



**Office of the Governor Regulatory
Compliance Division**

Rule Submission Memorandum

To: Regulatory Compliance Division Director

From: Laura Moriarty
General Counsel, Texas Department of Motor Vehicles

Date: January 5, 2024

Subject: 43 TAC Chapter 215 Proposed Rule Revisions

The Texas Department of Motor Vehicles (TxDMV or department) has opened a rule review for 43 Texas Administrative Code (TAC), Chapter 215 (Chapter 215), as published in the December 29, 2023, issue of the *Texas Register*. In conjunction with that review, the department has proposed rule amendments, new rules, and repeals in Chapter 215, which were also published in the December 29, 2023, issue of the *Texas Register*. The department plans to readopt the provisions of Chapter 215 that are not proposed to be amended or repealed. The PDF version of the preamble and text of the proposed rules and the proposed rule review, as published in the *Texas Register*, are attached to this memorandum.

The attached administrative record includes a chart with a synopsis of the initial reasons for adopting the rules the department is proposing to amend, add, or repeal, as well as prior significant amendments and feedback the department received from stakeholders regarding rulemaking in Chapter 215. However, the department is only requesting the Regulatory Compliance Division to review the rules, including proposed amendments and repeals, that our chart affirmatively indicates as requesting review under the column labeled "RCD Review Requested (Yes/No)." For context, the chart includes information on rules that the department is not requesting the Regulatory Compliance Division to review, including notes on current Subchapters B, G, and I of Chapter 215.

TxDMV respectfully requests an expedited review of the proposed rules based on the following circumstances:

- House Bill (HB) 718 imposes a deadline of December 1, 2024, for TxDMV to adopt rules to implement or administer HB 718, which eliminates temporary tags and requires the department to provide dealers with license plates to be issued to buyers at time of vehicle sale. This change requires new systems to be developed and can only be implemented successfully with the involvement of the dealer community and the county tax assessor-collectors.
- The TxDMV board meetings are scheduled bi-monthly on the second Thursday of the month, and are held in February, April, June, August, October, and December. To meet the December 1, 2024, deadline and implement this significant change, the board must approve a HB 718 rule proposal at the June 13, 2024, board meeting and adopt implementing rules at the October 10, 2024, board



meeting.

- The rules in Chapter 215 have not been reviewed since 2017 and updates are proposed for just under 80% of these rules. A number of these rules will also be impacted in the HB 718 rule package, so it is important that these rules are updated, and the chapter closed before the board considers the HB 718 rule proposals on June 13, 2024.
- To meet that schedule, the board must adopt Chapter 215 rule review and the associated changes at the April 11, 2024, board meeting. To meet this deadline and allow time for any required changes to the rules and for timely posting the meeting agenda, we respectfully request an expedited review with a determination letter issued by March 28, 2024.

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

1. Briefly describe the proposed rule.

As part of a comprehensive rule review of Chapter 215, this rule package contains certain proposed amendments, repeals, and new provisions for rules that significantly impact market competition. The department has determined these amendments are necessary as certain rules contain language that lacks statutory authority or language that is not consistent with current processes, and that repeals are necessary because certain rules lack statutory authority.

2. What is the purpose of the proposed rule?

Chapter 215 covers the licensure, advertising, and business requirements and disciplinary procedures for licenses issued by the department under Occupations Code, Chapter 2301, including franchised dealers, manufacturers, distributors, convertors, lessors and lease facilitators, and holders of a General Distinguishing Number (GDN) under Transportation Code, Chapter 503. Only some of Chapter 215's sections significantly impact market competition.

Subchapter C sets out the general requirements for licensure by the department. The rules in this section describe the licensure processes, fees, and licensure fitness criteria. They also define "brokering," which is prohibited by statute. The proposed amendments to rules in Subchapter C would clarify or delete unused, archaic, or inaccurate definitions, terms, and references to improve understanding and readability; modify language to be consistent with current practice, including the use of metal plates and electronic systems; modernize language and improve readability; clarify existing requirements; and implement Senate Bill 422, 88th Texas Legislature, Regular Session.

Subchapter D sets requirements for applicants and holders of certain licenses issued under Occupations Code, Chapter 2301. The proposed amendments and proposed repeals in Subchapter D would clarify or delete unused, archaic, or inaccurate definitions, terms, and references to improve understanding and readability; modify language to be consistent with current practice, including the use of records or electronic systems; amend certain application requirements consistent with regulatory best practices; clarify existing requirements; implement statutory changes and add conforming language to be consistent



with statutes and other chapters in Title 43, Part 10 of the Texas Administrative Code; modernize language and improve readability; delete language describing actions for which the department does not have rulemaking authority; and deter fraud and abuse. The department has proposed two new rules in Subchapter D: §215.102, which would consolidate and update the license application requirements for franchised dealers, manufacturers, distributors, and converter licenses, and §215.120, which would consolidate and update the rules on industry license plates and related record keeping.

The department's proposed amendment of §215.103(a) was prompted by stakeholder inquiries regarding whether a franchised dealer could perform warranty repair work through a mobile repair service based at the dealer's licensed location—please see the correspondence to and from General Motors in the administrative record. The department has determined that Texas Occupations Code, Chapter 2301 does not require warranty repair services to be performed only at a licensed dealer location: so long as the licensee is “engaged in the business of buying, selling or exchanging new motor vehicles and servicing or repairing motor vehicles at an established and permanent place of business” in accordance with Texas Occupations Code, §2301.002(16)(B), the dealer can send out repair trucks from that location to conduct the actual repairs. This amendment will reduce the impact of §215.103 on market competition.

The department has received significant stakeholder feedback regarding its proposed repeal of §215.112 in Subchapter D. While the current rule purports to give requirements for department-approved motor home shows, the department lost its statutory authority to approve vehicle shows and exhibitions in 2019, when the legislature amended Texas Occupations Code, §2301.358 following a recommendation of the Sunset Commission. The Sunset Commission's [final report](#) stated that department approval is “an unnecessary layer of regulation” and was not needed to protect consumers. Stakeholders have recommended that the department keep §215.112 while it finds a new way to regulate vehicle shows and exhibitions and have presented a petition for rulemaking that recommends rule provisions that would significantly impact market competition and outlaw the business models of several license holders. The department lacks the required statutory authority necessary to propose the type of anti-competitive restrictions requested by stakeholders and lacks the authority to approve shows and exhibitions on which §215.112 is premised. The department has therefore proposed §215.112 for repeal.

Subchapter E covers the licensing and regulation of dealers who hold general distinguishing numbers and drive-a-way operators who hold in-transit licenses. The proposed amendments to the rules and new rules in Subchapter E would clarify or delete unused, archaic, or inaccurate definitions, terms, and references to improve understanding and readability; modify language to be consistent with current practice, including the use of records or electronic systems; amend certain application requirements consistent with regulatory best practices; clarify existing requirements; modernize language and improve readability; implement statutory changes and add conforming language to be consistent with statutes and other chapters in Title 43, Part 10 of the Texas Administrative Code; and deter fraud and abuse. Proposed new §215.134 would set out the licensing requirements to hold a drive-a-way operator in-transit license, including requirements to protect the public by reducing fraud and abuse, such as fingerprinting for all applicants. Proposed new §215.143 would set out the requirements for drive-away operator in-transit license plates, including recordkeeping requirements for license holders.

Subchapter F sets out the licensure requirements for vehicle lessors and lease facilitators. The proposed amendments to the rules in Subchapter F would clarify or delete unused, archaic, or inaccurate definitions, terms, and references to improve understanding and readability; modify language to be



consistent with current practice, including the use of records or electronic systems; amend certain application requirements consistent with regulatory best practices; clarify existing requirements; modernize language and improve readability; increase temporary tag allocations for new franchised dealers based on department experience; implement statutory changes and add conforming language to be consistent with statutes and other chapters in Title 43, Part 10 of the Texas Administrative Code; and deter fraud and abuse.

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

Chapter 215 has not undergone a rule review since 2017. Since that time, TxDMV has introduced an electronic licensing system and modernized other processes. Also, the legislature has made changes to the department's statutory authority. The department has also noted stakeholder interest in rule amendments, such as the letter from General Motors in the administrative record.

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, these rules and amendments are necessary to comply with state statute. The department proposes amendments to Chapter 215 under:

- Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by the Texas Department of Public Safety (DPS);
- Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the Federal Bureau of Investigation (FBI) for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302;
- Government Code, §2001.054, which specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license;
- Occupations Code, §2301.651, which gives the Board of the Texas Department of Motor Vehicles (board) authority to deny an application for a license, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder;
- Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases;
- Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education



and training developed or approved by the department;

- Transportation Code, §503.033, which authorizes the board to adopt rules to prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond;
- Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and
- Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

The proposed repeal of §215.112, relating to Motor Home Show Limitations and Restrictions, is necessary due to a statutory change to Occupations Code, §2301.358 that removed the department's authority to approve motor vehicle shows and exhibitions.

- 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 proposed rule is within the scope, and reference the applicable state statute(s).**

Yes, the proposed rules are within the scope of the department's authority to regulate the motor vehicle industry. The department proposes amendments to Chapter 215 under:

- Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures;
- Government Code, §2001.039, which requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule;
- Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority;
- Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders; ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules; prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles; and enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503;
- Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board;
- Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302;
- Transportation Code, §501.0041, which authorizes the department to adopt rules to administer Transportation Code, Chapter 501;



- Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502;
- Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; and
- Transportation Code, §1002.001, which 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.

In drafting the proposed revisions, TxDMV legal counsel reviewed statutory authority and industry rulemaking requests, and incorporated staff input from across the department and feedback from two advisory committees, the Motor Vehicle Industry Regulation Advisory Committee at its meeting on September 13, 2023, and the Customer Service and Protection Advisory Committee at its meeting on September 19, 2023. Agendas, recordings and written transcripts of those committee meetings, as well as the draft rule text the committees reviewed, are available [here](#). Department staff also reviewed and incorporated a best practice recommendation from a [report](#) issued by the [American Association of Motor Vehicle Administrators](#).

TxDMV's board considered the proposed rule revisions in an open meeting, received comments from stakeholders at the open meeting, and authorized the department to publish the proposed rules for public comment in the *Texas Register*. At the same meeting, the advisory committee chairs that had reviewed Chapter 215 presented their committee's recommendations to the board. An agenda, written transcript, and board meeting materials for that meeting are available [here](#). The advisory committee chairs' presentation is recorded on pages 84–108 of the transcript and the board's discussion of and vote on the proposed amendments to Chapter 215 is on pages 112–152 of the transcript. The public comments on the proposed amendments to Chapter 215 are recorded on pages 138–150 of the transcript.

6. Describe the harm that the proposed rule is intended to address and how the proposed rule will address the harm.

The proposed rules are designed to protect consumers from fraud and other harmful business practices in the motor vehicle industry, and to implement statutory requirements. Certain rule proposals are intended to limit consumer harm by implementing provisions designed to deter fraud such as expanding applicant fingerprinting requirements or preventing a license holder from using a misleading business name. The explanation section of the preamble contains a description of each proposed rule revision and the purpose of the revision.



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

Less restrictive alternatives would not provide the same level of protection to the public. Where possible, the department has drafted the rule revisions to add flexibility for the regulated community while staying consistent with statutory authority and public safety and welfare goals. Other proposed rule provisions set minimum standards to deter fraud and protect public health and safety. Please see the explanation section of the preamble and the regulatory flexibility analysis in the attached rule proposal.

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

- ☒ 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 it sets minimum standards to hold a license in the motor vehicle industry. These standards are necessary to protect the public and prevent consumer harm. For many Texans, a vehicle is one of the most necessary, important, and expensive purchases they make. Without a vehicle, millions of Texans could not go to work, school, or seek medical care.

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

No, an Attorney General opinion is not pending nor has one been issued related to these proposed rule revisions to our knowledge.

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

No, the proposed rule revisions do not relate to a matter on which there is pending litigation. The department's enforcement division pursues administrative penalties against applicants and license holders for rule violations on an ongoing basis, and final orders issued by the board, or a



board delegate may be appealed through the court system.

12. Is there anything else that the state agency 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 department's board is attached. The rule review notice and proposed amendments were published in the December 29, 2023, issue of the *Texas Register*, and are attached. Upon publication, the department noticed that a few minor proposed amendments did not get published as requested, and the Texas Register will publish a correction in the January 12, 2024, issue of the *Texas Register*. The department will forward the published correction and all public comments received to you.



**Office of the Governor Regulatory
Compliance Division**

Rule Submission Memorandum

To: Regulatory Compliance Division Director

From: Laura Moriaty
General Counsel, Texas Department of Motor Vehicles

Date: January 5, 2024

Subject: 43 TAC Chapter 221 Proposed Rule Revisions

The Texas Department of Motor Vehicles (TxDMV or department) has opened a rule review for 43 Texas Administrative Code (TAC), Chapter 221 (Chapter 221), as published in the December 29, 2023, issue of the *Texas Register*. In conjunction with that review, the department has proposed rule amendments and repeals in Chapter 221, which were also published in the December 29, 2023, issue of the *Texas Register*. The PDF version of the preamble and text of the proposed rules and the proposed rule review, as published in the *Texas Register*, are attached to this memorandum.

The attached administrative record includes a chart with a synopsis of the initial reasons for adopting the rules the department is proposing to amend or repeal, as well as prior significant amendments to the rules and links to recordings and transcripts of the public comments the department received in advisory committee meetings and at the TxDMV board meeting where these provisions were considered. However, the department is only requesting the Regulatory Compliance Division to review the rules, including proposed amendments and repeals, that our chart affirmatively indicates as requesting review under the column labeled “RCD Review Requested (Yes/No).” For context, the chart includes information on rules that the department is not requesting the Regulatory Compliance Division to review.

TxDMV respectfully requests an expedited review of the proposed rules based on the following circumstances:

- House Bill (HB) 718 imposes a deadline of December 1, 2024, for TxDMV to adopt rules to implement and administer HB 718, which eliminates temporary tags and requires the department to provide dealers with license plates to be issued to buyers at time of vehicle sale. This change requires new systems to be developed and can only be implemented successfully with the involvement of the dealer community and the county tax assessor-collectors. The TxDMV board meetings are scheduled bi-monthly on the second Thursday of the month, and are held in February, April, June, August, October, and December.
- The TxDMV board meetings are scheduled bi-monthly on the second Thursday of the month, and are



held in February, April, June, August, October, and December. To meet the December 1, 2024, deadline and implement this significant change, the board must approve a HB 718 rule proposal at the June 13, 2024, board meeting and adopt implementing rules at the October 10, 2024, board meeting.

- The rules in Chapter 221 have not been reviewed since 2015 and the board has proposed updates are proposed for all of them. A number of these rules will also be impacted in the HB 718 rule package, so it is important that these rules are updated, and the chapter closed before the board considers the HB 718 rule proposals on June 13, 2024.
- To meet that schedule, the board must adopt Chapter 221 rule review and the associated amendments and repeals at the April 11, 2024, board meeting. To meet this deadline and allow time for any required changes to the rules and for timely posting the meeting agenda, we respectfully request an expedited review with a determination letter issued by March 28, 2024.

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

1. Briefly describe the proposed rule.

As part of a comprehensive rule review of Chapter 221, this rule package contains certain proposed amendments to rules that significantly impact market competition. The department determined these amendments and repeals are necessary because the current rule text no longer matches the department's current practices or current statutory authority. Also, amendments are proposed to increase the effectiveness of the department's regulation of salvage vehicle dealers, including proposal of a fingerprinting requirement to hold a salvage vehicle dealer license.

2. What is the purpose of the proposed rule?

Chapter 221 covers the licensure, advertising, business requirements, and disciplinary procedures for those acting as a salvage vehicle dealer under Occupations Code, Chapter 2302, including licensed salvage vehicle dealers and holders of a specific type of General Distinguishing Number (GDN) under Transportation Code, Chapter 503. Only some of Chapter 221's sections significantly impact market competition.

Subchapter B sets out the general requirements for licensure by the department. The rules in this subchapter describe the application process, fees, and licensure criteria necessary to protect the public, including new proposals such as applicant fingerprinting and prohibiting a business name from being misleading. The proposed amendments in Subchapter B would clarify or delete unused or inaccurate references to improve understanding and readability; modify language to be consistent with current practice, including the use of electronic systems; clarify existing requirements; and deter fraud and abuse.

Subchapter C sets out requirements for salvage vehicle dealer operations. The proposed amendments and repeal in Subchapter C would clarify or delete unused, archaic, or inaccurate terms and



references to improve understanding and readability; modify language to be consistent with current practice; clarify certain business office requirements; implement statutory changes and remove language to be consistent with statutes and other chapters in Title 43, Part 10 of the Texas Administrative Code. The department has amended § 221.43(a) to add a requirement that the office of a salvage vehicle dealer who sells to a retail customer be open at least four days per week for at least four consecutive hours per day and not solely by appointment, and that an office of a salvage pool operator selling only to a wholesale dealer must be open at least two weekdays per week for at least two consecutive hours per day and not solely by appointment.

Subchapter D sets out the general requirements for salvage vehicle dealers to maintain records of each salvage motor vehicle and non-repairable motor vehicle they purchase, sell, or exchange. The proposed amendments to the rules in Subchapter D would clarify or delete unused, archaic, or inaccurate definitions, terms, and references to improve understanding and readability; modify language to be consistent with current practice, including the use of electronic systems; clarify existing requirements; and add relevant cites to other rules in Title 43, Part 10 of the Texas Administrative Code.

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

Chapter 221 has not undergone a rule review since 2015. Since that time, TxDMV has introduced an electronic licensing system and modernized other processes. Also, the legislature has made changes to the department's statutory authority.

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, these rules and amendments are necessary to comply with state statute. The department proposes amendments to Chapter 215 under:

- Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by the Texas Department of Public Safety (DPS);
- Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the Federal Bureau of Investigation (FBI) for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302;
- Government Code, §2001.054, which specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license;
- Occupations Code, §2302.052, which assigns the Board of the Texas Department of Motor Vehicles (board) a duty to set reasonable and necessary application fees, license



fees, renewal fees, and other fees as required to implement the chapter;

- Occupations Code, §2302.103, which requires a salvage vehicle dealer to apply for a license on a form prescribed by the department and pay an application fee;
- Occupations Code, §2302.104, which prescribes content that must be included in an application;
- Occupations Code, §2302.105, which requires the department to complete an investigation of the applicant's qualifications before issuing a license; and
- Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001.

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 proposed rule is within the scope, and reference the applicable state statute(s).

Yes, the proposed rules are within the scope of the department's authority to regulate the motor vehicle industry, including vehicle salvage operators. The department proposes amendments to Chapter 221 under:

- Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures;
- Government Code, §2001.039, which requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule;
- Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302;
- Transportation Code, §501.0041, which authorizes the department to adopt rules to administer Transportation Code, Chapter 501;
- Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502;
- Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; and
- Transportation Code, §1002.001, which 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.



In drafting the proposed revisions, TxDMV legal counsel reviewed statutory authority, and incorporated staff input from across the department and requested feedback from two advisory committees, the Motor Vehicle Industry Regulation Advisory Committee at its meeting on September 13, 2023, and the Customer Service and Protection Advisory Committee at its meeting on September 19, 2023. Agendas, recordings and written transcripts of those committee meetings, as well as the draft rule text the committees reviewed, are available [here](#). The advisory committees did not recommend any changes to the draft proposed amendments to Chapter 221.

TxDMV's board considered the proposed rule revisions in its open meeting on December 14, 2023, requested comments from stakeholders at the open meeting, and authorized the department to publish the proposed rule for public comment in the *Texas Register*. At the same meeting, the advisory committee chairs that had reviewed Chapter 221 presented their committee's recommendations to the board, though none of those recommendations pertained to Chapter 221. An agenda, written transcript, and board meeting materials for that meeting are available [here](#). The advisory committee chairs' presentation is recorded on pages 84–108 of the transcript and the board's discussion of and vote on the proposed amendments to Chapter 221 is on pages 152–157 of the transcript. The board did not receive any comments from stakeholders on the proposed amendments to Chapter 221 at the board meeting.

6. Describe the harm that the proposed rule is intended to address and how the proposed rule will address the harm.

The proposed amendments are designed to protect consumers from fraud and other harmful business practices in the salvage motor vehicle industry, and to limit consumer harm by implementing provisions designed to deter fraud such as expanding applicant fingerprinting requirements or preventing a license holder from using a misleading business name. The explanation section of the preamble contains a description of each proposed rule revision and the purpose of the revision. The chart of prior rulemaking history, included in the attached administrative record, shows the department's reasons for initially adopting each rule.

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

Less restrictive alternatives would not provide the same level of protection to the public. Where possible, the department has drafted the proposed rule revisions to add flexibility for the regulated community while staying consistent with statutory authority and public safety and welfare goals. Other proposed rule provisions set minimum standards to deter fraud and protect public health and safety. Please see the explanation section of the preamble and the regulatory flexibility analysis in the attached rule proposal.

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

☐ 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 it sets minimum standards to hold a salvage vehicle dealer license. These standards are necessary to protect the public and prevent consumer harm. Allowing a non-repairable salvage vehicle to be used on public highways or sold to an unsuspecting consumer represents a significant threat to public safety and may result in substantial consumer harm. The proposed license amendment fee of \$25 is the same fee that is charged to all other license holders.

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

No, an Attorney General opinion is not pending nor has one been issued related to these proposed rule review revisions to our knowledge.

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

No, the proposed rule revisions do not relate to a matter on which there is pending litigation. The department's enforcement division pursues administrative penalties against applicants and license holders for rule violations on an on-going basis, and final orders issued by the board, or a board delegate, may be appealed through the court system.

12. Is there anything else that the state agency 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 department's board is attached. The department will forward all public comments received to you.

43 TAC Part 10 Chapter 215 – Motor Vehicle Distribution Rule Review

Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
<u>Subchapter A. General Provisions</u>		
§215.1 Purpose and Scope	No	<ul style="list-style-type: none"> • Original Rule Reason: to identify the underlying statutes for chapter rules and define the scope to be motor vehicle industry regulation. • Major Amendments: No major changes. The rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571).
§215.2 Definitions; Conformity with Statutory Requirements	No	<ul style="list-style-type: none"> • Original Rule Reason: to provide key definitions consistent with statute. • Major Amendments: adopted in 2010 (35 TexReg 883); in 2014, this rule was amended to modify definitions of existing terms and add new terms to reflect department processes (39 TexReg 1728). One additional definition was adopted in the 2017 rule review for ease of reference (42 TexReg 571).
<u>Subchapter B. Adjudicative Practice and Procedure</u>		
<p>Proposed repeal of entire subchapter to include in proposed new Chapter 224; no RCD review requested.</p> <ul style="list-style-type: none"> • Original Subchapter Reason: to define procedures for certain contested case matters. • Major Amendments: this subchapter was adopted in 2010 (35 TexReg 883). In 2014, amendments implemented HB 1692, 83rd Regular Session, and clarified that Subchapter B also governs contested cases filed on and after January 1, 2014, under Occupations Code, §2301.204, relating to warranty performance, and under Occupations Code, Subchapter M, §§2301.601 -2301.613, relating to the lemon law (39 TexReg 1728). The following rules were amended: §§215.27, 215.30, 215.32, 215.34, 215.35, 215.37, 215.39, 215.41, 215.43, 215.44, 215.49, 215.55, 215.56, and 215.58 (39 TexReg 1728). <p>In the 2017 rule review, the following rules were amended or repealed: An amendment to §215.22 added the requirement to report a violation of that section to the general counsel of the department in addition to the hearing officer. Another amendment to §215.34 established the last known address of a license applicant, license holder, or other person for purposes of giving notice as the mailing address provided to the department when the license holder applies, renews, or notifies the department of a change of address. An amendment to §215.37 clarified that the costs of transcribing and preparing a record in a contested case hearing will be assessed to the party requesting the record. An amendment to §215.58 authorized the division director to issue final orders in contested cases that are resolved by summary judgment or summary disposition. Additional amendments simplified and</p>		

43 TAC Part 10 Chapter 215 – Motor Vehicle Distribution Rule Review

Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
<p>clarified language. The department determined that §§215.25, 215.26, 215.28, 215.31, 215.33, 215.50-215.54, and 215.57 duplicate language contained in statute and could be repealed. (42 TexReg 571)</p> <p>In 2021, the following sections were amended to implement statute and in response to a rulemaking petition: §§215.22, 215.55, and 215.59-215.63. (46 TexReg 1257).</p> <p>This subchapter is proposed for repeal and content is incorporated in new Chapter 224 for all enforcement, board, consumer warranty and lemon law contested case/adjudicative matters from initial notice of complaint or violation to final contested case disposition.</p>		
<u>Subchapter B[C]. Licenses, Generally</u>		
<u>§215.81</u> Purpose and Scope	No	<ul style="list-style-type: none"> • Original Rule Reason: to identify the underlying statutes implemented in this subchapter. • Major Amendments: No major changes. The rule was adopted in 2010 (35 TexReg 883), and minor amendments were adopted in the 2017 rule review (42 TexReg 571).
<u>§215.82</u> Duplicate Licenses and Plates	No	<ul style="list-style-type: none"> • Original Rule Reason: originally this rule defined licensing fee administration, but the purpose and rule name were modified in the 2017 rule review to be narrower and include only the process for a license holder to obtain a duplicate license or replace an industry license plate lost in the mail. • Major Amendments: adopted in 2010 (35 TexReg 883), minor amendments in 2012 (37 TexReg 7753), and 2017 (42 TexReg 571). In 2012, amendments deleted a duplicative provision of Occupations Code, §2301.264(f), adopted a provision consistent with Occupations Code, §2301.264(d) regarding refunds, and added §215.82(b) to implement Occupations Code, §55.002, a military licensing provision (37 TexReg 7753).

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		In the 2017 rule review §215.82 was renamed and edited to include only duplicate licenses and industry license plates, and the military licensing provision was moved to §215.83 (42 TexReg 571).
§215.83 License Applications, Amendments, or Renewals	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to describe the process for submitting all types of license applications including new applications, amendments, and renewals. • Major Amendments: Adopted in 2010 (35 TexReg 883), amended most extensively in 2012 (37 TexReg 7753), with additional amendments added in 2014 (39 TexReg 1728), in 2017 as part of a rule review (42 TexReg 571), and in 2019 (44 TexReg 8037). 2012 amendments: <ul style="list-style-type: none"> • §215.83(a) amendments adopted to emphasize that a licensee must submit a timely and sufficient renewal application before the license expires regardless whether the licensee failed to receive department notice of the expiration. • New §215.83(b) clarified that a renewal application is sufficient if the renewal form is completed by the licensee or certain authorized representatives, includes the required renewal fee and is accompanied by proof of a surety bond, if required. • New §215.83(c) states that a license renewal application is timely if it is received or postmarked before the license expiration date. • New §215.83(d) states that a timely and sufficient renewal application will be accepted for processing; however, the filing of a timely and sufficient renewal

Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
<p>§215.83 License Applications, Amendments, or Renewals (cont'd)</p>		<p>application does not automatically result in the issuance of a license. Rather, the Motor Vehicle Division will review the renewal application and determine whether to approve or deny the application for issuance of a license.</p> <ul style="list-style-type: none"> • New §215.83(e) was adopted for consistency with the Administrative Procedure Act, Government Code, §2001.054. • New §215.83(f) was adopted to clarify that if a licensee fails to file a sufficient application before the expiration of the existing license, then that person may not continue to engage in those business activities requiring a license. • New §215.83(g) was adopted to clarify that the expiration date of license plates that are issued in accordance with Transportation Code, Chapter 503, Subchapter C, is intrinsically tied to the expiration of the associated license issued by the department's Motor Vehicle Division. Therefore, the plates expire the later of two events, either upon expiration of the license associated with the plates or, if the licensee filed a timely and sufficient license renewal application, upon the determination whether to issue or deny the license renewal application. • New §215.83(h) was adopted to provide a licensee the opportunity to demonstrate that the licensee complied with all license renewal requirements and that a sufficient and timely license renewal application was filed. The person was afforded 10 calendar days from the

Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
<p>§215.83 License Applications, Amendments, or Renewals (cont'd)</p>		<p>date the division issues a notice informing the entity that no renewal application was received by the division.</p> <ul style="list-style-type: none"> • New §215.83(i) was based upon existing §215.83(b). New §215.83(i) clarified that the department affords a grace period of 90 days during which the entity may file a late renewal application. The 90-day grace period applies only to the filing of the license renewal application and not the activities authorized by the valid license. Once the existing license expires, the applicant no longer holds a valid license; therefore, the applicant may not continue to engage in business activities for which a license is required. The subsection clarified that the applicant may not resume business activities for which a license is required until the applicant receives from the division a written verification that the license has been issued or receives the actual license. • New §215.83(j) was adopted to clarify that if the Motor Vehicle Division has not received a renewal application within 90 days of the expiration of a license, the division will close the license and that license may not be renewed. Instead, the entity must apply for and receive a new license before engaging in or resuming any business activities for which a license is required. <p>In 2014: Amendments to §215.83, changed all references of "division" to "department" to allow executive management and the Board greater flexibility regarding department organization.</p> <p>In 2017: An amendment to §215.83 implemented legislative changes regarding "active duty." Also, §215.83 was amended</p>

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<p>to include the procedures for processing license applications currently set out under existing §215.86 because those procedures were more appropriately located in §215.83. Additional amendments to §215.83 subdivided the rule to improve formatting and readability.</p> <p>In 2019: Amendments implemented SB 1200, 86th Regular Session, regarding recognition of out-of-state licenses held by military spouses.</p>
<p>§215.84 Brokering, New Motor Vehicles</p>	<p>No</p>	<ul style="list-style-type: none"> • Original Rule Reason: to clarify the differences between brokering, which is not allowed by statute, and referral programs which are allowed. • Major Amendments: No major changes. The rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571).
<p>§215.85 Brokering, Used Motor Vehicles</p>	<p>No</p>	<ul style="list-style-type: none"> • Original Rule Reason: to clarify the differences between brokering, which is not allowed by statute, and referral programs which are allowed. • Major Amendments: The rule was adopted in 2010 (35 TexReg 883), minor amendments were adopted in the 2017 rule review (42 TexReg 571), and in 2018 (43 TexReg 5809), a new subsection was adopted to clarify that a licensed dealer holding only a GDN pursuant to Transportation Code, §503.029(a)(6)(B) may pay a referral fee in cash or value to an individual who has purchased a vehicle from the licensed dealer within the four-year period preceding the referral, and that the referral fee may be contingent upon the new referred individual purchasing a vehicle from the license dealer, or a fee paid for the referral of a new potential customer.

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
§215.87 License and Metal Dealer's License Plate Terms and Fees	No	<ul style="list-style-type: none"> • Original Rule Reason: to clarify dealer license plate fees and when a license plate expires. • Major Amendments: no major changes. The rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571).
§215.89 Fitness	No	<ul style="list-style-type: none"> • Original Rule Reason: defines the criteria for who may or may not hold a license issued under Occupations Code, Chapter 2301 or Transportation Code, Chapter 503. • Major Amendments: first adopted in 2014 (39 TexReg 7960). Minor amendments were made in the 2017 rule review (42 TexReg 571) and was more significantly amended in 2020 (45 TexReg 7439) to change the basis for which affiliations are important in determining fitness to be that of whether an unfit person has the power to control or direct the activities of a license holder either directly or indirectly rather than whether an unfit person is a relative or family member. RCD issued a determination letter approving the 2020 rule changes.
Subchapter C[D]. Franchised Dealers, Manufacturers, Distributors, and Converters		
§215.101 Purpose and Scope	No	<ul style="list-style-type: none"> • Original Rule Reason: to define the scope of the subchapter. • Major Amendments: no major changes. The rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571).
§215.102 Application Requirements (New)	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to document application requirements for franchised dealer, manufacturer, distributor, and converter licenses. • Major Amendments: no amendments, new rule.
§215.103 Service-only Facility	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to define requirements for a service-only facility license.

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<ul style="list-style-type: none"> • Major Amendments: no major changes. The rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571).
§215.104 Changes to Franchised Dealer’s License	No	<ul style="list-style-type: none"> • Original Rule Reason: to define specific circumstances when a franchised dealer must file a license amendment. • Major Amendments: no major changes. The rule was adopted in 2010 (35 TexReg 883) and amendments were adopted in the 2017 rule review (42 TexReg 571) to add more detail and improve clarity.
§215.105 Notification of License Application; Protest Requirements	No	<ul style="list-style-type: none"> • Original Rule Reason: to document the process for the department to implement the statutory requirement under Occupations Code, Chapter 2301 to allow certain franchised dealers to protest another franchised dealer’s proposed relocation. • Major Amendments: no major changes. The rule was adopted in 2010 (35 TexReg 883) and amendments were adopted in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.106 Time for Filing Protest	No	<ul style="list-style-type: none"> • Original Rule Reason: to define the requirements for a license holder to file a valid statutory protest. • Major Amendments: The rule was adopted in 2010 (35 TexReg 883), amended in 2012 (37 TexReg 5637) to delete antiquated service methods and add clarity, and was further amended in the 2017 rule review (42 TexReg 571) to add more detail and improve clarity.
§215.108 Addition or Relocation of Line-make	No	<ul style="list-style-type: none"> • Original Rule Reason: to clarify that adding or relocating a line-make to an existing dealership triggers the obligation to provide notice to the department and qualifies as a protestable action under Occupations Code, Chapter 2301. • Major Amendments: no major changes. The rule was adopted in 2010 (35 TexReg 883) and amendments were

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		adopted in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.109 Replacement Dealership	No	<ul style="list-style-type: none"> • Original Rule Reason: to define when a replacement dealership is not subject to a statutory protest. • Major Amendments: The rule was adopted in 2010 (35 TexReg 883) and amended in 2011 (36 TexReg 433) to increase from one to two miles the distance that a replacement dealership can relocate without triggering a protest and this limit was consistent with the two-mile requirement in §215.105 in addition to minor grammar changes. Minor amendments were made in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.110 Evidence of Franchise	No	<ul style="list-style-type: none"> • Original Rule Reason: to describe the evidence of a franchise agreement that must be provided to the department when a franchised dealer applies for a new license or would like to add a new line-make. • Major Amendments: no amendments, the rule was adopted in 2010 (35 TexReg 883) and amendments were adopted in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.111 Notice of Termination or Discontinuance of Franchise and Time for Filing Protest	No	<ul style="list-style-type: none"> • Original Rule Reason: to implement Occupations Code, §2301.453, Termination or Discontinuance of Franchise. • Major Amendments: no amendments, the rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.112 Motor Home Show Limitations and Restrictions	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to prescribe limits and restrictions on license holder participation and activities at a motor home show. • Major Amendments: The rule was adopted in 2010 (35 TexReg 883) and was first amended in 2012 (37 TexReg 7753) to implement HB 2872, which amended Transportation Code,

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<p>Chapter 728, Subchapter A (the Texas Blue Law). Minor edits were also made for clarity, and to clarify the activities in which a motor home dealer may engage on a consecutive Saturday and Sunday during a show or exhibition. The rule was amended in the 2017 rule review (42 TexReg 571) to clarify that the provisions of that section are limited to motor home shows that require department approval.</p> <p>SB 604, 86th Regular Session eliminated department show and exhibition approvals effective 9/1/2019, as the approvals were unnecessary and served no legitimate government purpose. Rule is proposed for repeal.</p>
§215.113 Manufacturer Ownership of Franchised Dealer; Good Cause Extension; Dealer Development	No	<ul style="list-style-type: none"> • Original Rule Reason: to describe the circumstances and limitations of when a manufacturer may own an interest or exert control over a franchised dealership. • Major Amendments: adopted in 2010 (35 TexReg 883). The rule was first amended in 2012 (37 TexReg 5637) to clarify which areas of the department perform certain functions, and minor clarifying amendments were made in the 2017 rule review (42 TexReg 571).
§215.114 Sale of a Vehicle by a Manufacturer or Distributor at a Wholesale Motor Vehicle Auction	No	<ul style="list-style-type: none"> • Original Rule Reason: to advise manufacturers and distributors that these license holders and related entities may sell motor vehicles owned by the license holder to a dealer at a wholesale motor vehicle auction. • Major Amendments: no amendments, the rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.115 Manufacturer, Distributor, and Converter Records	No	<ul style="list-style-type: none"> • Original Rule Reason: to describe the vehicle sales records that must be kept by a manufacturer, distributor, or

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<p>converter, how long the records must be kept and format and accessibility requirements.</p> <ul style="list-style-type: none"> • Major Amendments: no amendments, the rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.116 Lease or Sublease Listing	No	<ul style="list-style-type: none"> • Original Rule Reason: to define what property a dealer must list for lease or sublease to mitigate damages as required under Occupations Code, §2301.4651(e). • Major Amendments: no amendments, the rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.117 Market Value Property Appraisal	No	<ul style="list-style-type: none"> • Original Rule Reason: to define the requirements for the appraisers and how the market value of property may be determined under Occupations Code, §2301.482(c). • Major Amendments: no amendments, the rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.118 Determination of Affected County for Dealership Relocation	No	<ul style="list-style-type: none"> • Original Rule Reason: to define which census will be used by the department to implement Occupations Code, §2301.6521. • Major Amendments: no amendments, the rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.119 Standing to Protest	No	<ul style="list-style-type: none"> • Original Rule Reason: to define which dealers have a right to protest another dealer's desire to establish a new dealership or relocate an existing dealership or add or relocates a line-make.

Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<ul style="list-style-type: none"> • Major Amendments: no amendments, the rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.120 License plates (New)	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to define how a license holder under this subchapter may order an industry license plate, record keeping and reporting requirements, criteria for when a license holder may order additional industry license plates, the purposes for which the industry plate may be used, and the requirements to return the industry license plate when a license is closed for any reason. • Major Amendments: no amendments, new rule.
§215.121 Sanctions (New)	No	<ul style="list-style-type: none"> • Original Rule Reason: to describe potential sanctions authorized in statute and many of the common, serious violations that may result in a sanction. • Major Amendments: no amendments, new rule.
Subchapter D[E]. General Distinguishing Numbers (includes 3 graphics and retitling to add “and In-Transit Licenses”)		
§215.131 Purpose and Scope	No	<ul style="list-style-type: none"> • Original Rule Reason: to describe the scope of the subchapter. • Major Amendments: no amendments, the rule was adopted in 2010 (35 TexReg 883) and minor amendments were adopted in the 2017 rule review (42 TexReg 571) to improve clarity.
§215.132 Definitions	No	<ul style="list-style-type: none"> • Original Rule Reason: to define common terms used in this subchapter. • Major Amendments: adopted in 2010 (35 TexReg 883). The rule was first amended in 2012 (37 TexReg 5637) to consolidate definitions into one section by adding a definition of the term "house trailer" and by cross

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<p>referencing definitions to the definition of house trailer for consistency with Transportation Code, §501.002.</p> <p>In the 2017 rule review, several clarifying amendments were made to replace terminology with defined terms, delete definitions already defined by statute, add clarifying language to existing definitions, revise existing terminology for consistency with other rules, correct citations, and delete language contained in statute. Two new definitions were also added. (42 TexReg 571).</p>
<p>§215.133 General Distinguishing Number</p>	<p>Yes</p>	<ul style="list-style-type: none"> • Original Rule Reason: to describe the requirements and application process to obtain or renew a general distinguishing number (GDN), the most prevalent type of license issued by the department. • Major Amendments: adopted in 2010 (35 TexReg 883), amended in 2012 (37 TexReg 5637), 2017 (42 TexReg 571), 2020 (45 TexReg 1225), and in 2023 (47 TexReg 8745). In 2012: amendments significantly streamlined the application process by deleting requirements for applicants to provide proof of certain requirements such as an executed lease and permanent signage. A reflectorization fee was eliminated based on a statutory change. A passport and military identification were added to the list of acceptable identification documents. Activities allowed by a person holding a wholesale dealer GDN license were added. Amendments clarified that an application for a GDN may be denied if an applicant committed an act that could result in license cancellation or revocation under Occupations Code, Chapter 2301, or a rule of the department, in addition to Transportation Code, Chapter 503.

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
§215.133 General Distinguishing Number (cont'd)		<p>In 2017 rule review: added the acceptance of concealed handgun license for identification purposes (42 TexReg 571).</p> <p>In 2020: conforming amendments were added to implement Transportation Code, §503.027(a); new §215.133(j) was added to implement statutory changes to Occupations Code §2302.009 and §2302.101, which exempts a person holding an independent motor vehicle GDN from the requirement to also hold a salvage dealer license to act as a salvage vehicle dealer or rebuilder, or store or display a motor vehicle as an agent or escrow agent of an insurance company; and new §215.133(k) implemented new Transportation Code, §503.0296 to require an applicant for an original or renewal general distinguishing number complete web-based education and training developed or approved by the department unless the person held a GDN for at least 10 years.</p> <p>In 2023: major amendments were made in response to increases in application fraud and temporary tag fraud and to document and clarify existing application requirements and conform the rule with existing statutes. RCD issued a determination letter approving these changes.</p>
§215.134. Licensing Requirements for an In-Transit GDN (New)	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to document the application process for a drive-a-way operator to obtain an in-transit license. • Major Amendments: no amendments, new rule
§215.135 More than One Location	No	<ul style="list-style-type: none"> • Original Rule Reason: to clarify the license and premises requirements for a GDN holder that operates from multiple locations and define the notification requirements when a dealer opens, closes, or relocates a business location.

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<ul style="list-style-type: none"> • Major Amendments: the rule was adopted in 2010 (35 TexReg 883) and several clarifying amendments including requirements relating to the relocation of an existing business were adopted in the 2017 rule review (42 TexReg 571).
§215.137 Surety Bond	No	<ul style="list-style-type: none"> • Original Rule Reason: to clarify the requirements for a dealer surety bond required under Transportation Code, §503.033. • Major Amendments: the rule was adopted in 2010 (35 TexReg 883) and several clarifying amendments were adopted to improve readability in the 2017 rule review (42 TexReg 571).
§215.138 Use of Metal Dealer's License Plates	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to identify the acceptable uses and dealer obligations associated with metal dealer license plates. • Major Amendments: the rule was adopted in 2010 (35 TexReg 883), amended in 2014 to implement a statutory change that expanded the use of dealer license plates on service or work vehicles (39 TexReg 501), and further amended to improve readability in the 2017 rule review (42 TexReg 571).
§215.139 Metal Dealer's License Plate Allocation	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to define the number of standard metal license plates a dealer may order in an initial and renewal license application and the process for requesting a waiver, if applicable. • Major Amendments: the rule was adopted in 2010 (35 TexReg 883) and in the 2017 rule review amendments reformatted the license plate allocations into tables, limited a wholesale dealer to two dealer license plates, and clarified that the rule did not apply to personalized prestige plates issued under Transportation Code, §503.0615 (42 TexReg 571).

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
§215.140 Established and Permanent Place of Business Premises Requirements	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to define the requirements for a dealer to have “an established and permanent place of business” as required by Transportation Code, §503.032 and Occupations Code, §2301.362. • Major Amendments: adopted in 2010 (35 TexReg 883), and amended in 2012 (37 TexReg 5637), twice in 2017 (42 TexReg 571 and 42 TexReg 3273), and in 2023 (47 TexReg 8745). In 2012: amendments eliminated significant premises requirements including specific hours of operation, square footage, ceiling height, heating, electric service, filing cabinets, fax machines, and land-based telephone lines with separate numbers from fax machines. Vehicle display space and sign requirements were also simplified or made more flexible. In the 2017 rule review: amendments clarified differences between retail and wholesale dealers and several amendments improved readability. Later in 2017: amendments clarified that the premises requirements apply to each dealer when multiple dealers are licensed at the same location. In 2023: major amendments were made in response to increases in application fraud and to clarify existing requirements. RCD issued a determination letter approving these changes.
§215.141 Sanctions	No	<ul style="list-style-type: none"> • Original Rule Reason: to describe potential sanctions authorized in statute and many of the common, serious violations that may result in a sanction.

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<ul style="list-style-type: none"> • Major Amendments: adopted in 2010 (35 TexReg 883). The rule was amended in 2012 to correct a cross reference and to make language consistent with §215.140 which restricted a wholesale dealer licensed sharing a business structure with a retail dealer (37 TexReg 5637). In the 2017 rule review, several clarifying amendments were made to modernize the language and improve readability (42 TexReg 571).
§215.143. In-Transit License Plates (New)	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to define requirements for a drive-away operator to obtain and use an in-transit license plate and the associated recordkeeping obligations. • Major Amendments: no amendments, new rule.
§215.144 Records	No	<ul style="list-style-type: none"> • Original Rule Reason: to define the vehicle records that must be kept by a GDN holder, how long a dealer must keep records, the record format and accessibility requirements, and the requirements to use department-designated electronic systems for vehicle titling and registration. • Major Amendments: the rule was adopted in 2010 (35 TexReg 883) and several clarifying amendments were adopted to reorganize the rule and improve readability in the 2017 rule review (42 TexReg 571).
§215.145 Change of Dealer's Status	No	<ul style="list-style-type: none"> • Original Rule Reason: to define when a dealer must notify the department of a change in the dealer's status such as change of name, ownership, or upon the death of a sole proprietor. • Major Amendments: the rule was adopted in 2010 (35 TexReg 883). In the 2017 rule review, amendments clarified the differing requirements that apply depending on who operates the licensed business upon the death of a sole proprietor (42 TexReg 571).

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
§215.146 Metal Converter's License Plates	No	<ul style="list-style-type: none"> • Original Rule Reason: to define requirements for a converter to use a metal converter license plate and the associated recordkeeping obligations. • Major Amendments: the rule was adopted in 2010 (35 TexReg 883). In the 2017 rule review, several clarifying amendments were adopted to reorganize the rule and improve readability (42 TexReg 571).
§215.147 Export Sales	No	<ul style="list-style-type: none"> • Original Rule Reason: to define the dealer recordkeeping responsibilities associated with selling a vehicle for export. • Major Amendments: the rule was adopted in 2010 (35 TexReg 883). In the 2017 rule review, several clarifying amendments were adopted to reorganize the rule and improve readability and to add a new form of acceptable identification (42 TexReg 571).
§215.148 Dealer Agents	No	<ul style="list-style-type: none"> • Original Rule Reason: to define the parameters on how and when a dealer may authorize an agent to buy or sell a motor vehicle for resale or at auction. • Major Amendments: the rule was adopted in 2010 (35 TexReg 883). In the 2017 rule review, several clarifying amendments were adopted to reorganize the rule and improve readability (42 TexReg 571).
§215.149 Independent Mobility Motor Vehicle Dealers	No	<ul style="list-style-type: none"> • Original Rule Reason: to clarify the independent mobility motor vehicle dealer's role in a motor vehicle sale. • Major Amendments: the rule was adopted in 2010 (35 TexReg 883). In the 2017 rule review, minor amendments corrected a citation and updated language for consistency (42 TexReg 571).
§215.150 Authorization to Issue Temporary Tags	No	<ul style="list-style-type: none"> • Original Rule Reason: to define when a dealer or converter is authorized to issue a temporary tag and the corresponding dealer responsibilities.

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<ul style="list-style-type: none"> • Major Amendments: adopted in 2010 (35 TexReg 883); amended in the 2017 rule review (42 TexReg 571); in 2020 (45 TexReg 7441); and in 2022 (47 TexReg 662). In 2017 rule review: minor amendments to modernize language and delete duplicate provisions. In 2020: the rule was amended to incorporate statutory changes in Transportation Code, §503.063(h) which authorized a federal, state, or local governmental agency to issue temporary tags. In 2022: significant amendments were adopted in response to new statutory authority given to the department to set maximum temporary tag limits to combat temporary tag fraud. RCD issued a determination letter approving these amendments.
§215.151 Temporary Tags, General Use Requirements, and Prohibitions	No	<ul style="list-style-type: none"> • Original Rule Reason: to define temporary tag display requirements. • Major Amendments: adopted in 2010 (35 TexReg 883); amended in the 2017 rule review (42 TexReg 571); in 2020 (45 TexReg 7441); and in 2022 (47 TexReg 662). In 2017 rule review: minor amendments to modernize language and delete an unnecessary provision. In 2020: the rule was amended to incorporate statutory changes in Transportation Code, §503.063(h) which authorized a federal, state, or local governmental agency to issue and display temporary tags. In 2022: An amendment added converters to the procedure for displaying a temporary tag as required by Transportation

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		Code §503.0625. RCD issued a determination letter covering this section.
§215.152 Obtaining Numbers for Issuance of Temporary Tags	No	<ul style="list-style-type: none"> • Original Rule Reason: to define responsibilities of persons authorized to issue temporary tags. • Major Amendments: adopted in 2010 (35 TexReg 883); amended in the 2017 rule review (42 TexReg 571); in 2020 (45 TexReg 7441); and in 2022 (47 TexReg 954). In 2017 rule review: minor amendments to modernize language. In 2020: the rule was amended to incorporate statutory changes in Transportation Code, §503.063(h) which authorized a federal, state, or local governmental agency to issue temporary tags. In 2022: significant amendments were adopted in response to new statutory authority given to the department to set maximum temporary tag limits to combat temporary tag fraud. RCD issued a determination letter approving these amendments.
§215.153 Specifications for All Temporary Tags	No	<ul style="list-style-type: none"> • Original Rule Reason: to define the specifications for all types of temporary tags. • Major Amendments: adopted in 2010 (35 TexReg 883); amended in the 2017 rule review (42 TexReg 571); in 2020 (45 TexReg 7441); and in 2022 (47 TexReg 662). In 2017 rule review: minor amendments to modernize language. In 2020: the rule was amended to remove outdated requirements that do not apply to temporary tags created

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<p>on-demand with the department's web-based application and publish updated tag form graphics.</p> <p>In 2022: amendments removed sample temporary tag graphics to combat fraud and allow the department to easily change tag design as necessary. RCD issued a determination letter approving these changes.</p>
<p>§215.154 Dealer's Temporary Tags</p>	No	<ul style="list-style-type: none"> • Original Rule Reason: to define how and when a dealer may use a dealer's temporary tag, and the information required to be included on the tag. • Major Amendments: adopted in 2010 (35 TexReg 883); amended in the 2017 rule review (42 TexReg 571); in 2020 (45 TexReg 7441); and in 2022 (47 TexReg 662). <p>In 2017 rule review: minor amendments to modernize language.</p> <p>In 2020: amendments clarified that a dealer's tag cannot be issued for an off-highway vehicle because off-highway vehicles are not eligible for registration under Transportation Code §502.140.</p> <p>In 2022: amendments update a reference to off-highway vehicles and update limitations on use of courtesy cars consistent with current use and terminology. RCD issued a determination letter approving these changes.</p>
<p>§215.155 Buyer's Temporary Tags</p>	No	<ul style="list-style-type: none"> • Original Rule Reason: to define how and when a dealer may use a dealer's temporary tag, and the information required to be included on the tag. • Major Amendments: adopted in 2010 (35 TexReg 883); amended in the 2017 rule review (42 TexReg 571) and later in 2017 (42 TexReg 3274); in 2018 (43 TexReg 7720); in 2020 (45 TexReg 7441); and in 2022 (47 TexReg 662).

Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<p>In 2017 rule review: added the requirement for a vehicle inspection and clarified that for a wholesale transaction a dealer may use a dealer temporary tag or dealer metal license plate and made minor edits to modernize the language.</p> <p>Later in 2017: an amendment clarified that if the vehicle is sold to an out-of-state buyer and the dealer is making payment through the department's electronic title system, the entire fee must be remitted to the department for deposit to the credit of the Texas Department of Motor Vehicles fund. The amendment also clarifies that the buyer's temporary tag fee shall not be charged if the vehicle is exempt from payment of certain registration fees.</p> <p>In 2018: clarified that a vehicle does not have to be inspected if exempt under Chapter 548.</p> <p>In 2020: the rule was amended to incorporate statutory changes in Transportation Code, §503.063(h) which authorized a federal, state, or local governmental agency to issue and display temporary tags.</p> <p>In 2022: minor amendments were adopted to support other rule amendments and clarify vehicle inspection exemptions and the requirement for a vehicle to be in the dealer's inventory. RCD issued a determination letter approving these changes.</p>
§215.156 Buyer's Temporary Tag Receipt	No	<ul style="list-style-type: none"> • Original Rule Reason: to define the requirements for issuing a temporary tag receipt to a vehicle buyer and the information that must be included.

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<ul style="list-style-type: none"> • Major Amendments: adopted in 2010 (35 TexReg 883); amended in the 2017 rule review (42 TexReg 571); and in 2020 (45 TexReg 7441). In 2017 rule review: minor amendments were added to modernize language and reference a preprinted temporary tag. In 2020: the rule was amended to extend requirements to a federal, state, or local governmental agency authorized to issue temporary tags.
§215.157 Advance Numbers, Preprinted Internet-down Temporary Tags	No	<ul style="list-style-type: none"> • Original Rule Reason: to provide a process for a dealer to have a supply of preprinted buyer's temporary tags to use if internet service is not available at time of sale. • Major Amendments: In 2017 rule review: minor amendments were added to modernize language and reference a preprinted temporary tag. In 2020: the rule was amended to extend requirements to a federal, state, or local governmental agency authorized to issue temporary tags.
§215.158 General Requirements and Allocation of Preprinted Internet-down Temporary Tag Numbers	No	<ul style="list-style-type: none"> • Original Rule Reason: to define the allocation and responsibilities for issuing and securing preprinted internet down tags. • Major Amendments: In 2017 rule review: a form and receipt requirements for the dealer to complete when issuing a preprinted internet-down tag were added in addition to minor language amendments. In 2020: extended the requirements placed on dealers concerning the allocation and safekeeping of preprinted

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<p>Internet-down temporary tags to a federal, state, or local governmental agency issuing temporary tags.</p> <p>In 2022: amendments were adopted in response to new statutory authority given to the department to set maximum temporary tag limits to combat temporary tag fraud including requiring expired tags to be destroyed and clarifying that these tags count towards the maximum tag limit established in §215.152. RCD issued a determination letter approving these changes.</p>
§215.159 Converter's Temporary Tags	No	<ul style="list-style-type: none"> • Original Rule Reason: to define how a converter may use a temporary tag. • Major Amendments: the rule was adopted in 2010 (35 TexReg 883) and in the 2017 rule review several clarifying amendments eliminated unnecessary provisions and other amendments improved grammar and readability (42 TexReg 571).
§215.160 Duty to Identify Motor Vehicles Offered for Sale as Rebuilt	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to define a dealer's responsibility to notify a potential buyer or purchaser that a vehicle being offered for sale or that is purchased was formerly titled as a salvage vehicle and has been repaired, rebuilt, or reconstructed. • Major Amendments: the rule was adopted in the 2017 rule review (42 TexReg 571) and has not been amended.
§215.161 Licensing Education Course Requirements	No	<ul style="list-style-type: none"> • Original Rule Reason: implements SB 604, 86th Legislature, Regular Session by adding licensing education course requirements applicable to course providers. RCD issued a determination letter approving this rule. • Major Amendments: no amendments prior to this rule review.

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
<p><u>Subchapter E[F]. Lessors and Lease Facilitators</u></p> <p>Original Rule Reason: Chapter 215, Subchapter F was originally adopted by the Motor Vehicle Board in 1995 to implement its statutory authority to regulate lessors and lease facilitators, the statutory predecessor to current Texas Occupations Code §§2301.251, 2301.253, 2301.254, 2301.261, 2301.262, 2301.357, and 2301.551 - 2301.556 (20 TexReg 9003).</p> <p>Major Amendments:</p> <p>The rules were amended significantly in:</p> <ul style="list-style-type: none"> ○ 2006, when the Texas Legislature transferred the relevant rulemaking authority to the Texas Transportation Commission and the rules were recodified as 43 Texas Administrative Code (TAC), Chapter 8, Subchapter F (31 TexReg 864); and ○ 2010, when the Legislature created the Texas Department of Motor Vehicles and transferred relevant rulemaking authority to the department; the rules were recodified as 43 TAC Chapter 215, Subchapter F (35 TexReg 890). 		
§215.171 Purpose and Scope	No	<ul style="list-style-type: none"> • Major Amendments: no amendments
§215.173 License	No	<ul style="list-style-type: none"> • Major Amendments: no amendments
§215.174 Application for a License	Yes	<ul style="list-style-type: none"> • Major Amendments: <p>2012: The department removed requirements for lessors and lease facilitators to submit photographs, original assumed name certificates, the business background of key officers and managers, and documents verifying the formation of the business entity (37 TexReg 5637).</p> <p>2017: As a part of the last rule review for Chapter 215, the department added application requirements that lessors and lease facilitators submit sample copies of fee disclosure statements regarding fees paid by the vehicle lessor to a vehicle lease facilitator, a list including all business names and</p>

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		addresses, and a list of satellite offices in Texas (42 TexReg 571).
§215.175 Sanctions	No	• Major Amendments: no amendments
§215.176 More Than One Location	No	• Major Amendments: no amendments
§215.177 Established and Permanent Place of Business	Yes	• Major Amendments: In 2012, the department removed requirements regarding square footage, office configuration, ceiling height, and land-based telephone lines (37 TexReg 5637).
§215.178 Records Required for Vehicle Lessors and Vehicle Lease Facilitators	Yes	• Major Amendments: no amendments
§215.179 Change of Vehicle Lessor or Vehicle Lease Facilitator Status	No	• Major Amendments: no amendments
§215.180 Required Notices to Lessees	No	• Major Amendments: no amendments
§215.181 General Distinguishing Number Exception	No	• Major Amendments: no amendments
Subchapter G. Warranty Performance Obligations Proposed repeal of entire subchapter to include in proposed new Chapter 224; no RCD review requested. <ul style="list-style-type: none"> • Original Rule Reason: The rules in 43 TAC Chapter 215, Subchapter G were initially adopted in 1986 by the Texas Motor Vehicle Commission (11 TexReg 4152) to implement the Texas Lemon Law, which is currently codified in Texas Occupations Code, Chapter 2301, Subchapter M, and Texas Occupations Code §2301.204. • Major Amendments: The rules were amended significantly in: <ul style="list-style-type: none"> ○ 2006, when the Texas Legislature transferred the relevant rulemaking authority to the Texas Transportation Commission and the rules were recodified as 43 Texas Administrative Code (TAC), Chapter 8, Subchapter G (31 TexReg 864); ○ 2010, when the Legislature created the Texas Department of Motor Vehicles and transferred relevant rulemaking authority to the department; the rules were recodified as 43 TAC Chapter 215, Subchapter G (35 TexReg 890); 		

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
<ul style="list-style-type: none"> ○ 2012, when the Legislature gave the Motor Vehicle Division director the authority to execute final orders for Texas Lemon Law complaints, and the department amended its procedural and notice rules, including rules on valuing and replacing motor vehicles, and for reimbursement of incidental expenses when a vehicle must be replaced (37 TexReg 4951); and ○ 2014, when the Legislature gave the department authority to have internal department hearings examiners conduct the contested case hearings in lemon law and warranty performance complaints (39 TexReg 1730). 		
<p><u>Subchapter F[H]. Advertising</u></p> <p>No proposed amendments or repeals; no RCD review requested.</p> <p>Original Rule Reason: Adopted originally in 1977 by the Texas Motor Vehicle Commission (2 TexReg 895) to implement the historic statutory predecessor of Texas Occupations Code Chapter 2301 by regulating the advertising of new motor vehicles with an emphasis on prohibiting false and misleading advertisements.</p> <p>Major Amendments: The rules were amended significantly in:</p> <ul style="list-style-type: none"> ○ 2006, when the Texas Legislature transferred the relevant rulemaking authority to the Texas Transportation Commission and the rules were recodified as 43 Texas Administrative Code (TAC), Chapter 8, Subchapter H (31 TexReg 862); and ○ 2010, when the Legislature created the Texas Department of Motor Vehicles and transferred relevant rulemaking authority to the department; the rules were recodified as 43 TAC Chapter 215, Subchapter H (35 TexReg 883). <p>Major amendments that only impacted specific rules within the chapter are noted below.</p>		
§215.241 Purpose and Scope	No	• Major Amendments: no amendments
§215.242 General Prohibition	No	• Major Amendments: no amendments
§215.243 Specific Rules	No	• Major Amendments: no amendments
§215.244 Definitions	No	<p>• Major Amendments:</p> <p>2014: In response to a petition for rulemaking from the Texas Automobile Dealers' Association, the department expanded the definition of advertising to include any representation, including graphic and pictorial representations in addition to statements (39 TexReg 4271).</p>

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		2017: As part of the last rule review of 43 TAC Chapter 215, the department added clarifying definitions for “Distributor Suggested Retail Price (DSRP),” “limited rebate,” “Manufacturer’s Suggested Retail Price (MSRP),” and “savings claim or discount,” and clarifying definitions of “Monroney label” and “rebate or cash back” (42 TexReg 571).
§215.245 Availability of Motor Vehicles	No	<ul style="list-style-type: none"> • Major Amendments: <p>2014: In response to a petition for rulemaking from the Texas Automobile Dealers’ Association, the department prohibited a licensed dealer from advertising a specific new vehicle or line-make of vehicles not in the dealer’s possession without a conspicuous disclosure that the vehicle or line-make is not in the dealer’s possession (39 TexReg 4271).</p>
§215.246 Accuracy	No	<ul style="list-style-type: none"> • Major Amendments: <p>2014: In response to a petition for rulemaking from the Texas Automobile Dealers’ Association, the department added representations in addition to statements to the advertisements that cannot be false, deceptive or misleading, to incorporate graphic and pictorial representations (39 TexReg 4271).</p> <p>2017: As part of the last rule review of 43 TAC Chapter 215, the department added specific requirements for the accuracy of internet advertisements (42 TexReg 571).</p>
§215.247 Untrue Claims	No	<ul style="list-style-type: none"> • Major Amendments: no amendments
§215.248 Layout	No	<ul style="list-style-type: none"> • Major Amendments:

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		2017: As part of the last rule review of 43 TAC Chapter 215, the department added specific requirements for the accuracy of internet advertisements (42 TexReg 571).
§215.249 Manufacturer's/Distributor's Suggested Retail Price	No	<ul style="list-style-type: none"> • Major Amendments: no amendments
§215.250 Dealer Price Advertising; Savings Claims; Discounts	No	<ul style="list-style-type: none"> • Major Amendments: 2014: In response to a petition for rulemaking from the Texas Automobile Dealers' Association, the department clarified the fees that may be excluded from the advertised price of a motor vehicle and added in references to prices offered over the internet (39 TexReg 4271). 2017: As part of the last rule review of 43 TAC Chapter 215, the department added specific requirements for the accuracy of internet advertisements with regard to pricing, and moved provisions on savings claims and discount offers into §215.250 that were previously in 43 TAC §215.262 (42 TexReg 571).
§215.251 Identification	No	<ul style="list-style-type: none"> • Major Amendments: no amendments
§215.252 Advertising at Cost or Invoice	No	<ul style="list-style-type: none"> • Major Amendments: no amendments
§215.253 Trade-in Allowances	No	<ul style="list-style-type: none"> • Major Amendments: 2017: As part of the last rule review of 43 TAC Chapter 215, the department added a prohibition on dealer statements that would indicate there is an established retail value or starting price point for a used motor vehicle, such as blue book value or black book value. (42 TexReg 571).
§215.254 Used Motor Vehicles	No	<ul style="list-style-type: none"> • Major Amendments: no amendments
§215.255 Demonstrators and Factory Executive/Official Motor Vehicles	No	<ul style="list-style-type: none"> • Major Amendments: no amendments

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
§215.256 Free Offers	No	• Major Amendments: no amendments
§215.257 Authorized Dealer	No	• Major Amendments: no amendments
§215.258 Manufacturer and Distributor Rebates	No	• Major Amendments: no amendments
§215.259 Rebate and Financing Rate Advertising by Dealers	No	• Major Amendments: no amendments
§215.260 Vehicle Lease Advertisements	No	• Major Amendments: no amendments
§215.261 Manufacturer/Distributor Sales and Wholesale Prices	No	• Major Amendments: no amendments
§215.263 Sales Payment Disclosures	No	• Major Amendments: no amendments
§215.264 Payment Disclosure - Vehicle Lease	No	• Major Amendments: no amendments
§215.265 Bait Advertisements	No	• Major Amendments: no amendments
§215.266 Lowest Price Claims	No	• Major Amendments: no amendments
§215.267 Fleet Prices	No	• Major Amendments: no amendments
§215.268 Bankruptcy and Liquidation Sales	No	• Major Amendments: no amendments
§215.269 Finding of Violation	No	• Major Amendments: 2014: The department amended the rule to reflect a statutory change that required only an opportunity for a hearing rather than a hearing regardless of whether the respondent requests it. (39 TexReg 4271).
§215.270 Enforcement	No	• Major Amendments: 2012: The department removed a one-year time limitation on enforcement actions arising from false, deceptive or misleading advertising. (37 Tex Reg 2087).
§215.271 Auction	No	• Major Amendments: no amendments

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
<p><u>Subchapter I. Practice and Procedure for Hearings Conducted by the State Office of Administrative Hearings</u></p> <p>Proposed repeal of entire subchapter to include in proposed new Chapter 224; no RCD review requested.</p> <p>Original Rule Reason: The rules in Chapter 215, Subchapter I were originally adopted in 2008 by the Texas Department of Transportation to implement a new statute that required hearings in contested cases under Occupations Code, Chapter 2301 or under Motor Vehicle Division rules to be conducted by administrative law judges at the State Office of Administrative Hearings. (33 TexReg 2323).</p> <p>Major Amendments: These rules were amended significantly in:</p> <ul style="list-style-type: none"> • 2010, when the Legislature created the Texas Department of Motor Vehicles and transferred relevant rulemaking authority to the department; the rules were recodified as 43 TAC Chapter 215, Subchapter I (35 TexReg 883); • 2014, when the Legislature gave the department authority to have internal department hearings examiners conduct the contested case hearings in lemon law and warranty performance complaints; these amendments also distinguished between the duties of the TxDMV Board and the department staff (39 TexReg 1730); and • 2017, when the department last conducted a rule review of Chapter 215, it added procedures for cease-and-desist orders under Texas Occupations Code §2301.802(b) to §215.314. 		
<p><u>Subchapter G[J]. Administrative Sanctions</u></p> <p>No RCD review requested.</p>		
<p><u>§215.500</u> Administrative Sanctions and Procedures</p>	<p>No</p>	<ul style="list-style-type: none"> • Original Rule Reason: Originally adopted by the department in 2014 to implement the statutory requirement in Occupations Code §2301.651(d) that the department give an opportunity for a hearing prior to taking disciplinary action against a licensee under Texas Occupations Code Chapter 2301, Subchapter N. The department created procedures in Subchapter J for notice to licensees, possible sanctions, and default proceedings for those licensees that did not request a hearing timely (39 TexReg 502). • Major Amendments: 2017: the department clarified that an administrative sanction may include denial of an application for a license and established that the last known address of a licensee for notice purposes is the mailing address provided to the

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<p>department when the license holder applies or renews its license or notifies the department of a change of address (42 TexReg 573).</p> <p>2020: the department added refunds to its list of administrative sanctions, to implement statutory changes to Texas Occupations Code §2301.807, which allows the board to order a licensee to pay a refund to a buyer or lessee of a motor vehicle (45 TexReg 9580).</p> <p>Partial Repeal and rule title change; move (b) to Ch 224</p>
<p>§215.501 Final Decisions and Orders; Motions for Rehearing</p>	<p>No</p>	<ul style="list-style-type: none"> • Original Rule Reason: Originally adopted by the department in 2014 to implement the statutory requirement in Occupations Code §2301.651(d) that the department give an opportunity for a hearing prior to taking disciplinary action against a licensee under Texas Occupations Code Chapter 2301, Subchapter N. The department created procedures in Subchapter J for notice to licensees, possible sanctions, and default proceedings for those licensees that did not request a hearing timely (39 TexReg 502). • Major Amendments: no amendments <p>Repeal; move to Ch 224</p>
<p>§215.502 Judicial Review of Final Order</p>	<p>No</p>	<ul style="list-style-type: none"> • Original Rule Reason: Originally adopted by the department in 2014 to implement the statutory requirement in Occupations Code §2301.651(d) that the department give an opportunity for a hearing prior to taking disciplinary action against a licensee under Texas Occupations Code Chapter 2301, Subchapter N. The department created procedures in Subchapter J for notice to licensees, possible sanctions, and default proceedings for those licensees that did not request a hearing timely (39 TexReg 502).

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<ul style="list-style-type: none"> • Major Amendments: no amendments Repeal; move to Ch 224
§215.503 Refund of Fees	No	<ul style="list-style-type: none"> • Original Rule Reason: Originally adopted by the department in 2014 to implement the statutory requirement in Occupations Code §2301.651(d) that the department give an opportunity for a hearing prior to taking disciplinary action against a licensee under Texas Occupations Code Chapter 2301, Subchapter N. The department created procedures in Subchapter J for notice to licensees, possible sanctions, and default proceedings for those licensees that did not request a hearing timely (39 TexReg 502). • Major Amendments: In 2017, the department amended the rule to provide that the department will not refund a fee to a person that is subject to an unpaid civil penalty imposed by a final order (42 TexReg 573).
§215.504 Buyer or Lessee Refund	No	<ul style="list-style-type: none"> • Original Rule Reason: Adopted by the department in 2020 to define refunds that the department can require as a disciplinary sanction against a licensee, to implement Texas Occupations Code §2301.807 (45 TexReg 9580). • Major Amendments: no amendments
§215.505 Denial of Dealer or Converter Access to Temporary Tag System	No	<ul style="list-style-type: none"> • Original Rule Reason: Adopted by the department in 2022 to establish the process for denial of access to the temporary tag database and to implement Texas Transportation Code §503.0632(f) (47 TexReg 664). • Major Amendments: In 2022, the department corrected citations within the rule (47 TexReg 4151).

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		Repeal; move to Ch 224

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
<u>Subchapter A. General Provisions</u>		
<u>§221.1.</u> Purpose and Scope	No	<ul style="list-style-type: none"> • Original Rule Reason: to describe generally the responsibilities of the department to enforce Occupations Code, Chapter 2302, and provide an overview of the new chapter and its content. • Major Amendments: In 2020, eliminated references to salvage vehicle dealer license endorsements and the salvage vehicle agent license. (44 TexReg 8339)
<u>§221.2.</u> Definitions	No	<ul style="list-style-type: none"> • Original Rule Reason: to provide the definition of terms that require defining, such as "new automobile dealer," and "used automobile dealer," to clarify other definitions, and to delete unnecessary definitions. • Major Amendments: In 2020, eliminated references to salvage vehicle dealer license endorsements, eliminates references to salvage vehicle agent, and other minor amendment (44 TexReg 8339).
<u>Subchapter B. Licensing</u>		
<u>§221.11.</u> License Required	Yes	<ul style="list-style-type: none"> • Original Rule Reason: to clarify the requirements for a salvage vehicle dealer license and endorsements, and to list the persons that are not required to obtain a salvage vehicle dealer license. • Major Amendments: Implemented HB 1667 86th Legislature (2019), which added Occupations Code 2302.009 and amended 2302.101 to provide that a person holding an independent motor vehicle distinguishing number (GDN) is exempt from the requirement that the person also hold a salvage dealer license to act as a salvage vehicle dealer or rebuilder, and store or display a motor vehicle as an agent or escrow agent of an insurance company. Conforming changes

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		to the title, removed the reference to “endorsements” and to the rule text to eliminate references to “salvage vehicle dealer endorsements.” Amendments to 221.11 also described those activities that require a salvage vehicle dealer license to implement HB 1667 and other minor amendments. (44 TexReg 8839)
§221.13 . License Term and Fees	Yes	<ul style="list-style-type: none"> • Original Rule Reason: set out the fee for salvage vehicle dealer and salvage vehicle agent licenses and the fee for endorsements to the salvage vehicle dealer license, and allowed the department to prorate fees to assist salvage vehicle dealers in synchronizing their license term with other licenses they may hold. • Major Amendments: In 2020, increased the term for a salvage vehicle dealer license from twelve months to two years, made conforming changes to the fee of \$190, and eliminated references to salvage vehicle dealer license endorsements. (44 TexReg 8339)
§221.14 . License Applications Generally	Yes	<ul style="list-style-type: none"> • Original Rule Reason: clarified the required information that must be submitted to the department with a salvage vehicle dealer license application. • Major Amendments: no amendments
§221.15 . Required License Application Information	Yes	<ul style="list-style-type: none"> • Original Rule Reason: provided information required for salvage vehicle dealer applications. • Major Amendments: In 2020, established changes concerning the review of criminal history information under new Chapter 211 that had been adopted in accordance with Occupations Code Ch. 53 and the Sunset Advisory Commission’s Management Action 4.6, as stated in the Sunset Staff Report with Commission Decisions, 2018—19, 86th Legislature (2019) to clarify its consideration of the qualifications, criminal

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		background, and disciplinary history of not only applicants and license holders, but also those who act in a representative capacity for or exert control over applicants or license holders through a business arrangement, and other minor amendments. (45 TexReg 7444). RCD issued a determination letter approving these changes.
§221.16 . Required Attachments to the License Application	Yes	<ul style="list-style-type: none"> • Original Rule Reason: clarified the attachments that a license applicant must submit to the department with an application. • Major Amendments: In 2017, added a concealed handgun license and a license to carry a handgun issued under Government Code Ch. 411, Subch. H, to the list of documents the department may use to verify the identity of an individual and other minor amendment. (42 TexReg 3281)
§221.17 . License Processing for Military Service Members, Spouses, and Veterans	No	<ul style="list-style-type: none"> • Original Rule Reason: confirmed the requirements for processing a license application submitted by a veteran, military member, or military spouse. • Major Amendments: Amended to implement SB 1200 86th Legislature (2019), which created new Occupations Code 55.0041, Recognition of Out-of-State license of military spouse. Section 55.0041 authorizes military spouses to engage in a business or occupation in Texas for which a license is required, without applying for a required Texas license, if the applicable Texas licensing agency determines the military spouse is currently licensed in good standing by a jurisdiction with licensing requirements substantially equivalent to the relevant licensing requirements in Texas. (44 TexReg 8037)
§221.18 . Additional, New, or Closed Location	No	<ul style="list-style-type: none"> • Original Rule Reason: clarified the requirements if a salvage vehicle dealer opens an additional business location in the same county, or a new business location in another county, and established the requirement that a salvage vehicle dealer

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<p>notify the department if the salvage vehicle dealer closes a business location.</p> <ul style="list-style-type: none"> • Major Amendments: no amendments
§221.19. Change of License Holder’s Name, Ownership, or Control	No	<ul style="list-style-type: none"> • Original Rule Reason: clarified the requirements when a salvage vehicle dealer changes the business name or the ownership of the license holder. • Major Amendments: clarified 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 (c) established that the license holder is not required to submit a new application, but just the information that is necessary to address the change. The amendment extended the period for compliance to 30 days after the event. (45 TexReg 7444). RCD issued a determination letter approving these changes.
§221.20. License Renewal	No	<ul style="list-style-type: none"> • Original Rule Reason: described the procedures for renewal of a salvage vehicle dealer license and salvage vehicle agent license. • Major Amendments: In 2020, eliminated references to endorsements and salvage vehicle agent license, changed the renewal period to two years, and made conforming changes to the renewal late fees. The requirement that an expiration notice for salvage vehicle agent licenses be sent to the authorizing salvage vehicle dealer’s mailing address was deleted and replaced with email because the applicants agree to receive electronic communications when applying though

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		the department licensing system under Business & Commerce Code Ch. 322. (44 TexReg 8339)
Subchapter C. Licensed Operations		
§221.41. Location Requirements	Yes	<ul style="list-style-type: none"> • Original Rule Reason: set out the business location requirements for a salvage vehicle dealer and provided that the salvage vehicle dealer must comply with city, county, and state laws. • Major Amendments: no amendments
§221.42. Operations at Licensed Business Location	No	<ul style="list-style-type: none"> • Original Rule Reason: clarified that a salvage vehicle dealer may only operate from the location licensed by the department. • Major Amendments: no amendments
§221.43. Business Hours	Yes	<ul style="list-style-type: none"> • Original Rule Reason: provided that a salvage vehicle dealer must post its business hours and must maintain a telephone number that is answered or can receive messages during certain hours. • Major Amendments: no amendments
§221.44. Business Sign Requirements	Yes	<ul style="list-style-type: none"> • Original Rule Reason: required that a salvage vehicle dealer display a sign at the licensed business location. • Major Amendments: no amendments
§221.45. Business Office	Yes	<ul style="list-style-type: none"> • Original Rule Reason: required that the salvage vehicle dealer maintain an office at the business location and prohibited the office from being located within a residence, apartment house, hotel, motel or rooming house. • Major Amendments: no amendments

