hazard to Texas motorists and the environment.

7. Summarize any less restrictive alternatives that the state agency identified for addressing the same harm, including a comparison of the proposed rule to the alternatives, and provide a justification for not pursuing a less restrictive alternative.

A less restrictive alternative was not identified. The proposal is based on the statutory requirements in Transportation Code §503.0632.

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

The proposal:

- creates a formula for the establishing the maximum number of temporary tags for existing dealers and converters that is based on historical sales, time in operation, and anticipated market growth;
- establishes the number of tags that existing dealers and converters will receive when relocating or opening new locations;
- establishes the maximum number of temporary tags allowed for newly licensed dealers and converters based on comments received from the Motor Vehicle Industry Regulatory Advisory Committee;
- allows for the department to increase the number of temporary tags based on statewide or local market conditions;
- does not require a dealer or converter to submit any additional documentation or reports to obtain the number of temporary tags authorized under the formula; and
- establishes the process for dealers or converters to request an additional number of tags based on individual dealer or converter conditions.

- 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 proposal affects market competition to the extent that:

- House Bill 3927 and Transportation Code §503.0632 allow for the department to establish the maximum number of temporary tags a dealer or converter may issue, based on statutory considerations;
- Limiting a dealer or converter to a preset number of temporary tags may require the dealer or converter to request additional tags or lose sales if the formula amount is insufficient and the dealer or converter does not timely request additional temporary tags or the department does not authorize the requested additional temporary tags.

10. Did the state agency self-determine that the proposed rule affects market competition or did the Regulatory Compliance Division identify the proposed rule as possibly affecting market competition?

The Texas Department of Motor Vehicles identified the proposed rule as affecting market competition.

11. 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.

12. Does the proposed rule relate to a matter on which there is pending litigation?

No, the proposed rule to establish maximum tag limits does not relate to a matter on which there is pending litigation. The department is engaged in revoking dealer licenses due to excessive tags issuance.

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

A copy of the executive summary for the proposal that was submitted to the board of the Texas Department of Motor Vehicles is attached.

Sincerely,

Tracey Beaver
General Counsel
Texas Department of Motor Vehicles

as a minimum allotment and then provides an increase based on each dealer's and converter's licensing tenure, as well as an increase for growth, resulting in a maximum number of temporary tags unique to each dealer and converter.

New licensees have been considered as well, and the proposal provides an initial allotment of temporary tags based on the type of dealer and whether the dealer or converter is a first-time licensee, existing licensee moving locations, or an existing licensee establishing an additional location to ensure a maximum tag limit appropriate to each situation.

The following paragraphs address the amendments in this proposal.

The amendment to §215.152(b)(1) is a response to fraudulent activity and clarifies that information entered to obtain a temporary tag must be true and accurate.

The amendments to §215.152 add new subsections (c) - (l) to establish the maximum number of temporary tags that may be allotted to a dealer or converter. In summary, §215.152(c) - (e) implement Transportation Code §503.0632(b) and establish the calculated number of temporary tags that a dealer or converter past its initial license period will receive from the department with no dealer or converter action. Section 215.152(f) establishes a maximum tag limit for newly licensed dealers and converters. Section 215.152(i) creates the process for dealers to request additional tags. Section 215.152(g), (h), and (j) - (l) address general matters related to the maximum number of temporary tags. Section 215.2 defines terms used in Chapter 215.

Section 215.152(c) establishes the calculation for determining the number of buyer's temporary tags a dealer will receive. Section 215.152(c)(1) creates the base of the calculation based on activity related to sales implementing §503.0632(b)(1)(B). The base starts with the greater of the dealer's highest number of in-state buyer temporary tags issued or title transactions recorded in the Registration and Title System (RTS) over the prior three fiscal years. The department is using state fiscal years, because it will allow the department time to collect data, determine the multipliers, test the system, and be ready to release the maximum limits prior to the January 1st calendar year implementation date. All months will be counted towards the maximum limit although a lag will exist. To limit potential fraudulent action, the department will limit the number of temporary tags issued in the calculation to twice the number of RTS transactions. The department then adds to the in state total the number of out-of-state temporary tags issued to set the base.

Section 215.152(c)(2) then multiplies the base total by a time in business factor to implement §503.0632(b)(1)(A). The anticipated factor is based on the percentage of years the dealer has been in business over the last 10 years. For example, a dealer that has been in business for five years would receive a 50 percent addition to the base. Thus, a hypothetical dealer that had a calculated base of 100 tags and was in business for five years would have allotted 150 buyer's tags.

