



Office of the Governor
Regulatory Compliance Division
Rule Submission Memorandum

To: Erin Bennett, Regulatory Compliance Division Director

From: Tracey Beaver, General Counsel

Date: June 29, 2020

Subject: 43 TAC §§221.15, 221.19, 221.111, and 221.112, and repeal of 43 TAC §221.113, and §221.114

The Texas Department of Motor Vehicles has proposed a rulemaking for amendments to 43 TAC §§221.15, 221.19, 221.111, and 221.112, and repeal of §221.113 and §221.114, in the June 26, 2020, 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.

In conjunction with this proposal, the department has proposed new §§211.1-211.5 and proposed amendments to §215.89 and repeal of §215.88, concerning licensing under Occupations Code Chapter 2301 and Chapter 2302 and Transportation Code Chapter 503, in the June 26, 2020, issue of the *Texas Register*.

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 amendments update the requirements related to review of criminal history information, fitness for licensing, affiliations, and conform the sections with changes in statute. The changes to affiliation shift the focus away from family relationships to business relationships.

Section 221.113 is proposed for repeal because penalties for failure to pay child support are addressed under Family Code Chapter 232, and the Office of the Attorney General. Section 221.114 is proposed for repeal because the provision is now found in §221.111(b).

2. What is the purpose of the proposed rule?

The proposed amendments update and clarify licensing fitness requirements, and establish references concerning the review of criminal history information under proposed new Chapter 211 in accordance with Occupations Code Chapter 53 and the Sunset Advisory Commission's Management Action 4.6, as stated in the Sunset Staff Report with Commission Decisions, 2018-2019, 86th Legislature (2019).

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

The impetus for the proposed amendments is to update and clarify licensing fitness requirements, and establish references concerning the review of criminal history information under proposed new Chapter 211 that has been proposed in accordance with Occupations Code Chapter 53 and the Sunset Advisory Commission's Management Action 4.6. The amendments include stating that the department is concerned with affiliations that allow for control of the license holder, and describe control as "the power to direct or cause the direction of the management, policies, and activities, of an applicant or license holder, whether directly or indirectly." The proposal also establishes that criminal history review in the determining fitness will be conducted according to an Occupations Code Chapter 53 process under proposed new Chapter 211.

The repeal of §215.88 is necessary because the addition of new Chapter 211.

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. Occupations Code §2302.104 provides that an application for a salvage vehicle dealer license must include a statement of the previous history, record, and associations of the applicant to the extent sufficient to establish, to the satisfaction of the department, the business reputation and character of the applicant. The application must also include a statement of the previous history, record, and associations of each officer, director, partner, and owner, to the extent sufficient to establish, to the satisfaction of the department, the business reputation and character of the applicant

Occupations Code §2302.108 The department is authorized to deny, suspend, revoke, or reinstate a license issued under Chapter 2302. The board by rule shall establish the grounds for denial, suspension, revocation, or reinstatement of a license issued under Chapter 2301 and the procedures for disciplinary action.

- 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).

Occupations Code §2302.051 authorizes the board to adopt rules as necessary to administer Occupations Code Chapter 2302.

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 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 is intended to prevent persons, including license holder representatives, from engaging in the described activities. Person that do may be denied a license, prohibited from employment at a licensee, fines, or otherwise penalized for those activities.

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 proposed amendments update the licensing fitness rules and clarify that the department is concerned with affiliations that allow for control of the license holder, and describe control as “the power to direct or cause the direction of the management, policies, and activities, of an applicant or license holder, whether directly or indirectly” rather than family affiliations. The proposal also establishes that criminal history review in the determining fitness will be conducted according to an Occupations Code Chapter 53 process under proposed new Chapter 211.

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

The rule affects market competition by reducing participation. Persons, including license holder representatives, who engage in the prohibited activities may be fined or denied licensure or employment.

- 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.

Persons, including license holder representatives, who engage in the prohibited activities may be fined or denied licensure or employment.

The rule is consistent with state policy as established by the legislature as stated in Occupations Code Chapter 53, and Occupations Code §2302.104 and §2302.108.

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 department self-determined that the proposed rule affects 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?

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?

The proposed rule does not relate to a matter on which there is pending litigation.

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

The department has attached a copy of the proposed rule.