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
§221.46. Display of License	No	<ul style="list-style-type: none"> • Original Rule Reason: established a requirement that the salvage vehicle dealer display its license issued by the department. • Major Amendments: no amendments
§221.47. Evidence of Ownership	No	<ul style="list-style-type: none"> • Original Rule Reason: required a salvage vehicle dealer to receive a properly assigned title or other evidence of ownership when acquiring a vehicle. • Major Amendments: no amendments
§221.48. Scrapped or Destroyed Motor Vehicle	No	<p>Repeal</p> <ul style="list-style-type: none"> • Original Rule Reason: described the requirements for scrapping or destroying a vehicle. • Major Amendments: no amendments
§221.49. Unique Inventory Number	No	<ul style="list-style-type: none"> • Original Rule Reason: makes reference to the applicable statute when a salvage vehicle dealer purchases a component part. • Major Amendments: no amendments
§221.50. Restrictions on Sales of Flood Damaged Vehicles	No	<ul style="list-style-type: none"> • Original Rule Reason: clarified the procedures for selling flood damaged vehicles. • Major Amendments: no amendments
§221.51. Duty to Identify Motor Vehicles Offered for Sale	Yes	<ul style="list-style-type: none"> • Original Rule Reason: established notification requirements for identifying salvage motor vehicles and non-repairable motor vehicles when offering such vehicles for sale and established a requirement that purchasers acknowledge that a vehicle is a salvage motor vehicle or a non-repairable motor vehicle at the time of sale. • Major Amendments: no amendments

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
§221.52. Export-only Sales	No	<ul style="list-style-type: none"> • Original Rule Reason: clarified the procedures for selling salvage motor vehicles and non-repairable motor vehicles that will be exported from the country. • Major Amendments: no amendments
§221.53. Casual Sales	No	<ul style="list-style-type: none"> • Original Rule Reason: clarified the requirements for selling salvage motor vehicles and non-repairable motor vehicles to casual buyers. The identification requirements for these purchasers are aligned with the requirements established for purchasers of motor vehicles. • Major Amendments: Added a concealed handgun license and a license to carry a handgun issued under Gov. Code Ch. 411, Subch. H, to the list of documents the department may use to verify the identity of an individual and other minor amendments. (42 TexReg 3281)
§221.54. Criteria for Site Visits	Yes	<ul style="list-style-type: none"> • Original Rule Reason: implemented a Sunset Advisory Commission recommendation, Management Action 3.5, as stated in the Sunset Staff Report with Commission Decisions, 2018—19, 86th Legislature (2019), to identify risk-based criteria for determining when the department will consider visiting the business location of a licensed salvage dealer. This identifies three criteria for determining when a site visit may be scheduled: if a salvage vehicle dealer fails to respond to a records request, fails to operate from the licensed location, or has an enforcement history that reveals failed compliance inspections or multiple complaints received with administrative sanctions imposed. • Major Amendments: no amendments
Subchapter D. Records		

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
§221.71 . Records; Generally	No	<ul style="list-style-type: none"> • Original Rule Reason: clarified the requirement for maintaining records and for producing those records after receipt of a request from a representative of the department. • Major Amendments: no amendments
§221.72 . Record Retention	No	<ul style="list-style-type: none"> • Original Rule Reason: described the record retention requirements for a salvage vehicle dealer. • Major Amendments: In 2018, added new 221.72(c) requiring salvage vehicle dealers who use the department's web-based title application known as webDEALER to comply with proposed 217.74 of this title (relating to Access to and Use of webDEALER), which includes a requirement that physical document be retained at least four calendar years from date of submission. (43 TexReg 1147)
§221.73 . Content of Records	Yes	<ul style="list-style-type: none"> • Original Rule Reason: clarified what records must be maintained by a salvage vehicle dealer. • Major Amendments: In 2017, added a concealed handgun license and a license to carry a handgun issued under Government Code Ch. 411, Subch. H, to the list of documents the department may use to verify identity and other minor amendments. (42 TexReg 3281)
Subchapter E. Administrative Procedures Proposed repeal of entire subchapter to include in proposed new Chapter 224; no RCD review requested.		
§221.91 . Notice of Department Decision	No	<ul style="list-style-type: none"> • Original Rule Reason: set out the procedures to be followed by the department when initiating a contested case proceeding against a salvage vehicle dealer. • Major Amendments: no amendments
§221.92 . Notice of Hearing	No	<ul style="list-style-type: none"> • Original Rule Reason: described the procedures to be followed when the salvage vehicle dealer submits a request

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		for hearing after the department initiates a contested case proceeding. • Major Amendments: no amendments
§221.93. Final Decisions and Orders; Motions for Rehearing	No	• Original Rule Reason: established procedures after a department decision becomes final. • Major Amendments: no amendments
§221.94. Judicial Review of Final Order	No	• Original Rule Reason: made reference to the applicable law governing an appeal of a final decision reached in a contested case proceeding. • Major Amendments: no amendments
§221.95. Delegation of Final Order Authority	No	• Original Rule Reason: described the cases where the board has delegated authority to issue a final order. • Major Amendments: no amendments
§221.96. Cease and Desist Order	No	• Original Rule Reason: implemented Senate Bill 604, 86th Legislature (2019), which amended Occupations Code Ch. 2302 by adding Occupations Code 2302.355 authorizing the department's board (board) to issue cease and desist orders under the chapter. Permitted the board to issue cease and desist orders if it appears that a violation of Occupations Code Ch. 2302, the department's rules, or an order from the department under Occupations Code Ch. 2302 is occurring. • Major Amendments: no amendments. RCD issued a determination letter approving this rule.
Subchapter F. Administrative Sanctions		
§221.111. Denial of License	No	• Original Rule Reason: clarified the circumstances when the department may deny an application for a salvage vehicle dealer or a salvage vehicle agent license.

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Rule	RCD Review Requested? (Yes/No)	Original Rule Reason and Major Amendments
		<ul style="list-style-type: none"> • Major Amendments: established changes concerning the review of criminal history information under new Chapter 211 that has been adopted in accordance with Occupations Code Ch. 53 and the Sunset Advisory Commission’s Management Action 4.6, as stated in the Sunset Staff Report with Commission Decisions, 2018—19, 86th Legislature (2019). (45 TexReg 7444). RCD issued a determination letter approving these changes.
§221.112 . Suspension, Revocation and Administrative Penalties	No	<ul style="list-style-type: none"> • Original Rule Reason: listed the grounds upon which the department may revoke or suspend a salvage vehicle dealer license or impose an administrative penalty. • Major Amendments: In 2020, clarified 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. (45 TexReg 7444). RCD issued a determination letter approving these changes.
§221.115 . Refund of Fees	No	<ul style="list-style-type: none"> • Original Rule Reason: discussed the refund of fees when a license has been denied, suspended or revoked. • Major Amendments: no amendments

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CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, §§215.1 and §215.2; repeal of Subchapter B, Adjudicative Practice and Procedure, §§215.21 - 215.24, 215.27, 215.29, 215.30, 215.32, 215.35 - 215.49, 215.55, 215.56, 215.58 - 215.63; amendments to Subchapter C. Licenses, Generally, §§215.82, 215.83, 215.87, and 215.89; in Subchapter D. Franchised Dealers, Manufacturers, Distributors, and Converters, amendments to §§215.101, 215.103 - 215.111, 215.113, 215.115 - 215.217, and 215.119, repeal of §215.112, and new proposed §§215.102, 215.120, and §215.121; in Subchapter E. General Distinguishing Numbers, proposes amendments to §§215.131 - 215.133; 215.135 - 215.142; 215.144, 215.145, 215.147 - 215.152, 215.154, 215.155, 215.160, and 215.161, repeal of §215.146, and new §215.134 and §215.143; proposes amendments to Subchapter F. Lessors and Lease Facilitators, §§215.171 - 215.180; proposes repeal of Subchapter G. Warranty Performance Obligations, §§215.201 - 215.210; proposes amendments to Subchapter H. Advertising, §§215.242, 215.244, 215.249, 215.250, 215.257, 215.261, 215.268, and 215.270; proposes repeal of Subchapter I. Practice and Procedure for Hearings Conducted by The State Office of Administrative Hearings, §§215.301 - 215.303, 215.305 - 215.308, 215.310, 215.311, 215.314 - 215.317; and in Subchapter J. Administrative Sanctions, proposes amendments and partial repeal of §215.500, and repeal of §§215.501, 215.502, and 215.505.

The proposed amendments are necessary to modify language to be consistent with statutes and other chapters in Title 43 of the Texas Administrative Code; to delete language describing actions for which the department does not have rulemaking authority; to clarify the purpose of a rule by amending the rule title and language; to modify language to be consistent with current practice including use of records or electronic systems; to amend certain application requirements consistent with regulatory best practices; to increase temporary tag allocations for new franchised dealers based on department experience; to improve readability through the use of consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions, terms, references or other language; to implement statutory changes; to deter fraud or abuse by expanding fingerprint requirements to other license types issued under Transportation Code, Chapter 503; to clarify existing requirements, and to modernize language and improve readability. Amendments are proposed to implement SB 422, 88th Legislature, Regular Session (2023), which amended Occupations Code, §§55.004, 55.0041, and 55.005 affecting licensing of military service members.

New sections are proposed to document and clarify current licensing application requirements, procedures for issuing industry license plates, and sanctions relating to manufacturers, distributors, converters, franchised dealers, and to document and clarify application requirements and procedures for issuing industry license plates to drive-away operators.

Repeals are proposed to move an existing rule to the designated subchapter for that license type; to move adjudicative rules to proposed new Chapter 224, which is proposed to include all department adjudicative practice and procedure rules; and to implement statutory changes in Senate Bill (SB) 604, 86th Legislature, Regular Session (2019). Certain subchapters are proposed for relettering because preceding subchapters are being proposed for repeal. The title of one subchapter is proposed to be amended to describe the types of licenses to which the subchapter applies. Proposed new Chapter 224 is also published in this issue of the *Texas Register*.

In 2019, the Sunset Commission recommended the board establish advisory committees and adopt rules regarding standard advisory committee structure and operating criteria. The board adopted rules in 2019 and advisory committees have since provided valuable input on rule proposals considered by the board for proposal or adoption. In September 2023, the department provided an early draft of these rules to two department advisory committees, the Motor Vehicle Industry Regulation Advisory Committee (MVRAC) and the Customer Service and Protection Advisory Committee (CSPAC). Committee members voted on formal motions and provided informal comments on other provisions. Input from both committees was incorporated in proposed §§215.83, 215.102, 215.103, 215.132, 215.144, 215.244, and 215.250.

EXPLANATION. The department is conducting a review of its rules under Chapter 215 in compliance with Government Code, §2001.039. Notice of the department's plan to review is also published in this issue of the *Texas Register*. As a part of the review, the department is proposing necessary amendments and repeals, as detailed in the following paragraphs.

Subchapter A. General Provisions

A proposed amendment to §215.1 and §215.2(a) would delete a stray reference to Transportation Code, Chapter 1000, which does not exist. Proposed amendments to §215.1 would delete an incomplete list of license types regulated by the department, delete the word "motor" from the phrase "motor vehicle," and add the word "industry" to more accurately reflect the scope of the department's responsibility to encompass all vehicles including trailers and all license types under Occupations Code, Chapter 2301, and Transportation Code, Chapter 503. A proposed amendment to §215.1 would clarify the scope of the rules in Chapter 215, which is to describe licensing requirements and rules governing the operation of license holders, recognizing that other chapters also prescribe policies and procedures that apply to the motor vehicle industry.

Proposed amendments to §215.2(b) would delete definitions for terms used in contested cases because rules that use these terms are proposed for repeal in this chapter and are included in proposed new Chapter 224, Adjudicative Practice and Procedure, which is published in this same issue of the *Texas Register*. The definitions proposed for deletion include the terms ALJ, executive director, final order authority, hearing officer, motion for rehearing authority, and SOAH, and the remaining definitions would be renumbered accordingly. Proposed amendments in

renumbered §215.2(b)(1) would clarify that only a board member or a person employed by the department may be authorized to serve as a board delegate as provided under Occupations Code, §2301.154. A proposed amendment to renumbered §215.2(b)(2) would add a definition for "day" and is necessary for standardization and consistency throughout the chapter. Proposed amendments to §215.2(b)(3) would substitute the term "division" for "department" to correctly refer to the responsible organizational unit in the department and would substitute the term "department staff" for "personnel" for clarity and consistency. A proposed amendment to renumbered §215.2(b)(4) would add a reference to Transportation Code, Chapter 503, which defines the types of general distinguishing numbers that the department may issue. A proposed amendment to renumbered §215.2(b)(5) would clarify that any state agency other than the department is included in the definition of a governmental agency. A proposed amendment to renumbered §215.2(b)(6) would add a new definition for standard license plate. This definition is necessary to differentiate a standard license plate issued to a dealer under Transportation Code, §503.061 from a personalized prestige license plate issued to a dealer under Transportation Code, §503.0615, recognizing that each plate has a different term and cost prescribed in statute and is obtained from the department through a different process.

Subchapter B. Adjudicative Practice and Procedure

All sections of Subchapter B, Adjudicative Practice and Procedure, are proposed for repeal because the substance of each rule and any proposed amendments would be incorporated into proposed new Chapter 224. Adjudicative Practice and Procedure. The proposed repeal includes §§215.21 - 215.24, 215.27, 215.29, 215.30, 215.32, 215.35 - 215.49, 215.55, 215.56, 215.58 - 215.63.

Subchapter C. Licenses, Generally

This subchapter is proposed to be relettered as Subchapter B as the current Subchapter B is proposed for repeal.

Proposed amendments would delete §215.82(a) and (b) and reletter the remaining subsections as necessary, because §215.82(a) and (b) refer to an archaic process that the department no longer follows. A license holder is not required to request a duplicate license from the department; rather, a license holder may print a license copy on demand in the electronic system designated by the department for licensing. Proposed amendments to §215.82(c) would delete the subsection designation and substitute "standard" for "metal" to identify which plate type applies to the replacement process. Proposed amendments to §215.82(c) would also clarify that the same process applies for obtaining a replacement sticker, and that a request for a replacement license plate or sticker must be submitted electronically in the department-designated system.

Proposed amendments to §215.83(a)(1) and (d) would clarify that an application for a new license, a license amendment, or a license renewal must be filed electronically. A proposed amendment to §215.83(a)(3) would specify which electronic payment forms are accepted. Paper checks are no longer accepted because fee payment must be completed before an application may be submitted and processed. A proposed amendment to §215.83(b) would clarify that an authorized representative who files an application on behalf of an applicant or license holder may be required to provide written proof of authority to act. A proposed amendment to §215.83(c) would clarify that a pending new license number will not be released to a person who is not

an applicant, license holder, or authorized representative, unless that person files a written request under Government Code, Chapter 552. Once a license is approved and issued, the license number may be published on the department's website or otherwise provided in response to an inquiry consistent with Government Code, §552.11765 and other requirements in Government Code, Chapter 552.

A proposed amendment to §215.83(d)(2) would delete an archaic reference to an envelope postmark for a renewal application to comport with §215.133(c), which requires a license application be submitted electronically in the department's designated licensing system.

Proposed amendments to §215.83(e) would delete redundant language and combine the language in §215.83(e) and §215.83(f) for consistency and ease of understanding without changing the meaning. Other proposed amendments would reletter the remaining subsections and internal references accordingly.

Proposed amendments to relettered §215.83(i) would add the phrase "military service members or" in multiple places in subparagraphs (1), (2), and (3). These proposed amendments are necessary to implement SB 422, which added military service members who hold out-of-state licenses as persons eligible for special business or occupational authorization or licensing consideration. A proposed amendment to relettered §215.83(i) would clarify that the requirements and procedures authorized under Texas law do not modify or alter rights under federal law.

In relettered §215.83(i)(1), proposed amendments would delete two duplicative references to Occupations Code, §55.0041. Also, in relettered §215.83(i)(1), a proposed amendment would substitute the phrase "being stationed" for "residency" to clarify that eligibility for special licensing consideration for both the military member and military spouse is based on the military member being stationed in Texas, rather than on the spouse's residency.

Additional amendments to relettered §215.83(i)(3) are proposed to implement SB 422. Proposed amendments would change the word "may" to "shall" and would add the phrase "within 30 days" to set a deadline by which the department must issue a license to a military service member or spouse. This change is necessary to implement changes to Occupations Code, §55.005(a) from SB 422, which requires a state agency to issue a license no later than the 30th day after an application is filed. Issuing a license within 30 days would also fulfill the requirement of Occupations Code, §55.0041, as amended by SB 422, that the department provide confirmation within 30 days that the military service member or military spouse is authorized to engage in the licensed business or occupation. Another proposed amendment to relettered §215.83(i)(3) would add the phrase "modified or" to recognize that provisions of Occupations Code, Chapter 55 may require the department to modify standard licensing processes when processing an application for a military service member or military spouse and to clarify that the department's licensing process for military service members and military spouses will be in accordance with all Occupations Code, Chapter 55 requirements.

A proposed amendment to relettered §215.83(j) would add a reference to Government Code, §2001.054 for ease of reference. An amendment to relettered §215.83(k) increases the time from 10 to 15 days in which a license holder may dispute whether a renewal application was timely received by the department.

A proposed amendment to relettered §215.83(n) substitutes the term "standard" for "metal" to more accurately describe the type of dealer's license plate addressed in this subsection and adds the phrase "is canceled" to clarify that a standard dealer's license plate expires on the date a dealer's GDN is canceled under Transportation Code, §503.038.

A proposed amendment to §215.84(a) would insert an introductory paragraph with a statutory cite to Occupations Code, §2301.002 to enable a person to more easily determine whether the section applies and to clarify the basic statutory prohibition against brokering and would reletter the remaining subparagraphs accordingly. Proposed amendments to relettered §215.84(b) would add two clarifying phrases "in the definition of broker" and "acting as a" to clarify language related to the term broker and to be more consistent with the statute and delete duplicate phrasing to improve readability. Proposed amendments to relettered §215.84(c) would add the term "franchised" in §215.84(c)(3) to more accurately describe the type of dealer to which a buyer referral service, program, or club may refer a potential new vehicle buyer, would correct punctuation in relettered §215.84(c), and would move a requirement from §215.84(d) regarding compliance with advertising rules to relettered §215.84(c)(7) for completeness and ease of reference, and would update a reference to the relettered subchapter containing the advertising rules. Proposed amendments to relettered §215.84(d) would clarify that §215.84 does not apply to a person who is not a broker as defined in Occupations Code, §2301.002, and would delete a redundant phrase "or entity" as entities are included in the definition of "person" in Occupations Code, §2301.002. A proposed amendment would delete current §215.84(d) because the content of that the subsection is incorporated into proposed relettered §215.84(c)(7).

Proposed amendments to §215.85(b) would correct punctuation and move language from §215.85(c) to §215.85(b)(7) for completeness and clarity without changing the meaning. A proposed amendment to §215.85(c) would delete the redundant subsection moved to §215.85(b)(7). Proposed amendments to §215.85(d) would reletter the subsection to (c) and delete redundant terms "licensed" and "independent motor vehicle" from this subsection.

Proposed amendments to §215.87 would substitute the term "standard" for the phrase "metal dealer's" in the rule title and in §215.87(a) - (c) to more accurately describe the type of dealer's license plate addressed in this subsection. A proposed amendment to §215.87(a) would add a list of license types eligible to request a standard license plate for completeness and clarity. A proposed amendment to §215.87(b) would clarify that a standard license plate expires when the associated license is canceled. A proposed amendment to §215.87(c) would clarify that a license holder may be required to pay tax when ordering a standard plate as required under Tax Code, §152.027. Another proposed amendment would create new §215.87(d) to describe the process a dealer must use to apply for or renew a personalized prestige plate issued under Transportation Code, §501.0615.

Proposed amendments to §215.89(a) and (b) would delete the redundant "or department" because the word "board" is defined to include department staff to whom the board delegates a duty. A proposed amendment to §215.89(a)(2) would add a reference to Transportation Code, §503.034, which authorizes the department to deny a new or renewal application for a dealer general distinguishing number or a Wholesale Motor Vehicle Auction general distinguishing number if the applicant is guilty of conduct

that would result in the cancellation of the general distinguishing number under Transportation Code, §503.038. A proposed amendment to §215.89(b)(6) would add the phrase "or other legal entity" for completeness because legal entities other than a corporation can fail to maintain authority to conduct business in Texas. Proposed amendments to §215.89(b)(10) would add "final" and substitute the "after" for "through" for clarity and consistency with department contested case procedures.

Subchapter D. Franchised Dealers, Manufacturers, Distributors, and Converters

This subchapter is proposed to be relettered as Subchapter C as current Subchapter B is proposed for repeal and the subsequent subchapters are proposed to be relettered accordingly.

Proposed amendments to §215.101 would delete an incorrect reference to a non-existent Transportation Code, Chapter 1000 and add the license types to which this subchapter applies for clarity.

Proposed new §215.102 would describe application requirements for manufacturers, distributors, converters, and franchised dealers for new, renewal, and amendment license applications including the requirement to attach documents, pay required fees, and submit applications electronically on a prescribed form in the department's designated licensing system. Occupations Code, §2301.257 and §2301.258 authorize the department to prescribe the application form and require any information necessary to determine the applicant's qualifications to adequately serve the public. Occupations Code, §2301.651(b) gives the board authority to deny an application for an act or omission by an officer, director, partner, trustee, or other person acting in a representative capacity that would be cause for denying a license. Fees are prescribed by statute in Occupations Code, §2301.264. Proposed new §215.102(c) would require a license holder renewing or amending a license to review current license information, update information that has changed, provide related supporting information or documents for any change or new requirement, and allow the department to implement its responsibilities under Occupations Code §§2301.251, 2301.252, 2301.256-2301.260, 2301.303, and 2301.304. Proposed new §215.101(a-d) would include requirements that apply to all four license types. Proposed new §215.101(e)(1) would describe the information that must be submitted in the application, denoting any differences by license type. Proposed new §215.101(e)(2) would describe the documents that must be attached to the application, denoting any differences by license type. Proposed information and attachment requirements vary for each license type based on statutory requirements and related consumer fraud or public safety considerations resulting from the license holder's operation, business model including distribution methods, and the specific new products manufactured or offered for sale. These proposed requirements incorporate best practice recommendations from the American Association of Motor Vehicle Administrators (AAMVA) regarding internet sales. Proposed new §215.101(e)(3) would describe the fees that must be paid when an applicant applies online for a license. To prevent consumer fraud and abuse, proposed new §215.101(f) would state that a license applicant may not use a name or assumed name that could be confused with a governmental entity, or could be deceptive or misleading to the public. Proposed new §215.101(g) would set out the process through which a manufacturer or distributor may add a new line make to an existing license during the license period.

Proposed amendments to §215.103(a) would substitute "performs" for the phrase "will only perform" and add the phrase "and not new motor vehicle sales" to clarify that the franchised dealer activity that may not be performed at a service-only facility is new motor vehicle sales. The phrase "and nonwarranty" would be deleted because the department does not regulate non-warranty repair services. Similarly, the last sentence in §215.103(a) is proposed for deletion as Occupations Code, Chapter 2301 does not require warranty repair services to be performed only at a licensed dealer location. This proposed change would provide franchised dealers with more flexibility in performing warranty repair services. Proposed amendments to §215.103(b) would delete a redundant word and change the term "line" to "line-make" for consistency. A proposed amendment to §215.103(d) would delete the word "only" as the word is not required by statute and the franchised dealer may prefer to have contracting flexibility to obtain more attractive commercial terms.

Proposed amendments to §215.104(a) and §215.104(b)(3) would delete unnecessary words to improve readability without changing meaning. Proposed amendments throughout §215.104 would update and modernize the amendment process by requiring a franchised dealer to submit an amendment application electronically in the system designated for licensing. A proposed amendment in §215.104(a)(1) would clarify that amendment application attachments must be legible and accurate electronic images, and a proposed amendment in §215.104(a)(2) would add a reference to the new proposed Chapter 224, which would include procedures related to processing protests of a franchised dealer's application. A proposed amendment in §215.104(b)(3) would modernize and standardize the process through which a publicly held corporation informs the department of an ownership change by requiring that the corporation file an amendment application electronically when a person or entity acquires a 10% ownership share. A proposed amendment to §215.104(c)(5) would delete an archaic requirement for a franchised dealer to notify the department if the dealer's facsimile number has changed, and renumber accordingly. A proposed amendment to §215.104(d)(1) would replace "oversees" with "is in charge of" for consistency and clarity without a change to the meaning of the provision. Proposed amendments to §215.104(e) and §215.104(f) would add "franchised" and delete the phrase "licensed new motor vehicle," for consistency in describing a dealer under this subchapter and would add the word "amendment" to describe the type of application required to process the change described to the franchised dealer's license.

Proposed amendments to §215.105(b) and §215.105(c) would add "franchised" and delete the phrase "licensed new motor vehicle" for consistency in describing a dealer under this subchapter. A proposed amendment to §215.105(d) would clarify and modernize the process for a franchised dealer to file a protest by specifying that a franchised dealer with standing to protest must file a timely protest electronically in the department-designated system for licensing and pay the required fee.

A proposed amendment to §215.106(a)(1) would clarify that a notice of protest must be received by 5:00 p.m. Central Time, which will be either Central Standard Time or Central Daylight Time as applicable. A proposed amendment to §215.106(a)(2) would modernize the protest process by requiring the notice of protest to be filed in the department's designated electronic filing system, and a proposed amendment to §215.106(a)(3) would clarify that the fee must be paid at the time the application is sub-

mitted. A proposed amendment to §215.106(b)(2) would clarify that the protest will be rejected if payment is not made or is later dishonored.

A proposed amendment to §215.108 would add the word "franchised" and delete the phrase "licensed new motor vehicle," for consistency in describing a dealer under this subchapter.

A proposed amendment to §215.109 would add the word "franchised" and delete the phrase "licensed new motor vehicle," for consistency in describing a dealer under this subchapter. A proposed amendment to §215.109(4) would require a franchised dealer to submit a dealership replacement application electronically in the department system designated for licensing.

Proposed amendments to §215.110(a) would split the subsection into three separate sections lettered (a) through (c), would modify internal references in relettered (b) and (c) from "subsection" to "section" to reflect the new organization, and would reletter current subsection (b) to subsection (d) accordingly. Proposed amendments to §215.110(a) and relettered §215.110(d) would add the word "franchised" or "franchised dealer" and delete the phrase "licensed new motor vehicle," for consistency in describing a dealer under this subchapter. Proposed amendments in §215.110(a) would remove unnecessary language and clarify that the applicant must submit legible and accurate electronic images of the franchise agreement pages that identify the parties, the parties' signatures, each line-make listed in the application, and the address of the franchised dealership's physical location. A proposed amendment to relettered §215.110(b) would clarify that an applicant may submit temporary evidence of franchise electronically, and proposed amendments to relettered §215.110(c) would clarify that an applicant is required to provide the designated franchise agreement pages to the department before a license may be issued.

Proposed amendments to §215.111 would organize the existing language into two subsections to improve readability. A proposed amendment to new §215.111(a) clarifies that a manufacturer or distributor must provide notice of termination or discontinuation as required under Occupations Code, §2301.453 and would remove language that duplicates the statute. A proposed amendment to new §215.111(b) would require a franchised dealer to file a written notice of protest electronically in the department's designated system for licensing.

SB 604, 86th Legislature, Regular Session (2019), eliminated the department's authority to approve a vehicle show or exhibition under Occupations Code, §2301.358, effective September 1, 2019. As a result, §215.112 is proposed for repeal as the §215.112(a) expressly limits applicability of the rule to motor home shows that require department approval.

A proposed amendment to the title of §215.113 would correct the spelling of "Franchised" as the statutory term in Occupations Code, §2301.002 is "franchised dealer." Proposed amendments to §215.113(a) - (c) and (f) would add the word "franchised" and delete the phrase "new motor vehicle," for consistency in describing a dealer under this subchapter. Proposed amendments to §215.113(a), (d), and (e) would require the notice of protest to be filed electronically in the department's designated system for licensing. Proposed amendments to §215.113(c) would substitute the more general Occupations Code subchapter designation for the specific section series reference so any future statutory changes will not require a rule change and would add a reference to the subchapter in proposed new Chapter 224 which ap-

plies to this subsection. Proposed amendments to §215.113(f) would add a reference to the subchapter in proposed new Chapter 224, which applies to this subsection, would delete archaic language as contested case hearing scheduling is determined by the State Office of Administrative Hearings (SOAH) and its procedural rules, and would substitute the word "issued" for "rendered" for consistency.

A proposed amendment to the title of §215.115 adds the phrase "Vehicle Sales" to describe the scope of the section more accurately. Proposed amendments to §215.115(a), (b), (d) and (f) would delete the phrase "a representative of" as the phrase is unnecessary. Proposed amendments to §215.115(a), (b), and (f) would add language to allow a record to be submitted to the department electronically upon request. Proposed amendments to §215.115(b) would correct preposition use to improve readability without changing the meaning.

A proposed amendment to title of §215.116 would add the term "Franchised Dealership" to describe the scope of this section more accurately. A proposed amendment to §215.116(a) would add the descriptor "franchised" to the term dealer and delete duplicate language without changing meaning.

Proposed amendments to §215.117 would improve the readability of the section without changing the meaning.

Proposed new §215.120 would set out the requirements for manufacturers, distributors and converters using license plates issued by the department. Proposed new §215.120(a) would specify when a manufacturer, distributor, or converter may apply for a standard license plate and proposed new §215.120(a) and (b) would specify the type of vehicle and purposes for which a license plate may be used. Proposed new §215.120(c) would explain where the license plate is to be placed on the vehicle. Proposed new §215.120(d) would contain the record requirements for these plates. Proposed new §215.120(e) and (f) would explain what a manufacturer, distributor or converter is required to do if a license plate is lost, stolen, or damaged. Proposed new §215.120(g) would require license plate records be available for inspection or review if requested by the department. Proposed new §215.120(h) would specify the criteria the department will use to evaluate a request for additional standard license plates. Proposed new §215.120(i) would require a manufacturer, distributor, or converter to return department-issued license plates to the department within 10 days of the associated license being closed, canceled, or revoked.

Proposed new §215.121 would set out the powers of the board and department to sanction a manufacturer, distributor, or converter. Proposed new §215.121(a) would describe existing administrative sanctions that the board or department may take if a manufacturer, distributor, or converter violates a law or rule enforced by the department. Proposed new §215.121(b) would describe which actions may result in a sanction.

Subchapter E. General Distinguishing Numbers

This subchapter is proposed to be relettered as Subchapter D as current Subchapter B is proposed for repeal and the subsequent subchapters are proposed to be relettered accordingly. An amendment to the title of this subchapter is proposed to reflect that the scope of the chapter also includes in-transit licenses issued to drive-a-way operators under Transportation Code, §503.023.

Proposed amendments to §215.131 would add a reference to Transportation Code, Chapters 1001-1005 and would clarify

that provisions in this subchapter apply to general distinguishing numbers and drive-a-way operator in-transit licenses issued by the department.

Proposed amendments to §215.132 would delete an unused definition for charitable organization, delete an unnecessary definition for license, and add a definition for municipality, which is defined by reference to Local Government Code, Chapter 1. Proposed amendments would renumber the remaining provisions accordingly.

A proposed amendment to §215.133 would retitle the section to "Application Requirements for a Dealer or a Wholesale Motor Auction" to accurately reflect the scope of the section. A proposed amendment to §215.133(a) would add a reference to a wholesale motor vehicle auction and delete a redundant word. Proposed amendments to §215.133(c) would add multiple references to wholesale motor vehicle auction throughout, add a reference to §215.83, and clarify an existing requirement for a license holder to pay any outstanding civil penalties owed the department under a final order before renewing a GDN. Proposed amendments to §215.133(c)(1) would clarify existing application requirements in §215.133(c)(1)(C); add new §215.133(c)(1)(D), which requires an applicant to provide a contact name and contact details for a person who can provide business information about the applicant so the department knows who to contact for related questions; reletter the remaining subparagraphs; add in §215.133(c)(1)(I) the requirement for a telephone number for a dealer's temporary tag database account administrator; and correct in §215.133(c)(1)(O) the name of a form. Proposed amendments to §215.133(c)(2) would clarify in §215.133(c)(2)(D) by adding "unexpired" and deleting "current" in the related clauses and substituting the modern phrase "military identification card" for armed forces identification and would add the word "business" in §215.133(c)(2)(G) to clarify the phrase premises photos. Proposed amendments to §215.133(c)(3) would delete a redundant phrase in §215.133(c)(3)(A), add a reference in §215.133(c)(3)(B) to applicable taxes, and substitute "standard" for "metal" for a more precise description of a dealer plate. In §215.133(d), proposed amendments would add a fingerprint requirement for wholesale motor vehicle auction GDNs to allow the department to evaluate the criminal histories of applicants and update the title of a §211.6. Proposed amendments to §215.133(e) would delete "dealer" to clarify that all GDNs must follow the assumed name requirements in that subsection and would add the phrase "a name or" to denote that an applicant cannot use either a business name or an assumed name that is confusing, deceptive, or otherwise misleading to the public. Proposed new §215.133(j) would clarify that a person holding an independent motor vehicle GDN and performing salvage activities must apply for a National Motor Vehicle Title Information System (NMVTIS) Identification number and provide that number to the department in the application, to allow the department to verify that the applicant meets federal registration requirements and is qualified to perform salvage activities; the next subsection is proposed to be relettered accordingly.

Proposed new §215.134 would define the application requirements for a drive-a-way operator in-transit license. Proposed new §215.134(a) would set out the requirement for a license. Proposed new §215.134(b) would require an applicant to complete an application form prescribed by the department and submit it through the department's designated electronic system. Proposed new §215.134(c) would require a license holder renewing or amending a license to verify current infor-

mation and provide related information and documents for any changes to the license, as well as pay required fees. Proposed new §215.134(d) would instruct a new applicant how to register in the department-designated licensing system. Proposed new §215.134(e)(1) would describe the information that must be submitted in the application for a drive-a-way operator in-transit license. Proposed new §215.134(e)(2) would describe the documents that must be attached to the application based on statutory requirements and related consumer fraud or public safety considerations resulting from the license holder's operation or business model. Proposed new §215.134(e)(3) would describe the fees that must be paid when an applicant applies for a license. Proposed new §215.134(f) would require a license applicant to comply with fingerprint requirements to allow the department to confirm an applicant's identity and perform a more comprehensive review of the applicant's criminal record. Proposed new §215.134(g) would protect the public by requiring an in-transit license holder to not use a business name or assumed name that would be confusing, deceptive, or misleading to prevent consumer fraud and abuse.

Proposed amendments to §215.135(a) and (b) would substitute "municipality" for "city" as municipality is a defined term in the Local Government Code, Chapter 1, and is proposed to be a defined term in §215.132. A proposed amendment to §215.135(a) would update a reference to the title of §215.140. Proposed amendments to §§215.135(b) and (c) would correct punctuation. A proposed amendment to §215.135(d) would require a GDN holder to notify the department of a new, closed or relocated business location by filing an amendment electronically in the system designated by the department for licensing.

Proposed amendments to §215.137(a) would substitute "GDN" for "license" and delete "dealership" for consistency in terminology. Proposed amendments to §215.137(c) would rephrase a sentence for clarity and consistency without changing the meaning.

Proposed amendments to the title of §215.138 and throughout the section would delete "metal" or "assigned metal dealer's" to describe a dealer license plate for specificity and consistency. A proposed amendment to §215.138(a) would delete the requirement to attach a plate to a license plate holder and would instead refer a license holder to §217.27 for plate placement requirements. Minor edits are proposed in §215.138(b) for clarity and would not change the meaning. Proposed amendments would combine the definition of light truck in §215.138(e) and rule language in §215.138(f) into relettered §215.138(e) for clarity, and the remaining sections would be relettered accordingly. Proposed amendments to relettered §215.138(h) would clarify that a dealer must keep records of all license plates issued by the department for dealer use, including both standard and personalized prestige plates. Proposed amendments to relettered §215.138(i) and (j) would clarify the procedures for reporting a license plate that is lost, stolen, or damaged. Proposed new §215.138(k) would require that a dealer's license plate record be available for inspection or to submit to the department electronically upon request to allow the department to inspect dealers for potential misuse of license plates. Proposed new §215.138(l) would require a dealer to return to the department all plates, stickers, and related receipts within 10 days, consistent with the requirements of Transportation Code §503.038.

Proposed amendments to the title of §215.139 and throughout the section and attached graphics would delete "metal" and add "standard" to describe a dealer plate more accurately and con-

sistently. In §215.139(d) and in §215.139(f)(2), proposed minor edits would improve readability without changing meaning. In the attached graphic to §215.139(f)(1), proposed amendments would correct the number of plates that a dealer selling 50 to 99 vehicles during the previous 12 months is eligible to request and add a missing category for a dealer selling 100 to 200 vehicles during the previous 12 months. These proposed amendments would correct inadvertent errors made when the graphic was last published. The proposed amendments would delete §215.139(h) as an unnecessary disclaimer because other proposed amendments to §215.87(d) and §215.138(h) would explicitly address procedures relating to personalized prestige dealer plates.