Section 215.152(c)(3) then multiplies the base total after the addition of the time in business factor by a determined market growth rate factor of not less than zero to implement §503.0632(b)(1)(C). The factor is based on the percentage growth in the market over the prior three fiscal years. For example, the department's current analysis beginning in 2018 indicates a 9.7 percent growth rate. Thus, the hypothetical dealer would have an additional 15 temporary tags for a total of

165, which is 65 more than the dealer used in any of the three prior years.

Section 215.152(c)(4) is used here as a remedy if the standard formula is not working based on sudden changes in the market to implement §503.0632(b)(2)-(4). This provision allows the department to make adjustments to increase the number of buyer's temporary tags to all dealers in the state, or a more limited area, if the standard formula is lagging behind. For example, a sudden increase in sales after a slow market period may require a separate temporary increase in the number of buyer's temporary tags for all dealers until the increased sales data can be incorporated into the standard calculation. Remedies for individual dealer situations are addressed in §215.152(i).

Section 215.152(d) and (e) apply to dealer and converter temporary tags. The subsections are similar in construction to the §215.152(c) in that the subsections use prior temporary tag data to establish a base and then increase the allotment with multipliers based on time in business and growth rate. The growth rate is based on the actual growth in the use of dealer or converter tags. Also, §215.152(d) and (e) have a similar provision to §215.152(c)(4) to make adjustments to a rapidly changing market.

Section 215.152(f) establishes the number of allotted buyer, dealer, and converter tags for new licensees. The allotment is by an annual block, because new dealers or converters will have no prior history to establish a base or significant time in operation to establish a multiplier. The annual block allotment is not subject to the time in operation or annual growth multiplier. The period of allotment will run through the dealer's or converter's first two-year license period and end the following December 31st. This will provide information to calculate a base, a three-year multiplier, and the annual growth rate multiplier. However, even with this information, many dealers and converters may see a significant drop in the number allotted temporary tags depending on the base number.

Section 215.152(g) and (h) are added to avoid the situation under §215.152(f) in which an existing dealer or converter could inflate the number of temporary tags they are allotted or be limited in its ability to expand. Section 215.152(g) provides that an existing dealer or converter that is moving its operations from one location to a different location will continue with its allotment of temporary tags. The dealer or converter will not be issued a block allotment under subsection (f). Section 215.152(h) provides that an existing dealer or converter opening an additional location will receive an allotment based on the allotment provided to existing locations. Section 215.152(g) and (h) do not limit a dealer or converter from requesting additional temporary tags under §215.152(i).

Section 215.152(i) establishes the process under which a dealer or converter may request additional temporary tags as required by new Transportation Code §503.0632(d). Section 215.152(i) establishes that the dealer may request additional tags after 50 percent of the calendar allotment have been used. Also, requests will be made through the eLICENSING system.

Section 215.152(i)(1) establishes that the dealer or converter is required to demonstrate that the need for additional temporary tags results from business operations, including anticipated needs, as required by §503.0632(c), and lists some types of information that may be presented, including evidence of factors under §503.0632(b) related to the individual license holder. The list is not exclusive. Section 215.152(i)(2) establishes

that the department will consider the information provided but may also consider any additional information that the department considers to be relevant to making a determination. As in §215.152(i)(1), a non-exclusive list of information that the department may consider is listed in §215.152(i)(2).

Section 215.152(i)(3) establishes that the department is not bound to issue only the number of additional temporary tags requested by the dealer or converter and may issue more or less than the request. A decision to grant the request on whole or in part does not constitute a denial of the request. Section 215.152(i)(4) establishes that a denied request may be appealed to the director of the department's Motor Vehicle Division. The director's decision is final. Section 215.152(i)(5) establishes that once a denial is final, a dealer or converter may only submit a subsequent request for additional temporary tags during that calendar year if the dealer or converter is able to provide additional information not considered in the prior request.

Section 215.152(j) provides that an allotment change under §215.152(i) does not result in a change to the base allotment in future years. That number will be calculated under §215.152(c), (d) or (e), or allotted under §215.152(f). Ultimately if the additional number of temporary tags are used, that number will become the base. Section 215.152(k) provides that the department will continue to monitor for temporary tag usage that suggests that misuse or fraud has occurred as described in Transportation Code §§503.038, 503.0632(f), or 503.067. Section 215.152(l) provides that unused temporary tags do not roll over to subsequent years. The base calculations will be done annually.