Sincerely,



Tracey Beaver
General Counsel
Texas Department of Motor Vehicles

- will not require an increase or decrease in fees paid to the department;
- will not create new regulations;
- will expand existing regulation §217.74 to implement Transportation Code §520.005(e);
- 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. CDT on July 27, 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 amendments to §217.74 under Transportation Code §§501.0041, 502.0021, 520.003, and §1002.001.

- Transportation Code §501.0041 authorizes the department to adopt rules to administer Transportation Code Chapter 501.
- Transportation Code §502.0021 authorizes the department to adopt rules to administer Transportation Code Chapter 502.
- Transportation Code §520.003 authorizes the department to adopt rules to administer Transportation Code Chapter 520.
- 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 §§501.022, 501.023, 501.0234, and 520.005.

§217.74. Access to and Use of webDEALER.

(a) ~~Each~~ [At the discretion of a] county tax assessor-collector ~~shall~~ [; the county may] request access to, and accept title applications submitted through, webDEALER. A county tax assessor-collector must utilize webDEALER in order to accept a title application in the county as provided by subsections [sub~~section~~] (b) and (c) of this section.

(b) Except as provided in subsection (c) of this section, a [A] person who wishes to become a user of webDEALER must contact each entity to whom they submit title applications for authorization to utilize webDEALER. A user must receive authorization from each entity, including each county tax assessor-collector, to whom the user submits title applications. Title applications submitted to the department require the authorization by the department.

(c) A holder of a general distinguishing number (holder) who wishes to become a user of webDEALER must contact each county tax assessor-collector to whom they submit title applications for webDEALER access. The county must provide the holder access. A holder must obtain access from each county tax assessor-collector to whom the user submits title applications.

(d) [(e)] A county tax assessor-collector may authorize a deputy appointed by the county tax assessor-collector in accordance with Subchapter H of this chapter (relating to Deputies) to utilize webDEALER.

(e) [(d)] A person authorized under subsection (b) of this section may have their authorization to use webDEALER revoked, rescinded, or cancelled at any time, with no notice, at the discretion of a county tax assessor-collector or the department.

(f) [(e)] When submitting a title application through webDEALER, a user must:

(1) stamp the word "SURRENDERED" across the front, face and the next open assignment or reassignment space of any secure title document or other acceptable ownership evidence as determined by the department in:

- (A) arial font;
- (B) black ink; and
- (C) a size of 1/4" height x 2 1/4" length;

(2) retain the physical document described in paragraph (1) of this subsection for a minimum of four calendar years from the date of submitting a scanned copy of the stamped title document using the webDEALER system; and

(3) submit any documents required to be submitted with the title application with a scanned resolution of at least 200 dots per inch (DPI).

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 June 12, 2020.

TRD-202002377

Tracey Beaver
General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: July 26, 2020

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



CHAPTER 221. SALVAGE VEHICLE DEALERS

The Texas Department of Motor Vehicles (department) proposes amendments to Transportation Code §221.15 relating required license application information; §221.19 related to change of a license holder's name or ownership; §221.111 related to denial of license; and §221.112 related to license suspension, revocation and administrative penalties. The department also proposes to repeal §221.113 and §221.114. The changes update licensing application, fitness, denial, suspension, revocation, and penalty rules under Occupations Code Chapter 2302, and remove references to salvage vehicle agents and salvage vehicle dealer endorsements to implement Senate Bill (SB) 604, 86th Legislature, Regular Session, (2019).

In conjunction with this proposal, the department has proposed new §§211.1 - 211.5 concerning criminal offense and action on licenses, and amendments to §215.89 and repeal of §215.88 concerning licenses under Occupations Code Chapter 2301 and Transportation Code Chapter 503, in this issue of the *Texas Register*.

EXPLANATION. The proposed amendments to §§221.15, 221.19, 221.111, and 221.112, update and clarify requirements, and establish references concerning the review of criminal history information under proposed new Chapter 211 that has

been proposed in accordance with Occupations Code Chapter 53 and the Sunset Advisory Commission's Management Action 4.6, as stated in the Sunset Staff Report with Commission Decisions, 2018-2019, 86th Legislature (2019).