A proposed amendment to §215.140 would add a subsection letter (a) to distinguish premises requirements for GDN dealers from premises requirements for wholesale motor vehicle auctions, which are proposed in new subsection (b). Proposed amendments to §215.140(a)(1)(B) and §215.140(a)(2) would clarify that the dealer's business hours must be posted in a manner and location that is accessible to the public to meet the requirements of Transportation Code, §503.032. Proposed amendments to §215.140(a)(5)(F) would clarify that an established and permanent location must be capable of receiving U.S. mail and must have an assigned emergency services property address to allow the department to verify the physical location. A proposed amendment to §215.140(a)(5)(F) would delete "metal" to describe the dealer's license plate more consistently. A proposed amendment to §215.140(a)(11)(B)(ii) would clarify that a display area must be reserved exclusively for the dealer's inventory. Proposed amendments to §215.140(a)(11)(B)(iv) and (vii) would clarify that a barrier that cannot be readily removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds. This weight guideline is consistent with Occupation Health and Safety Administration guidelines for the maximum weight that one person may safely lift without assistance. Proposed amendments to §215.140(a)(11)(C) would clarify by replacing "dealer" with "GDN holder" and would add a requirement for a GDN holder to disclose in an application or license amendment the location of a storage lot, if the lot is not located at the licensed business address. The department must be able to determine where a storage lot is located, so the department can inspect the lot to ensure compliance with department rules. The proposed changes in §215.140(11) are necessary to prevent fraud and consumer abuse and to protect public health and safety. A proposed amendment to §215.140(a)(12) would delete an exclusion for salvage pool operators as this exclusion is not consistent with public welfare and to ensure that no member of the public is misled about the status or condition of a salvage vehicle. If a dealer is selling both motor vehicles and salvage vehicles, each salvage vehicle should be clearly and conspicuously marked. A proposed amendment to §215.140(a)(14) would move the requirement to post a dealer's GDN and bond notice in each location to the end of the paragraph to improve clarity without changing meaning. Proposed new §215.140(b) would add premises requirements for wholesale motor vehicle auctions consistent with the requirements of Transportation Code, §503.032.

Proposed amendments to §215.141(a) would reorder language for consistency with §215.141(b) and add a reference to a cease-and-desist order, which is an action the board is authorized to take under Occupations Code, §2301.153 and §2301.802. Proposed amendments to §215.141(b)(1) would add a reference to the relevant statute and a reference to the

requirement to post a bond notice and would delete an archaic reference to a bond amount. Proposed new §215.141(b)(2) would address the fact that the failure of a license holder to meet or maintain the established and permanent place of business premises requirements is one of the most common violations requiring a sanction under this subchapter; the remaining paragraphs would be renumbered accordingly. Proposed amendments to relettered §215.141(b)(4) would clarify that a license holder under this subchapter may be sanctioned for either failing to provide electronic records, or for refusing or failing to comply with a department request to review records at the licensed business location. Proposed new §215.141(b)(4)(D) would add the Certificate of Occupancy, Certificate of Compliance, business license or permit, or other official documentation confirming compliance with county and municipal laws or ordinances for a vehicle business at the licensed physical location as records the department may request to confirm compliance with Transportation Code requirements. Proposed amendments would reletter the remaining subsections to accommodate proposed new §215.141(b)(4)(D). A proposed amendment to relettered §215.141(b)(6) would delete a redundant reference to §215.140 as a reference to that section is proposed in §215.141(b)(2) and would remove subsection delineations within §215.141(b)(6) because they would be unnecessary. Proposed amendments to relettered §215.141(b)(8) would clarify that a license holder under this subchapter may be sanctioned if the license holder fails to submit a license amendment in the electronic system designated by the department to change an address, including the address of a storage lot, within 10 days of the change. A proposed amendment to relettered §215.141(b)(9) would clarify that a license holder under this subchapter may be sanctioned if a person fails to submit a license amendment in the electronic system designated by the department to notify the department of a change in name or change in management or ownership within 10 days of the change. The proposed amendments to §§215.141(b)(8) and (9) would incentivize licensees to make timely updates to their information through the department's electronic system. Proposed amendments to relettered §215.141(b)(12) and (13) would delete "metal" from the description of license plate consistent with statutory language in Transportation Code, Chapter 503. A proposed amendment to relettered §215.141(b)(16) would delete an incorrect reference to non-existent Transportation Code, Chapter 1000. A proposed amendment to relettered §215.141(b)(17) would clarify by adding a reference to §211.3. A proposed amendment to relettered §215.141(b)(20) would clarify that providing a false or forged document to the department may result in a sanction. A proposed amendment to relettered §215.141(b)(22) would clarify that providing a false or forged identity document, photograph, image, or document to the department is a material misrepresentation and may result in a sanction. Proposed new §215.141(b)(25) would clarify that a license holder's failure to comply with the requirements for dealer's issuance of temporary tags under §215.150 may result in a sanction. Proposed amendments to relettered §215.141(b)(28) would delete an archaic effective date and clarify by adding the title of the statutory provision referenced. Proposed new §215.141(b)(29) adds failure to issue a refund as ordered by the board or department as an action that may result in a sanction, to ensure that the board is able to enforce its refund orders. Proposed new §215.141(b)(30) would add failure to acquire or maintain a certificate, business license, permit, or other documents confirming compliance with county or municipal laws or ordinances for a vehicle business as an

action that may result in a sanction, as a license holder must comply with county and local laws to have and maintain an established and permanent place of business. An established and permanent place of business is a requirement for GDN holders under Transportation Code §503.032 and wholesale motor vehicle auctions under Transportation Code §503.030.

Proposed new §215.143 would set out the requirements for drive-away operator in-transit license plates. Proposed new §215.143(a) would specify when a drive-a-way operator may apply for an in-transit standard license plate. Proposed new §215.143(b) would explain when and where the license plate is to be placed on the vehicle. Proposed new §215.143(c) would contain the record requirements for these plates. Proposed §215.143(d) and (e) would explain what a drive-a-way operator is required to do if a license plate is lost, stolen, or damaged. Proposed new §215.143(f) would require that license plate records be available for inspection or review if requested by the department. Proposed new §215.143(g) would specify the criteria the department will use to evaluate a request for additional in-transit standard license plates. Proposed new §215.143(h) would require a drive-a-way operator to return department-issued license plates to the department within 10 days of the associated license being closed, canceled, or revoked.

A proposed amendment to the title of §215.144 would add "Vehicle" to the title to describe the scope more accurately as pertaining to vehicle records. Proposed amendments to §215.144(a) would add a reference to a wholesale motor vehicle auction and delete a redundant phrase. A proposed amendment to §215.144(b) would add a reference to records that must be kept by an independent mobility motor vehicle dealer for ease of reference. A proposed amendment to §215.144(c) would delete unnecessary punctuation. Proposed amendments to §215.144(d) would simplify the language for the requirement that a dealer must reply within 15 days of receiving a department records request regardless of the method in which the department makes the request and would correct a reference from division to department for consistency. Proposed amendments to §215.144(e)(7) would delete an archaic reference to the title of a tax receipt form and substitute the general phrase "county tax assessor-collector receipt marked paid," as the form of the receipt may vary by county. Proposed amendments to §215.144(e)(8) would add clarity by improving sentence structure, clarifying that records must be kept for both the purchase and the sale of a vehicle, deleting a reference to an archaic form, and adding requirements to keep a copy of the purchaser's photo identification, the odometer disclosure statement signed by the buyer, and the rebuilt salvage disclosure, if applicable. These additional record requirements §§215.144(e)(8)(L) - (N) are necessary to prevent consumer harm and reduce potential for fraud. Proposed amendments to §215.144(e)(9) would rephrase the existing requirement for readability without changing the meaning. Proposed amendments to §215.144(f)(2) would add a reference to a statutory exemption and update the language consistent with current statutory requirements that any willing county tax-assessor-collector may process a title or registration request. Proposed amendments to §215.144(f)(3) would change the presumed reasonable time for a dealer to apply for a title and registration from 20 working days to 30 days and add references to title processing to clarify that the same presumed time limit applies to both titling and registration dealer responsibilities. A proposed amendment to §215.144(g)(1) changes the presumed reasonable time for a dealer to act for out-of-state sales from 20 working days to 30 days; "days"

is proposed to be defined under §215.2(b)(2) as calendar days. Proposed amendments to §215.144(h) would update the language consistent with current statutory requirements that any willing county tax-assessor-collector may process a title or registration request. Proposed amendments to §215.144(j) would delete the unnecessary phrase "a representative of" to describe the department, would simplify the language in §215.144(j)(2) regarding the requirement that a wholesale motor vehicle auction must reply within 15 days of receiving a department records request regardless of the method in which the department makes the request, and would update a citation to the federal odometer disclosure requirements in §215.144(j)(3)(F). A proposed amendment to §215.144(k) would delete the unnecessary phrase "a representative of" in describing the department. Proposed amendments to §215.144(l) would update the subsection title to refer to the department's electronic titling and registration system for clarity and delete unnecessary punctuation.

A proposed amendment to §215.145(a) would delete a duplicative word. Proposed amendments to §215.145(b) would clarify that a dealer must submit a license amendment electronically in the department's designated licensing system. Proposed amendments to §215.145(c) - (f) would remove redundant language or restate language to improve readability without changing the meaning. Another proposed amendment to §215.145(f) would modernize the provision by adding a reference to filing a GDN application electronically in the department's designated licensing system. A proposed amendment to §215.145(g) would delete unnecessary punctuation and correct the title of a referenced statute.

The entirety of §215.146 is proposed for repeal as this rule would be incorporated into new proposed §215.120, relating to License Plates.

Proposed amendments to §215.147(a) would correct a reference to the driver license and delete an archaic reference to a concealed handgun license. A proposed amendment to §215.147(b) would substitute "dealer's" for "license holder's" for consistency in terminology and does not change the meaning. A proposed amendment to §215.147(c) would add "Vehicle" for consistency with a proposed title change to §215.144, relating to Vehicle Records.

Proposed amendments to §215.148 would add references to Transportation Code, Chapter 503, and proposed new Chapter 224, Adjudicative Practice and Procedure, would update a proposed title change to §215.144, and would remove redundant and unnecessary words and punctuation.

Proposed amendments to §215.149 would change the title to "Sales of New Mobility Motor Vehicles" to reflect the section scope and add references to "new" mobility motor vehicles for clarity.

A proposed amendment to §215.150(a) would add "or lease" to clarify that a dealer may issue a temporary tag for a vehicle leased to a customer. A proposed amendment to §215.150(b)(1) would update a reference to proposed new Chapter 224, Adjudicative Practice and Procedure. Proposed amendments to §215.150(c) would change word order to "buyer's temporary tag" for consistency.

A proposed amendment to §215.151(a) would add "governmental agency" to the list of entities that must display temporary tags on the rear of a vehicle in operation. As a result, §215.151(b) is proposed for deletion and the remaining subsections are

proposed to be relettered accordingly. Proposed amendments to relettered §215.151(c) would delete duplicate language from a referenced statute and add a statutory reference for allowed uses of a converter's temporary tag for completeness and ease of reference.

Proposed amendments to §215.152(a) and (b) would delete an unnecessary phrase as a governmental agency is defined in §215.2 to include federal, state, and local agencies. Proposed amendments in §215.152(f) would increase the allotment of temporary tags for a franchised dealer from 600 to 1,000 based on the department's historical experience. Since maximum tag limits were put in place, the department has been monitoring temporary tag usage and processing requests for additional temporary tags. The one dealer category that has consistently required more temporary tags to be allocated is a new franchised dealer, so increasing the initial amount allocated to this dealer type is necessary to ensure a new franchise dealer has the requisite number of tags necessary to support daily operations. Proposed amendments in §215.152(i) would clarify the process and procedure for requesting additional temporary tags and for appealing a denial of a request, but do not change existing process or procedure. Another amendment to §215.152(i) would clarify that temporary tag allotments do not carry over to subsequent years.

A proposed amendment to §215.154(a) would add "or lease" to clarify that a dealer may issue a dealer's temporary tag for a vehicle the dealer is authorized to lease. A proposed amendment to §215.154(c) would delete "metal" and add "standard or personalized prestige" to accurately describe the plate types the dealer may use. A proposed amendment to §215.154(d)(2)(B) would add a reference to §215.138(d) for clarity and ease of reference. Proposed amendments to §215.154(e) and (g) would delete these two subsections as the language in these subsections duplicates §215.138, which is proposed to be added for reference in §215.154(d)(2)(B), and the remaining subsections would be relettered accordingly.

Proposed amendments to §215.155(a) would clarify that a buyer's temporary tag may only be displayed on a vehicle from the selling dealer's inventory, would reorganize and combine the content in §215.155(a) and (b) in a numbered list for clarity and readability, and would add "or lease" to clarify that a dealer may issue a dealer's temporary tag for a vehicle the dealer is authorized to lease. Proposed new §215.155(b) would clarify that in accordance with Texas Transportation Code §503.063, a buyer's temporary tag must be issued and provided to a buyer of a vehicle that is to be titled but not registered and would clarify that the temporary tag must not be displayed on the vehicle in these circumstances. This clarification is necessary to facilitate title-only vehicle sales for vehicles that will not be driven on Texas roads. A proposed amendment to §215.155(c) would delete "metal" for consistency. Proposed amendments to §215.155(e) would delete unnecessary punctuation and phrasing without changing the meaning. Proposed amendments to §215.155(f) and proposed new §215.155(g) would reorganize and rephrase language in §215.155(f) to improve clarity and readability without changing the meaning.

A proposed amendment to §215.160(b) would increase the required font size from 11 pt to 14 pt in the rebuilt vehicle acknowledgment or vehicle disclosure form to increase legibility. A proposed amendment in §215.160(c) would require a separate signature on the acknowledgment or disclosure form. Proposed amendments in §215.160(d) would reorder language to improve clarity and would update a referenced section title. The proposed

amendments increasing the required font size and requiring a signature are necessary to protect consumers and prevent consumer harm.

Proposed amendments to §215.161 would update the title to add "Provider" as the requirements in this section relate to motor vehicle licensing education course providers. Proposed new §215.161(f) would clarify that the department does not offer an approved licensing education course.

Subchapter F. Lessors and Lease Facilitators

This subchapter is proposed to be relettered as Subchapter E as current Subchapter B is proposed for repeal and the following subchapters are proposed to be relettered accordingly.

Proposed amendments to §215.171 would update statutory references including references to relevant Transportation Code chapters.

Proposed amendments to §215.173(a) would edit language and provide a statutory reference for clarity and to improve readability.

The proposed amendments to §215.174 would modernize the provision by implementing the requirements necessary for the department's electronic licensing system. Proposed amendments to §215.174(a) would add a reference to §215.83 and clarify that applications, including supporting documentation and fees, are to be submitted electronically in the department's licensing system. Proposed new §215.174(b) would require a license holder renewing or amending a license to verify current information and provide related information and documents for any changes to the license as well as pay required fees, to ensure that licensees provide the department with updated information through the electronic licensing system. Proposed new §215.174(c) would instruct a new applicant how to register in the department-designated licensing system. Proposed new §215.174(d) would describe the information that must be submitted in the application, and the remaining subsections would be relettered accordingly. Proposed amendments to relettered §215.174(e) would specify the supporting documentation that an applicant for a vehicle lessor's license must provide to allow the department to thoroughly investigate the applicant and its business practices. The proposed amendments to relettered §215.174(e) would clarify that a document submitted as part of a vehicle lessor's license application must be a legible and accurate electronic image, describe the business organization documents required, add current identity document requirements, and require a vehicle lessor not located in Texas to provide a list of vehicle lessor licenses in other states, if applicable, and any other information required to evaluate the application under current law. Proposed amendments to relettered §215.174(f) would specify the supporting documentation that an applicant for a vehicle lease facilitator's license must provide to allow the department to thoroughly investigate the applicant and its business practices. The proposed amendments to relettered §215.174(f) would clarify that a document submitted as part of a vehicle lease facilitator's license application must be a legible and accurate electronic image, describe the business organization documents required, add current identity document requirements, delete a requirement for a vehicle lease facilitator to update a vehicle lessor list, and require a vehicle lease facilitator to provide any other information required to evaluate the application under current law. Proposed new §215.174(g) would protect the public by prohibiting a vehicle lessor or vehicle lease facilitator from using a business name or assumed name

that would be confusing, deceptive, or misleading to prevent consumer fraud and abuse. Proposed new §215.174(h) would clarify an existing requirement that during the license term, a vehicle lessor or vehicle lease facilitator must update the list of authorized vehicle lease facilitators or vehicle lessors, as applicable, and notify the department within 10 days of a change by electronically submitting a license amendment in the system designated by the department for licensing.

Proposed amendments to §215.175(b)(5) and (6) would clarify that a vehicle lessor or vehicle lease facilitator must notify the department of a change in address, name, assumed name, or change in management or ownership by electronically submitting a license amendment in the system designated by the department for licensing. A proposed amendment to §215.175(b)(7) would update a statutory reference. A proposed amendment to §215.175(b)(8) would update a subchapter designation to match the proposed relettering. Proposed amendments to §215.175(b)(13) would delete the term "willfully" to make any omission of material information sanctionable conduct and would clarify that a material misrepresentation includes providing a false or forged identity document or a false or forged photograph, electronic image, or document. Proposed amendments to §215.175(c) and (d) would clarify that the vehicle lessor and the vehicle lease facilitator must notify the department by electronically submitting a license amendment in the system designated by the department for licensing.

A proposed amendment to §215.176 would add "business" to the title of the section and a proposed amendment in §215.176(b) would substitute "municipality" for "city" for consistency with the term proposed to be defined in §215.132.

A proposed amendment to the title of §215.177 would add "Premises Requirements" to describe the scope of the section. A proposed amendment to §215.177(a) would remove unnecessary words. A proposed amendment to §215.177(a)(1)(A) would enhance a license holder's responsiveness to the public by adding a requirement that the business telephone be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine, and that a caller must be able to speak to a natural person or leave a message during these hours. Proposed amendments to §215.177(a)(1)(B) would clarify that "chairs" is interpreted as two chairs and by clarifying that a vehicle lessor or vehicle facilitator's office must have internet access to ensure a license holder has the minimum level of facilities necessary to provide adequate service to the public. Proposed amendments to §215.177(a)(1)(C) would further ensure facilities for the public by requiring that a vehicle lessor or vehicle facilitator's office have a permanent roof, requiring the office to be in a building open to the public, requiring the physical address to have an assigned emergency services property address, and stating that the office may not be virtual or provided by a subscription for office space or office services. Proposed amendments to §215.177(a)(1)(E) and (F) would make minor editing changes that do not change the meaning of the subparagraph. Proposed amendments to §215.177(a)(2) would protect the public from being misled or confused by a licensee's signage by adding "business" to clarify that the requirements are for a business sign, requiring that the business name used on the sign be substantially similar to the name of the licensed entity, and adding criteria to determine whether the sign is conspicuous and permanent. Proposed amendments to §215.177(a)(3) clarify premises lease requirements and modernize the language. The proposed amendments in §215.177(a) are consistent with

the minimum requirements for a retail dealer, deter fraud, and protect consumers. A proposed amendment would delete the requirements in §215.177(b) for out-of-state vehicle lessors who do not deal directly with the public as these requirements are unnecessary and unenforceable, and the remaining following subsections would be relettered accordingly.

Proposed amendments to §215.178(a)(1) would add "complete" to describe records for consistency, delete an archaic requirement to keep records for prior periods at a location in the same county or within 25 miles of the license location, and simplify the language regarding the requirement that a dealer must reply within 15 days of receiving a request for records from the department regardless of the method in which the department makes the request. Proposed amendments to §215.178(b) would make multiple edits throughout the subsection to improve clarity and readability and would revise the requirement to provide a vehicle lease facilitator's employees' home addresses to a more relevant requirement to provide a work address. Proposed new §215.178(c) would be added to describe the vehicle lessor's record requirements if a leased vehicle is later sold, and the following subsections are relettered accordingly. Proposed amendments to relettered §215.178(d) would consist of minor edits throughout to improve clarity and readability and would not change the meaning. Proposed amendments to relettered §215.178(f) would delete redundant language and clarify that a letter of representation or appointment between a vehicle lessor and a vehicle lease facilitator must be executed and maintained by each party. Proposed amendments to relettered §215.178(g) would modernize the rule by adding the option for a vehicle lessor or a vehicle lease facilitator to send records to the department electronically and would make minor edits to improve readability.

Proposed amendments throughout §215.179 would modernize the rule by specifying that a vehicle lessor or vehicle facilitator must submit a notice of a change to a license electronically in the system designated by the department for licensing, would remove redundant or unnecessary language, and would update the title of a referenced section of this chapter.

A proposed amendment to §215.180 would substitute a subchapter designation for a list of sections so a future statutory change will not require a rule change.

Subchapter G. Warranty Performance Obligations

All sections of Subchapter G. Warranty Performance Obligations are proposed for repeal because the substance of each rule and any proposed amendments are incorporated into proposed new Chapter 224, Adjudicative Practice and Procedure. The proposed repeal includes §§215.201 - 215.210.

Subchapter H. Advertising

This subchapter is proposed to be relettered as Subchapter F as current Subchapters B and G are proposed for repeal and the remaining subchapters are proposed to be relettered accordingly.

A proposed amendment to §215.242 would substitute "deemed" for "considered" for consistency.

Proposed amendments to §215.244(11) would delete an unnecessary definition for a license holder and renumber the remaining definitions. A proposed amendment to renumbered §215.244(17) would clarify and specify that the communication referred to in the rule is a notice of opportunity to cure.

A proposed amendment to the title of §215.249 would substitute "or" for "/" for clarity. A proposed amendment to §215.249(c) would delete "the State of" for consistency.

Proposed amendments to §215.250(a) would delete "new or used" as unnecessary and add a requirement for a dealer to disclose a market adjustment if one is added to the sales price so that the public is aware of the pricing. Proposed amendments to §215.250(b) would rephrase for clarity that fees and charges expressly allowed by law do not have to be included in a featured sales price.

A proposed amendment to §215.257 would clarify that the term "authorized dealer" or similar term may not be used unless a dealer holds both a franchised dealer license and a franchised dealer GDN.

Proposed amendments to the title and text of §215.261 would substitute "or" for "/" for clarity and style consistency.

A proposed amendment to §215.264(c) would substitute "other disclosure or deal term" for the lengthy list of disclosures and deal terms in this section for clarity and brevity. Proposed amendments to §215.264(f) and (h) would delete references to specific paragraphs within a referenced subsection as the paragraph references are unnecessary.

Proposed amendments to §215.268 would delete language and substitute terms for consistency and would not change the meaning of the rule.

Proposed amendments to §215.270(b) would identify the referenced notice as an opportunity to cure for clarity and update a reference to the proposed new Notice of Department Decision section in proposed new Chapter 224.

Subchapter I. Practice and Procedure for Hearings Conducted by The State Office of Administrative Hearings

All sections of Subchapter I, Practice and Procedure for Hearings Conducted by The State Office of Administrative Hearings, are proposed for repeal because the substance of each rule and any proposed amendments are incorporated into proposed new Chapter 224 Adjudicative Practice and Procedure. The proposed repeal includes §§215.301 - 215.303, 215.305 - 215.308, 215.310, 215.311, 215.314 - 215.317.

Subchapter J. Administrative Sanctions

This subchapter is proposed to be relettered as Subchapter G, because current Subchapters B, G, and I are proposed for repeal and the remaining subchapter is being proposed to be relettered accordingly.

A proposed amendment to the title of §215.500 would delete "and Procedures" as the procedures from this section are proposed for repeal and are proposed to be included in new Chapter 224, Adjudicative Practice and Procedure. Proposed amendments to §215.500(a) would delete the (a) designation and correct a reference to a referenced rule section. The remaining subsections are proposed for repeal and are proposed to be included in proposed new Chapter 224: §§215.501, 215.502, and §215.505.

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

Division (MVD), has determined that there will be no significant impact on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Ms. Johnston also determined that, for each year of the first five years the proposal is in effect, several significant public benefits are anticipated, and certain applicants and license holders may incur costs to comply with the proposal. The department prioritized the public benefits associated with reducing fraud and related crime and improving public health and safety, while carefully considering potential costs to GDN dealers consistent with board and department responsibilities.

Proposed amendments to §§215.102, 215.133, 215.134, and 215.174 may require applicants and license holders to provide more information in the application. While some applicants may be required to spend more time completing an application or providing additional information Ms. Johnston has determined these costs will be offset by the reduced risk of applicants and holders incurring financial penalties due to noncompliance with applicable federal, state, or local statutes or property owner requirements which will benefit both license holders and the public. Importantly, this information allows the department to investigate an applicant more thoroughly and is consistent with the department's obligations to detect and deter fraud in the application process to prevent consumer harm.

In proposed amendments to §§215.102, 215.133, 215.134, and 215.174, an applicant or license holder may not use a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public. Ms. Johnston estimates that a small number of current license holders may have to change a confusing, deceptive, or misleading business name or assumed name and may incur related secretary of state or county filing fees or signage cost. The Secretary of State filing fee to amend a business name is \$150. Department research suggests the cost for an exterior sign will vary between \$30 to \$167, with an average expected cost of about \$80. The department recognizes that these costs may vary widely based on business owner style and design preferences. The department's civil penalty guidelines for license holders who violate statutory provisions range \$500 to \$10,000 per violation. Ms. Johnston has determined that the signage cost will be offset by the reduced risk of these license holders incurring financial penalties due to noncompliance with laws and regulations and will benefit the public by informing the public and preventing consumer harm.

Proposed amendments to §§215.120, 215.138, and 215.143 require license holders that purchase industry license plates to return plates, stickers, and receipts when the associated license is closed. In Fiscal Year 2019, license holders started returning industry plates when a license was closed. Since then, more than 10,150 industry plates have been returned to the department, significantly reducing the potential for fraudulent plate use. Department research suggest that the average cost to mail a plate is \$9.65. Ms. Johnston has determined that the cost for a license holder to mail or return a plate to the department after the associated license is closed is reasonable and necessary to reduce potential fraud.

Proposed amendments to §215.133 and §215.134 add fingerprint requirements for wholesale motor vehicle auction GDN and drive-a-way operator in-transit license applicants and holders. Fingerprint requirements allow the department to verify the identity of license applicants, preventing fraudulent applications un-

der false or stolen identities, while giving the department access to more accurate and comprehensive criminal history record information to use in evaluating fitness for licensure under its criminal offense guidelines in §211.3. These new fingerprint requirements benefit the public by preventing bad actors with a history of criminal offenses that directly relate to the duties and responsibilities of a license holder from obtaining licenses from the department and using those licenses to perpetrate fraudulent and criminal actions, or otherwise taking advantage of the position of trust created by the license. Ms. Johnston anticipates that there will be no additional costs on regulated persons to comply with the fingerprint requirements under this proposal as the new section does not establish fees for fingerprinting or processing criminal background checks. Fees for fingerprinting and access to criminal history reports are established by DPS under the authority of Texas Government Code Chapter 411.

Proposed amendments to §215.144 require a dealer to keep copies of the purchaser's photo identification, the odometer disclosure statement signed by the buyer, and the rebuilt salvage disclosure, if applicable in the vehicle sales file. Ms. Johnston anticipates that while most bona fide dealers already comply with these requirements, a few dealers may have to add two to three additional pages to the sales file. Department research suggests that the cost of a copy ranges from \$0.14 to \$0.22 per page. She has determined that these costs are necessary to prevent fraud and protect consumers.

Proposed amendments to §215.160 require a dealer offering a rebuilt vehicle for sale to use a minimum 14-point font size in the disclosure statement and for the disclosure statement to have a separate buyer signature. Ms. Johnston anticipates that many bona fide dealers already comply with these requirements, however, some dealers may have to adjust existing forms. These formatting changes may be performed easily at little or no cost using available free word processing software or at a print shop. Department research suggests that the cost of reformatting this disclosure ranges from \$10 to \$48. Ms. Johnston has determined that these costs are necessary to prevent fraud and protect consumers.

Proposed changes to §215.177 require a vehicle lessor or vehicle lease facilitator to ensure that the business telephone is answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine, and requires that the office have internet access. Ms. Johnston anticipates that while most bona fide vehicle lessors or vehicle lease facilitators already comply with these requirements, a few vehicle lessors or vehicle lease facilitators may have to purchase a mobile phone with a data plan to comply. Department research suggests that this cost ranges from \$15 to \$90 per month. Ms. Johnston has determined that these requirements are reasonable minimum standards as the department and the public must be able to communicate with a license holder, and these requirements are necessary to prevent fraud and consumer harm.

Proposed amendments to §215.140 require GDN applicants and holders to disclose the physical address of a storage lot if the address is different than the physical address of the licensed location. Applicants for a new GDN will not incur an additional fee. Current dealer GDN holders will incur a \$25 statutorily required license amendment fee to add or change the physical address of a storage lot. Ms. Johnston has determined that the public benefit derived from the department's more thorough fitness for licensure investigation, reduction in fraud, and enforcement of

department statutes and rules substantially outweighs this cost and are necessary.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by Government Code §2006.002, the department has determined that this proposal may have an adverse economic effect or disproportionate economic impact on small or micro businesses. The department has determined that the proposed amendments will not have an adverse economic effect on rural communities because rural communities are exempt from the requirement to hold a GDN under Transportation Code §503.024.

The cost analysis in the Public Benefit and Cost Note section of this proposal determined that proposed amendments may result in additional costs for certain license holders. Based on data from the Comptroller and the Texas Workforce Commission, the department estimates that most license holders are small or micro-businesses. The department has tried to minimize costs to license holders. The new proposed requirements are designed to be the minimum standards that will prevent fraud in the application process, prevent consumer abuse, and protect public health and safety. These requirements do not include requirements that will cause a license holder to incur unnecessary or burdensome costs, such as employing additional persons.

Under Government Code §2006.002, the department must perform a regulatory flexibility analysis. The department considered the alternatives of not adopting amendments, exempting small and micro-business license holders from these amendments, and adopting a limited version of these amendments for small and micro-business applicants and license holders. The department rejects all three options. The department reviewed licensing records, including records for license holders who have been denied access to the temporary tag system, and determined that small and micro-business license holders are largely the bad actors perpetrating fraud in the application process. The department, after considering the purpose of the authorizing statutes, does not believe it is feasible to waive or limit the requirements of the proposed amendments for small or micro-business GDN dealers. Also, Government Code §2006.002(c-1) does not require the department to consider alternatives that might minimize possible adverse impacts on small businesses and micro-businesses if the alternatives would not be protective of the health and safety of the state.

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 repeal and amendments are in effect the amendments will not create or eliminate a government program; will not require the creation of new employee positions and will not require the elimination of existing employee positions; will not require an increase or decrease in future legislative appropriations to the department; will require an increase in fees paid to the department by certain license holders who are required to file a license amendment to add an address; will expand existing regulations, delete some existing regulations, and make other existing regulations more flexible as described in the explanation section of this proposal; will repeal existing regulations to improve overall

organization of department rules in conjunction with the proposal of new Chapter 224 published in this issue of the *Texas Register*; will not increase or decrease the number of individuals subject to the rule's applicability; and will positively affect the Texas economy by deterring fraud and preventing consumer harm.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. Central Time on January 28, 2024. 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 A. GENERAL PROVISIONS

43 TAC §215.1, §215.2

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. These proposed revisions would implement Government Code, Chapters 411 and 2001;

Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 503 and 1002.

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed revisions would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.1. Purpose and Scope.

Occupations Code, Chapter 2301 and Transportation Code, Chapters 503 and 1001 [4000]-1005 require the Texas Department of Motor Vehicles to license and regulate the ~~motor~~ vehicle industry ~~[dealers, manufacturers, distributors, converters, representatives, vehicle lessors and vehicle lease facilitators, in order]~~ to ensure a sound system of distributing and selling ~~motor~~ vehicles; provide for compliance with manufacturers' warranties; and to prevent fraud, unfair practices, discrimination, impositions, and other abuses of the people of this state in connection with the distribution and sale of ~~motor~~ vehicles. This chapter describes licensing requirements and the rules governing. ~~[prescribes the policies and procedures for the regulation of the motor vehicle industry.]~~

§215.2. Definitions; Conformity with Statutory Requirements.

(a) The definitions contained in Occupations Code, Chapter 2301 and Transportation Code, Chapters 503 and 1001 [4000]-1005 govern this chapter. In the event of a conflict, the definition or procedure referenced in Occupations Code, Chapter 2301 controls.

(b) The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

~~[(1) ALJ--An Administrative Law Judge of the State Office of Administrative Hearings.]~~

~~[(1) [(2)] Board--The Board of the Texas Department of Motor Vehicles, including department staff [any personnel] to whom the board delegates a [any] duty [assigned].~~

~~[(2) Day--The word "day" refers to a calendar day.~~

~~[(3) Director--The director of the division [department] that regulates the distribution and sale of motor vehicles, including any department staff [personnel] to whom the director delegates a [any] duty assigned under this chapter.~~

~~[(4) Executive director--The executive director of the Texas Department of Motor Vehicles.]~~

~~[(5) Final order authority--The person(s) with authority under Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1000 - 1005; or board rules to issue a final order.]~~

~~[(4) [(6)] GDN--General distinguishing number, a license issued under Transportation Code, Chapter 503.~~

~~[(5) [(7)] Governmental agency--A state agency other than the department, all [All other state and] local governmental agencies, and all agencies of the United States government, whether executive, legislative, or judicial.~~

(6) Standard license plate—A motor vehicle license plate issued by the department to a license holder for use by the license holder that is not a personalized prestige dealer's license plate issued under Transportation Code §503.0615.

~~[(8) Hearing officer—An ALJ, a hearings examiner, or any other person designated, employed, or appointed by the department to hold hearings; administer oaths, receive pleadings and evidence; issue subpoenas to compel the attendance of witnesses; compel the production of papers and documents; issue interlocutory orders and temporary injunctions, make findings of fact and conclusions of law; issue proposals for decision; and recommend or issue final orders.]~~

~~[(9) Motion for rehearing authority—The person(s) with authority under Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1000 - 1005; or board rules to decide a motion for rehearing.]~~

~~[(10) SOAH—The State Office of Administrative Hearings.]~~

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 December 14, 2023.

TRD-202304782

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: January 28, 2024

For further information, please call: (512) 465-4160



SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE

43 TAC §§215.21 - 215.24, 215.27, 215.29, 215.30, 215.32, 215.34 - 215.49, 215.55, 215.56, 215.58 - 215.63

STATUTORY AUTHORITY. The department proposes repeals to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information

maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes repeals under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These repeals would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

- §215.21. *Purpose and Scope.*
- §215.22. *Prohibited Communications.*
- §215.23. *Appearances.*
- §215.24. *Petitions.*
- §215.27. *Complaints.*
- §215.29. *Computing Time.*
- §215.30. *Filing of Documents.*
- §215.32. *Extension of Time.*
- §215.34. *Notice of Hearing in Contested Cases.*
- §215.35. *Reply.*
- §215.36. *Hearings To Be Public.*
- §215.37. *Recording and Transcriptions of Hearing Cost.*
- §215.38. *Consolidation of Proceedings.*
- §215.39. *Waiver of Hearing.*
- §215.40. *Continuance of Hearing.*
- §215.41. *Presiding Officials.*
- §215.42. *Conduct of Hearing.*
- §215.43. *Conduct and Decorum.*
- §215.44. *Evidence.*

- §215.45. *Stipulation of Evidence.*
- §215.46. *Objections and Exceptions.*
- §215.47. *Motions.*
- §215.48. *Briefs.*
- §215.49. *Service of Pleading, Petitions, Briefs, and Other Documents.*
- §215.55. *Final Decision.*
- §215.56. *Submission of Amicus Briefs.*
- §215.58. *Delegation of Final Order Authority.*
- §215.59. *Request for Oral Presentation.*
- §215.60. *Written Materials and Evidence.*
- §215.61. *Limiting Oral Presentation and Discussion to Evidence in the Administrative Record.*
- §215.62. *Order of Presentations to the Board for Review of a Contested Case.*
- §215.63. *Board Conduct and Discussion When Reviewing a Contested Case.*

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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General Counsel

Texas Department of Motor Vehicles

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For further information, please call: (512) 465-4160



SUBCHAPTER B. LICENSES, GENERALLY

43 TAC §§215.82 - 215.85, 215.87, 215.89

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a

motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed revisions would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters Occupations Code, Chapters 53, 55, 2301, and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.82. *Duplicate [Licenses and] Plates and Stickers.*

{(a) A request for a duplicate license must:}

{(1) be made on a department-approved form;}

{(2) state the reason for the duplicate license; and}

{(3) be accompanied by the required duplicate license fee.}

~~[(b) A license holder may receive one duplicate license at no charge if the license holder:]~~

~~[(1) did not receive the original license; and]~~

~~[(2) makes the request within 45 days of the date the license was mailed to the license holder:]~~

~~[(e)] A license holder may receive a replacement standard [metal] dealer's, converter's, drive-a-way in-transit, or manufacturer's license plate or assigned sticker, as[if] applicable, at no charge if the license holder:~~

~~(1) did not receive the applicable standard [metal dealer's] license plate or sticker; [and]~~

~~(2) makes the request within 45 days of the date the applicable standard[metal dealer's] license plate or sticker was mailed to the license holder; and [on a department approved form.]~~

~~(3) submits a request electronically in the system designated by the department for licensing.~~

§215.83. License Applications, Amendments, or Renewals.

(a) An application for a new license, license amendment, or license renewal filed with the department must be:

(1) filed electronically in the department-designated licensing system on a form approved by the department;

(2) completed by the applicant, license holder, or authorized representative who is an employee, a licensed attorney, or a certified public accountant;

(3) accompanied by the required fee, paid by ~~[check;]~~ credit card~~;~~ or by electronic funds transfer, drawn from an account held by the applicant or license holder, or drawn from a trust account of the applicant's attorney or certified public accountant; and

(4) accompanied by proof of a surety bond, if required.

(b) An authorized representative of the applicant or license holder who files an application with the department on behalf of an applicant or license holder may be required to provide written proof of authority to act on behalf of the applicant or license holder.

(c) The department will not provide information regarding the status of an application, application deficiencies, or pending new license numbers to a person other than a person listed in subsection (a)(2) of this section, unless that person files a written request under Government Code, Chapter 552.

(d) Prior to the expiration of a license, a license holder or authorized representative must electronically file with the department a sufficient license renewal application. Failure to receive notice of license expiration from the department does not relieve the license holder from the responsibility to timely file a sufficient license renewal application. A license renewal application is timely filed if~~;~~

~~[(4)] the department receives a sufficient license renewal application on or before the date the license expires~~;~~ or].~~

~~[(2) a legible postmark on the envelope transmitting the sufficient license renewal application clearly indicates that the license holder or authorized representative mailed the license renewal application on or before the date the license expires.]~~

(e) An application for a new license~~;~~ ~~[or]~~ license amendment, or license renewal filed with the department must be sufficient. An application is sufficient if the application:

(1) includes all information and documentation required by the department; and

(2) is filed in accordance with subsection (a) of this section.