The amendments to §215.158(d) address the changes in Transportation Code §503.0626 and §503.0631 that removed the requirement for the temporary tag databases to be within the department's Vehicle Titles and Registration Division. The department has assigned the function to the department's Motor Vehicle Division. Otherwise, the proposal does not change the process for determining preprinted internet-down tags. The amendments to §215.158 also add new subsection (e), which clarifies that a preprinted internet-down tag will apply against the dealer's maximum number of allotted buyer's tags when the preprinted tag is entered into the temporary tag database as a sale. Preprinting the tags will not reduce the maximum number of allotted buyer's tags.

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 amendments and new section are 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. There will be no significant costs to the department and the proposed amendments will have no significant impact on revenue collections.

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, because the overall number of motor vehicle sales should not be affected.

PUBLIC BENEFIT AND COST NOTE. Ms. Johnston has also determined that, for each year of the first five years the proposed rules are in effect, the public benefits include establishing rules to implement HB 3927 and limiting the criminal activity of a small subset of dealers who fraudulently obtain and sell tens of thou-

sands of temporary tags to persons seeking to engage in violent criminal activity, including armed robbery, human trafficking, and assaults on law enforcement; or to criminally operate uninsured and uninspected vehicles as a hazard to Texas motorists and the environment. In addition, the department's calculations indicate that the numbers will be generous so as not to impede commerce by long time dealers and converters or new entrants to the marketplace; or burden license holder and department resources with unnecessary reviews. The proposal is to limit the unauthorized sale of temporary tags and should not limit or affect a license holder's ability to sell motor vehicles or otherwise conduct legitimate business.

Ms. Johnston anticipates that the proposal will create no additional costs for license holders. A license holder is not required to purchase any special equipment, employ additional persons, or prepare additional reports. The department will gather the information and make the necessary calculations to determine the maximum number of temporary tags each dealer or converter will be allotted. To the extent a request for additional tags is necessary, the department expects the matter can be handled via the eLICENSING system with primarily the presentation of sales information that shows the tags have been legitimately issued and that more are needed. This information should be existing and readily available to the license holder and the use of the eLICENSING system will expedite the review process by the department.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. The cost analysis in the Public Benefit and Cost Note section of this proposal has determined that proposed §215.152 and §215.158 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.

Even if a cost were determined, the department has tried to minimize cost to license holders. The requirements in §215.152 are designed to be flexible and without a requirement that a license holder incur costs from the purchase of special equipment, employment of additional persons, or preparation of additional reports. In addition, the proposal is not to limit or affect a license holder's ability to sell motor vehicles.

To the extent the department was to perform a regulatory flexibility analysis under Government Code §2006.002, the department would consider the alternatives of not adopting the amendments to §215.152, exempting small and micro-business license holders from the amendments to §215.152, and adopting a limited version of §215.152 for small and micro-business license holders. The department would reject all three options. It has been small and micro-business license holders that have misused the temporary tag database and issued the tens of thousands of illegal tags. Further, the requirements of §215.152 are minimal. The department, after considering the purpose of the authorizing statutes, does not believe it is legal or feasible to waive or modify the requirements of proposed §215.150 for a small or micro-business license holder.

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 not require the creation of new employee positions or 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 create new regulation establishing the process for determining the maximum number of temporary tags that may be allocated to dealers and converters and the procedures for requesting additional tags;

will not 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 December 13, 2021. 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 amendments to §215.152 and §215.158 under Transportation Code §§503.002, 503.0632, and 1002.001.

Transportation Code §503.002 authorizes the department to adopt rules to administer Transportation Code Chapter 503.

Transportation Code §503.0632(a) provides that the department by rule may establish the maximum number of temporary tags that a dealer or converter may obtain in a calendar year under §§503.062, 503.0625, or 503.063.

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. Transportation Code §§503.062, 503.0625, 503.063, and 503.0632(a)-(e).

§215.152. *Obtaining Numbers for Issuance of Temporary Tags.*

(a) A dealer, a federal, state, or local governmental agency, or a converter is required to have internet access to connect to the temporary tag databases maintained by the department.

