



GOVERNOR GREG ABBOTT

To: Charles Bacarisse, Chair
Daniel Avitia, Executive Director
Laura Moriaty, General Counsel
Texas Department of Motor Vehicles

From: Caleb Gunnels, Assistant General Counsel
Office of the Governor

Date: May 29, 2025

Subject: Proposed Title 43 Texas Administrative Code Section 215.163 (RCD Rule Review #2025-003)

I. Syllabus

In June 2024, as part of a comprehensive rule review, the Texas Department of Motor Vehicles (“department”) proposed amendments, repeals, and new rules within 43 Texas Administrative Code Chapters 215 and 217, which were primarily intended to implement House Bill 718, House Bill 3297, and Senate Bill 224, as passed by the 88th Legislature, Regular Session.¹ The department submitted the proposed rules to the Regulatory Compliance Division (“division”) for review on July 12, 2024, and they were approved by the division on October 10, 2025.²

As an extension of those efforts, the department now proposes new 43 TAC § 215.163, to address license holder responsibilities for license plate disposition and reporting when motor vehicles are sold by license holders at a wholesale motor vehicle auction, a public auction, or on consignment, including consignment of salvage and total loss vehicles.³ According to the department, certain wholesale motor vehicle auction and dealer license holders were concerned

¹ 49 Tex. Reg. 5030 (2024) (to be codified at 43 TAC §§215.102, 215.120, 215.122, 215.133, 215.138, 215.140, 215.143, 215.150, 215.151, 215.152, 215.154, 215.155, 215.156, 215.157, 215.158, and 215.162) (proposed July 12, 2024) (Tex. Dep’t Motor Vehicles); 49 Tex. Reg. 5065 (2024) (to be codified at 43 TAC §215.124) (proposed July 12, 2024) (Tex. Dep’t Motor Vehicles); 49 Tex. Reg. 5066 (2024) (to be codified at 43 TAC §§217.5, 217.8, 217.74, and 217.86) (proposed July 12, 2024) (Tex. Dep’t Motor Vehicles); Acts of 2023, 88th Leg., R.S., ch. 668 (H.B. 718), ch. 851 (H.B. 3297), and ch. 269 (S.B. 224).

² Rule Submission Memorandum from the Texas Department of Motor Vehicles (July 12, 2024) (on file with the Regulatory Compliance Division of the Office of the Governor); Regulatory Compliance Division Determination Letter for Proposed Title 43 Texas Administrative Code Sections 215.102, 215.120, 215.122, 215.124, 215.133, 215.138, 215.140, 215.143, 215.150, 215.151, 215.152, 215.154, 215.155, 215.156, 215.157, 215.158, 215.162, 217.5, 217.8, 217.74, and 217.86 (RCD Rule Review #2024-006) (Oct. 10, 2024) (on file with the Regulatory Compliance Division of the Office of the Governor).

³ 50 Tex. Reg. 1656 (2025) (preamble to proposed §215.163) (Feb. 28, 2025) (Tex. Dep’t Motor Vehicles).

about the aforementioned, previously proposed rules relating to the disposition of license plates when motor vehicles are sold at auction or on consignment, and argued that such requirements would substantially increase business costs.⁴ After proposing a new rule to address these concerns, the department submitted it to the division for review on February 28, 2025.⁵ The department subsequently supplemented its submission with minor amendments to address additional comments and stakeholder input, which are intended to lessen the impact of the proposed rule on wholesale motor vehicle auction operations.⁶ The division invited public comments on the proposed rules for a 30-day period ending on August 9, 2025, and received no comments.

Based on the following analysis, the division has determined that the proposed rule is consistent with state policy, and thus, the proposed new rule is approved by the division and may be finally adopted and implemented.

II. Analysis

By way of background, House Bill 718, as passed by the 88th Legislature, Regular Session, generally eliminated and replaced department-issued temporary tags with department-issued license plates that dealers are to provide to buyers at the time of a vehicle sale. Senate Bill 224 created new recordkeeping and record inspection requirements to detect and prevent catalytic converter theft and fraud. And, House Bill 3297 generally eliminated certain vehicle safety inspections in Texas. In anticipation of those changes, the department undertook a comprehensive rule review that it accomplished in two phases—this timeline was sufficiently described by the division in its letter approving the second phase of proposed rules on October 10, 2024.⁷

As mentioned, wholesale motor vehicle auction and dealer license holders raised questions about the disposition of license plates when motor vehicles are sold at auction or on consignment, and were concerned that prior proposed rules could substantially increase business costs.⁸ With the goal of avoiding the cost to wholesale auction license holders in storing and reassigning plates, while still reducing the risk of license plate fraud, the department received input from individual dealers and wholesale motor vehicle auction license holders, the National Auto Auction Association, and the Motor Vehicle Industry Regulation Advisory Committee (“MVIRAC”)

⁴ *Id.*

⁵ Rule Submission Memorandum from the Texas Department of Motor Vehicles (Feb. 28, 2025) (on file with the Regulatory Compliance Division of the Office of the Governor).

⁶ Supplemental Language for Proposed 43 TAC §215.163 (RCD Rule Review #2025-003) (submitted May 13, 2025) (on file with the Regulatory Compliance Division of the Office of the Governor).