~~[(f) A license renewal application received by the department is sufficient if:~~

~~(1) the renewal application form is completed by the license holder or authorized representative of the license holder who is an employee, an unpaid agent, a licensed attorney, or certified public accountant;~~

~~(2) accompanied by the required license renewal application fee payment; and~~

~~(3) accompanied by proof of a surety bond, if required.]~~

(f) ~~[(g)]~~ If an applicant, license holder, or authorized representative does not provide the information or documentation required by the department, the department will issue a written notice of deficiency. The information or documentation requested in the written notice of deficiency must be received by the department within 20 calendar days of the date of the notice of deficiency, unless the department issues a written extension of time. If an applicant, license holder, or authorized representative fails to respond or fully comply with all deficiencies listed in the written notice of deficiency within the time prescribed by this subsection, the application will be deemed withdrawn and will be administratively closed.

(g) ~~[(h)]~~ The department will evaluate a sufficient application for a new license, license amendment, or license renewal in accordance with applicable rules and statutes to determine whether to approve or deny the application. If the department determines that there are grounds for denial of the application, the department may pursue denial of the application in accordance with Subchapter G ~~[J]~~ of this chapter (relating to Administrative Sanctions).

(h) ~~[(i)]~~ The department will process an application for a new license, license amendment, or license renewal filed by a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient application for a license renewal because that license holder was on active duty is exempt from any increased fee or penalty imposed by the department for failing to renew the license in a timely manner.

(i) ~~[(j)]~~ A military service member or military spouse may engage in a business or occupation for which a department issued license is required if the military service member or military spouse meets the requirements of Occupations Code, §55.0041 and this section. This section establishes requirements and procedures authorized or required by Occupations Code, Chapter 55, and does not modify or alter rights that may be provided under federal law.

(1) ~~[To meet the requirements of Occupations Code, §55.0041, a]~~ A military service member or military spouse must submit to the department:

(A) notice of the military service member or military spouse's intent to engage in a business or occupation in Texas for which a department issued license is required;

(B) proof of the military service member or military spouse's being stationed ~~[residency]~~ in Texas and a copy of the military service member or military spouse's military identification card~~;~~ as required by Occupations Code, §55.0041(b)(2)); and

(C) documentation demonstrating that the military service member or military spouse is licensed and in good standing in another jurisdiction for the relevant business or occupation.

(2) Upon receipt of the notice and documentation required by paragraphs (1)(B) and (1)(C) of this subsection, the department shall:

(A) confirm with the other licensing jurisdiction that the military service member or military spouse is currently licensed and in good standing for the relevant business or occupation; and

(B) conduct a comparison of the other jurisdiction's license requirements, statutes, and rules with the department's licensing requirements to determine if the requirements are substantially equivalent.

(3) If the department confirms that a military service member or military spouse is currently licensed in good standing in another jurisdiction with substantially equivalent licensing requirements, the department shall ~~may~~ issue a license to the military service member or military spouse for the relevant business or occupation within 30 days. The license is subject to requirements in Chapter 215 of this title and Occupations Code, Chapter 2301 in the same manner as a license issued under the standard application process, unless modified or exempted under Occupations Code, Chapter 55.

(j) ~~[(k)]~~ A license holder who timely files a sufficient license renewal application in accordance with subsection (d) of this section may continue to operate under the expired license until the license renewal application is determined in accordance with Government Code §2001.054.

(k) ~~[(h)]~~ A license holder who fails to timely file a sufficient license renewal application in accordance with subsection (d) of this section is not authorized to continue licensed activities after the date the license expires. A license holder may dispute a decision that a license renewal application was not timely or sufficient by submitting evidence to the department demonstrating that the license renewal application was timely and sufficient. Such evidence must be received by the department within 15 ~~[40 calendar]~~ days of the date the department issues notice that a timely or sufficient license renewal application was not received by the department.

(l) ~~[(m)]~~ The department shall accept a late license renewal application up to 90 days after the date the license expires. In accordance with subsection (k) ~~[(h)]~~ of this section, the license holder is not authorized to continue licensed activities after the date the license expires until the department approves the late license renewal application. If the department grants a license renewal under this section, the licensing period begins on the date the department issues the renewed license. The license holder may resume licensed activities upon receipt of the department's written verification or upon receipt of the renewed license.

(m) ~~[(n)]~~ If the department has not received a late license renewal application within 90 days after the date the license expires, the department will close the license. A person must apply for and receive a new license before that person is authorized to resume activities requiring a license.

(n) ~~[(o)]~~ A ~~[metal]~~ dealer's standard license plate issued in accordance with Transportation Code, Chapter 503, Subchapter C expires on the date the associated license expires, is canceled, or when a license renewal application is determined, whichever is later.

§215.84. Brokering, New Motor Vehicles.

(a) Unless excluded from the definition of "Broker" in Occupations Code, §2301.002, a person may not act, offer to act, or claim to be a broker.

(b) ~~[(a)]~~ For purposes of this chapter ~~[subchapter]~~, the phrase "arranges or offers to arrange a transaction," as used in the definition of broker in Occupations Code, §2301.002, includes the practice of ar-

ranging or offering to arrange a transaction involving the sale of a new motor vehicle for a fee, commission, or other valuable consideration. Advertising is not acting as a broker ~~[brokering]~~, provided the person's business primarily is ~~[includes the business of]~~ broadcasting, printing, publishing, or advertising for others in their own names.

(c) ~~[(b)]~~ A buyer referral service, program, plan, club, or any other entity that accepts a fee for arranging a transaction involving the sale of a new motor vehicle is a broker. The payment of a fee to such entity is aiding and abetting brokering. However, a referral service, program, plan, club, or other entity that forwards a referral to a franchised dealership may lawfully operate in a manner that includes all of the following conditions: ~~[-]~~

(1) There is no exclusive market area offered to a dealer by the program. All dealers are allowed to participate in the program on equal terms.

(2) Participation by a dealer in the program is not restricted by conditions, such as limiting the number of line-makes or discrimination by size of dealership or location. The total number of participants in the program may be restricted if the program is offered to all dealers at the same time, with no regard to the line-make.

(3) All participants pay the same fee for participation in the program. The program fee shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by the franchised dealer.

(4) A person is not to be charged a fee on a per referral fee basis or any other basis that could be considered a transaction-related fee.

(5) The program does not set or suggest to the dealer any price of a motor vehicle or a trade-in.

(6) The program does not advertise or promote its plan in a manner that implies that the buyer, as a customer of that program, receives a special discounted price that cannot be obtained unless the customer is referred through that program.

(7) A program must comply with Subchapter F of this chapter (related to Advertising).

(d) ~~[(e) Subsections (a)-(c) of this]~~ This section does ~~[do]~~ not apply to a ~~[any]~~ person ~~[or entity]~~ who is not a ~~[exempt from the]~~ broker as defined [definition] in Occupations Code, §2301.002.

~~[(d) All programs must comply with Subchapter H of this chapter (relating to Advertising).]~~

§215.85. Brokering, Used Motor Vehicles.

(a) Transportation Code, §503.021 prohibits a person from engaging in business as a dealer, directly or indirectly, including by consignment without a GDN. Except as provided by this section, "directly or indirectly" includes the practice of arranging or offering to arrange a transaction involving the sale of a used motor vehicle for a fee, commission, or other valuable consideration. A person who is a bona fide employee of a dealer holding a GDN and acts for the dealer is not a broker for the purposes of this section.

(b) A buyer referral service, program, plan, club, or any other entity that accepts a fee for arranging a transaction involving the sale of a used motor vehicle is required to meet the requirements for and obtain a GDN, unless the referral service, program, plan, or club is operated in the following manner: ~~[-]~~

(1) There is no exclusive market area offered to a dealer by the program. All dealers are allowed to participate in the program on equal terms.

(2) Participation by a dealer in the program is not restricted by conditions, such as limiting the number of line-makes or discrimination by size of dealer ~~[ship]~~ or location. The total number of participants in the program may be restricted if the program is offered to all dealers at the same time, with no regard to the line-make.

(3) All participants pay the same fee for participation in the program. The program fee shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by the dealer.

(4) A person is not to be charged a fee on a per referral fee basis or any other basis that could be considered a transaction-related fee.

(5) The program does not set or suggest to the dealer any price of a motor vehicle or a trade-in.

(6) The program does not advertise or promote its plan in a manner that implies that the buyer, as a customer of that program, receives a special discounted price that cannot be obtained unless the customer is referred through that program.

(7) A program complies with Subchapter F of this chapter (relating to Advertising).

~~[(e) All programs must comply with Subchapter H of this chapter (relating to Advertising).]~~

(c) [(d)] A [licensed] dealer holding a GDN pursuant to Transportation Code, §503.029(a)(6)(B), may pay a referral fee in cash or value to an individual who has purchased a vehicle from the [licensed] dealer within the four-year period preceding the referral. The fee may be paid contingent upon either the new referred individual:

(1) purchasing a vehicle from the ~~[independent motor vehicle]~~ dealer; or

(2) the referral of a new potential purchaser.

§215.87. License and Standard ~~[Metal Dealer's]~~ License Plate Terms and Fees.

(a) Except as provided by other law, the term of a license or standard ~~[metal dealer's]~~ license plate issued by the department to a dealer, converter, drive-a-way operator, distributor, or manufacturer under Occupations Code, Chapter 2301 or Transportation Code, Chapter 503 is two years.

(b) A standard [metal dealer's] license plate issued by the department expires on the date the associated license expires or is canceled.

(c) The fee for a license or standard ~~[metal dealer's]~~ license plate is computed by multiplying the applicable annual fee by the number of years of the license term. The entire ~~[amount of the]~~ fee including any tax owed under Tax Code §152.027 is due at the time of application for the license or license renewal.

(d) A dealer may apply for a personalized prestige plate issued under Transportation Code §503.0615 by completing a department form, providing a copy of a department-issued license, and submitting payment to a county tax assessor-collector. A personalized prestige plate may be renewed in an electronic system designated by the department.

§215.89. Fitness.

(a) In determining a person's fitness for a license issued or to be issued by the department under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, the board ~~[or department]~~ will consider:

(1) the requirements of Occupations Code, Chapter 53;

(2) the provisions of Occupations Code, §2301.651 and Transportation Code §503.034;

(3) any specific statutory licensing criteria or requirements;

(4) mitigating factors; and

(5) other evidence of a person's fitness, as allowed by law, including the standards identified in subsection (b) of this section.

(b) The board ~~[or department]~~ may determine that a person is unfit to perform the duties and discharge the responsibilities of a license holder and may, following notice and an opportunity for hearing, deny a person's license application or revoke or suspend a license if the person:

(1) fails to meet or maintain the qualifications and requirements of licensure;

(2) is convicted, or considered convicted under Occupations Code §53.021(d), 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 is convicted, or considered convicted under Occupations Code §53.021(d), of an offense that is independently disqualifying under Occupations Code §53.021;

(3) omits information or provides false, misleading, or incomplete information on an initial application, renewal application, or application attachment, for a license or other authorization issued by the department or by any local, state, or federal regulatory authority;

(4) is found to have violated an administrative or regulatory requirement based on action taken on a license, permit, or other authorization, including disciplinary action, revocation, suspension, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment, by the board, department, or any local, state, or federal regulatory authority;

(5) is insolvent or fails to obtain or maintain financial resources sufficient to meet the financial obligations of the license holder;

(6) is a corporation or other legal entity that fails to maintain its charter, certificate, registration, or other authority to conduct business in Texas;

(7) is assessed a civil penalty, administrative fine, fee, or similar assessment, by the board, department, or a local, state, or federal regulatory authority, for violation of a requirement governing or impacting the distribution or sale of a vehicle or a motor vehicle, or the acquisition, sale, repair, rebuild, reconstruction, or other dealing of a salvage motor vehicle or nonrepairable motor vehicle, and fails to comply with the terms of a final order or fails to pay the penalty pursuant to the terms of a final order;

(8) was or is a person described in §211.2 of this title (relating to Application of Subchapter) whose actions or omissions could be considered unfit, who 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;

(9) has an ownership, organizational, managerial, or other business arrangement, that would allow a person the power to direct or cause the direction of the management, policies, and activities, of an applicant or license holder, whether directly or indirectly, when the person could be considered unfit, 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, by the board, department, or any local, state, or federal regulatory authority;

(10) is found in a [an] final order issued after [through] a contested case hearing to be unfit or acting in a manner detrimental to the system of distribution or sale of motor vehicles in Texas, the economy of the state, the public interest, or the welfare of Texas residents [citizens].

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 December 14, 2023.

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General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: January 28, 2024

For further information, please call: (512) 465-4160



SUBCHAPTER C. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS

43 TAC §§215.101 - 215.106, 215.108 - 215.111, 215.113, 215.115 - 215.117, 215.120, 215.121

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302;

Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed revisions would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters Occupations Code, Chapters 53, 55, 2301, and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.101. Purpose and Scope.

This subchapter implements Occupations Code, Chapter 2301 and Transportation Code, Chapters 503 and 1001 ~~[1000]~~ - 1005, and applies to franchised dealers, manufacturers, distributors, and converters.

§215.102. Application Requirements.

(a) No person may engage in business, serve in the capacity of, or act as a manufacturer, distributor, converter, or franchised dealer in Texas unless that person holds a license.

(b) A license application shall be on a form prescribed by the department and properly completed by the applicant. A license application shall include all required information, supporting documents, and fees and shall be submitted to the department electronically in a system designated by the department for licensing.

(c) A license holder renewing or amending its license must verify current license information, provide related information and documents for any new license requirements or changes to the license, and pay required fees including any outstanding civil penalties owed the department under a final order.

(d) An applicant for a new license must register for an account in the department-designated licensing system by selecting the licensing system icon on the dealer page of the department website. An applicant must designate the account administrator and provide the name

and email address for that person, and provide the business telephone number, name, business type, and social security number or employer identification number, as applicable. The applicant's licensing account administrator must be an owner, officer, manager, or bona fide employee.

(e) Once registered, an applicant may apply for a new license and must provide the following:

(1) Required information:

(A) type of license requested;

(B) business information, including the name, physical and mailing addresses, telephone number, Secretary of State file number (if applicable), and website address (if applicable);

(C) contact name, email address, and telephone number of the person submitting the application;

(D) contact name, email address, and telephone number of a person who can provide information about business operations and the motor vehicle products or services offered;

(E) the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a publicly traded company;

(F) the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

(G) the name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

(H) criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location;

(I) military service status;

(J) licensing history required to evaluate fitness for licensure under §215.89 of this title (relating to Fitness);

(K) if applying for a manufacturer, distributor, or converter license:

(i) financial resources, business integrity and experience, facilities and personnel for serving franchised dealers;

(ii) a description of the business model or business process and product and services used or offered sufficient to allow the department to determine if the license type applied for is appropriate under Texas law; and

(iii) number of standard license plates requested.

(L) if applying for a manufacturer or distributor license:

(i) if the applicant or any entity controlled by the applicant owns an interest in a Texas motor vehicle dealer or dealership, controls a Texas dealer or dealership, or acts in the capacity of a Texas dealer;

(ii) a statement regarding the manufacturer's compliance with Occupations Code Chapter 2301, Subchapter I and §§2301.451-2301.476;

(iii) if a franchise agreement for each line-make being applied for exists which states the obligations of a Texas franchised

dealer to the applicant and the obligations of the applicant to the Texas franchised dealer; and

(iv) the terms of the contract under which the distributor will act for the manufacturer.

(M) if applying for a manufacturer license, the line-make information including the world manufacturer identifier assigned by the National Highway Traffic Safety Administration, line-make name, and vehicle type;

(N) if applying for a distributor license:

(i) the manufacturer for whom the distributor will act;

(ii) whether the manufacturer is licensed in Texas;

(iii) the person in this state who is responsible for compliance with the warranty covering the motor vehicles to be sold; and

(iv) whether a franchise agreement for each line-make being applied for exists which states the obligations of a Texas franchised dealer to the applicant and the obligations of the applicant to the Texas franchised dealer.

(O) if applying for a converter license:

(i) a name and description for each conversion package; and

(ii) the manufacturer or distributor and line-make of the underlying new motor vehicle chassis to be converted.

(P) if applying for a franchised dealer license:

(i) reason for the new application;

(ii) dealership location on a system-generated map;

(iii) if the dealership is under construction and expected completion date;

(iv) information about the performance of sales or warranty services at the location; and

(v) information necessary to obtain a franchised dealer GDN under §215.133 of this title (relating to General Distinguishing Number).

(Q) signed Certificate of Responsibility, which is a form provided by the department; and

(R) any other information required by the department to evaluate the application under current law and board rules.

(2) A legible and accurate electronic image of each applicable required document:

(A) the certificate of filing, certificate of incorporation, or certificate of registration on file with the Secretary of State, if applicable;

(B) each assumed name certificate on file with the Secretary of State or county clerk;

(C) at least one of the following unexpired identity documents for each natural person listed in the application:

(i) driver license;

(ii) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

(iii) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) passport; or

(v) United States armed forces identification.

(D) if applying for a manufacturer, distributor, or converter license, a written description of the business model or business process and brochures, photos, or other documents describing products and services sufficient to allow the department to identify a motor vehicle product type and the appropriate license required under Texas law;

(E) if applying for a manufacturer or distributor license:

(i) a list of each franchised dealer in Texas including the dealer's name and physical address, or if offers for sale or sales of motor vehicle in Texas will solely be over the internet, a list of each out-of-state dealer authorized by the manufacturer or distributor to sell a product online to a Texas resident including the dealer's name, physical address, and dealer license number issued by the state in which the dealer is located; and

(ii) a list of motor vehicle product line-makes manufactured or distributed for sale;

(F) if applying for a manufacturer license:

(i) a list of authorized distributors or representatives;

and

(ii) a franchised dealer's preparation and delivery obligations before delivery of a new vehicle to a retail purchaser and the schedule of compensation to be paid to the franchised dealer;

(G) if applying for a distributor license, either:

(i) a copy of the distribution agreement between a manufacturer and distributor; or

(ii) a completed department-provided questionnaire containing the information required under Occupations Code, §2301.260, and signed by the applicant as true and complete.

(H) if applying for a franchise dealer license, pages of the executed franchise agreement containing at minimum the following:

(i) the legal business name of each party;

(ii) authorized signature of each party;

(iii) authorized dealership location;

(iv) list of motor vehicle line-makes and vehicle types to be sold or serviced; and

(v) a department Evidence of Relocation form signed by the manufacturer or distributor (if applicable); and

(I) any other documents required by the department to evaluate the application under current law and board rules.

(3) Required fees:

(A) the license fee as prescribed by law; and

(B) the fee as prescribed by law for each plate requested by the applicant.

(f) An applicant operating under a name other than the applicant shall use the name under which the applicant is authorized to do business, as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant on the application using the letters "DBA." The applicant may not use

a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public.

(g) A manufacturer or distributor may add a new line-make to an existing license during the license period by submitting a license amendment application and providing brochures, photos, or other documents describing the new line-make sufficient to allow the department to identify the line-make and vehicle product type. A license amendment to add a line-make to a manufacturer or distributor license must be approved by the department before the new line-make may be added to a franchised dealer's license.

§215.103. Service-only Facility.

(a) A service-only facility is a location occupied and operated by a franchised dealer that is a completely separate, noncontiguous site, from the franchised dealer's new motor vehicle sales and service or sales only location, where the franchised dealer performs [will only perform] warranty [and nonwarranty] repair services and not new motor vehicle sales. [Except as allowed in subsection (d) of this section, warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility.]

(b) A franchised dealer must obtain a license to operate a service-only facility. A dealer may not obtain a service-only facility license to service a [particular] line-make [line] of new motor vehicles, unless that dealer is franchised and licensed to sell that line-make.

(c) A service-only facility is a dealership subject to protest under Occupations Code, Chapter 2301.

(d) Upon the manufacturer's or distributor's prior written approval, which cannot be unreasonably withheld, [only] a franchised dealer of the manufacturer or distributor may contract with another person as a subcontractor to perform warranty repair services that the dealer is authorized to perform under a franchise agreement with a manufacturer or distributor. Payment shall be made by the franchised dealer to the subcontractor and not by the manufacturer or distributor to the subcontractor.

(e) A person with whom a franchised dealer contracts to perform warranty repair services is not eligible to obtain a service-only facility license and may not advertise the performance of warranty repair services in any manner to the public.

§215.104. Changes to Franchised Dealer's License.

(a) In accordance with Occupations Code, §2301.356, a franchised dealer must file an application to amend the franchised dealer's license [in order] to request [inclusion of] an additional line-make at the dealer's currently licensed showroom. The amendment application must be filed electronically in a system designated by the department for licensing.

(1) In accordance with §215.110 of this title (relating to Evidence of Franchise), the franchised dealer must attach to the amendment application a legible and accurate electronic image [copy] of:

(A) the executed franchise agreement;

(B) the required excerpt from the executed franchise agreement; or

(C) an evidence of franchise form completed by the manufacturer, distributor, or representative.

(2) The amendment application for an additional franchise at the showroom is considered an original application and is subject to protest, in accordance with Occupations Code, Chapter 2301, this chapter, and Chapter 224 of this title (relating to Adjudicative Practice and Procedure).

(b) A franchised dealer may propose to sell or assign to another any interest in the licensed entity, whether a corporation or otherwise, provided the physical location of the licensed entity remains the same.

(1) The franchised dealer shall notify the department in writing within 10 days of the sale or assignment of interest by filing an application to amend the franchised dealer's license electronically in a system designated by the department for licensing.

(2) If the sale or assignment of any portion of the business results in a change of business entity, then the purchasing entity or assignee must apply for and obtain a new license in the name of the new business entity.

(3) A publicly-held corporation must file an amendment application [needs only to inform the department of a change in ownership] if one person or entity acquires 10% or greater interest in the licensed entity.

(c) A franchised dealer is required to file an amendment application electronically in a system designated by the department for licensing within 10 days of a license change, including:

- (1) deletion of a line-make from the dealer's license;
- (2) a change of assumed name on file with the Office of the Secretary of State or county clerk;
- (3) a change of mailing address;
- (4) a change of telephone number; or
- ~~[(5) a change of facsimile number; or]~~
- (5) [(6)] a change of email address.

(d) A franchised dealer is required to file a business entity amendment application electronically in a system designated by the department for licensing within 10 days of an entity change, including:

- (1) a change in management, dealer principal, or change of other person who oversees ~~[is in charge of]~~ a franchised dealer's business activities, including a managing partner, officer, director of a corporation, or similar person; or
- (2) a change of legal entity name on file with the Office of the Secretary of State.

(e) If a franchised ~~[licensed new motor vehicle]~~ dealer changes or converts from one type of business entity to another type of business entity without changing ownership of the dealership, the submission of a franchise agreement in the name of the new entity is not required in conjunction with an amendment application. The franchise agreement on file with the department prior to the change or conversion of the dealer's business entity type applies to the successor entity until the parties agree to replace the franchise agreement. This subsection does not apply to a sole proprietorship or general partnership.

(f) If a franchised dealer adopts a plan of conversion under a state or federal law that allows one legal entity to be converted into another legal entity, only an amendment application ~~[to amend the license]~~ is necessary to be filed with the department. The franchise agreement on file with the department continues to apply to the converted entity. If a license holder becomes another legal entity by any means other than by conversion, a new application is required, subject to subsection (e) of this section.

(g) In addition to obtaining permission from the manufacturer or distributor, a franchised dealer shall obtain department approval prior to opening a supplemental location or relocating an existing location by filing an amendment application electronically in a system designated by the department for licensing. A franchised dealer must

notify the department electronically in a system designated by the department for licensing when closing an existing location.

§215.105. Notification of License Application; Protest Requirements.

(a) The provisions of this section are not applicable to an application filed with the department for a franchised dealer license as a result of the purchase or transfer of an existing entity holding a current franchised dealer's license that does not involve a physical relocation of the purchased or transferred line-makes.

(b) Upon receipt of an application for a franchised ~~[new motor vehicle]~~ dealer's license, including an application filed with the department by reason of the relocation of an existing dealership, the department shall give notice of the filing of the application to each franchised dealer that may have standing to protest the application.

(c) If it appears to the department that there are no franchised dealers with standing to protest, then no notice shall be given.

(d) A person holding a franchised dealer's license for the sale of the same line-make of a new motor vehicle as proposed for sale in the subject application and that has standing to protest the application may file with the department a notice of protest opposing the granting of a license by timely filing a protest electronically in the system designated by the department for licensing, and paying the required fee.

(e) A franchised dealer that wishes to protest the application shall give notice in accordance with Occupations Code, Chapter 2301.

(1) The notice of protest shall be in writing and shall be signed by an authorized officer or other official authorized to sign on behalf of the protesting dealer filing the notice.

(2) The notice of protest shall state the statutory basis upon which the protest is made and assert how the protesting dealer meets the standing requirements under §215.119 of this title (relating to Standing to Protest) to protest the application.

(3) The notice of protest shall state that the protest is not made for purposes of delay or for any other purpose except for justifiable cause.

(4) If a protest is filed against an application for the establishment of a dealership or for addition of a line-make at an existing dealership, the notice of protest shall state under which provision of Occupations Code, Chapter 2301 the protest is made.

§215.106. Time for Filing Protest.

(a) A notice of protest must be:

(1) received by the department not later than 5:00 p.m. Central ~~[Standard]~~ Time (CST or CDT, as applicable) on the date 15 days from the date of mailing of the department's notification to the license holder of the filing of the application;

(2) filed in [with the department by United States mail, facsimile, hand delivery, or through] the department's designated electronic filing system ~~[when available; however, a notice of protest may not be filed by email]; and~~

(3) ~~[accompanied by the required filing fee]~~ submitted with the filing fee paid. [If the filing fee does not accompany the notice of protest, the fee must be received by the department not later than 5:00 p.m. CST on the date 20 days from the date of mailing of the department's notification to the license holder of the filing of the application].

(b) The department will reject a notice of protest if:

(1) the complete notice of protest is not filed within 15 days from the date of mailing of the department's notification to the license holder of the filing of the application; or

(2) the required filing fee is not paid when the protest is submitted in the department's designated electronic filing system or is later dishonored [remitted within 20 days from the date of mailing of the department's notification to the license holder of the filing of the application].

§215.108. *Addition or Relocation of Line-make.*

An application to amend an existing franchised [new motor vehicle] dealer's license for the addition of another line-make at the existing dealership or for the relocation of a line-make to the existing dealership shall be deemed an "application to establish a dealership" insofar as the line-make to be added is concerned, and shall be subject to the provisions of §215.105 of this title (relating to Notification of License Application; Protest Requirements) and §215.106 of this title (relating to Time for Filing Protest).

§215.109. *Replacement Dealership.*

An application for a franchised [new motor vehicle] dealer's license for a dealership intended as a replacement for a previously existing dealership shall be deemed an application for a "replacement dealership" required to be established in accordance with Occupations Code, §2301.453 and shall not be subject to protest under the provisions of §215.105 of this title (relating to Notification of License Application; Protest Requirements), provided that:

(1) the application states that the applicant is intended as a replacement dealership and identifies the prior dealership to be replaced;

(2) the manufacturer or distributor of the line-make gives notice to the department and to other dealers franchised for the same line-make that meet the provisions of Occupations Code, §2301.652(b) and (c);

(3) the notice under paragraph (2) of this subsection is given within 60 days following the closing of the prior dealership;

(4) the application is filed electronically in the system designated by the department for licensing, [with the department] not later than one year following the closing of the prior dealership; and

(5) the location of the applicant's proposed dealership is not more than two miles from the location of the prior dealership.

§215.110. *Evidence of Franchise.*

(a) Upon application for a franchised [new motor vehicle] dealer's license or an amendment of an existing franchised [new motor vehicle] dealer's license to add a line-make, the applicant must submit a legible and accurate electronic image [photocopy] of the [pages of the] franchise agreement [(s)] pages that reflect:

- (1) the parties [~~to the agreement(s)~~],
- (2) the authorized signatures of the parties [~~to the agreement(s)~~], [and]
- (3) each line-make listed in the application, and
- (4) the address of the franchised dealership's physical location.

(b) To meet this requirement temporarily for the purpose of application processing, a form prescribed by the department and completed by the manufacturer or distributor may be electronically submitted with the application in lieu of the information described in this [sub] section.

(c) The applicant must submit the required [photocopies of the] franchise agreement [~~agreement(s)~~] pages described in this [sub]

section immediately upon the applicant's receipt of the franchise agreement [(s)] as the department will not issue a license without verifying that the franchise agreement has been executed.

(d) [(b)] Upon application to relocate a franchised [new motor vehicle] dealership, the franchised dealer applicant must submit a form prescribed by the department and completed by the manufacturer or distributor that identifies the license holder and the new franchised dealership location.

§215.111. *Notice of Termination or Discontinuance of Franchise and Time for Filing Protest.*

(a) A manufacturer or distributor must give notice of termination or discontinuance of a dealer's franchise to a franchised dealer and the department [~~shall be given by a manufacturer or distributor~~] in accordance with Occupations Code, §2301.453 [~~not less than 60 days~~] prior to the effective date of the franchise termination or discontinuance].

(b) A dealer must file a written notice of protest of the franchise termination or discontinuance [~~by a dealer~~] pursuant to Occupations Code, §2301.453 [~~shall be in writing and shall be filed with the department~~] electronically in the system designated by the department for licensing, prior to the effective date of the franchise termination or discontinuance stated in the notice from the manufacturer or distributor.

§215.113. *Manufacturer Ownership of Franchised Dealer; Good Cause Extension; Dealer Development.*

(a) In the absence of a showing of good cause, an application for a franchised [new motor vehicle] dealer's license of which a manufacturer or distributor owns any interest in or has control of the dealership entity must be submitted to the department electronically in the system designated by the department for licensing no later than 30 days before:

- (1) the opening of the dealership;
- (2) close of the buy-sell agreement; or
- (3) the expiration of the current license.

(b) If a manufacturer or distributor applies for a franchised [new motor vehicle] dealer's license of which the manufacturer or distributor holds an ownership interest in or has control of the dealership entity in accordance with Occupations Code, §2301.476(d) - (f), the license application must contain a sworn statement from the manufacturer or distributor that the dealership was purchased from a franchised dealer and is for sale at a reasonable price and under reasonable terms and conditions, and that the manufacturer or distributor intends to sell the dealership to a person not controlled or owned by the manufacturer or distributor within 12 months of acquiring the dealership, except as provided by subsection (h) of this section.

(c) A request for an extension of the initial 12-month [~~12 month~~] period for manufacturer or distributor ownership or control of a franchised [new motor vehicle] dealership, in accordance with Occupations Code, §2301.476(e), must be submitted to the department in accordance with subsection (a) of this section along with a sufficient application to renew the new motor vehicle dealer's license. The request must contain a detailed explanation, including appropriate documentary support, to show the manufacturer's or distributor's good cause for failure to sell the dealership within the initial 12-month [~~12 month~~] period. The director will evaluate the request and determine whether the license should be renewed for a period not to exceed 12 months or deny the renewal application. If the renewal application is denied, the manufacturer or distributor may request a hearing

on the denial in accordance with Occupations Code, Chapter 2301, Subchapter [§§2301.701 - 2301.713] and the matter will be referred to SOAH for a hearing under Chapter 224, Subchapter C of this title (relating to Motor Vehicle, Salvage Vehicle, and Trailer Industry License Enforcement).

(d) Requests for extensions after the first extension is granted, as provided by Occupations Code, §2301.476(e), must be submitted at least 120 days before the expiration of the current license electronically in the system designated by the department for licensing. Upon receipt of a subsequent request, the department ~~[board]~~ will initiate a hearing in accordance with Occupations Code, Chapter 2301, Subchapter O [§§2301.701 - 2301.713], at which the manufacturer or distributor will be required to show good cause for the failure to sell the dealership. The manufacturer or distributor has the burden of proof and the burden of going forward on the sole issue of good cause for the failure to sell the dealership.

(e) The department will give notice of the hearing described in subsection (d) of this section to all other franchised dealers holding franchises for the sale and service or service only of the same line-make of new motor vehicles that are located in the same county in which the dealership owned or controlled by the manufacturer or distributor is located or in an area within 15 miles of the dealership owned or controlled by the manufacturer or distributor. Such dealers, if any, will be allowed to intervene and protest the granting of the subsequent extension. Notices of intervention by dealers afforded a right to protest under Occupations Code, §2301.476(e) must be filed with the department electronically in the system designated by the department within 15 days of the date of mailing of the notice of hearing, and a copy must be provided to the manufacturer or distributor. The department will reject a notice of intervention if the notice is not filed at least 30 days before:

- (1) the opening of the dealership;
- (2) close of the buy-sell agreement; or
- (3) the expiration of the current license.

(f) A hearing under subsection (d) of this section will be referred to SOAH for a hearing under Chapter 224, Subchapter C of this title (relating to Contested Cases Between Motor Vehicle Industry License Holders or Applicants). ~~[conducted as expeditiously as possible, but not later than 120 days after receipt of the subsequent request for extension from the manufacturer or distributor. An ALJ will prepare a written decision and proposed findings of fact and conclusions of law as soon as possible, but not later than 60 calendar days after the hearing is closed.]~~ The franchised ~~[new motor vehicle]~~ dealer's license that is the subject of the hearing will continue in effect until a final decision on the request for a subsequent extension is issued ~~[rendered]~~ by the board.

(g) The procedures described in subsections (d) - (f) of this section will be followed for all extensions requested by the manufacturer or distributor after the initial extension.

(h) An application for a new motor vehicle dealer's license of which a manufacturer or distributor owns any interest in the dealership entity in accordance with Occupations Code, §2301.476(g) must contain sufficient documentation to show that the applicant meets the requirements of Occupations Code, §2301.476(g).

§215.115. Manufacturer, Distributor, and Converter Vehicle Sales Records.

(a) A manufacturer or distributor must maintain, for a minimum period of 48 months, a record of each vehicle sold to any person in this state. The manufacturer or distributor shall make the record available during business hours for inspection and copying by [a rep-

resentative of] the department or be available to submit electronically to the department upon request.

(b) A converter must maintain, for a minimum period of 48 months, a record of each vehicle converted for [to] a [any] person in this state, including [to] a Texas franchised dealer. The converter shall make the record available during business hours for inspection and copying by [a representative of] the department or be available to submit electronically to the department upon request.

(c) A manufacturer, distributor, or converter is required to maintain at its licensed location a record reflecting each purchase, sale, or conversion for a minimum period of 24 months. Records for prior time periods may be kept off-site.

(d) Within 15 days of receipt of a request sent by mail or electronic document transfer from [a representative of] the department, a manufacturer, distributor, or converter must submit a copy of specified records to the address listed in the request.

(e) Records required to be maintained and made available to the department must include the following:

- (1) the date of sale or conversion of the motor vehicle;
- (2) the VIN;
- (3) the name and address of the person purchasing the motor vehicle ~~[dealer or converter]~~;
- (4) a copy of or a record with the information contained in the manufacturer's certificate of origin or title;
- (5) information regarding the prior status of the motor vehicle such as the Reacquired Vehicle Disclosure Statement;
- (6) the repair history of any motor vehicle subject to a warranty complaint;
- (7) technical service bulletin or equivalent advisory; and
- (8) any audit of a franchised dealership.

(f) Any record required by the department may be maintained in an electronic format, if the electronic record can be printed at the licensed location upon request ~~[for the record]~~ by [a representative of] the department or be available to submit electronically to the department upon request.

§215.116. Franchised Dealership Lease or Sublease Listing.

A franchised dealer that lists its dealership for lease or sublease to mitigate damages in accordance with Occupations Code, §2301.4651(e) is required to list ~~[for lease or sublease]~~:

- (1) the entire real property if the termination or discontinuance effectively terminates all line-makes and all franchises for the entire dealership; or
- (2) only that portion of the real property associated with the terminated line-make or franchise, if the termination or discontinuance does not affect all line-makes and all franchises of the dealership.

§215.117. Market Value Property Appraisal.

(a) An appraiser performing a [A] market value property appraisal [assessment made] in accordance with Occupations Code, §2301.482(c) must be a Texas- [requires three general] certified real estate appraiser [appraisers certified by the State of Texas].

(b) Necessary real estate and necessary construction are each determined by the applicable property use agreement.

(c) The ~~[To determine]~~ market value of property in accordance with Occupations Code, §2301.482(c), is the [an] average of the market value property appraisals [will be calculated from the independent

market value property assessment determinations] of the three [general] certified real estate appraisers.

§215.120. License Plates.

(a) A manufacturer, distributor, or converter may apply for a manufacturer or converter standard license plate for use on a new unregistered vehicle of the same vehicle type assembled or modified in accordance with Transportation Code §503.064 or §503.0618, as applicable:

- (1) when applying for a new or renewal license, or
- (2) by submitting a plate request application electronically in the system designated by the department.

(b) A manufacturer may use a manufacturer's standard plate to test a prototype motor vehicle on a public street or highway including a commercial motor vehicle prototype designed to carry a load. A manufacturer's standard plate may not be used on a commercial motor vehicle prototype or new commercial motor vehicle to carry a load for which the manufacturer or other person receives compensation.

(c) A manufacturer, distributor, or converter shall attach a license plate to the rear of a vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(d) A manufacturer, distributor, or converter shall maintain a record of each license plate issued to the manufacturer, distributor, or converter by the department. The record of each license plate issued must contain:

- (1) the license plate number;
- (2) the year and make of the vehicle to which the license plate is affixed;
- (3) the VIN of the vehicle; and
- (4) the name of the person in control of the vehicle to which the license plate is affixed.

(e) If a manufacturer, distributor, or converter cannot account for a license plate or a license plate is damaged, the manufacturer, distributor, or converter must:

- (1) document the license plate as "void" in plate record in subsection (c); and
- (2) within three days of discovering that the license plate is missing or damaged, report the license plate as lost, stolen, or damaged electronically in the system designated by the department; and
- (3) if found after reported missing, cease use of the license plate.

(f) A license plate is no longer valid for use after the manufacturer, distributor, or converter reports to the department that the plate is lost, stolen, or damaged. A manufacturer, distributor, or converter must render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once marked, must destroy or recycle the license plate, or return the license plate to the department within 10 days.