The Sunset report directs the department to adopt criminal history evaluation rules consistent with Occupations Code Chapter 53, for salvage industry regulation. Occupations Code §53.021, authorizes a licensing authority to suspend or revoke a license, or disqualify a person from receiving a license, if the person has been convicted of a felony or misdemeanor that directly relates to the duties and occupations of the licensed occupation. Proposed new Chapter 211 addresses the requirements under Occupations Code Chapter 53 for licenses issued under Chapter 215 and 221.

Under Occupations Code §2302.104, an application for a salvage dealer license must include a statement of the previous history, record, and associations of the applicant to the extent sufficient to establish, to the satisfaction of the department, the business reputation and character of the applicant. Under Occupations Code §2302.105, the department may not issue a license until the department completes an investigation of the applicant's qualifications.

The proposed amendment to §221.15(2) eliminate references to salvage vehicle dealer license endorsements and salvage vehicle agents to conform with changes in SB 604. The paragraphs are renumbered accordingly.

The proposed amendments to §221.15(9) revise the statement to conform with the requirements of Occupations Code §2302.104.

The proposed amendments to §221.15(12) identify the persons who will be considered in the license review under Occupations Code §2302.104.

The proposed amendments to §221.15(13) clarify that the department is concerned with affiliations that allow for control of the license holder, and describe control as "the power to direct or cause the direction of the management, policies, and activities, of an applicant or license holder, whether directly or indirectly."

The proposed amendment to §221.15(14) clarifies which persons are required to submit criminal history information. Criminal history information will be evaluated under proposed new Chapter 211, as addressed in amendments §221.111(a)(3) and §221.112(16).

The proposed amendment to §221.15(15) clarifies that the department collects professional history information to determine business reputation as required in Occupations Code §2302.104.

Section 221.19 requires license holders to keep certain information current with the department. Proposed amendments to 221.19 clarify what types of organizational changes require notice to the department. These changes include a change in entity type, addition of a new person for whom criminal and professional history information would be required, or a business arrangement that extends control of the license holder to other persons for whom criminal and professional history information would be required.

The amendment to §221.19(c) establishes that the license holder is not required to submit a new application, but just the information that is necessary to address the change. The proposed amendment to §221.19(c) also removes requirements

related to a 50% change of ownership, because that is unnecessary based on the proposed amendment to §221.19(b). Finally, the proposed amendment to §221.19 extends the period for compliance to 30 days after the event.

The proposed amendment to §221.111(a) clarifies that the section applies to the board or department's review of an application for issuance or renewal of a license. The proposed amendment to §221.111(a) also replaces "shall" with "may" to clarify that the department's action is discretionary. A license may be denied based on an applicant's prior criminal history after weighing the factors in Occupations Code Chapter 53 and proposed new §211.3, or for reasons authorized in Occupations Code Chapter 2302 and this chapter.

The proposed amendments to §221.111(a)(2) clarify the persons the department will consider in making its evaluation, and in what actions.

The proposed amendments §221.111(a)(3) clarify the persons who will be subject to criminal history review and the offenses that will be reviewed.

The proposed amendment to §221.111(a)(4) clarifies that the department will consider the circumstances related to the revocation of a prior license in its evaluation of fitness for a license under this chapter. The amendment also deletes language addressing the prohibition on applying for a license within one year following revocation of the license under Occupations Code §2302.108. That provision is addressed in proposed §221.111(c).

The proposed amendment to §221.111(a)(5) focuses the review on control, specifically an ownership, organizational, managerial, or other business arrangement, that would "allow a person the power to direct, management, policies, or activities, of the applicant or license holder, whether directly or indirectly." The references to family members are removed. While a family member could be a person described in the proposed amendment, the person would not be included on the basis that they were a family member.

The proposed amendment to §221.111(a)(6) focuses the review on prior disciplinary activity against specified persons with prior administrative action against a license. The proposed amendment deletes language referencing applicants with a child support payment delinquency, which would be handled as required under Family Code Chapter 232.

The proposed amendment to §221.111(b) clarifies that an applicant may request an administrative hearing when the department pursues denial of an application.

The proposed amendment to §221.111(c) addresses Occupations Code §2302.108, which expressly prohibits a person whose license is revoked from applying for a new license before the first anniversary of the date of the revocation. The department will reject such an application.

The proposed amendment to §221.112 clarifies that either the board or the department may take action on a license that has been issued by the Motor Vehicle Division for certain acts or omissions.