(b) Except as provided by §215.157 of this title (relating to Advance Numbers, Preprinted Internet-down Temporary Tags), before a temporary tag may be issued and displayed on a vehicle, a dealer, a federal, state, or local governmental agency, or converter must:

(1) enter in the temporary tag database true and accurate information about the vehicle, dealer, converter, or buyer, as appropriate; and

(2) obtain a specific number for the temporary tag.

(c) The department will inform each dealer annually of the maximum number of buyer's temporary tags the dealer is authorized to issue during the calendar year under Transportation Code §503.0632. The number of buyer's temporary tags allocated to each dealer by the department will be determined based on the following formula:

(1) Sales data determined from the department's systems from previous three fiscal years. A dealer's base number will contain the greater of:

(A) the maximum number of in-state buyer's temporary tags issued during previous fiscal years, or

(B) the maximum number of title transactions processed through the Registration and Title System during previous fiscal years; and

(C) the addition of the maximum number of out-of-state buyer's temporary tags issued during previous fiscal years; except

(D) the dealer's base number will be limited to an amount that is not more than two times the number of title transactions identified in subparagraph (B) of this paragraph.

(2) a multiplier based on the dealer's time in operation; and

(3) the total value of paragraphs (1) and (2) of this subsection, multiplied by the expected annual growth rate percentage, not less than zero, to determine the buyer's temporary tag allotment; and in addition:

(4) the department may increase the determined allotment of buyer's temporary tags for dealers in the state, in a geographic or population area, or in a county, based on:

(A) changes in the market;

(B) temporary conditions that may affect sales; and

(C) any other information the department considers relevant.

(d) The department will inform each dealer annually of the maximum number of agent temporary tags and vehicle specific temporary tags the dealer is authorized to issue during the calendar year under Transportation Code §503.0632. The number of agent temporary tags and vehicle specific temporary tags allocated to each dealer by the department, for each tag type, will be determined based on the following formula:

(1) dealer temporary tag data for agent temporary tags and vehicle specific temporary tags determined from the department's systems from previous three fiscal years. A dealer's base number will contain the maximum number of dealer temporary tags issued during previous fiscal years;

(2) a multiplier based on the dealer's time in operation; and

(3) the total value of paragraphs (1) and (2) of this subsection, multiplied by the expected annual growth rate percentage, not less than zero, to determine the dealer's temporary tag allotment; and in addition:

(4) the department may increase a dealer's allotment of agent temporary tags and vehicle specific temporary tags for dealers in the state, in a geographic or population area, or in a county, based on:

(A) changes in the market;

(B) temporary conditions that may affect sales; and

(C) any other information the department considers relevant.

(e) The department will inform each converter annually of the maximum number of temporary tags the converter is authorized to issue during the calendar year under Transportation Code §503.0632. The number of temporary tags allocated to each converter by the department will be determined based on the following formula:

(1) converter temporary tag data determined from the department's systems from previous three fiscal years. A converter's base number will contain the maximum number of converter temporary tags issued during previous fiscal years;

(2) A multiplier based on the converter's time in operation; and

(3) the total value of paragraphs (1) and (2) of this subsection, multiplied by the expected annual growth rate percentage, not less than zero, to determine the converter's temporary tag allotment.

(4) The department may increase a converter's allotment of converter temporary tags for converters in the state, in a geographic or population area, or in a county, based on:

(A) changes in the market;

(B) temporary conditions that may affect sales; and

(C) any other information the department considers relevant.

(f) A dealer or converter that is licensed after the commencement of a calendar year shall be authorized to issue the number of temporary tags allotted in this subsection prorated on all or part of the remaining months until the commencement of the calendar year after the dealer's or converter's initial license expires. The allocations shall be as determined by the department in granting the license, but not more than:

(1) 600 temporary tags for a franchised dealer per each tag type, buyer's temporary tags, agent temporary tags, and vehicle specific tags;

(2) 300 temporary tags for a nonfranchised dealer per each tag type, buyer's temporary tags, agent temporary tags, and vehicle specific tags; and

(3) A converter will be allocated 600 temporary tags.

(g) An existing dealer or converter that is moving its operations from one location to a different location will continue with its allotment of temporary tags and not be allocated temporary tags under subsection (f) of this section.

(h) An existing dealer or converter opening an additional location will receive a maximum allotment based on the allotment provided to existing locations.

(i) After using 50 percent of the allotted maximum number of temporary tags, a dealer or converter may request an increase in the number of temporary tags by submitting a request in the department's eLICENSING system.