(g) The license holder's license plate record must be available for inspection and copying by the department during normal business hours or be available to submit electronically to the department upon request.

(h) In evaluating requests for additional standard license plates, the department will consider the business justification provided by a license holder including the following:

- (1) the number of vehicles assembled or modified;

(2) the highest number of motor vehicles in inventory in the prior 12 months;

(3) the size and type of business;

(4) how the license holder typically uses the plates;

(5) the license holder's record of tracking and reporting missing or damaged plates to the department; and

(6) any other factor the Department in its discretion deems necessary to support the number of plates requested.

(i) a license holder must return a department-issued license plate to the department within 10 days of the license holder closing the associated license or the associated license being revoked, canceled, or closed by the department.

§215.121. Sanctions.

(a) The board or department may take the following actions against a license applicant, a license holder, or a person engaged in business for which a license is required:

- (1) deny an application;
- (2) revoke a license;
- (3) suspend a license;
- (4) assess a civil penalty;
- (5) issue a cease and desist order; or
- (6) take other authorized action.

(b) The board or department may take action described in subsection (a) of this section if a license applicant, a license holder, or a person engaged in business for which a license is required:

- (1) fails to maintain records required under this chapter;
- (2) refuses or fails to timely comply with a request for records made by a representative of the department;
- (3) sells or offers to sell a motor vehicle to a retail purchaser other than through a licensed or authorized dealer;
- (4) fails to submit a license amendment application in the electronic system designated by the department for licensing to notify the department of a change of the license holder's physical address, mailing address, telephone number, or email address within 10 days of the change;
- (5) fails to timely submit a license amendment application in the electronic system designated by the department for licensing to notify the department of a license holder's business or assumed name change, deletion of a line-make, or management or ownership change;
- (6) fails to notify the department or pay or reimburse a franchised dealer as required by law;
- (7) misuses or fails to display a license plate as required by law;
- (8) is a manufacturer or distributor and fails to provide a manufacturer's certificate for a new vehicle;
- (9) fails to remain regularly and actively engaged in the business of manufacturing, assembling, or modifying a new motor vehicle of the type and line make for which a license has been issued by the department;
- (10) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 501-503 or 1001-1005; a board order or rule; or a regulation of the department relating to the manufacture, assembly, sale, lease, distribution, financing, or insuring

of vehicles, including advertising rules under Subchapter H of this chapter (relating to Advertising);

(11) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.3 of this title (relating to Criminal Offense Guidelines);

(12) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(13) omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

(14) fails to remit payment as ordered for a civil penalty assessed by the board or department;

(15) violates any state or federal law or regulation relating to the manufacture, distribution, modification, or sale of a motor vehicle;

(16) fails to issue a refund as ordered by the board or department; or

(17) fails to participate in statutorily required mediation without good cause.

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

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Texas Department of Motor Vehicles

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For further information, please call: (512) 465-4160



SUBCHAPTER D. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS

43 TAC §215.112

STATUTORY AUTHORITY. The department proposes a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an

application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, § 503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes repeals under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. This repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.112. Motor Home Show Limitations and Restrictions.

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 December 14, 2023.

TRD-202304786

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SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES

43 TAC §§215.131 - 215.135, 215.137 - 215.141, 215.143 - 215.145, 215.147 - 215.152, 215.154, 215.155, 215.160, 215.161

The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the

board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed revisions would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters Occupations Code, Chapters 53, 55, 2301, and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.131. Purpose and Scope.

This subchapter implements Transportation Code, Chapters [Chapter] 503 and 1001-1005, and Occupations Code, Chapter 2301, and applies to general distinguishing numbers and drive-a-way operator in-transit licenses issued by the department.

§215.132. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Barrier--A material object or set of objects that separates or demarcates.

[(2) Charitable organization--Has the meaning assigned by Transportation Code, §503.062(e).]

(2) [(3)] Consignment sale--The owner-authorized sale of a motor vehicle by a person other than the owner.

(3) [(4)] House trailer--A nonmotorized vehicle designed for human habitation and for carrying persons and property on its own structure and for being drawn by a motor vehicle. A house trailer does not include manufactured housing. A towable recreational vehicle, as defined by Occupations Code, §2301.002, is included in the terms "house trailer" or "travel trailer."

(4) Municipality--As defined according to the Local Government Code, Chapter 1.

[(5) License--A dealer's GDN assigned by the department identifying the type of business for a specified location from which the person engages in business.]

(5) [(6)] Person--Has the meaning assigned by Occupations Code, §2301.002.

(6) [(7)] Sale--With regard to a specific vehicle, the transfer of possession of that vehicle to a purchaser for consideration.

(7) [(8)] Temporary tag--A buyer's temporary tag, converter's temporary tag, or dealer's temporary tag as described under Transportation Code, Chapter 503.

(8) [(9)] Towable recreational vehicle--Has the same meaning as "house trailer" defined by this section.

(9) [(40)] Travel Trailer--Has the same meaning as "house trailer" defined by this section.

(10) [(44)] Vehicle--Has the meaning assigned by Transportation Code, §503.001.

(11) [(42)] VIN--Vehicle identification number.

§215.133. GDN [General Distinguishing Number] Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction.

(a) No person may engage in business as a dealer or as a wholesale motor vehicle auction unless that person has a [currently] valid GDN assigned by the department for each location from which the person engages in business. A dealer must also hold a GDN for a consignment location, unless the consignment location is a wholesale motor vehicle auction.

(b) Subsection (a) of this section does not apply to a person exempt from the requirement to obtain a GDN under Transportation Code §503.024.

(c) A GDN dealer or wholesale motor vehicle auction application shall be on a form prescribed by the department and properly completed by the applicant as required under §215.83 of this title (relating to License Applications, Amendments, or Renewals). A GDN dealer or wholesale motor vehicle auction application shall include all required information, required supporting documents, and required fees and shall be submitted to the department electronically in a system designated by the department for licensing. A GDN dealer or wholesale motor vehicle auction GDN holder renewing or amending its GDN must verify current license information, provide related information and documents for any new requirements or changes to the GDN, and pay required fees including any outstanding civil penalties owed the department under a final order. An applicant for a new dealer or wholesale motor vehicle auction GDN must provide the following:

(1) Required information:

(A) type of GDN requested;

(B) business information, including the name, physical and mailing addresses, telephone number, Secretary of State file number (if applicable), and website address (if applicable);

(C) [application contact name, email address, and telephone number] contact name, email address, and telephone number of the person submitting the application;

(D) contact name, email address, and telephone number of a person who can provide information about business operations and the motor vehicle products or services offered;

(E) [(F)] the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, or principal if the applicant is not a publicly traded company;

(F) [(E)] the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

(G) [(F)] the name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

(H) [(G)] the name, social security number, date of birth, and identity document information of at least one manager or other bona fide employee who will be present at the established and permanent place of business if the owner is out of state or will not be present during business hours at the established and permanent place of business in Texas;

(I) [(H)] if a dealer, the name, telephone number, and business email address of the temporary tag database account administrator designated by the applicant who must be an owner or representative listed in the application;

(J) [(H)] criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location;

(K) [(J)] military service status;

(L) [(K)] licensing history required to evaluate fitness for licensure under §215.89 of this title (relating to Fitness);

(M) [(L)] information about the business location and business premises, including whether the applicant will operate as a salvage vehicle dealer at the location;

(N) [(M)] history of insolvency, including outstanding or unpaid debts, judgments, or liens, unless the debt was discharged under 11 U.S.C. §§101 et seq. (Bankruptcy Act) or is pending resolution under a case filed under the Bankruptcy Act;

(O) [(N)] signed Certification [Certificate] of Responsibility, which is a form provided by the department; and

(P) [(O)] any other information required by the department to evaluate the application under current law and board rules.

(2) A legible and accurate electronic image of each applicable required document:

(A) proof of a surety bond if required under §215.137 of this title (relating to Surety Bond);

(B) the certificate of filing, certificate of incorporation, or certificate of registration on file with the Secretary of State, if applicable;

(C) each assumed name certificate on file with the Secretary of State or county clerk;

(D) at least one of the following unexpired identity documents for each natural person listed in the application:

(i) [current] driver license;

(ii) [current] Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

(iii) [current] license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) [current] passport; or

(v) [current] United States military identification card [armed forces identification].

(E) a certificate of occupancy, certificate of compliance, or other official documentation confirming the business location complies with municipal ordinances, including zoning, occupancy, or other requirements for a vehicle business;

(F) documents proving business premises ownership, or lease or sublease agreement for the license period;

(G) business premises photos and a notarized affidavit certifying that all premises requirements in §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements) are met and will be maintained during the license period;

(H) evidence of franchise if applying for a franchised motor vehicle dealer GDN;

(I) proof of completion of the dealer education and training required under Transportation Code §503.0296, if applicable; and

(J) any other documents required by the department to evaluate the application under current law and board rules.

(3) Required fees:

(A) the fee ~~[for the GDN]~~ for each type of license requested as prescribed by law; and

(B) the fee, including applicable taxes, for each standard [metal] dealer plate requested by the applicant as prescribed by law.

(d) An applicant for a dealer or wholesale auction GDN must also comply with fingerprint requirements in §211.6 of this title (relating to Fingerprint Requirements for Designated License Types [General Distinguishing Numbers]), if applicable.

(e) An applicant for a ~~[dealer]~~ GDN operating under a name other than the applicant's business name [applicant] shall use the assumed name under which the applicant is authorized to do business, as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant on the application using the letters "DBA." The applicant may not use a name or [an] assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public.

(f) A wholesale motor vehicle dealer GDN holder may sell or exchange vehicles with licensed or authorized dealers only. A wholesale motor vehicle dealer GDN holder may not sell or exchange vehicles at retail.

(g) An independent mobility motor vehicle dealer shall retain and produce for inspection all records relating to the license requirements under Occupations Code, §2301.002(17-b) and all information and records required under Transportation Code §503.0295.

(h) In evaluating a new or renewal ~~[dealer]~~ GDN application or an application for a new GDN location, the department may require a site visit to determine if the business location meets the requirements in §215.140. The department will require the applicant or GDN holder to provide a notarized affidavit confirming that all premises requirements are met and will be maintained during the license period.

(i) A person holding an independent motor vehicle GDN does not have to hold a salvage vehicle dealer license to:

(1) act as a salvage vehicle dealer or rebuilder; or

(2) store or display a motor vehicle as an agent or escrow agent of an insurance company.

(j) A person holding an independent motor vehicle GDN and performing salvage activities under subsection (i) must apply for a National Motor Vehicle Title Information System (NMVTIS) identification number and provide the number to the department in the GDN application.

(k) [(j)] To be eligible for an independent motor vehicle GDN, a person must complete dealer education and training specified by the department, except as provided in this subsection:

(1) once a person has completed the required dealer education and training, the person will not have to retake the dealer education and training for subsequent GDN renewals, but may be required to provide proof of dealer education and training completion as part of the GDN renewal process;

(2) a person holding an independent motor vehicle GDN for at least 10 years as of September 1, 2019, is exempt from the dealer education and training requirement; and.

(3) a military service member, military spouse, or military veteran will receive appropriate credit for prior training, education, and professional experience and may be exempted from the dealer education and training requirement.

§215.134. Requirements for a Drive-a-way Operator In-Transit License.

(a) No drive-a-way operator may engage in business in Texas unless that person has a currently valid drive-a-way operator in-transit license issued by the department.

(b) A drive-a-way operator in-transit application shall be on a form prescribed by the department and properly completed by the applicant as required under §215.83 of this title (relating to License Applications, Amendments, or Renewals). A drive-a-way operator in-transit application shall include all required information, required supporting documents, and required fees, and shall be submitted to the department electronically in a system designated by the department for licensing.

(c) A drive-a-way operator in-transit license holder renewing or amending its license must verify current license information, provide related information and documents for any new requirements or changes to the license, and pay required fees.

(d) An applicant for a new license must register for an account in the department-designated licensing system by selecting the licensing system icon on the dealer page of the department website. An applicant must designate the account administrator and provide the name and email address for that person, and provide the business telephone number, name, business type, and social security number or employer identification number, as applicable. The applicant's licensing account administrator must be an owner, officer, manager, or bona fide employee.

(e) Once registered, an applicant may apply for a new license and must provide the following:

(1) Required information:

(A) type of license requested;

(B) business information, including the name, physical and mailing addresses, telephone number, Secretary of State file number (if applicable), and website address (if applicable);

(C) contact name, email address, and telephone number of the person submitting the application;

(D) contact name, email address, and telephone number of a person who can provide information about business operations and the motor vehicle services offered;

(E) the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a publicly traded company;

(F) the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

(G) the name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

(H) criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location;

(I) military service status;

(J) licensing history required to evaluate fitness for licensure under §215.89 of this title (relating to Fitness);

(K) signed Certification of Responsibility, which is a form provided by the department; and

(L) any other information required by the department to evaluate the application under current law and board rules.

(2) A legible and accurate electronic image of each applicable required document:

(A) the certificate of filing, certificate of incorporation, or certificate of registration on file with the Secretary of State, if applicable;

(B) each assumed name certificate on file with the Secretary of State or county clerk;

(C) at least one of the following unexpired identity documents for each natural person listed in the application:

(i) driver license;

(ii) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

(iii) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) passport; or

(v) United States military identification card;

(D) a list of manufacturers, distributors, dealers, or auctions for which the applicant provides drive-a-way services;

(E) a description of the business model or business process, transportation methods, compensation agreements, products, and services used or offered sufficient to allow department to determine if the license type applied for is appropriate under Texas law; and

(F) any other documents required by the department to evaluate the application under current law and board rules.

(3) Required fees:

(A) the license fee as prescribed by law; and

(B) the fee, including any taxes, for each standard drive-a-way in-transit license plate requested by the applicant as prescribed by law.

(f) An applicant for a drive-a-way operator in-transit license must also comply with fingerprint requirements in §211.6 of this title (relating to Fingerprint Requirements for Designated License Types).

(g) An applicant operating under a name other than the applicant's business name shall use the name under which the applicant is authorized to do business, as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant on the application using the letters "DBA." The applicant may not use a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public.

§215.135. More than One Location.

(a) A dealer that holds a GDN for a particular type of vehicle may operate from more than one location within the limits of a municipality [city], provided each location is operated by the same legal entity and meets the requirements of §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements).

(b) Additional locations not located within the limits of the same municipality [city] of the initial dealership are required to:

(1) obtain a new GDN; and

(2) provide a new surety bond reflecting the additional location [s] unless the licensed location is exempt by statute from the surety requirement.

(c) A dealer that relocates from a point outside the limits of a city or relocates to a point not within the limits of the same city of the initial location is required to:

(1) obtain a new GDN; and

(2) provide a new surety bond reflecting the new address [s] unless the licensed location is exempt by statute from the surety requirement.

(d) A dealer shall notify the department in writing within 10 days of opening, closing, or relocating a [any] licensed location by filing an amendment application electronically in the system designated by the department for licensing. Each location must meet and maintain the requirements of §215.140.

(e) A dealer may not commence business at any location until the department issues a license specific to that location.

§215.137. Surety Bond.

(a) The surety bond required by Transportation Code, §503.033 shall be in the legal business name in which the dealer's GDN [license] will be issued and shall contain the complete physical address of each [dealership] location licensed under the GDN that the surety bond is intended to cover.

(b) A surety bond executed by an agent representing a bonding company or surety must be supported by an original power of attorney from the bonding company or surety.

(c) The identity of the obligee on a surety bond or a rider to a surety bond must be approved by the department. An obligee may be identified as [A surety bond or rider to a surety bond may be identified as]:

(1) a person who obtains a court judgment assessing damages and attorney's fees for an act or omission on which the bond is conditioned; or

(2) unknown.

(d) A bonding company that pays any claim against a surety bond shall immediately report the payment to the department.

(e) A bonding company shall give written notice to the department 30 days prior to canceling any surety bond.

(f) The surety bond required by this section does not apply to a:

- (1) franchised motor vehicle dealer licensed by the department;
- (2) franchised motorcycle dealer licensed by the department;
- (3) franchised house trailer or travel trailer dealer licensed by the department; or
- (4) trailer or semitrailer dealer licensed by the department.

§215.138. Use of [Metal] Dealer's License Plates.

(a) A [metal] dealer's license plate shall be attached to the rear [license plate holder] of a vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia) [Transportation Code, §503.061].

(b) A copy of the receipt for a [the metal] dealer's standard license plate issued by the department should be carried in the vehicle to present [so that the receipt can be presented] to law enforcement personnel upon request.

(c) A [metal] dealer's license plate may not be displayed on:

- (1) a laden commercial vehicle being operated or moved on the public streets or highways; or
 - (2) the dealer's service or work vehicle, except as provided by Transportation Code, §503.068(b-1).
- (d) For purposes of this section, a dealer's service or work vehicle includes:
- (1) a vehicle used for towing or transporting another vehicle;
 - (2) a vehicle, including a light truck, used in connection with the operation of the dealer's shops or parts department;
 - (3) a courtesy car on which a courtesy car sign is displayed;
 - (4) a rental or lease vehicle; and
 - (5) a boat trailer owned by a dealer or manufacturer that is used to transport more than one boat.

[(e) As used in this section, "light truck" has the meaning assigned by Transportation Code, §541.201.

(e) [(f)] For purposes of this section, a light truck as defined by Transportation Code, §541.201, is not considered a laden commercial vehicle when it is:

- (1) mounted with a camper unit; or
- (2) towing a trailer for recreational purposes.

(f) [(g)] A [metal] dealer's license plate may be displayed only on the type of vehicle for which the GDN is issued and for which a dealer is licensed to sell. A nonfranchised dealer may not display a [metal] dealer's license plate on a new motor vehicle.

(g) [(h)] A [metal] dealer's license plate may be displayed only on a vehicle that has a valid inspection in accordance with Transportation Code, Chapter 548.

(h) [(i)] A dealer shall maintain a record of each [metal dealer's] license plate issued by the department to that dealer including standard and personalized prestige plates. The record must contain:

- (1) the [assigned metal dealer's] license plate number;
- (2) the year and make of the vehicle to which the [metal] dealer's license plate is affixed;
- (3) the VIN of the vehicle; and
- (4) the name of the person in control of the vehicle.

(i) [(j)] If a dealer cannot account for a [metal] dealer's license plate that the department issued to that dealer, the dealer must:

- (1) document the [metal] dealer's license plate as "void" in the [metal] dealer's license plate record;
- (2) within three days of discovering that the [metal] dealer's license plate is missing [,] or damaged, report the dealer's license plate as lost, stolen, or damaged in the electronic system designated by the department [report to the department in writing that the metal dealer's license plate is lost or stolen]; and
- (3) if found, cease use of the [metal] dealer's license plate.

(j) [(k)] A [metal] dealer's license plate is no longer valid for use after the dealer reports to the department that the [metal] dealer's license plate is lost, stolen, or damaged [missing]. A dealer must render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once marked, must destroy or recycle the license plate, or return the license plate to the department for recycling within 10 days.

(k) A dealer's license plate record must be available for inspection and copying by the department during normal business hours or be available to submit electronically to the department upon request.

(l) A dealer must return a department-issued license plate, sticker, or receipt to the department within 10 days of the license holder closing the associated license or the department revoking or canceling the license.

§215.139. [Metal] Dealer's Standard License Plate Allocation.

(a) The number of [metal] dealer's standard license plates a dealer may order for business use is based on the type of license for which the dealer applied and the number of vehicles the dealer sold during the previous year.

(b) A new license applicant is allotted a predetermined number of [metal] dealer's standard license plates for the duration of the dealer's first license term.

(c) Unless otherwise qualified under this section, the maximum number of [metal] dealer's standard license plates the department will issue to a new license applicant during the applicant's first license term is indicated in the following table.
Figure: 43 TAC §215.139(c)

(d) A dealer applying [that submits an application to the department] for a license is not subject to the initial allotment limits described in this section and may rely on that dealer's existing allocation of [metal] dealer's standard license plates if that dealer is:

- (1) a franchised dealership subject to a buy-sell agreement, regardless of a change in the entity or ownership;
- (2) any type of dealer that is relocating and has been licensed by the department for a period of one year or longer; or

(3) any type of dealer that is changing its business entity type and has been licensed by the department for a period of one year or longer.

(e) The maximum number of [metal] dealer's standard license plates the department will issue to a vehicle dealer per license term is indicated in the following table.

Figure: 43 TAC §215.139(e)

(f) A dealer may obtain more than the maximum number of [metal] dealer's standard license plates provided by this section by submitting to the department proof of sales for the previous 12-month period that justifies additional allocation.

(1) The number of additional [metal] dealer's standard license plates the department will issue to a dealer that demonstrates a need through proof of sales is indicated in the following table.

Figure: 43 TAC §215.139(f)(1)

(2) For purposes of this section, proof of sales for the previous 12-month period may consist of a copy of the most recent vehicle inventory tax declaration or monthly statements filed with the taxing authority in the county of the dealer's licensed location. Each copy must be stamped as received by the taxing authority. The department will consider a [A] franchised dealer's license renewal application that indicates sales of more than 200 units [is considered] to be proof of sales of more than 200 units and no additional proof is required.

(3) The department may not issue more than two [metal] dealer's standard license plates to a wholesale motor vehicle dealer. For purposes of this section, a wholesale motor vehicle dealer's proof of sales may be demonstrated to the department by submitting:

(A) evidence of the wholesale motor vehicle dealer's sales for the previous 12-month period, if the wholesale motor vehicle dealer has been licensed during those 12 months; or

(B) other documentation approved by the department demonstrating the wholesale motor vehicle dealer's transactions.

(g) The director may waive the [metal] dealer's standard license plate issuance restrictions if the waiver is essential for the continuation of the business. The director will determine the number of [metal] dealer's standard license plates the department will issue based on the dealer's past sales, dealer's inventory, and any other factor the director determines pertinent.

(1) A request for a waiver must be submitted to the director in writing and specifically state why the additional plate is necessary for the continuation of the applicant's business.

(2) A request for a waiver must be accompanied by proof of the dealer's sales for the previous 12-month period, if applicable.

(3) A wholesale motor vehicle dealer may not apply for a waiver of the [metal] dealer's standard license plate issuance restrictions.

(4) A waiver granted by the director under this section for a specific number of [metal] dealer's standard license plates is valid for four years.

~~{(h) This section does not apply to a personalized prestige dealer's license plate issued in accordance with Transportation Code, §503.0615-}~~

§215.140. Established and Permanent Place of Business Premises Requirements.

(a) A dealer must meet the following requirements at each licensed location and maintain the requirements during the term of the license. If multiple dealers are licensed at a location, each dealer must

maintain the following requirements during the entire term of the license.

(1) Business hours for retail dealers.

(A) A retail dealer's office shall be open at least four days per week for at least four consecutive hours per day and may not be open solely by appointment.

(B) The retail dealer's business hours for each day of the week must be posted at the main entrance of the retail dealer's office in a manner and location that is accessible to the public. The owner or a bona fide employee of the retail dealer shall be at the retail dealer's licensed location during the posted business hours for the purposes of buying, selling, exchanging, or leasing vehicles. If the owner or a bona fide employee is not available to conduct business during the retail dealer's posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time the retail dealer will resume operations. Regardless of the retail dealer's business hours, the retail dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(2) Business hours for wholesale motor vehicle dealers. A dealer that holds only a wholesale motor vehicle dealer's GDN must post its business hours at the main entrance of the wholesale motor vehicle dealer's office in a manner and location that is accessible to the public. A wholesale motor vehicle dealer or bona fide employee shall be at the wholesale motor vehicle dealer's licensed location at least two weekdays per week for at least two consecutive hours per day. A wholesale motor vehicle dealer may not be open solely by appointment. Regardless of the wholesale motor vehicle dealer's business hours, the wholesale motor vehicle dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(3) Business sign requirements for retail dealers.

(A) A retail dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the retail dealer's business name or assumed name substantially similar to the name reflected on the retail dealer's GDN under which the retail dealer conducts business. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(B) The sign must be permanently mounted at the physical address listed on the application for the retail dealer's GDN. A business sign is considered permanently mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground.

(C) A retail dealer may use a temporary sign or banner if that retail dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(D) A retail dealer is responsible for ensuring that the business sign complies with municipal ordinances, and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(4) Business sign requirements for wholesale motor vehicle dealers.

(A) Exterior Sign

(i) A wholesale motor vehicle dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the wholesale motor vehicle dealer's business name or assumed name substantially similar to the name reflected on the wholesale motor vehicle dealer's GDN under which the wholesale motor vehicle dealer conducts business. Effective September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers" in letters at least three inches in height. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(ii) The sign must be permanently mounted on the business property at the physical address listed on the application. A business sign is considered permanently mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground. A wholesale motor vehicle dealer may use a temporary exterior sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(B) Interior Sign

(i) If the wholesale motor vehicle dealer's office is located in an office building with one or more other businesses and an outside sign is not permitted by the property owner, a conspicuous permanent business sign permanently mounted on or beside the main door to the wholesale motor vehicle dealer's office with letters at least two inches in height is acceptable. Effective September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers" in letters at least one inch in height.

(ii) An interior business sign is considered conspicuous if it is easily visible to the public within 10 feet of the main entrance of the wholesale motor vehicle dealer's office. An interior sign is considered permanent if made from durable material and has lettering that cannot be changed. An interior sign is considered permanently mounted if bolted or otherwise permanently affixed to the main door or nearby wall. A wholesale motor vehicle dealer may use a temporary interior sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(C) A wholesale motor vehicle dealer is responsible for ensuring that the business sign complies with municipal ordinances and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(5) Office requirements for a retail dealer and a wholesale motor vehicle dealer.

(A) A dealer's office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(B) A dealer's office must comply with all applicable municipal ordinances, including municipal zoning ordinances. The dealer is responsible for obtaining a certificate of occupancy, certificate of compliance, or other required document issued by a municipal government to show compliance, including a new certificate or document when the building is altered or remodeled, or when the building use changes.

(C) A dealer's office may not be located in a residence, apartment, hotel, motel, rooming house, or any room or building not open to the public.

(D) A dealer's office may not be located in a restaurant, gas station, or convenience store, unless the office has a separate entrance door that does not require a dealer's customer to pass through the other business.

(E) A dealer's office may not be virtual or provided by a subscription for office space or office services. Access to an office space or office services is not considered an established and permanent location.

(F) The physical address of the dealer's office must be in Texas and recognized by the U.S. Postal Service, be [øf] capable of receiving U.S. mail, and have an assigned emergency services property address. The department will not mail a [metal] dealer's license plate to an out-of-state address.

(G) A portable-type office building may qualify as an office only if the building meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(H) The dealer's office space must:

(i) include at least 100 square feet of interior floor space, exclusive of hallways, closets, or restrooms;

(ii) have a minimum seven-foot-high ceiling;

(iii) accommodate required office equipment; and

(iv) allow a dealer and customer to safely access the office and conduct business in private while seated.

(6) Required office equipment for a retail dealer and a wholesale motor vehicle dealer. At a minimum, a dealer's office must be equipped with:

(A) a desk;

(B) two chairs;

(C) internet access; and

(D) a working telephone number listed in the business name or assumed name under which the dealer conducts business.

(7) Number of retail dealers in one building. Not more than four retail dealers may be located in the same building. Each retail dealer located in the same building must meet the requirements of this section.

(8) Number of wholesale motor vehicle dealers in one office building. Not more than eight wholesale motor vehicle dealers may be located in the same office building. Each wholesale motor vehicle dealer located in the same office building must meet the requirements of this section.

(9) Office sharing prohibition for retail dealers and wholesale motor vehicle dealers. Unless otherwise authorized by the Transportation Code, a retail dealer and a wholesale motor vehicle dealer licensed after September 1, 1999, may not be located in the same building.

(10) Dealer housed with other business.

(A) If a person conducts business as a dealer in conjunction with another business owned by the same person and under the same name as the other business, the same telephone number may be used for both businesses. If the name of the dealer differs from the name of the other business, a separate telephone listing and a separate sign for each business are required.

(B) A person may conduct business as a dealer in conjunction with another business not owned by that person only if the dealer owns the property on which business is conducted or has a separate lease agreement from the owner of that property that meets the requirements of this section. The same telephone number may not be used by both businesses. The dealer must have separate business signs, telephone listings, and office equipment required under this section.

(C) A dealer's office must have permanent interior walls on all sides and be separate from any public area used by another business.

(11) Display area and storage lot requirements.

(A) A wholesale motor vehicle dealer is not required to have display space at the wholesale motor vehicle dealer's business premises.

(B) A retail dealer must have an area designated as display space for the retail dealer's inventory. A retail dealer's designated display area must comply with the following requirements.

(i) The display area must be located at the retail dealer's physical business address or contiguous to the retail dealer's physical address. The display area may not be in a storage lot.

(ii) The display area must be of sufficient size to display at least five vehicles of the type for which the GDN is issued. The display area [Those spaces] must be reserved exclusively for the retail dealer's inventory and may not be used for customer parking, employee parking, general storage, or shared or intermingled with another business or a public parking area, a driveway to the office, or another dealer's display area.

(iii) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(iv) If a retail dealer shares a display or parking area with another business, including another dealer, the dealer's vehicle inventory must be separated from the other business's display or parking area by a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the space necessary to allow for entry and exit of vehicle inventory.

(v) If a dealer's business location includes gasoline pumps or a charging station or includes another business that sells gasoline or has a charging station, the dealer's display area may not be part of the parking area for fuel or charging station customers and may not interfere with access to or from the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

(vi) The display area must be adequately illuminated if the retail dealer is open at night so that a vehicle for sale can be properly inspected by a potential buyer.

(vii) The display area may be located inside a building; however, if multiple dealers are displaying vehicles inside a building, each dealer's display area must be separated by a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the space necessary to allow for entry and exit of vehicle inventory.

(C) A GDN holder [dealer] may maintain a storage lot only if the storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the license holder's [dealer's] name, contact information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in an access-controlled location to be considered not accessible to the public. An applicant must include the physical address of a storage lot in an application for a new license if the storage lot is located at a different physical address than the licensed business. If a storage lot is established after a license is issued and is located at a different physical address than the licensed business, the dealer must submit a license amendment to add the physical address of the storage lot within 10 days of the storage lot being established.

(12) Dealers authorized to sell salvage motor vehicles. If an independent motor vehicle dealer offers a salvage motor vehicle for sale on the dealer's premises, the vehicle must be clearly and conspicuously marked with a sign informing a potential buyer that the vehicle is a salvage motor vehicle. [This requirement does not apply to a licensed salvage pool operator.]

(13) Lease requirements. If the premises from which a dealer conducts business, including any display area, is not owned by the dealer, the dealer must maintain a lease that is continuous during the period of time for which the dealer's license will be issued. The lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the property owner as the lessor of the premises and the name of the dealer as the tenant or lessee of the premises;

(B) the period of time for which the lease is valid;

(C) the street address or legal description of the property, provided that if only a legal description of the property is included, a dealer must attach a statement verifying that the property description in the lease agreement is the physical street address identified on the application as the physical address for the established and permanent place of business;

(D) the signature of the property owner as the lessor and the signature of the dealer as the tenant or lessee; and

(E) if the lease agreement is a sublease in which the property owner is not the lessor, the dealer must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the dealer is authorized to sublease the location and may operate a vehicle sales business from the location.

(14) Dealer must display GDN and bond notice. A dealer must display the dealer's GDN issued by the department at all times in a manner that makes the GDN easily readable by the public and in a conspicuous place at each place of business for which the dealer's GDN is issued. [If the dealer's GDN applies to more than one location, a copy of the GDN and bond notice must be displayed in each supplemental location.] A dealer required to obtain a surety bond must post a bond notice adjacent to and in the same manner as the dealer's GDN is displayed. The notice must include the bond company name, bond identification number, and procedure by which a claimant can recover under the bond. The notice must also include the department's website address and notify a consumer that a dealer's surety bond information may be obtained by submitting a request to the department. If

the dealer's GDN applies to more than one location, a copy of the GDN and bond notice must be displayed in each supplemental location.

(b) Wholesale motor vehicle auction premises requirements. A wholesale motor vehicle auction must comply with the following premises requirements:

(1) a wholesale motor vehicle auction GDN holder must hold a motor vehicle auction on a regular periodic basis at the licensed location, and an owner or bona fide employee must be available at the business location during each auction and during posted business hours. If the owner or a bona fide employee is not available to conduct business during the posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time operations will resume.

(2) the business telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(3) a wholesale motor vehicle auction GDN holder must display a business sign that meets the following requirements:

(A) The sign must be a conspicuous, permanent sign with letters at least six inches in height showing the business name or assumed name substantially similar to the name reflected on the GDN under which the GDN holder conducts business. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(B) The sign must be permanently mounted at the physical address listed on the application for the wholesale motor vehicle auction GDN. A business sign is considered permanently mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground.

(C) An applicant may use a temporary sign or banner if the applicant can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(D) An applicant or holder is responsible for ensuring that the business sign complies with municipal ordinances, and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(4) The business office of a wholesale motor vehicle auction GDN applicant and holder must meet the following requirements:

(A) The office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(B) The office must comply with all applicable municipal ordinances, including municipal zoning ordinances. The wholesale motor vehicle auction is responsible for obtaining a certificate of occupancy, certificate of compliance, or other required document issued by a municipal government to show compliance, including a new certificate or document when the building is altered or remodeled, or when the building use changes.

(C) The office may not be located in a residence, apartment, hotel, motel, rooming house, or any room or building not open to the public.

(D) The office may not be located in a restaurant, gas station, or convenience store, unless the office has a separate entrance door that does not require a customer to pass through the other business.

(E) The office may not be virtual or provided by a subscription for office space or office services. Access to office space or office services is not considered an established and permanent location.

(F) The physical address of the office must be in Texas and recognized by the U.S. Postal Service, capable of receiving U.S. mail, and have an assigned emergency services property address.

(G) A portable-type office building may qualify as an office only if the building meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(5) A wholesale motor vehicle auction GDN applicant and holder must have the following office equipment:

(A) a desk;

(B) a chair;

(C) internet access; and

(D) a working telephone number listed in the business name or assumed name under which business is conducted.

(6) A wholesale motor vehicle auction must meet the following display area and storage lot requirements:

(A) The area designated as display space for inventory must be located at the physical business address or contiguous to the physical address. The display area may not be in a storage lot.

(B) The display area must be of sufficient size to display at least five vehicles. Those spaces must be reserved exclusively for inventory and may not be used for customer parking, employee parking, general storage, or shared or intermingled with another business or a public parking area, or a driveway to the office.

(C) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(D) If the business location includes gasoline pumps or a charging station or includes another business that sells gasoline or has a charging station, the display area may not be part of the parking area for fuel or charging station customers and may not interfere with access to or from the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

(E) The display area must be adequately illuminated if open at night so that a vehicle for sale can be properly inspected by a potential buyer.

(F) The display area may be located inside a building.

(G) A wholesale motor vehicle auction may maintain a storage lot only if the storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the business name, contact information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in an access-controlled location to be considered not accessible to the public. An applicant must include the physical address of a storage lot in an application for a new license if the storage lot is located at a different physical address. If a storage lot is established after a license is issued and is located at a different physical address, the dealer must submit a license amendment to add the physical address of the storage lot within 10 days of the storage lot being established.

(7) A wholesale motor vehicle auction must meet the following lease requirements if the business premises, including any display area, is not owned by the wholesale motor vehicle auction:

(A) the applicant or holder must maintain a lease that is continuous during the period of time for which the GDN will be issued;

(B) The lease agreement must be on a properly executed form containing at a minimum:

(i) the name of the property owner as the lessor of the premises and the name of the GDN applicant or holder as the tenant or lessee of the premises;

(ii) the period of time for which the lease is valid;

(iii) the street address or legal description of the property, provided that if only a legal description of the property is included, a wholesale motor vehicle auction must attach a statement verifying that the property description in the lease agreement is the physical street address identified on the application as the physical address for the established and permanent place of business;

(iv) the signature of the property owner as the lessor and the signature of the applicant or holder as the tenant or lessee; and

(C) if the lease agreement is a sublease in which the property owner is not the lessor, the wholesale motor vehicle auction must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the dealer is authorized to sublease the location and may operate a wholesale motor vehicle auction business from the location.

§215.141. Sanctions.

(a) The board or department may take the following actions against a license applicant, a license holder, or a person engaged in business for which a license is required:

(1) deny an application;

(2) revoke a license;

(3) suspend a license; ~~and~~

(4) assess a civil penalty; ~~[or other action against a license applicant, a license holder, or a person engaged in business for which a license is required.]~~

(5) issue a cease and desist order; or

(6) or take other authorized action.

(b) The board or department may take action described in subsection (a) of this section if a license applicant, a license holder, or a person engaged in business for which a license is required:

(1) fails to maintain a good and sufficient bond or post the required bond notice ~~[in the amount of \$25,000]~~ if required under Transportation Code §503.033 (relating to Security Requirement);

(2) fails to meet or maintain the requirements of §215.140 (relating to Established and Permanent Place of Business Premises Requirements);

(3) [(2)] fails to maintain records required under this chapter;

(4) [(3)] refuses or fails to comply with a request by ~~[a representative of]~~ the department for electronic records or to examine and

copy during the license holder's business hours at the licensed business location:

(A) sales records required to be maintained by §215.144 of this title (relating to Records);

(B) ownership papers for a vehicle owned by that dealer or under that dealer's control;

(C) evidence of ownership or a current lease agreement for the property on which the business is located; or

(D) the Certificate of Occupancy, Certificate of Compliance, business license or permit, or other official documentation confirming compliance with county and municipal laws or ordinances for a vehicle business at the licensed physical location.