⁷ Regulatory Compliance Division Determination Letter for Proposed Title 43 Texas Administrative Code Sections 215.102, 215.120, 215.122, 215.124, 215.133, 215.138, 215.140, 215.143, 215.150, 215.151, 215.152, 215.154, 215.155, 215.156, 215.157, 215.158, 215.162, 217.5, 217.8, 217.74, and 217.86 (RCD Rule Review #2024-006), at 2-3.

⁸ Rule Submission Memorandum from the Texas Department of Motor Vehicles (Feb. 28, 2025), at 2.

before drafting proposed new 43 TAC § 215.163.⁹ In November 2024, the department submitted an early draft of the proposed new rule to MVIRAC and incorporated additional input from the committee and comments from license holders that regularly hold or participate in motor vehicle auctions.¹⁰ The department subsequently held an open meeting on the proposed new rule and allowed the public to make additional comments before voting to publish the proposed rule in the *Texas Register*.¹¹ After receiving additional public comments on the proposed new rule, the department supplemented its submission to the division with minor amendments to lessen the impact of the proposed rule on wholesale motor vehicle auction operations.¹²

Given that new administrative requirements can create barriers to ongoing market participation and may increase the cost of compliance for licensees accordingly, the proposed new rule may affect competition pursuant to Section 57.105(d)(1), Occupations Code.

To begin, proposed new §215.163 would generally address how a license holder must handle a license plate or set of license plates for motor vehicles sold at auction or on consignment, and generally aligns with requirements contained in prior rules that have already been reviewed and approved by the division.¹³ The department urges that the proposed new rule is designed to prevent Texas license plates from being used fraudulently after a vehicle is sold at auction or on consignment, and to protect consumers, including law enforcement, from fraud and crimes perpetrated by bad actors using Texas license plates to commit crimes and hide their identities.¹⁴ The department cites that at least 225,000 Texas registered vehicles are sold each year to out-of-state dealers, and that preventing such license plates from leaving the state and requiring the license plate or vehicle transfer database to be updated will help prevent fraud and enable law enforcement to identify fraudulent license plates during a traffic stop.¹⁵

Again, the division has already approved similar rules proposed by the department.¹⁶ The division determined then, and the same is true now, that the department is tasked, in part, with preventing fraud and abuse and enforcing and administering Chapter 503, Transportation Code, pursuant to Section 2301.152(a)(5) and (b), Occupations Code.¹⁷ That authority derives from its exclusive original jurisdiction to regulate the distribution, sale, or lease of motor vehicles

⁹ *Id.* at 2 and 4.

¹⁰ *Id.*

¹¹ *Id.*

¹² Supplemental Language for Proposed 43 TAC §215.163 (RCD Rule Review #2025-003) (submitted May 13, 2025).

¹³ Regulatory Compliance Division Determination Letter for Proposed Title 43 Texas Administrative Code Sections 215.102, 215.120, 215.122, 215.124, 215.133, 215.138, 215.140, 215.143, 215.150, 215.151, 215.152, 215.154, 215.155, 215.156, 215.157, 215.158, 215.162, 217.5, 217.8, 217.74, and 217.86 (RCD Rule Review #2024-006).

¹⁴ Rule Submission Memorandum from the Texas Department of Motor Vehicles (Feb. 28, 2025), at 4.

¹⁵ *Id.* at 4-5.

¹⁶ See Regulatory Compliance Division Determination Letter for Proposed Title 43 Texas Administrative Code Sections 215.102, 215.120, 215.122, 215.124, 215.133, 215.138, 215.140, 215.143, 215.150, 215.151, 215.152, 215.154, 215.155, 215.156, 215.157, 215.158, 215.162, 217.5, 217.8, 217.74, and 217.86 (RCD Rule Review #2024-006).

¹⁷ *Id.* at 10.

pursuant to Section 2301.151, Occupations Code. Likewise, Section 503.061, Transportation Code, as amended by House Bill 718, requires the department to adopt rules to regulate the issuance of dealer's license plates. The department is also required to manage and maintain a real-time database of information on buyers to whom dealers issue a license plate or set of license plates and to adopt rules and prescribe the procedures necessary to maintain the database pursuant to Section 503.0631, Transportation Code. And, Section 503.063(d) and (e), Transportation Code, as amended by House Bill 718, generally state that a dealer is responsible for the safekeeping and distribution of department issued license plates and is liable for missing or misused license plates, authorize the department to conduct a review of a dealer's compliance with their use and safekeeping, and authorize the department to establish rules for the provision of such plates.

Proposed new §215.163 ultimately establishes reasonable safekeeping and disposal requirements for department-issued license plates, aids the department, law enforcement, and licensees in tracking the issuance and location of license plates, and falls within the department's statutory authority to regulate the issuance of license plates and to prevent fraud and abuse. Following the analysis in the division's October 10, 2024, determination letter, and the reasoning above, proposed new §215.163 is a reasonable exercise of the department's statutory authority, and is consistent with state policy.

III. Determination

Based on the above analysis, the proposed new rule is approved by the division and may proceed to final adoption and implementation.