The proposed amendment to §221.112(1) clarifies that action on a license may be made for failing to meet qualifications and requirements.

The proposed amendment to §221.112(2) clarifies that the board or department may take action on a person's license if the person

violates laws relating to other sectors of the industry for which a license issued by the Motor Vehicle Division is required.

The proposed amendment to §221.112(3) corrects the spelling of "willfully."

The proposed amendment to §221.112(6) clarifies that a person may not engage in business without the required license and eliminates a reference to salvage vehicle dealer license endorsements.

The proposed amendments to §§221.112(12), 221.112(15), and 221.112(20) correct the spelling of "nonrepairable."

The proposed amendment to §221.112(8) clarifies specific information that must be reported by a license holder to the department within 30 days of a change.

The proposed amendment to §221.112(9) clarifies that any changes made under §221.19(b) must be reported to the department within 30 days.

The proposed amendment to §221.112(10) removes the requirement to notify the department that a salvage vehicle agent has been terminated. The following paragraphs are renumbered accordingly.

The proposed amendments to §§221.112(13) - 221.112(15) correct punctuation and grammatical errors, and clarify that action may be taken on a license for a person's violation of law or board rules relating to the motor vehicle industry for which the board has jurisdictional authority.

The proposed amendment to §221.112(16) clarifies the persons who will be subject to criminal history review and the offenses that will be reviewed.

The proposed amendment to §221.112(19) clarifies that a license holder must pay all administrative penalties imposed by the department, not just those imposed under Occupations Code Chapter 2302.

The proposed amendment to §221.112(20) clarifies that the board or department may take action on a license if a person is engaging in business without a license that is required under Occupations Code Chapter 2301 or Chapter 2302 or Transportation Code Chapter 503. Additionally, the amendment corrects a punctuation error.

Repeal of §221.113, Suspension or Refusal to Renew Due to Failure to Pay Court Ordered Child Support, is required under Family Code Chapter 232.

Repeal of §221.114, Re-application after Revocation of License, is proposed because the subject matter is now found in §221.111(b).

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

Daniel Avitia, 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. Mr. Avitia has also determined that, for each year of the first five years the proposed new section is in effect, the public benefits include updating the licensing fitness reviews requirements to clarify affiliations that

are applicable to licensing, conform to statute, and conform to a proposed amended criminal history review process under proposed new Chapter 211.

Mr. Avitia anticipates that there will be no additional costs on regulated persons to comply with these rules, because the rules do not establish any additional requirements or costs for the regulated person.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by Government Code §2006.002, the department has determined that the proposed new section will not have an adverse economic effect on small businesses, micro-businesses, or rural communities because the proposal imposes no additional requirements, and has no additional financial effect, on 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 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 not create new regulations;
- will not expand existing regulations;
- will repeal existing regulations §221.113 and §221.114;
- 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. CDT on July 27, 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.

SUBCHAPTER B. LICENSING

43 TAC §221.15, §221.19

STATUTORY AUTHORITY. The department proposes amendments to §§221.15 and §221.19, under Occupations Code §2301.155 and §2302.051, and Transportation Code and §1002.001.

- Occupations Code §2301.155 authorizes the board of the Texas Department of Motor Vehicles to adopt rules as necessary or convenient to administer Occupations Code Chapter 2301 and to govern practice and procedure before the board.

- Occupations Code §2302.051 authorizes the board to adopt rules as necessary to administer Occupations Code Chapter 2302.

- 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 §2302.104 and §2302.108.

§221.15. Required License Application Information.

The following information must be provided on each salvage vehicle dealer application:

- (1) the full legal name of the applicant;
- ~~[(2) the endorsement or endorsements that are being applied for;]~~
- (2) ~~[(3)]~~ the full business address, including number, street, municipality, county, and zip code for each location where the applicant will conduct business under the license if each location is in the same county;
- (3) ~~[(4)]~~ the business telephone number and email address;
- (4) ~~[(5)]~~ the mailing address;
- (5) ~~[(6)]~~ a statement acknowledging that the department will consider the applicant's designated mailing address the applicant's last known address for ~~[aH]~~ department communication, including service of process under Subchapter E of this chapter (relating to Administrative Procedures). The designated mailing address will be considered applicant's last known address until such time that the mailing address is changed in the licensing records of the department after the license holder submits an amendment to change the license holder's mailing address;
- (6) ~~[(7)]~~ all assumed names as registered with the secretary of state or county clerk, as applicable;
- (7) ~~[(8)]~~ if applying as a sole proprietor, the social security number, address and telephone number for the sole proprietor;
- (8) ~~[(9)]~~ if applying as a general partnership, the social security number, address and telephone number for each of the general partners;
- (9) ~~[(10)]~~ if applying as a limited partnership, limited liability company, or corporation, the full name, social security number, address and telephone number for each officer or director of the corporation, each member, officer, or manager of the limited liability company, each partner, and each officer of the limited partnership, including the information for the general partner based on the type of entity ~~[or limited liability company];~~
- (10) ~~[(11)]~~ the state sales tax number;
- (11) ~~[(12)]~~ the National Motor Vehicle Title Information System (NMVTIS) number evidencing that the applicant is registered with NMVTIS;
- (12) ~~[(13)]~~ a statement indicating whether the applicant or any person described in §211.2 of this Chapter has previously applied for a license under this chapter or the salvage vehicle dealer licensing laws of another jurisdiction, the result of the previous application, and whether the applicant, including a person described in §211.2 of this

Chapter, has ever been the holder of a license issued by the department or another jurisdiction that was revoked, suspended, or subject of an order issued by the board or by another jurisdiction to pay an administrative penalty that remains unpaid;

~~(13) [(14)] a statement indicating whether the applicant has an ownership, organizational, affiliation, or other business arrangement that would allow a person to direct the management, policies, or activities of an applicant or license holder, whether directly or indirectly, who [is owned, operated, managed, or otherwise controlled by or affiliated with a person, including a family member, corporate officer, entity or shareholder that] was the holder of a license issued by the department or by another jurisdiction that was revoked, suspended, or subject of an order issued by the board or by another jurisdiction to pay an administrative penalty that remains unpaid;~~

~~(14) [(15)] details of the criminal history of the applicant and any person described in §211.2 of this Chapter [a statement indicating whether the applicant, any owner, corporate officer, partner or director has ever been convicted of a felony, and, if so, whether it has been at least three years since the termination of the sentence, parole, mandatory supervision, or probation for the felony conviction];~~

~~(15) details of the professional information of the applicant and any person described in §211.2 of this Chapter;~~

(16) a statement that the applicant at the time of submitting the application is in compliance, and, after issuance of a license, will remain in compliance, with all ordinances and rules of the municipality or county of each location where the applicant will conduct business; and

(17) an acknowledgement that the applicant understands, ~~[and]~~ is, and will remain in compliance with all state and federal laws relating to the licensed activity.

§221.19. Change of License Holder's Name, ~~[or]~~ Ownership, or Control.

(a) A license holder shall notify the department to amend its license within 30 ~~[40]~~ days of a change in the license holder's business name. Upon submission of an amendment to change the business name, the department shall reflect the new business name in the department's records. The dealer shall retain the same salvage vehicle dealer license number except if the business name change is the result of a change in the type of entity being licensed, such as a sole proprietorship becoming a corporation, or if the ownership of the business changes as discussed in subsection (b) ~~[(e)]~~ of this section.

(b) A salvage vehicle dealer shall notify the department by submitting a request for license amendment within 30 ~~[40]~~ days of ~~[prior to]~~ a change to:

- (1) the entity type of the applicant or license holder;
- (2) the departure or addition of any person reported to the department in the original license application or most recent renewal application, including any person described in §211.2 of this Chapter;
- (3) an ownership, organizational, managerial, or other business arrangement that would allow the power to direct or cause the direction of the management and policies and activities of an applicant or license holder, whether directly or indirectly, to be established in or with a person not described in paragraph (1) or (2) of this subsection ~~[of ownership].~~

(c) The license-holder must submit to the department a notice of change and all information needed for that specific license modification. ~~[Upon notification of a change of more than 50% of the ownership, the department shall:]~~

{ (1) cancel the existing license; and any salvage dealer agent licenses authorized by the salvage vehicle dealer; and}

{(2) require that an original application and required fees be submitted by the new owner(s). Any of the new owners' salvage vehicle agents must also apply for a new license and submit the applicable fees.}

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 June 15, 2020.