(5) [(4)] refuses or fails to timely comply with a request for records made by a representative of the department;

(6) [(5)] holds a wholesale motor vehicle dealer's license and sells or offers to sell a motor vehicle to a person other than a licensed or authorized dealer; [:]

[(A) fails to meet the requirements of §215.140 of this title (relating to Established and Permanent Place of Business); or]

[(B) sells or offers to sell a motor vehicle to a person other than a licensed dealer;]

(7) [(6)] sells or offers to sell a type of vehicle that the person is not licensed to sell;

(8) [(7)] fails to submit a license amendment application in the electronic system designated by the department for licensing to notify the department of a change of the license holder's physical address, mailing address, telephone number, or email address within 10 days of the change, including a change in the physical address of a storage lot;

(9) [(8)] fails to submit a license amendment application in the electronic system designated by the department for licensing to notify the department of a license holder's name change, or management or ownership change within 10 days of the change;

(10) [(9)] except as provided by law, issues more than one buyer's temporary tag for the purpose of extending the purchaser's operating privileges for more than 60 days;

(11) [(10)] fails to remove a license plate or registration insignia from a vehicle that is displayed for sale;

(12) [(11)] misuses a ~~[metal]~~ dealer's license plate or a temporary tag;

(13) [(12)] fails to display a ~~[metal]~~ dealer's license plate or temporary tag, as required by law;

(14) [(13)] holds open a title or fails to take assignment of a certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle acquired by the dealer, or fails to assign the certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle sold;

(15) [(14)] fails to remain regularly and actively engaged in the business of buying, selling, or exchanging vehicles of the type for which the GDN is issued by the department;

(16) [(15)] violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 503 and ~~1001~~ ~~[4000]~~ -1005; a board order or rule; or a regulation of the department relating to the sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter ~~F~~ ~~[H]~~ of this chapter (relating to Advertising);

(17) [(46)] is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.3 of this title (relating to Criminal Offense Guidelines);

(18) [(47)] is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(19) [(48)] has not assigned at least five vehicles in the prior 12 months, provided the dealer has been licensed more than 12 months;

(20) [(49)] files or provides a false or forged:

(A) title document, including an affidavit making application for a certified copy of a title; or

(B) tax document, including a sales tax statement or affidavit;

(21) [(20)] uses or allows use of that dealer's license or location for the purpose of avoiding a provision of Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1000 - 1005; or other laws;

(22) [(24)] omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

(23) [(22)] fails to remit payment as ordered for a civil penalty assessed by the board or department;

(24) [(23)] sells a new motor vehicle without a franchised dealer's license issued by the department;

(25) [(24)] fails to comply with a dealer responsibility under §215.150 of this title (relating to Authorization to Issue Temporary Tags);

(26) utilizes a temporary tag that fails to meet the requirements of §215.153 of this title (relating to Specifications for All Temporary Tags);

(27) [(25)] violates any state or federal law or regulation relating to the sale of a motor vehicle; [or]

(28) [(26) effective January 1, 2017,] knowingly fails to disclose that a motor vehicle has been repaired, rebuilt, or reconstructed and issued a title under Transportation Code, §501.100 (relating to Application for Regular Certificate of Title for Salvage Vehicle);

(29) fails to issue a refund as ordered by the board or department; or

(30) fails to acquire or maintain a required certificate of occupancy, certificate of compliance, business license or permit, or other official documentation for the licensed location confirming compliance with county or municipal laws or ordinances or other local requirements for a vehicle business.

§215.143. Drive-a-way Operator In-Transit License Plates.

(a) A drive-a-way operator may apply for a drive-a-way in-transit standard license plate:

(1) when applying for a new or renewal in-transit license,
or

(2) by submitting a plate request application electronically in the system designated by the department.

(b) A drive-a-way operator must display an in-transit license plate in the rear of each transported motor vehicle from the vehicle's point of origin to its point of destination in Texas in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(c) A drive-a-way operator shall maintain a record of each license plate issued to the operator by the department. The record of each license plate issued must contain:

(1) the license plate number;

(2) the year and make of the vehicle to which the license plate is affixed;

(3) the VIN of the vehicle; and

(4) the name of the person in control of the vehicle.

(d) If a drive-a-way operator cannot account for a license plate or a license plate is damaged, the operator must:

(1) document the license plate as "void" in the operator's plate record;

(2) within three days of discovering that the license plate is missing or damaged, report the license plate as lost, stolen, or damaged in the electronic system designated by the department; and

(3) if found once reported, cease use of the license plate.

(e) A license plate is no longer valid for use after the drive-a-way operator reports to the department that the plate is lost, stolen, or damaged. A drive-a-way operator must render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once marked, may destroy or recycle the license plate, or return the license plate to the department for recycling within 10 days.

(f) The drive-a-way operator's license plate record must be available for inspection and copying by the department during normal business hours or be available to submit electronically to the department upon request.

(g) In evaluating requests for additional license plates, the department will consider the business justification provided by a drive-a-way operator including the following:

(1) the number of vehicles currently being transported to a location in Texas;

(2) the highest number of motor vehicles transported in the prior 12 months;

(3) the size and type of business; and

(4) the operator's record of tracking and reporting missing or damaged plates to the department.

(h) If a drive-a-way operator closes the associated license or the associated license is revoked or canceled by the department, the operator must return a license plate to the department within 10 days.

§215.144. Vehicle Records.

(a) Purchases and sales records. A dealer and wholesale motor vehicle auction must maintain a complete record of all vehicle purchases and sales for a minimum period of 48 months and make the record available for inspection and copying by [a representative] of the department during business hours.

(b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer must keep a complete written record of each vehicle purchase, vehicle sale, and any adaptive work performed on each vehicle for a minimum period of 36 months after the date the adaptive work is performed on the vehicle. An independent mobility motor vehicle dealer shall also retain and produce for inspection all records relating to the license requirements under Occupations Code, §2301.002(17-b) and all information and records required under Transportation Code §503.0295.

(c) Location of records. A dealer's record reflecting purchases and sales for the preceding 13 months must be maintained at the dealer's licensed location. Original titles are not required to be kept at the licensed location [.] but must be made available to the agency upon reasonable request. A dealer's record for prior time periods may be kept off-site.

(d) Request for records. Within 15 days of receiving a request [receipt of a request sent by mail or electronic document transfer] from the department, a dealer must deliver a copy of the specified records to the address listed in the request. If a dealer has a concern about the origin of a records request, the dealer may verify that request with the department [division] prior to submitting its records.

(e) Content of records. A dealer's complete record for each vehicle purchase or vehicle sale must contain:

- (1) the date of the purchase;
- (2) the date of the sale;
- (3) the VIN;
- (4) the name and address of the person selling the vehicle to the dealer;
- (5) the name and address of the person purchasing the vehicle from the dealer;
- (6) the name and address of the consignor if the vehicle is offered for sale by consignment;
- (7) except for a purchase or sale where the Tax Code does not require payment of motor vehicle sales tax, a county tax assessor-collector receipt marked paid [copy of the receipt, titled "Tax Collector's Receipt for Texas Title Application/Registration/Motor Vehicle Tax"];
- (8) a copy of all documents, forms, and agreements applicable to a particular sale, including a copy of:
 - (A) the title application;
 - (B) the work-up sheet;
 - (C) the front and back of the manufacturer's certificate of origin or manufacturer's statement of origin, unless the dealer obtains the title [is obtained] through the electronic title system;
 - (D) the front and back of the title for the purchase and the sale, unless the dealer enters or obtains the title [is obtained] through the electronic title system;
 - (E) the factory invoice, if applicable;
 - (F) the sales contract;
 - (G) the retail installment agreement;
 - (H) the buyer's order;
 - (I) the bill of sale;
 - (J) any waiver;
 - (K) any other agreement between the seller and purchaser; [and]
 - (L) the purchaser's photo identification; [Form VTR-136, relating to County of Title Issuance, completed and signed by the buyer;]
 - (M) the odometer disclosure statement signed by the buyer; and
 - (N) the rebuilt salvage disclosure, if applicable.

(9) the original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for a new motor vehicle [vehicles] offered for sale by a dealer which must be [, and a] properly stamped [original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for motor vehicles sold by a dealer] if the title transaction is entered into the electronic titling system by the dealer;

(10) the dealer's monthly Motor Vehicle Seller Financed Sales Returns, if any; and

(11) if the vehicle sold is a motor home or a towable recreational vehicle subject to inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

(f) Title assignments.

(1) For each vehicle a dealer acquires or offers for sale, the dealer must properly take assignment in the dealer's name of any:

- (A) title;
- (B) manufacturer's statement of origin;
- (C) manufacturer's certificate of origin; or
- (D) other evidence of ownership.

(2) Unless not required by Transportation Code, §501.0234(b), a [A] dealer must apply in the name of the purchaser of a vehicle for the title and registration, if applicable, of the vehicle with a [the appropriate] county tax assessor-collector [as selected by the purchaser].

(3) To comply with Transportation Code, §501.0234(f), a registration is considered filed within a reasonable time if the registration is filed within:

- (A) 30 [20 working] days of the date of sale of the vehicle for a vehicle titled or registered in Texas; or
- (B) 45 days of the date of sale of the vehicle for a dealer-financed transaction involving a vehicle that is titled or registered in Texas.

(4) The dealer is required to provide to the purchaser the receipt for the title and registration application.

(5) The dealer is required to maintain a copy of the receipt for the title and registration application in the dealer's sales file.

(g) Out-of-state sales. For a sale [sales transaction] involving a vehicle to be transferred out of state, the dealer must:

(1) within 30 [20 working] days of the date of sale, either file the application for certificate of title on behalf of the purchaser or deliver the properly assigned evidence of ownership to the purchaser; and

(2) maintain in the dealer's record at the dealer's licensed location a photocopy of the completed sales tax exemption form for out of state sales approved by the Texas Comptroller of Public Accounts.

(h) Consignment sales. A dealer offering a vehicle for sale by consignment shall have a written consignment agreement or a power of attorney for the vehicle, and shall, after the sale of the vehicle, take assignment of the vehicle in the dealer's name and, pursuant to subsection (f), apply in the name of the purchaser for transfer of title and registration, if the vehicle is to be registered, with a [the appropriate] county tax assessor-collector [as selected by the purchaser]. The dealer must, for a minimum of 48 months, maintain a record of each vehicle

offered for sale by consignment, including the VIN and the name of the owner of the vehicle offered for sale by consignment.

(i) Public motor vehicle auctions.

(1) A GDN holder that acts as a public motor vehicle auction must comply with subsection (h) of this section.

(2) A public motor vehicle auction:

(A) is not required to take assignment of title of a vehicle it offers for sale;

(B) must take assignment of title of a vehicle from a consignor prior to making application for title on behalf of the buyer; and

(C) must make application for title on behalf of the purchaser and remit motor vehicle sales tax within 20 working days of the sale of the vehicle.

(3) A GDN holder may not sell another GDN holder's vehicle at a public motor vehicle auction.

(j) Wholesale motor vehicle auction records. A wholesale motor vehicle auction license holder must maintain, for a minimum of 48 months, a complete record of each vehicle purchase and sale occurring through the wholesale motor vehicle auction. The wholesale motor vehicle auction license holder shall make the record available for inspection and copying by [a representative of] the department during business hours.

(1) A wholesale motor vehicle auction license holder must maintain at the licensed location a record reflecting each purchase and sale for at least the preceding 24 months. Records for prior time periods may be kept off-site.

(2) Within 15 days of receiving a department request [receipt of a request sent by mail or by electronic document transfer from a representative of the department], a wholesale motor vehicle auction license holder must deliver a copy of the specified records to the address listed in the request.

(3) A wholesale motor vehicle auction license holder's complete record of each vehicle purchase and sale shall, at a minimum, contain:

(A) the date of sale;

(B) the VIN;

(C) the name and address of the person selling the vehicle;

(D) the name and address of the person purchasing the vehicle;

(E) the dealer license number of both the selling dealer and the purchasing dealer, unless either is exempt from holding a license;

(F) all information necessary to comply with the federal odometer disclosure requirements in 49 CFR Part 580 [Truth in Mileage Act];

(G) auction access documents, including the written authorization and revocation of authorization for an agent or employee, in accordance with §215.148 of this title (relating to Dealer Agents);

(H) invoices, bills of sale, checks, drafts, or other documents that identify the vehicle, the parties, or the purchase price;

(I) any information regarding the prior status of the vehicle such as the Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and

(J) a copy of any written authorization allowing an agent of a dealer to enter the auction.

(k) Electronic records. A license holder may maintain a record in an electronic format if the license holder can print the record at the licensed location upon request by [a representative of] the department, except as provided by subsection (l) of this section.

(l) Use of department electronic titling and registration systems [webDEALER]. A license holder utilizing the department's web-based title application known as webDEALER, as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems), must comply with §217.74 of this title (relating to Access to and Use of webDEALER). Original hard copy titles are not required to be kept at the licensed location [s] but must be made available to the department upon request.

§215.145. Change of Dealer's Status.

(a) A dealer's name change requires a new bond or a rider to the existing bond reflecting the new [dealer] name, unless the dealer is not otherwise required to purchase a bond.

(b) A dealer shall notify the department in writing within 10 days of a change of ownership by submitting a license amendment application in the department-designated electronic system for licensing. A licensed dealer that proposes to sell or assign to another any interest in the licensed entity, whether a corporation or otherwise, and provided the physical location of the licensed entity remains the same, shall notify the department in writing within 10 days of the change by filing an application to amend the license in the department-designated electronic system for licensing. If the sale or assignment of any portion of the business results in a change of entity, then the new entity must apply for and obtain a new license. A publicly held corporation only needs to inform the department of a change in ownership if one person or entity acquires a 10% or greater interest in the licensed entity.

(c) Upon the death of a dealer operating [of a dealership operated] as a sole proprietor [proprietorship], either the surviving spouse of the deceased dealer or other individual deemed qualified by the department shall submit to the department a bond rider adding the name of the surviving spouse or other qualifying person to the bond for the remainder of the bond and license term. The surviving spouse or other qualifying person may continue operating [dealership operations] under the current dealer license until the end of the license term.

(d) For purposes of subsection (c) of this section, [if the qualifying person is] the sole proprietor's surviving spouse [then the surviving spouse] may change the ownership of the dealership at the time the license is renewed without applying for a new GDN. At the time the renewal application is filed, the sole proprietor's surviving spouse must [is required to] submit to the department:

(1) an application to amend the business entity;

(2) a copy of the sole proprietor's certificate of death, naming the surviving spouse;

(3) the required ownership information; and

(4) if applicable, a bond in the name of the surviving spouse.

(e) For purposes of subsection (c) of this section, a [if the qualifying person is not the surviving spouse, then the] qualifying person who is not the surviving spouse may operate the sole proprietorship

business during the term of the license. The qualifying person must file with the department:

- (1) an application to amend the business entity, identifying the qualifying person as the manager;
- (2) an ownership information form, indicating that the qualifying person has no ownership interest in the business; and
- (3) a bond rider adding the qualified person's ~~[individual's]~~ name to the existing bond.

(f) For purposes of subsection (c) of this section, a ~~[if the qualifying person is not the surviving spouse, then at the time the license is due to be renewed, the]~~ qualifying person who is not the surviving spouse must file with the department an application for a new GDN on or before the expiration of the license term in the department-designated electronic system for licensing.

(g) A determination made under this section does not impact a decision made by the board under Occupations Code, §2301.462 [.] (relating to Succession Following Death of Franchised Dealer).

§215.147. Export Sales.

(a) Before selling a motor vehicle for export from the United States to another country, a dealer must obtain a legible photocopy of the buyer's government-issued photo identification document. The photo identification document must be issued by the jurisdiction where the buyer resides and be:

- (1) a passport;
- (2) a driver ~~[driver's]~~ license;
- (3) a ~~[concealed handgun license or]~~ license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;
- (4) a national identification certificate or identity document; or
- (5) other identification document containing the:
 - (A) name of the issuing jurisdiction;
 - (B) buyer's full name;
 - (C) buyer's foreign address;
 - (D) buyer's date of birth;
 - (E) buyer's photograph; and
 - (F) buyer's signature.

(b) A dealer that sells a vehicle for export from the United States shall place a stamp on the title that includes the words "For Export Only" and includes the dealer's ~~[license holder's]~~ GDN. The stamp must be legible, in black ink, at least two inches wide, and placed on the:

- (1) back of the title in all unused dealer reassignment spaces; and
 - (2) front of the title in a manner that does not obscure any names, dates, mileage statements, or other information printed on the title.
- (c) In addition to the records required to be maintained by §215.144 of this title (relating to Vehicle Records), a dealer shall maintain, for each motor vehicle sold for export, a sales file record. The sales file record shall be made available for inspection and copying upon request by the department. The sales file record of each vehicle sold for export shall contain:

(1) a completed copy of the Texas Motor Vehicle Sales Tax Exemption Certificate for Vehicles Taken Out of State, indicating that the vehicle has been purchased for export to a foreign country;

(2) a copy of the front and back of the title of the vehicle, showing the "For Export Only" stamp and the GDN of the dealer; and

(3) if applicable, an Export-only Sales Record Form, listing each motor vehicle sold for export only.

(d) A dealer, at the time of sale of a vehicle for export, shall:

(1) enter the information required by Transportation Code, §503.061 in the temporary tag database;

(2) designate the sale as "For Export Only"; and

(3) issue a buyer's temporary tag, in accordance with Transportation Code, §503.063.

§215.148. Dealer Agents.

(a) A dealer must provide written authorization to each person with whom the dealer's agent or employee will conduct business on behalf of the dealer, including to a person that:

- (1) buys and sells motor vehicles for resale; or
- (2) operates a licensed auction.

(b) If a dealer's agent or employee that conducts business on behalf of the dealer commits an act or omission that would be cause for denial, revocation, or suspension of a license in accordance with Occupations Code, Chapter 2301 or Transportation Code, Chapter 503, the board may:

- (1) deny an application for a license; or
- (2) revoke or suspend a license.

(c) The board may take action described in subsection (b) of this section after notice and an opportunity for hearing, in accordance with Occupations Code, Chapter 2301 and Chapter 224 of this title (relating to Adjudicative Practice and Procedure).

(d) A dealer's authorization to an agent or employee shall:

- (1) be in writing;
- (2) be signed by the dealer principal or person in charge of daily activities of the dealership;
- (3) include the agent's or employee's name, current mailing address, and telephone number;
- (4) include the dealer's business name, address, and dealer license number or numbers;
- (5) expressly authorize buying or selling by the specified agent or employee;
- (6) state that the dealer is liable for any act or omission regarding a duty or obligation of the dealer that is caused by that agent or employee, including any financial considerations to be paid for the vehicle;
- (7) state that the dealer's authorization remains in effect until the recipient of the written authorization is notified in writing of the revocation of the authority; and
- (8) be maintained as a required dealer's record and made available upon request by a representative of the department, in accordance with the requirements of §215.144 of this title (relating to Vehicle Records).

(e) A license holder, including a wholesale motor vehicle auction ~~[license holder]~~ that buys and sells vehicles on a wholesale basis,

including by sealed bid, is required to verify the authority of any person claiming to be an agent or employee of a licensed dealer who purports to be buying or selling a motor vehicle:

- (1) on behalf of a licensed dealer; or
- (2) under the written authority of a licensed dealer.

(f) A title to a vehicle bought by an agent or employee of a dealer shall be:

- (1) reassigned to the dealer by the seller or by the auction; and
- (2) shall not be delivered to the agent or employee [§] but delivered only to the dealer or the dealer's financial institution.

(g) Notwithstanding the prohibitions in this section, an authorized agent or employee may sign a required odometer statement.

(h) In a wholesale transaction for the purchase of a motor vehicle, the seller may accept as consideration only:

- (1) a check or a draft drawn on the purchasing dealer's account;
- (2) a cashier's check in the name of the purchasing dealer; or
- (3) a wire transfer from the purchasing dealer's bank account.

§215.149. Sales of New Mobility Motor Vehicles [Independent Mobility Motor Vehicle Dealers].

In accordance with Occupations Code, §2301.361, a transaction occurs through or by a franchised dealer of the motor vehicle's chassis line-make if the franchised dealer applies for title and registration of a new [the] mobility motor vehicle in the name of the purchaser. An independent mobility motor vehicle dealer may prepare the documentation necessary for a franchised dealer to comply with the requirements of Transportation Code, §501.0234 in connection with the sale of a new mobility motor vehicle.

§215.150. Authorization to Issue Temporary Tags.

(a) A dealer that holds a GDN may issue a dealer's temporary tag, buyer's temporary tag, or a preprinted Internet-down temporary tag for authorized purposes only for each type of vehicle the dealer is licensed to sell or lease. A converter that holds a converter's license under Occupations Code, Chapter 2301 may issue a converter's temporary tag for authorized purposes only.

(b) A license holder may issue an applicable dealer's temporary tag, buyer's temporary tag, or converter's temporary tag until:

- (1) the department denies access to the temporary tag database under Transportation Code §503.0632(f) and §224.58 [§215.505] of this title (relating to Denial of Dealer or Converter Access to Temporary Tag System);
- (2) the license holder issues the maximum number of temporary tags authorized under Transportation Code §503.0632(a)-(d); or
- (3) the license is canceled, revoked, or suspended.

(c) A federal, state, or local governmental agency that is exempt under Section 503.024 from the requirement to obtain a dealer general distinguishing number may issue one [temporary] buyer's temporary tag, or one preprinted Internet-down temporary tag, in accordance with Transportation Code §503.063. A governmental agency that issues a [temporary] buyer's temporary tag, or preprinted Internet-down temporary tag, under this subsection:

(1) is subject to the provisions of Transportation Code §503.0631 and §503.067 applicable to a dealer; and

(2) is not required to charge the registration fee under Transportation Code §503.063(g).

(d) A dealer or converter is responsible for all use of and access to the applicable temporary tag database under the dealer's or converter's account, including access by any user or unauthorized person. Dealer and converter duties include monitoring temporary tag usage, managing account access, and taking timely and appropriate actions to maintain system security, including:

- (1) establishing and following reasonable password policies, including preventing the sharing of passwords;
- (2) limiting authorized users to owners and bona fide employees with a business need to access the database;
- (3) removing users who no longer have a legitimate business need to access the system;
- (4) securing printed tags and destroying expired tags, by means such as storing printed tags in locked areas and shredding or defacing expired tags; and
- (5) securing equipment used to access the temporary tag database and print temporary tags.

§215.151. Temporary Tags, General Use Requirements, and Prohibitions.

(a) A dealer, governmental agency, or converter shall secure a temporary tag to a vehicle in the license plate display area located at the rear of the vehicle, so that the entire temporary tag is visible and legible at all times, including when the vehicle is being operated.

~~[(b) A federal, state, or local governmental agency shall secure a temporary buyer's tag or preprinted Internet-down temporary tag issued under 215.150(e) of this title (relating to Authorization to Issue Temporary Tags) to a vehicle in the license plate display area located at the rear of the vehicle, so that the entire temporary tag is visible and legible at all times, regardless of whether the vehicle is being operated.]~~

(b) ~~[(e)]~~ All printed information on a temporary tag must be visible and may not be covered or obstructed by any plate holder or other device or material.

(c) ~~[(4)]~~ A motor vehicle that is being transported [using the full mount method, the saddle mount method, the tow bar method, or any combination of those methods] in accordance with Transportation Code, §503.068(d) or §503.0625, must have a dealer's temporary tag, a converter's temporary tag, or a buyer's temporary tag, whichever is applicable, affixed to the motor vehicle being transported.

§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 the previous three fiscal years. A dealer's base number will contain the sum of:

(A) the greater number of:

(i) in-state buyer's temporary tags issued in one fiscal year during the previous three fiscal years; or

(ii) title transactions processed through the Registration and Title System in one fiscal year during the previous three fiscal years; but

(iii) the amount will be limited to an amount that is not more than two times the number of title transactions identified in subparagraph (ii) of this paragraph; and

(B) the addition of the greatest number of out-of-state buyer's temporary tags issued in one fiscal year during the previous three fiscal years;

(2) the total value of paragraph (1) of this subsection will be increased by a multiplier based on the dealer's time in operation giving a 10 percent increase in tags for each year the dealer has been in operation up to 10 years;

(3) the total value of paragraph (2) of this subsection will be increased by a multiplier that is the greater of:

(A) the dealer's actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of title transactions processed through the Registration and Title System plus the growth of the number of out-of-state buyer's temporary tags issued, except that it may not exceed 200 percent; or

(B) the statewide actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of title transactions processed through the Registration and Title System plus the growth of the number of out-of-state buyer's temporary tags issued, not less than zero, to determine the buyer's temporary tag allotment; and

(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 the previous three fiscal years. A dealer's base number will contain the maximum number of dealer temporary tags issued during the previous three fiscal years;

(2) the total value of paragraph (1) of this subsection will be increased by a multiplier based on the dealer's time in operation

giving a 10 percent increase in tags for each year the dealer has been in operation up to 10 years; and

(3) the total value of paragraph (2) of this subsection will be increased by a multiplier that is the greater of:

(A) the dealer's actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of dealer's temporary tags issued, except that it may not exceed 200 percent; or

(B) the statewide actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of dealer's temporary tags issued, not less than zero, to determine the dealer's temporary tag allotment; and

(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 the previous three fiscal years. A converter's base number will contain the maximum number of converter temporary tags issued during the previous three fiscal years;

(2) the total value of paragraph (1) of this subsection will be increased by a multiplier based on the converter's time in operation giving a 10 percent increase in tags for each year the dealer has been in operation up to 10 years; and

(3) the total value of paragraph (2) of this subsection will be increased by a multiplier that is the greater of:

(A) the converter's actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of converter's temporary tags issued, except that it may not exceed 200 percent; or

(B) the statewide actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of converter's temporary tags issued, 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 initial allocations

shall be as determined by the department in granting the license, but not more than:

(1) 1,000 ~~[600]~~ temporary tags for a franchised dealer per each tag type, buyer's temporary tags, agent temporary tags, and vehicle specific tags, unless:

(A) the dealer provides credible information indicating that a greater number of tags is warranted based on anticipated sales, and growth, to include new and used vehicle sales, including information from the manufacturer or distributor, or as otherwise provided in this section; and

(B) if more than 1,000 ~~[600]~~ temporary tags are determined to be needed based on anticipated sales and growth, the total number of temporary tags needed, including the 1,000 ~~[600]~~, will be doubled;

(2) 300 temporary tags for a nonfranchised dealer per each tag type, buyer's temporary tags, agent temporary tags, and vehicle specific tags, unless the dealer provides credible information indicating that a greater number of tags is warranted based on anticipated sales as otherwise provided in this section; and

(3) A converter will be allocated 600 temporary tags, unless the converter provides credible information indicating that a greater number of tags is warranted based on anticipated sales, including information from the manufacturer or distributor, or as otherwise provided in this section.

(g) An existing dealer or converter that is:

(1) 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;

(2) opening an additional location will receive a maximum allotment of temporary tags based on the greater of the allotment provided to existing locations, including franchised dealers opening additional locations for different line makes, or the amount under subsection (f) of this section;

(3) purchased as a buy-sell ownership agreement will receive the maximum allotment of temporary tags provided to the location being purchased and not be allocated temporary tags under subsection (f) of this section; and

(4) inherited by will or laws of descent will receive the maximum allotment of temporary tags provided to the location being inherited and not be allocated temporary tags under subsection (f) of this section.

(h) A new dealer or converter may also provide credible information supporting a request for additional temporary tags to the amount allocated under subsection (f) of this section based on:

(1) franchised dealer, manufacturer, or distributor sales expectations;

(2) a change in license required by death or retirement, except as provided in subsection (g) of this section;

(3) prior year's sales by a dealership moving into the state; or

(4) other similar change of location or ownership that indicates some continuity in existing operations.

(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. Allocation of additional temporary tags under this paragraph does not limit the dealer's or converter's ability to submit additional requests for more temporary tags.

(4) If a request is denied, the denial will be sent to the dealer or converter by email to the requestor's email address [a dealer or converter may appeal the denial to the Director of the Motor Vehicle Division whose decision is final].

(A) A dealer or converter may appeal the denial to the Motor Vehicle Division Director. [The denial will be sent to the license holder by email to the email used by the license holder in the request.]

(B) The appeal must be requested though the eLICENSING system within 15 ~~[40 business]~~ days of the date the department emailed the denial to the dealer or converter [the denial being sent to the department though the eLICENSING system].

(C) The appeal may discuss information provided in the request but may not include additional information.

(D) The Motor Vehicle Division Director will review the submission and any additional statements concerning the information submitted in the original request and render an opinion within 15 ~~[40 business]~~ days of receiving the appeal. The Motor Vehicle Division Director may decide to deny the request and issue no additional tags ~~[,]~~ or award an amount of additional temporary tags that is lesser, equal to, or greater than the request.

(E) The requesting dealer or converter ~~[license holder]~~ will be notified as follows:

(i) If the Motor Vehicle Division Director ~~[director]~~ decides [has decided] to deny the appeal, the department will contact the license holder [will be contacted] by email regarding the decision and options to submit a new request with additional relevant credible supporting documentation or to pursue a claim in district court; or

(ii) If the Motor Vehicle Division Director awards [has decided to award] an amount of additional temporary tags that is lesser, equal to, or greater than the request, the additional temporary tags will be added to the dealer's or converter's [license holders] account and the license holder will be contacted by email regarding the decision, informed that the request has not been denied, and options ~~[the license holder has]~~ to submit a new request.

(5) The Motor Vehicle Division Director's decision on appeal is final.

(6) ~~[(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 a [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 temporary [dealer or converter] tag allotments from a calendar year do not roll over to subsequent years.

§215.154. Dealer's Temporary Tags.

(a) A dealer's temporary tag may be displayed only on the type of vehicle for which the GDN is issued and for which the dealer is licensed by the department to sell or lease.

(b) A wholesale motor vehicle auction license holder that also holds a dealer GDN may display a dealer's temporary tag on a vehicle that is being transported to or from the licensed auction location.

(c) When an unregistered vehicle is sold to another dealer, the selling dealer shall remove the selling dealer's temporary tag. The purchasing dealer may display its dealer's [dealer] temporary tag or its [metal] dealer's standard or personalized prestige license plate on the vehicle.

(d) A dealer's temporary tag:

(1) may be displayed on a vehicle only as authorized in Transportation Code §503.062; and

(2) may not be displayed on:

(A) a laden commercial vehicle being operated or moved on the public streets or highways;

(B) on the dealer's service or work vehicles as described in §215.138(d) of this chapter (relating to Use of Dealer's License Plates);

(C) a golf cart as defined under Transportation Code Chapter 551; or

(D) an off-highway vehicle as defined under Transportation Code Chapter 551A.

~~[(e) For purposes of this section, a dealer's service or work vehicle includes:]~~

~~[(1) a vehicle used for towing or transporting other vehicles;]~~

~~[(2) a vehicle, including a light truck, used in connection with the operation of the dealer's shops or parts department;]~~

~~[(3) a courtesy car on which a courtesy car sign is displayed;]~~

~~[(4) a rental or lease vehicle; and]~~

~~[(5) any boat trailer owned by a dealer or manufacturer that is used to transport more than one boat.]~~

(e) ~~[(f)]~~ For purposes of subsection (d) of this section, a vehicle bearing a dealer's temporary tag is not considered a laden commercial vehicle when the vehicle is:

(1) towing another vehicle bearing the same dealer's temporary tags; and

(2) both vehicles are being conveyed from the dealer's place of business to a licensed wholesale motor vehicle auction or from a licensed wholesale motor vehicle auction to the dealer's place of business.

~~[(g) As used in this section, "light truck" has the meaning assigned by Transportation Code, §541.201.]~~

(f) ~~[(h)]~~ A dealer's temporary tag may not be used to operate a vehicle for the personal use of a dealer or a dealer's employee.

(g) ~~[(i)]~~ A dealer's temporary tag must show its expiration date, which must not exceed 60 days after the date the temporary tag was issued.

(h) ~~[(j)]~~ A dealer's temporary tag may be issued by a dealer to a specific motor vehicle in the dealer's inventory or to a dealer's agent who is authorized to operate a motor vehicle owned by the dealer.

(i) ~~[(k)]~~ A dealer that issues a dealer's temporary tag to a specific vehicle must ensure that the following information is placed on the temporary tag:

(1) the vehicle-specific number from the temporary tag database;

(2) the year and make of the vehicle;

(3) the VIN of the vehicle;

(4) the month, day, and year of the temporary tag's expiration; and

(5) the name of the dealer.

(j) ~~[(h)]~~ A dealer that issues a dealer's temporary tag to an agent must ensure that the following information is placed on the temporary tag:

(1) the specific number from the temporary tag database;

(2) the month, day, and year of the temporary tag's expiration; and

(3) the name of the dealer.

§215.155. Buyer's Temporary Tags.

(a) A buyer's temporary tag may be displayed only on a vehicle; ~~[from the seller's inventory that can be legally operated on the public streets and highways and for which a sale has been consummated:]~~

(1) from the selling dealer's inventory; and

(2) that can be legally operated on the public streets and highways; and

(3) for which a sale or lease has been consummated; and

(4) that has a valid inspection in accordance with Transportation Code Chapter 548, unless:

(A) an inspection is not required under Transportation Code §503.063(i) or (j); or

(B) the vehicle is exempt from inspection under Chapter 548.

(b) A buyer's temporary tag must be issued and provided to the buyer of a vehicle that is to be titled but not registered but the temporary tag must not be displayed on the vehicle.

~~[(b) A buyer's temporary tag may be displayed only on a vehicle that has a valid inspection in accordance with Transportation Code Chapter 548, unless:]~~

~~[(1) an inspection is not required under Transportation Code §503.063(i) or (j); or]~~

~~[(2) the vehicle is exempt from inspection under Chapter 548.]~~

(c) For a wholesale transaction, the purchasing dealer places on the motor vehicle its own:

- (1) dealer's temporary tag; or
- (2) ~~[metal]~~ dealer's license plate.

(d) A buyer's temporary tag is valid until the earlier of:

- (1) the date on which the vehicle is registered; or
- (2) the 60th day after the date of purchase.

(e) The dealer ~~[,]~~ or ~~[federal, state, or local]~~ governmental agency, must ensure that the following information is placed on a buyer's temporary tag ~~[that the dealer issues]:~~

- (1) the vehicle-specific number obtained from the temporary tag database;
- (2) the year and make of the vehicle;
- (3) the VIN of the vehicle;
- (4) the month, day, and year of the expiration of the buyer's temporary tag; and
- (5) the name of the dealer or ~~[federal, state, or local]~~ governmental agency.

(f) A dealer shall charge a buyer a fee of \$5 for the buyer's temporary tag or Internet-down buyer's temporary tag issued, unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. ~~[A federal, state, or local governmental agency may charge a buyer a fee of \$5 for the buyer's temporary tag or Internet-down buyer's temporary tag issued, unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456]. A dealer shall remit the fee [shall be remitted by a dealer] to the county [in conjunction] with the title transfer application [, and, if collected, by a federal, state, or local governmental agency, to the county,] for deposit to the credit of the Texas Department of Motor Vehicles fund. If [, unless] the vehicle is sold by a dealer to an out-of-state resident [, in which case]:~~

(1) the dealer shall remit the entire fee to the department for deposit to the credit of the Texas Department of Motor Vehicles fund if payment is made through the department's electronic title system; or

(2) the dealer shall remit the fee to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

(g) A governmental agency may charge a buyer a fee of \$5 for the buyer's temporary tag or Internet-down buyer's temporary tag issued, unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. If collected by a governmental agency, the fee must be sent to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

§215.160. Duty to Identify Motor Vehicles Offered for Sale as Rebuilt.

(a) For each motor vehicle a dealer displays or offers for retail sale and which the dealer knows has been a salvage motor vehicle as defined by Transportation Code, §501.091(15) and a regular title subsequently issued under Transportation Code, §501.100, a dealer shall disclose in writing that the motor vehicle has been repaired, rebuilt, or reconstructed and issued a title under Transportation Code, §501.100. The written disclosure must:

(1) be visible from outside of the motor vehicle; and

(2) contain lettering that is reasonable in size, stating as follows: "This motor vehicle has been repaired, rebuilt or, reconstructed after formerly being titled as a salvage motor vehicle."

(b) Upon the sale of a motor vehicle which has been a salvage motor vehicle as defined by Transportation Code, §501.091(15) and a regular title subsequently issued under Transportation Code, §501.100, a dealer shall obtain the purchaser's signature on the vehicle disclosure form or on an acknowledgement written in fourteen ~~[eleven]~~ point or larger font that states as follows: "I, (name of purchaser), acknowledge that at the time of purchase, I am aware that this vehicle has been repaired, rebuilt, or reconstructed and was formerly titled as a salvage motor vehicle."

(c) The purchaser's acknowledgement as required in subsection (b) of this section may be incorporated in a Buyer's Order, a Purchase Order, or other disclosure document. This disclosure requires ~~[does not require]~~ a separate signature.

(d) An original signed acknowledgement or vehicle disclosure form required by subsection (b) of this section ~~[or a signed vehicle disclosure form]~~ shall be given to the purchaser and a copy of the signed acknowledgement or vehicle disclosure form shall be retained by the dealer in the records of motor vehicles sales required by §215.144 of this title (relating to Vehicle Records). If the acknowledgement is incorporated in a Buyer's Order, a Purchase Order, or other disclosure document, a copy of that document must be given to the purchaser and a copy retained in the dealer's records in accordance with §215.144.

(e) This section does not apply to a wholesale motor vehicle auction.

§215.161. Licensing Education Course Provider Requirements.

(a) A motor vehicle dealer licensing education course provider must be a Texas institution of higher education, as defined by Education Code, §61.003, or a motor vehicle trade association domiciled in this state.

(b) The licensing education course must be approved by the department and must include information on the laws and rules applicable to motor vehicle dealers and the consequences of violating those laws and rules.

(c) The licensing education course must consist of at least 6 hours of online instruction for new applicants and 3 hours of online instruction for renewal applicants.

(d) The cost for the licensing education course must not exceed \$150 per person. A trade association course provider may not charge a different rate to a nonmember.

(e) The course provider must issue a certificate of completion to each person who successfully completes the licensing education course.

(f) The dealer training provided by the department is not an approved licensing education course under this section.

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 December 14, 2023.

TRD-202304787



SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

43 TAC §215.146

STATUTORY AUTHORITY. The department proposes a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, § 503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes repeals under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition

tion to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. This repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.146. *Metal Converter's License Plates.*

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

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Texas Department of Motor Vehicles

Earliest possible date of adoption: January 28, 2024

For further information, please call: (512) 465-4160



SUBCHAPTER E. LESSORS AND LEASE FACILITATORS

43 TAC §§215.171, 215.173 - 215.180

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement

with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, § 503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed revisions would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters Occupations Code, Chapters 53, 55, 2301, and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.171. Purpose and Scope.