(1) The dealer or converter must provide information demonstrating the need for additional temporary tags results from business operations, including anticipated needs, as required by §503.0632(c). Information may include documentation of sales and tax reports filed as required by law, information of anticipated need, or other information of the factors listed in §503.0632(b).

(2) The department shall consider the information presented and may consider information not presented that may weigh for or against granting the request that the department in its sole discretion determines to be relevant in making its determination. Other

relevant information may include information of the factors listed in §503.0632(b), the timing of the request, and the applicant's temporary tag activity.

(3) The department may allocate a lesser or greater number of additional temporary tags than the amount requested by the dealer or converter. Allocation of a lesser or greater number of additional temporary tags is not a denial of the request.

(4) If a request is denied, a dealer or converter may appeal the denial to the Director of the Motor Vehicle Division whose decision is final.

(5) Once a denial is final, a dealer or converter may only submit a subsequent request for additional temporary tags during that calendar year if the dealer or converter is able to provide additional information not considered in the prior request.

(j) A change in the allotment under subsection (i) of this section does not create a dealer or converter base for subsequent year calculations.

(k) The department may at any time initiate an enforcement action against a dealer or converter if temporary tag usage suggests that misuse or fraud has occurred as described in Transportation Code §§503.038, 503.0632(f), or 503.067.

(l) Unused dealer or converter tag allotments from a calendar year do not roll over to subsequent years.

§215.158. General Requirements and Allocation of Preprinted Internet-down Temporary Tag Numbers.

(a) The dealer, or a federal, state, or local governmental agency, is responsible for the safekeeping of preprinted Internet-down temporary tags and shall store them in a secure place, and promptly destroy any expired tags. The dealer, or a federal, state, or local governmental agency shall report any loss, theft, or destruction of preprinted Internet-down temporary tags to the department within 24 hours of discovering the loss, theft, or destruction.

(b) A dealer, or a federal, state, or local governmental agency, may use a preprinted Internet-down temporary tag up to 12 months after the date the preprinted Internet-down temporary tag is created. A dealer, or a federal, state, or local governmental agency, may create replacement preprinted Internet-down temporary tags up to the maximum allowed, when:

(1) a dealer, or a federal, state, or local governmental agency, uses one or more preprinted Internet-down temporary tags and then enters the required information in the temporary tag database after access to the temporary tag database is again available; or

(2) a preprinted Internet-down temporary tag expires.

(c) The number of preprinted Internet-down temporary tags that a dealer, or federal, state, or local governmental agency, may create is equal to the greater of:

(1) the number of preprinted Internet-down temporary tags previously allotted by the department to the dealer or a federal, state, or local governmental agency;

(2) 30; or

(3) 1/52 of the dealer's, or federal, state, or local governmental agency's, total annual sales.

(d) For good cause shown, a dealer, or a federal, state, or local governmental agency, may obtain more than the number of preprinted Internet-down temporary tags described in subsection (c) of this section. The director of the Motor Vehicle Division [~~Vehicle Titles and Registration Division~~] of the department or that director's delegate may

approve, in accordance with this subsection, an additional allotment of preprinted Internet-down temporary tags for a dealer, or a federal, state, or local governmental agency, if the additional allotment is essential for the continuation of the dealer's, or a federal, state, or local governmental agency's, business. The director of the Motor Vehicle Division [~~Vehicle Titles and Registration Division~~] of the department, or a federal, state, or local governmental agency, or that director's delegate will base the determination of the additional allotment of preprinted Internet-down temporary tags on the dealer's, or a federal, state, or local governmental agency's, past sales, inventory, and any other factors that the director of the Motor Vehicle Division [~~Vehicle Titles and Registration Division~~] of the department or that director's delegate determines pertinent, such as an emergency. A request for additional preprinted Internet-down temporary tags must specifically state why the additional preprinted Internet-down temporary tags are necessary for the continuation of the applicant's business.

(e) Preprinted Internet-down temporary tags created under subsection (c) of this section apply to the maximum tag limit established in §215.152 of this title (relating to Obtaining Numbers for Issuance of Temporary Tags) when the preprinted tag is entered into the temporary tag database as a sale.

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 November 1, 2021.

TRD-202104374

Tracey Beaver

General Counsel

Texas Department of Motor Vehicle

Earliest possible date of adoption: December 12, 2021

For further information, please call: (512) 465-5665