TRD-202002390

Tracey Beaver

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: July 26, 2020

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



SUBCHAPTER F. ADMINISTRATIVE SANCTIONS

43 TAC §221.111, §221.112

STATUTORY AUTHORITY. The department proposes amendments to §221.111 and §221.112 under Occupations Code §2301.155 and §2302.051, and Transportation Code and §1002.001.

- Occupations Code §2301.155 authorizes the board of the Texas Department of Motor Vehicles to adopt rules as necessary or convenient to administer Occupations Code Chapter 2301 and to govern practice and procedure before the board.

- Occupations Code §2302.051 authorizes the board to adopt rules as necessary to administer Occupations Code Chapter 2302.

- 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 §2302.104 and §2302.108.

§221.111. *Denial of License.*

(a) The board or department may ~~shall~~ deny an application for ~~issuance of~~ a license or a renewal of a license under Occupations Code Chapter 53 or Chapter 2302, and §211.3 of this title (relating to Criminal Offense Guidelines) or this chapter ~~salvage vehicle dealer license or a salvage vehicle agent license~~, if:

(1) all the information required on the application is not complete;

(2) the applicant or any owner, officer, director, or other person described in §211.2 of this title (relating to Application of Subchapter) ~~of its owners, officers, or directors~~ made a false statement, ~~or~~ material misrepresentation, or a material omission, on the application to issue, renew, or amend a license;

(3) the applicant, or any owner, officer, director, or other person described in §211.2 of this Chapter, has been ~~of its owners, officers, or directors have been~~ convicted, or deemed convicted by any local, state, federal, or foreign authority, of an offense that directly relates to the duties or responsibilities of the licensed occupation as

described in §211.3 of this title or is convicted of an offense that that is independently disqualifying under Occupations Code §53.021 ~~of a felony for which less than three (3) years have elapsed since the termination of the sentence, parole, mandatory supervision, or probation~~];

(4) the applicant's or any owner's, officer's, director's, or other person described in §211.2 of this Chapter, ~~of its owners, officers, or directors~~ previous ~~salvage vehicle dealer or salvage vehicle agent~~ license was revoked ~~and the first anniversary of the date of revocation has not occurred~~];

(5) the applicant or license holder has an ownership, organizational, managerial, or other business arrangement that would allow a person the power to direct, management, policies, or activities, of the applicant or license holder, whether directly or indirectly, who is unfit, ineligible for license, or has been subject to disciplinary action, including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, or similar assessment for a current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority ~~[is an immediate family member, such as a spouse, child, parent, grandparent, niece, nephew, uncle, or aunt, of a previously licensed salvage vehicle dealer whose license has been revoked, and the business location is the same as the location of the revoked salvage vehicle dealer]~~; or

(6) the applicant, or any owner, officer, or director, or other person described in §211.2 of this Chapter unfit to hold the license, is ~~ineligible for licensure, or whose current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority has been subject to disciplinary action, including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment.~~ ~~[is delinquent in any court ordered obligation to pay child support.]~~

(b) If the department denies an application for a license to be issued under the authority of Occupations Code Chapter 2302 ~~[application is denied]~~, the applicant may request an administrative hearing in the manner specified in §221.91 of this title (relating to Notice of Department Decision).

(c) In accordance with Occupations Code §2302.108, the board or department shall reject any application for issuance of a new license under Occupations Code Chapter 2302 filed by a person whose license is revoked before the first anniversary of the date of revocation. §221.112. *Suspension, Revocation and Administrative Penalties.*

The board or department may suspend or revoke a license or impose an administrative penalty if the license holder:

(1) fails to meet or maintain the qualifications and requirements for a license;

(2) violates any law relating to the purchase, sale, exchange, storage, or distribution of motor vehicles, including salvage motor vehicles and nonrepairable ~~and non-repairable~~ motor vehicles;

(3) willfully ~~wilfully~~ defrauds a purchaser;

(4) fails to maintain purchase, sales, and inventory records as required by Occupations Code, Chapter 2302, or this chapter;

(5) refuses to permit, or fails to comply with a request by the department to examine, during normal business hours, the license holder's records as required by Occupations Code, Chapter 2302, or this chapter;

(6) engages in motor vehicle or salvage business without the required license ~~[endorsement]~~;

(7) engages in business as a salvage vehicle dealer at a location for which a license has not been issued by the department;

(8) fails to notify the department of a change of the salvage vehicle dealer's legal business entity name, assumed name, mailing address, email address, physical address or location within 30 [40] days of such change by submitting [requesting and obtaining from the department] an amendment to the [salvage vehicle dealer's] license;

(9) fails to notify the department of a change described in §221.19(b) of this chapter (relating to Change of License Holder's Name, Ownership, or Control) as required in that section [of the salvage vehicle dealer's name or salvage vehicle dealer's ownership within 10 days of such change by requesting and obtaining from the department an amendment to the salvage vehicle dealer's license];

(10) [fails to notify the department of the termination of a salvage vehicle agent within 10 days after such termination];

[(11)] fails to remain regularly and actively engaged in the business for which the salvage vehicle dealer license is issued;

(11) [(12)] sells more than five (5) nonrepairable [non-repairable] motor vehicles or salvage motor vehicles to the same person in a casual sale during a calendar year;

(12) [(13)] violates any [of the] provision of Occupations Code Chapters 2301 or [; Chapter] 2302, Transportation Code [;] Chapters 501, 502, or 503, or any board rule or order promulgated under those statutes;

(13) [(14)] uses or allows use of the salvage vehicle dealer's [or salvage vehicle agent's] license or business location for the purpose of avoiding the requirements of [the license holder or another person avoiding] Occupations Code Chapters 2301 or [; Chapter] 2302, Transportation Code, Chapters 501, 502 or 503, or any board rule or order promulgated under those statutes;

(14) [(15)] violates any law, ordinance, rule or regulation governing the purchase, sale, exchange, or storage, of salvage motor vehicles or nonrepairable [; and non-repairable] motor vehicles;

(15) [(16)] sells or offers for sale a nonrepairable [non-repairable] motor vehicle [vehicles] or a salvage motor vehicle [vehicles] from any location other than the [a licensed] salvage vehicle dealer's licensed business location [that has been approved by the department];

(16) [(17)] is, or any owner, officer, director, or other person described in §211.2, is convicted, or deemed convicted by any local, state, federal, or foreign authority, of an offense that directly relates to the duties or responsibilities of the licensed occupation as described in §211.3 of this title (relating to Criminal Offense Guidelines) or an offense that that is independently disqualifying under Occupations Code §53.021 [of any a felony] after initial issuance or renewal of the salvage vehicle dealer license, or that has not been reported to the department as required [or salvage vehicle agent license, or less than three (3) years have elapsed since the termination of the sentence, parole, mandatory supervision, or probation for a felony conviction of the license holder];

(17) [(18)] makes a false statement, material misrepresentation, or material omission in any application or other information filed with the department;

(18) [(19)] fails to timely remit payment for administrative penalties imposed by the department [under Occupations Code, §2302.354 and this section];

(19) [(20)] engages in business without a license required under Occupations Code [;] Chapters 2301 or 2302, or Transportation Code [;] Chapter 503;

(20) [(21)] operates a salvage motor vehicle or a nonrepairable [non-repairable] motor vehicle on the public highways or allows another person to operate a salvage motor vehicle or a nonrepairable [non-repairable] motor vehicle on public highways;

(21) [(22)] dismantles a salvage motor vehicle or non-repairable motor vehicle; or

(22) [(23)] deals in used automotive parts as more than an incidental part of the salvage vehicle dealer's primary business.

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 June 15, 2020.

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Earliest possible date of adoption: July 26, 2020

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



SUBCHAPTER F. ADMINISTRATIVE SANCTIONS

43 TAC §221.113, §221.114

STATUTORY AUTHORITY. The department proposes repeal of §221.113 and §221.114 under Occupations Code §2301.155 and §2302.051, and Transportation Code and §1002.001.

- Occupations Code §2301.155 authorizes the board of the Texas Department of Motor Vehicles to adopt rules as necessary or convenient to administer Occupations Code Chapter 2301 and to govern practice and procedure before the board.

- Occupations Code §2302.051 authorizes the board to adopt rules as necessary to administer Occupations Code Chapter 2302.

- 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 §2302.104 and §2302.108.

§221.113. *Suspension or Refusal to Renew Due to Failure to Pay Court-ordered Child Support.*

§221.114. *Re-application after Revocation of License.*

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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