This subchapter implements Occupations Code, Chapter 2301 [and more] specifically, §§2301.251, 2301.253, 2301.254, 2301.261, 2301.262, 2301.357, and Subchapter L. Vehicle Lessors and Vehicle Lease Facilitators [2301.551 - 2301.556], and Transportation Code Chapters 1001 - 1005.

§215.173. License.

(a) No person may engage in business as a vehicle lessor or a vehicle lease facilitator unless that person holds a valid license issued by the department[,] or is [otherwise] exempt [by law] from obtaining such a license under Occupations Code §2301.254.

(b) Any person who facilitates vehicle leases on behalf of a vehicle lease facilitator must:

(1) be on the vehicle lease facilitator's payroll and receive compensation from which social security, federal unemployment tax, and all other appropriate taxes are withheld from the representative's paycheck and paid to the proper taxing authority; and

(2) have work details such as when, where, and how the final results are achieved, directed, and controlled by the vehicle lease facilitator.

§215.174. Application for a License.

(a) An applicant for a vehicle lessor's or vehicle lease facilitator's license must submit a sufficient application to the department as required under §215.83 of this title (relating to License Applications, Amendments, or Renewals). To be sufficient, the application must be on a form prescribed by the department, [and] accompanied by all required supporting documentation, and required fees, and submitted to the department electronically in a system designated by the department for licensing.

(b) A license holder renewing or amending a license must verify current license information, provide related information and documents for any new requirements or changes to the license, and pay required fees.

(c) An applicant for a new license must register for an account in the department-designated licensing system by selecting the licensing system icon on the dealer page of the department website. An applicant must designate the account administrator and provide the name and email address for that person, and provide the business telephone number, name, business type, and social security number or employer identification number, as applicable. The applicant's licensing account administrator must be an owner, officer, manager, or bona fide employee.

(d) Once registered, an applicant may apply for a new license and must provide the following:

(1) type of license requested;

(2) business information, including the name, physical and mailing addresses, telephone number, Secretary of State file number (if applicable), and website address (if applicable);

(3) contact name, email address, and telephone number of the person submitting the application;

(4) contact name, email address, and telephone number of a person who can provide information about business operations and the motor vehicle services offered;

(5) the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a publicly traded company;

(6) the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

(7) the name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

(8) criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location;

(9) military service status;

(10) licensing history required to evaluate fitness for licensure under §215.89 of this title (relating to Fitness);

(11) signed Certification of Responsibility, which is a form provided by the department; and

(12) any other information required by the department to evaluate the application under current law and board rules.

(e) [(b)] The supporting documentation for a vehicle lessor's license application shall include a legible and accurate electronic image of each applicable required document:

(1) Certificate of incorporation, registration, or formation filed with the Texas Secretary of State [verification of the criminal background of each owner and officer of the applicant, if applicable];

(2) at least one of the following current identity documents for each natural person listed in the application:

(A) driver license;

(B) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code Chapter 521, Subchapter E;

(C) license to carry a handgun issued by the Texas Department of Public Safety under Government Code Chapter 411, Subchapter H;

(D) passport; or

(E) United States military identification card

[(2) the fee required by law for each type of license required];

(3) a copy of each assumed name certificate on file with the appropriate recording entity, such as the Office of the Secretary of State or the county clerk;

(4) a sample copy of the vehicle lease agreement between the vehicle lessor and a lessee;

(5) a sample copy of the required fee disclosure statement regarding fees paid by the vehicle lessor to a vehicle lease facilitator for the facilitation of a vehicle lease or a statement that no such fees were or will be paid;

(6) a list including the business name(s), DBA(s), and addresses of lease facilitators with whom the applicant conducts or intends to conduct business;

(7) a list of other satellite offices that conduct business in the State of Texas that includes the address, phone number, and name of the contact person for each location;[-]

(8) if a vehicle lessor does not deal directly with the public to execute vehicle leases and has a licensed location in another state, a vehicle lessor must provide the jurisdiction name, licensed business address, and license number for each location that leases a motor vehicle to a Texas resident; and

(9) any other information required by the department to evaluate the application under current law and board rules.

(f) [(e)] The supporting documentation for a vehicle lease facilitator's license application shall include a legible and accurate electronic image of each applicable required document:

(1) Certificate of incorporation, registration, or formation filed with the Texas Secretary of State [verification of the criminal background of each owner and officer of the applicant, if applicable];

(2) at least one of the following current identity documents for each natural person listed in the application:

(A) driver license;

(B) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code Chapter 521, Subchapter E;

(C) license to carry a handgun issued by the Texas Department of Public Safety under Government Code Chapter 411, Subchapter H;

(D) passport; or

(E) United States military identification card

[(2) the fee required by law for each type of license required];

(3) a copy of each assumed name certificate on file with the appropriate recording entity, such as the Office of the Secretary of State or the county clerk;

(4) a sample copy of the vehicle lease agreement between each of the lessors the lease facilitator represents, and the lessee;

(5) a sample copy of the required fee disclosure statement regarding fees paid by a vehicle lessor to the vehicle lease facilitator for the facilitation of a vehicle lease or a statement that no such fees were or will be paid;

(6) a list of all vehicle lessors, including names and addresses, for whom any vehicle lease facilitator solicits or procures a lessee; [- The vehicle lease facilitator shall update the list upon renewal of a license and within 10 days of the addition of any vehicle lessor to this list; and]

(7) a copy of the representation agreement between the vehicle lease facilitators and each lessor; and [-]

(8) any other information required by the department to evaluate the application under current law and board rules.

(g) An applicant operating under a name other than the applicant's business name shall use the name under which the applicant is authorized to do business, as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant on the application using the letters "DBA." The applicant may not use a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public.

(h) During the term of a license, a vehicle lessor must add, delete, or update the previously submitted list of lease facilitators and a lease facilitator must add, delete, or update the previously submitted list of new vehicle lessors within 10 days by electronically submitting a license amendment in the system designated by the department for licensing.

§215.175. Sanctions.

(a) The board or department may:

(1) deny a vehicle lessor or vehicle lease facilitator application;

(2) revoke or suspend a vehicle lessor or vehicle lease facilitator license; or

(3) assess a civil penalty or take other action on a vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or vehicle lease facilitator license is required.

(b) The board or department may take action described in subsection (a) of this section if a vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or vehicle lease facilitator license is required:

(1) fails to maintain an established and permanent place of business required by §215.177 of this title (relating to Established and Permanent Place of Business);

(2) fails to maintain records required under this subchapter;

(3) refuses or fails to comply with a request by a representative of the department to examine during the vehicle lessor's or vehicle lease facilitator's posted business hours at the vehicle lessor's or vehicle lease facilitator's licensed location:

(A) a vehicle leasing record required to be maintained by §215.178 of this title (relating to Records Required for Vehicle Lessors and Vehicle Lease Facilitators);

(B) ownership papers for a vehicle owned, leased, or under that vehicle lessor's or vehicle lease facilitator's control; or

(C) evidence of ownership or a current premises lease agreement for the property upon which the business is located;

(4) refuses or fails to timely comply with a request for records made by a representative of the department;

(5) fails to notify the department in writing by electronically submitting a license amendment in the system designated by the department for licensing within 10 days of a change of the vehicle lessor or vehicle lease facilitator license holder's:

(A) mailing address;

(B) physical address;

(C) telephone number; or

(D) email address;

(6) fails to notify the department in writing by electronically submitting a license amendment in the system designated by the department for licensing within 10 days of a change of the vehicle lessor or vehicle lease facilitator license holder's name, assumed name, management, or ownership;

(7) fails to comply with the fee restrictions or other requirements under Occupations Code, §2301.357 or Chapter 2301, Subchapter L, Vehicle Lessors and Vehicle Lease Facilitators [§§2301.551 - 2301.556];

(8) fails to maintain advertisement records or otherwise fails to comply with the advertising requirements of:

(A) §215.178; or

(B) Subchapter F [H] of this chapter (relating to Advertising);

(9) violates any law relating to the sale, lease, distribution, financing, or insuring of motor vehicles;

(10) is convicted of an offense that, in accordance with Occupations Code, Chapter 53 and with §215.88 of this title (relating to Criminal Offense and Action on License), directly relates to the duties or responsibilities of the licensed occupation;

(11) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a vehicle lessor or vehicle lease facilitator license;

(12) uses or allows use of a vehicle lessor or vehicle lease facilitator license in violation of any law or for the purpose of avoiding any provision of Occupations Code, Chapter 2301; or

(13) ~~[willfully]~~ omits material information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document.

(c) The board or department may take action on a vehicle lessor's license or assess civil penalties for the vehicle lessor's failure to notify the department in writing by electronically submitting a license amendment in the system designated by the department for licensing within 10 days of any change, addition, or deletion to the list of vehicle lease facilitators with whom the vehicle lessor conducts business, including any change to a vehicle lease facilitator's mailing address, physical address, telephone number, or email address.

(d) The board or department may take action on a vehicle lease facilitator's license or assess civil penalties for the failure to notify the department in writing within 10 days by electronically submitting a license amendment in the system designated by the department for licensing of any change, addition, or deletion to the list of vehicle lessors for whom the vehicle lease facilitator conducts business, including any change to a vehicle lessor's mailing address, physical address, telephone number, or email address.

(e) The board or department may take action on a vehicle lessor's or vehicle lease facilitator's license if the vehicle lessor or vehicle lease facilitator accepts a fee from a dealer, directly or indirectly, for referring a customer who purchases or considers purchasing a motor vehicle.

§215.176. *More Than One Business Location.*

(a) A vehicle lease facilitator must be licensed separately for each business location.

(b) A vehicle lessor or vehicle lease facilitator that relocates from a point outside the limits of a municipality [city] or relocates to a point not within the limits of the same municipality [city] of the initial business location is required to obtain a new license.

(c) A vehicle lessor is required to obtain a license for the vehicle lessor's primary location. A vehicle lessor must provide the address, telephone number, and the name of a contact person for all other satellite offices that conduct business in the state of Texas.

§215.177. *Established and Permanent Place of Business Premises Requirements.*

(a) A vehicle lessor or vehicle lease facilitator operating within ~~[the State of]~~ Texas must meet the following requirements at each location where vehicles are leased or offered for lease.

(1) Physical location requirements.

(A) A vehicle lessor or vehicle lease facilitator operating within ~~[the State of]~~ Texas must be open to the public. The vehicle lessor's or vehicle lease facilitator's business hours for each day of the week must be posted at the main entrance of the office. The business telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours. The owner or an employee of the vehicle lessor or vehicle lease facilitator must be at the location during the posted business hours for the purpose of leasing vehicles. In the event the owner or an employee is not available to conduct business

during the posted business hours, a separate sign must be posted indicating the date and time such owner or employee will resume vehicle leasing operations.

(B) A vehicle lessor's or vehicle leasing facilitator's office structure must be of sufficient size to accommodate the following required equipment:

(i) a desk and two chairs from which the vehicle lessor or vehicle lease facilitator transacts business; ~~and~~

(ii) a working telephone number listed in the business name or assumed name under which the vehicle lessor or vehicle lease facilitator conducts business; and ~~[-]~~

(iii) internet access.

(C) A vehicle lessor or vehicle lease facilitator that files an application for a new license or a vehicle lessor that files an application for a satellite location must comply with the following requirements:

(i) The office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(ii) The office must comply with all applicable local zoning ordinances and deed restrictions.

(iii) The office may not be located within a residence, apartment, hotel, motel, or rooming house or building not open to the public.

(iv) The physical address of the office must be recognized by the U.S. Postal Service, ~~[-]~~ and capable of receiving U.S. mail, and have an assigned emergency services property address.

(v) The office may not be virtual or provided by a subscription for office space or office services. Access to office space or office services is not considered an established and permanent location.

(D) A portable-type office structure may qualify as an office only if the structure meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(E) One or more licensed vehicle lessors or vehicle lease facilitators, or a combination of one or more licensed vehicle lessors and vehicle lease facilitators may occupy the same business structure and conduct vehicle leasing operations in accordance with the license held by the vehicle lessor or licensed vehicle lease facilitator. Each ~~[person engaged in business as a]~~ vehicle lessor or vehicle lease facilitator must have:

(i) a separate desk from which that vehicle lessor or vehicle lease facilitator transacts business;

(ii) a separate working telephone number listed in the vehicle lessor or vehicle lease facilitator's business name or assumed name;

(iii) a separate right of occupancy that meets the requirements of this section; and

(iv) a vehicle lessor or vehicle lease facilitator license issued by the department in the name of the vehicle lessor or vehicle lease facilitator.

(F) A vehicle lease facilitator's established and permanent place of business must be physically located within ~~[the State of]~~ Texas.

(2) Business Sign requirements. A vehicle lessor or vehicle lease facilitator shall display a conspicuous and permanent business sign at the licensed location showing the name under which the vehicle

lessor or vehicle lease facilitator conducts business. Outdoor business signs must contain letters that are at least six inches in height. The business name or assumed name on the sign must be substantially similar to the name reflected on the license issued by the department. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(3) Premises lease requirements. If the premises from which a licensed vehicle lessor or vehicle lease facilitator conducts business is not owned by the license holder, the license holder must maintain for the licensed location a valid premises lease that is continuous during the period of time for which the vehicle lessor's or vehicle lease facilitator's license will be issued. The premises lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the property owner ~~[landlord]~~ of the premises and the name of the vehicle lease facilitator as the tenant or lessee of the premises;

(B) the street address or legal description of the property, provided that if only a legal description of the property is included, the applicant must attach a statement that the property description in the lease agreement is the street address identified on the application as the physical address for the established and permanent place of business; ~~and~~

(C) the signature of the property owner as the lessor and the signature of the applicant or holder as the tenant or lessee;

(D) ~~[(C)]~~ the period of time for which the premises lease is valid; ~~[-]~~ and

(E) if the lease agreement is a sublease in which the property owner is not the lessor, the applicant or holder must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the license holder is authorized to sublease the location and may operate a motor vehicle leasing business from the location.

~~[(b) A vehicle lessor that does not deal directly with the public to execute vehicle leases and whose licensed location is in another state must and meet the following requirements at each location.]~~

~~[(1) Physical location requirements.]~~

~~[(A) The vehicle lessor's office structure must be of sufficient size to accommodate the following required equipment:]~~

~~[(i) a desk and chairs from which the vehicle lessor transacts business; and]~~

~~[(ii) a working telephone number listed in the business name or assumed name under which the vehicle lessor conducts business.]~~

~~[(B) A vehicle lessor that files an application for a new license or a satellite location with a primary licensed location in another state must conform to the following requirements:]~~

~~[(i) The office must be located in a building with connecting exterior walls on all sides.]~~

~~[(ii) The office must comply with all applicable local zoning ordinances and deed restrictions.]~~

~~{(iii) The office may not be located within a residence, apartment, hotel, motel, or rooming house.}~~

~~{(iv) The physical address of the office must be recognized by the U.S. Postal Service and capable of receiving U.S. mail.}~~

~~{(C) A portable-type office structure may qualify as an office only if the structure meets the requirements of this section and is not a readily moveable trailer or other vehicle.}~~

~~{(D) More than one licensed vehicle lessor may occupy the same business structure and conduct vehicle leasing operations under different names in accordance with the license held by each vehicle lessor. Each person engaged in business as a vehicle lessor must have:}~~

~~{(i) a separate desk from which that vehicle lessor transacts business;}~~

~~{(ii) a separate working telephone number listed in the vehicle lessor's business name or assumed name;}~~

~~{(iii) a separate right of occupancy that meets the requirements of this section; and}~~

~~{(iv) a vehicle lessor license issued by the department in the name of the vehicle lessor.}~~

~~{(2) Sign requirements. An out of state vehicle lessor shall display a conspicuous and permanent sign at the licensed location showing the name under which the vehicle lessor conducts business. Outdoor signs must contain letters at least six inches in height.}~~

~~{(3) Premises lease requirements. If the out of state premises from which a licensed vehicle lessor conducts business is not owned by the license holder, the license holder must maintain a valid premises lease for the property of the licensed location. The premises lease must be continuous during the period of time for which the license will be issued. The premises lease agreement must be on a properly executed form containing at a minimum:}~~

~~{(A) the name of the landlord of the premises and the name of the licensed lessor identified as the tenant of the premises;}~~

~~{(B) the street address or legal description of the property, provided that if only a legal description of the property is included, the applicant must attach a statement that the property description in the lease agreement is the street address identified on the application; and}~~

~~{(C) the period of time for which the premises lease is valid.}~~

~~(b) [(e)] A vehicle lessor or vehicle lease facilitator shall be independent of financial institutions and dealerships in location and in business activities, unless that vehicle lessor or vehicle lease facilitator is an:~~

~~(1) employee or legal subsidiary of the financial institution or dealership; or~~

~~(2) entity wholly owned by the financial institution or dealership.~~

~~(c) [(d)] For purposes of this section, an employee is a person who meets the requirements of §215.173(b) of this title (relating to License).~~

§215.178. Records Required for Vehicle Lessors and Vehicle Lease Facilitators.

(a) Purchase and leasing records. A vehicle lessor or vehicle lease facilitator must maintain a complete record of all vehicle purchases and sales for at least one year after the expiration of the vehicle lease.

(1) Complete records [Records] reflecting vehicle lease transactions that occurred within the preceding 24 months must be maintained at the licensed location. Records for prior time periods may be kept off-site [at a location within the same county or within 25 miles of the licensed location].

(2) Within 15 days of receipt of a request [sent by mail or by electronic document transfer] from a representative of the department, a vehicle lessor or vehicle lease facilitator must deliver a copy of the specified records to the address listed in the request.

(b) Content of records for lease transaction. A complete record for a vehicle lease transaction must contain:

(1) the name, address, and telephone number of the vehicle lessor [of the vehicle subject to the transaction];

(2) the name, mailing address, physical address, and telephone number of each vehicle lessee [of the vehicle subject to the transaction];

(3) the name, address, telephone number, and license number of the lease facilitator [of the vehicle subject to the transaction];

(4) the name, work [home] address, and telephone number of each employee of the vehicle lease facilitator that handled the transaction;

(5) a complete description of the vehicle involved in the transaction, including the VIN;

(6) the name, address, telephone number, and GDN of the dealer selling the vehicle, as well as the franchised dealer license number [of the dealer] if the vehicle [involved in the transaction] is a new motor vehicle;

(7) the amount of fee paid to the vehicle lease facilitator or a statement that no fee was paid;

(8) a copy of the buyer's order and sales contract for the vehicle;

(9) a copy of the vehicle lease contract;

(10) a copy of all other contracts, agreements, or disclosures between the vehicle lease facilitator and the consumer lessee; and

(11) a copy of the front and back of the manufacturer's statement of origin, manufacturer's certificate of origin, or the title of the vehicle, as applicable [if the vehicle involved in the transaction is a new motor vehicle].

(c) Content of records for sale of leased vehicle. A vehicle lessor's complete record for each vehicle sold at the end of a lease to a lessee, a dealer, or at a wholesale motor vehicle auction must contain:

(1) the date of the purchase;

(2) the date of the sale;

(3) the VIN;

(4) the name and address of the person selling the vehicle to the vehicle lessor;

(5) the name and address of the person purchasing the vehicle from the vehicle lessor;

(6) except for a purchase or sale where the Tax Code does not require payment of motor vehicle sales tax, a tax assessor-collector receipt marked paid;

(7) a copy of all documents, forms, and agreements applicable to a particular sale, including a copy of:

- (A) the title application;
 - (B) the work-up sheet;
 - (C) the front and back of manufacturer's certificate of origin or manufacturer's statement of origin, unless the title is obtained through the electronic title system;
 - (D) the front and back of the title, unless the title is obtained through the electronic title system;
 - (E) the factory invoice;
 - (F) the sales contract;
 - (G) the retail installment agreement;
 - (H) the buyer's order;
 - (I) the bill of sale;
 - (J) any waiver;
 - (K) any other agreement between the seller and purchaser; and
 - (L) the purchaser's photo identification if sold to a lessee;
- (8) a copy of the original manufacturer's certificate of origin, original manufacturer's statement of origin, or title for motor vehicle offered for sale, or a properly stamped original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for a title transaction entered into the electronic titling system by a dealer;
- (9) the monthly Motor Vehicle Seller Financed Sales Returns, if any; and
- (10) if the vehicle sold is a motor home or a towable recreational vehicle subject to inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.
- (d) [(e)] Records of advertising. A vehicle lessor or vehicle lease facilitator must maintain a copy of all advertisements, brochures, scripts, or an electronically reproduced copy in whatever medium appropriate, of promotional materials for a period of at least 18 months. Each copy is subject to inspection upon request by [a representative of] the department at the business [of the licenseeholder] location during posted business hours.
- (1) A vehicle lessor and a vehicle lease facilitator [~~Vehicle Lessors and vehicle lease facilitators~~] must comply with all federal and state advertising laws and regulations, including Subchapter F [H] of this chapter (relating to Advertising).
- (2) A vehicle lessor's [lessor] or vehicle lease facilitator's advertising or promotional materials [facilitator] may not state or infer [in any advertisement], either directly or indirectly, that the business involves the sale of new motor vehicles.
- (c) [(d)] Title assignments. Each certificate of title, manufacturer's certificate of origin, or other evidence of ownership for a vehicle that has been acquired by a vehicle lessor for lease must be properly assigned from the seller in the vehicle lessor's name.
- (f) [(e)] Letters of representation or appointment. A letter of representation or appointment between a vehicle lessor and a vehicle lease facilitator [with whom the vehicle lessor conducts business] must be executed by both parties and maintained by each party.

(g) [(f)] Electronic records. Any record required to be maintained by a vehicle lessor or vehicle lease facilitator may be maintained in an electronic format, provided the electronic record can be printed at the licensed location or sent electronically upon department request [for the record by a representative of the department].

§215.179. *Change of Vehicle Lessor or Vehicle Lease Facilitator Status.*

(a) Change of ownership. A vehicle lessor or vehicle lease facilitator that [~~proposes to sell~~] sells or assigns [assign] to another any interest in the licensed entity, whether a corporation or otherwise, provided the physical location of the licensed entity remains the same, shall notify the department in writing within 10 days by filing an application to amend the license in the electronic system designated by the department for licensing. If the sale or assignment of any portion of the business results in a change of entity, then the purchasing or assignee entity must apply for and obtain a new license by submitting a new license application in the electronic system designated by the department for licensing. A publicly held corporation licensed as a vehicle lessor or vehicle lease facilitator needs only inform the department of a change in ownership if one person or entity acquires 10% or greater interest in the licensed entity by submitting a license amendment application in the electronic system designated by the department for licensing.

(b) Change of operating status of business location. A license holder shall obtain department approval prior to opening a satellite location or relocating an existing location, in accordance with §215.176 of this title (relating to More than One Business Location) by electronically submitting a new license application in the system designated by the department for licensing and receiving electronic notice of approval prior to relocating or opening a satellite location. A license holder must notify the department when closing an existing location or a satellite location by electronically submitting a license amendment to close the license or close the satellite location in the system designated by the department for licensing.

§215.180. *Required Notices to Lessees.*

Vehicle lessors and vehicle lease facilitators shall provide notice of the complaint procedures provided by Occupations Code, § [§] 2301.204 and Subchapter M (relating to Warranties: Rights of Vehicle Owners), [2301.601 - 2301.613] to each lessee of a new motor vehicle with whom they enter into a vehicle lease.

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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SUBCHAPTER F. ADVERTISING

43 TAC §§215.242, 215.244, 215.249, 215.250, 215.257, 215.261, 215.264, 215.268, 215.270

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution,

sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, § 503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These proposed revisions would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.242. General Prohibition.

A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading advertising. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the department to be false, deceptive, or misleading, whether herein described, shall be deemed a violation of Occupations Code, Chapter 2301 and shall also be deemed considered a violation of this rule.

§215.244. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Advertisement--

(A) An oral, written, graphic, or pictorial statement or representation made in the course of soliciting business, including, but not limited to a statement or representation:

- (i) made in a newspaper, magazine, or other publication;
- (ii) contained in a notice, sign, poster, display, circular, pamphlet, or letter;
- (iii) aired on the radio;
- (iv) broadcast on the internet or television; or
- (v) streamed via an online service.

(B) Advertisement does not include direct communication between a person or person's representative and a prospective purchaser.

(2) Advertising provision--

(A) A provision of Occupations Code, Chapter 2301, relating to the regulation of advertising; or

(B) A rule relating to the regulation of advertising, adopted pursuant to the authority of Occupations Code, Chapter 2301.

(3) Bait advertisement--An alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain a lead to a person interested in buying or leasing merchandise of the type advertised and to switch a consumer from buying or leasing the advertised product in order to sell or lease some other product at a higher price or on a basis more advantageous to the dealer.

(4) Balloon payment--Any scheduled payment made as required by a consumer credit transaction that is more than twice as large as the average of all prior scheduled payments except the down payment.

(5) Clear and conspicuous--The statement, representation, or term being disclosed is of such size, color, contrast, and audibility

and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning.

(6) Dealership addendum--A form that is displayed on a window of a motor vehicle when a [the] dealership installs special features, equipment, parts, or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a motor vehicle for delivery to a buyer.

(A) The purpose of the addendum is to disclose:

- (i) that it is supplemental;
- (ii) any added feature, service, equipment, part, or accessory, including the retail price, charged and added by the dealership;
- (iii) any additional charge to the selling price such as additional dealership markup; and
- (iv) the total dealer selling price.

(B) The dealership addendum form shall not be deceptively similar in appearance to the Monroney label, as defined by paragraph (13) [(14)] of this section.

(7) Demonstrator--A new motor vehicle that is currently in the inventory of the automobile dealership and used primarily for test drives by customers and for other purposes designated by the dealership.

(8) Disclosure--Required information that is clear, conspicuous, and accurate.

(9) Distributor Suggested Retail Price (DSRP)--means the total price shown on the Monroney Label as specified by subparagraph [sub-paragraph] (D) of paragraph (13) [(14)] of this section.

(10) Factory executive/official motor vehicle--A new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor, or their subsidiaries.

[(11) License holder--Any person required to obtain a license from the department.]

(11) [(12)] Limited rebate--A rebate that is not available to every consumer purchasing or leasing a motor vehicle because qualification for receipt of the rebate is conditioned or restricted in some manner. A rebate conditioned or restricted to purchasers who are residents of the contiguous United States is not a limited rebate.

(12) [(13)] Manufacturer's Suggested Retail Price (MSRP)--means the total price shown on the Monroney Label as specified by subparagraph [sub-paragraph] (D) of paragraph (13) of this section.

(13) [(14)] Monroney Label--The label required by the Automobile Information Disclosure Act, 15 U.S.C. §§1231 - 1233, to be affixed to the windshield or side window of certain new motor vehicles delivered to the dealer and that contains information about the motor vehicle, including, but not limited to:

(A) the retail price of the motor vehicle suggested by the manufacturer or distributor, as applicable;

(B) the retail delivered price suggested by the manufacturer or distributor, as applicable, for each accessory or item of optional equipment, physically attached to the motor vehicle at the time of its delivery to a dealer, which is not included within the price of the motor vehicle as stated in subparagraph (A) of this paragraph;

(C) the amount charged, if any, to a dealer for the transportation of the motor vehicle to the location at which it is delivered to the dealer; and

(D) the total of the amounts specified pursuant to subparagraphs (A), (B), and (C) of this paragraph.

(14) [(15)] Online service--A network that connects computer users.

(15) [(16)] Rebate or cash back--A sum of money applied to the purchase or lease of a motor vehicle or refunded after full payment has been rendered for the benefit of the purchaser.

(16) [(17)] Savings claim or discount--An offer to sell or lease a motor vehicle at a reduced price, including, but not limited to, a manufacturer's or distributor's customer rebate, a dealer discount, or a limited rebate.

(17) [(18)] Subsequent violation--Conduct that is the same or substantially the same as conduct the department has previously alleged in a notice of an opportunity to cure [an earlier communication] to be a violation of an advertising provision.

§215.249. *Manufacturer's or [distributor's] Suggested Retail Price.*

(a) Except as provided by subsection (b) of this section, the suggested retail price of a new motor vehicle advertised by a manufacturer or distributor shall include all costs and charges for the motor vehicle advertised.

(b) The following costs and charges may be excluded if an advertisement described in subsection (a) of this section clearly and conspicuously states the costs and charges are excluded:

- (1) destination and dealer preparation charges;
- (2) registration, certificate of title, license fees, or an additional registration fee, if any;
- (3) taxes; and
- (4) other fees or charges that are allowed or prescribed by law.

(c) Except as provided by this subsection, if the price of a motor vehicle is stated in an advertisement placed with local media in [the State of] Texas by a manufacturer or distributor and the names of the local dealers for the motor vehicles advertised are included in that advertisement, then the price must include all costs and charges for the motor vehicle advertised, including destination and dealer preparation charges. The only costs and charges that may be excluded from the price are:

- (1) registration, certificate of title, license fees, or an additional registration fee, if any;
- (2) taxes; and
- (3) other fees or charges that are allowed or prescribed by law.

§215.250. *Dealer Price Advertising; Savings Claims; Discounts.*

(a) When featuring a sales price of a [new or used] motor vehicle in an advertisement, the dealer must be willing to sell the motor vehicle for that featured sales price to any retail buyer. The featured sales price shall be the price before the addition or subtraction of any other negotiated items. Destination and dealer preparation charges and additional dealership markup, if any must be included in the featured sales price.

(b) The only costs and charges that may be excluded from the featured sales price are:

- (1) registration, certificate of title, or license fees;
- (2) taxes; and
- (3) other fees or charges that are expressly allowed [~~or prescribed~~] by law.

(c) A qualification may not be used when featuring a sales price for a motor vehicle such as "with trade," "with acceptable trade," "with dealer-arranged financing," "rebate assigned to dealer," or "with down payment."

(d) Advertising an "internet price," "e-price," or using similar terms that indicate or create the impression that there is a different or unique sales price for an online or internet consumer or transaction is prohibited.

(e) A savings claim or discount offer is prohibited except to advertise a new motor vehicle. No person may advertise a savings claim or discount offer on a used motor vehicle.

(f) Statements such as "up to," "as much as," and "from" shall not be used by a dealer in connection with savings claims or discount offers.

(g) The savings claim or discount offer for a new motor vehicle, when advertised by a dealer, must be the savings claim or discount available to any and all members of the buying public.

(h) If an advertisement includes a savings claim or discount offer, the amount and type of each incentive that makes up the total amount of the savings claim or discount offer must be disclosed.

(1) If a savings claim or discount offer includes only a dealer discount, that incentive must be disclosed as a deduction from the MSRP/DSRP, as applicable. The following are acceptable formats for advertising a dealer discount with and without a sales price.
Figure: 43 TAC §215.250(h)(1) (No change.)

(2) If a savings claim or discount offer includes only a customer rebate, that incentive must be disclosed as a deduction from the MSRP/DSRP, as applicable. The following are acceptable formats for advertising a customer rebate with and without a sales price.
Figure: 43 TAC §215.250(h)(2) (No change.)

(3) If a savings claim or discount offer includes both a customer rebate and a dealer discount, the incentives must be disclosed as deductions from the MSRP/DSRP, as applicable. The following are acceptable formats for advertising both a customer rebate and a dealer discount with and without a sales price.
Figure: 43 TAC §215.250(h)(3) (No change.)

(i) If a savings claim or discount offer includes an option package discount, that discount should be disclosed above, or prior to, the MSRP/DSRP, as applicable, with a total sales price of the motor vehicle before option discounts. Any additional savings or discounts should then be disclosed below the MSRP/DSRP, as applicable. The following are acceptable formats for advertising an option package discount with and without a sales price.
Figure: 43 TAC §215.250(i) (No change.)

(j) Except as provided herein, the calculation of the featured sales price or featured savings claim or discount may not include a limited rebate. A limited rebate may be advertised by providing the amount of the limited rebate and explaining the conditions or restrictions on qualification for the limited rebate in a statement below the featured sales price or featured savings claim or discount.
Figure: 43 TAC §215.250(j) (No change.)

(k) In an internet advertisement with multiple limited rebates available on an advertised new motor vehicle, a dealer may display

each limited rebate separately allowing a potential buyer to "click" on the limited rebate to view the sales price after deducting the applicable limited rebate or applicable multiple rebates.
Figure: 43 TAC §215.250(k) (No change.)

(l) If a dealer has added an option that was not obtained from the manufacturer or distributor of the motor vehicle, a dealer discount may not be advertised for that vehicle. If a dealer has added an option obtained from the manufacturer or distributor and disclosed that option and its suggested retail price on a dealership addendum, the dealer may advertise a dealer discount for that motor vehicle if the option is listed, and the difference is shown between the dealer's sales price and the MSRP/DSRP, as applicable, of the vehicle including the option obtained from the manufacturer or distributor.
Figure: 43 TAC §215.250(l) (No change.)

§215.257. *Authorized Dealer.*

The term "authorized dealer" or a similar term shall not be used unless the advertising dealer holds both a franchised dealer license and a franchised dealer GDN [~~dealer license~~] to sell the motor vehicles the dealer identifies itself as "authorized" to sell.

§215.261. *Manufacturer or [F] Distributor Sales and Wholesale Prices.*

A motor vehicle shall not be advertised for sale in any manner that creates the impression that it is being offered for sale by the manufacturer or distributor of the motor vehicle. An advertisement shall not:

(1) contain terms such as "factory sale," "fleet prices," "wholesale prices," "factory approved," "factory sponsored," "manufacturer sale," or "distributor sale";

(2) use a manufacturer's or [F] distributor's name or abbreviation in any manner calculated or likely to create an impression that the motor vehicle is being offered for sale by the manufacturer or distributor; or

(3) use any other similar terms which indicate sales other than retail sales from the dealer.

§215.264. *Payment Disclosure - Vehicle Lease.*

(a) An advertisement that promotes a consumer lease and contains the amount of any payment or that contains either a statement of any capitalized cost reduction or other payment or a statement that no payment is required at consummation or prior to consummation or delivery, if delivery occurs after consummation, must clearly and conspicuously include the following:

(1) that the transaction advertised is a vehicle lease;

(2) the total amount due at consummation or prior to consummation or delivery, if delivery occurs after consummation;

(3) the number, amount, and due date or period of scheduled payments under the vehicle lease;

(4) a statement of whether a security deposit is required; and

(5) a statement that an extra charge may be imposed at the end of the vehicle lease term where the lessee's liability, if any, is based on the difference between the residual value of the leased property and its realized value at the end of the vehicle lease term.

(b) Except for a periodic payment, a reference to a charge described in subsection (a)(2) of this section cannot be more prominently advertised than the disclosure of the total amount due at vehicle lease signing or delivery.

(c) Except for disclosures of limitations on rate information, if a percentage rate is advertised, that rate shall not be more prominently

advertised than any other disclosure or deal term [of the following disclosures in the advertisement].

- ~~[(1) Description of payments.]~~
- ~~[(2) Amount due at vehicle lease signing or delivery.]~~
- ~~[(3) Payment schedule and total amount of periodic payments.]~~
- ~~[(4) Other itemized charges that are not included in the periodic payment. These charges include the amount of any liability that the vehicle lease imposes upon the lessee at the end of the vehicle lease term.]~~
- ~~[(5) Total number of payments.]~~
- ~~[(6) Payment calculation, including:]~~
 - ~~[(A) gross capitalized cost;]~~
 - ~~[(B) capitalized cost reduction;]~~
 - ~~[(C) adjusted capitalized cost;]~~
 - ~~[(D) residual value;]~~
 - ~~[(E) depreciation and any amortized amounts;]~~
 - ~~[(F) rent charge;]~~
 - ~~[(G) total of base periodic payments;]~~
 - ~~[(H) vehicle lease term;]~~
 - ~~[(I) base periodic payment;]~~
 - ~~[(J) itemization of other charges that are a part of the periodic payment; and]~~
 - ~~[(K) total periodic payment.]~~
- ~~[(7) Early termination conditions and disclosure of charges.]~~
- ~~[(8) Maintenance responsibilities.]~~
- ~~[(9) Purchase option.]~~
- ~~[(10) Statement referencing nonsegregated disclosures.]~~
- ~~[(11) Liability between residual and realized values.]~~
- ~~[(12) Right of appraisal.]~~
- ~~[(13) Liability at the end of the vehicle lease term based on residual value.]~~
- ~~[(14) Fees and taxes.]~~
- ~~[(15) Insurance.]~~
- ~~[(16) Warranties or guarantees.]~~
- ~~[(17) Penalties and other charges for delinquency.]~~
- ~~[(18) Security interest.]~~

(d) If a vehicle lessor provides a percentage rate in an advertisement, a notice stating "this percentage may not measure the overall cost of financing this lease" shall accompany the rate disclosure. The vehicle lessor shall not use the terms "annual percentage rate," "annual lease rate," or any equivalent terms in any advertisement containing a percentage rate.

(e) A multi-page advertisement that provides a table or schedule of the required disclosures is considered a single advertisement, provided that for vehicle lease terms appearing without all of the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.

(f) A merchandise tag stating any item listed in subsection (a) of this section must comply with subsection (a)[~~(1)~~ - (~~5~~)] of this section by referring to a sign or to a display prominently posted in the vehicle lessor's place of business. The sign or display must contain a table or schedule of the required disclosures under subsection (a)[~~(1)~~ - (~~5~~)].

(g) An advertisement made through television or radio stating any item listed in subsection (a) of this section, must include the following statements:

- (1) that the transaction advertised is a vehicle lease;
- (2) the total amount due at consummation or due prior to consummation or delivery, if delivery occurs after consummation; and
- (3) the number, amount, and due date or period of scheduled payments under the vehicle lease.

(h) In addition to the requirements of subsection (g)[~~(1)~~ - (~~3~~)] of this section, an advertisement made through television or radio stating any item listed in subsection (a) of this section, must:

- (1) provide a toll-free telephone number along with a statement that the telephone number may be used by consumers to obtain the information in subsection (a) of this section; or
- (2) direct the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and the date of the publication, with a statement that the required disclosures in subsection (a) of this section are included in the advertisement.

(i) The toll-free telephone number required by subsection (h)(1) of this section shall be available for at least 10 days, beginning on the date of the broadcast. Upon request, the vehicle lessor shall provide the information in subsection (a) of this section orally or in writing.

(j) The written advertisement required by subsection (h)(2) of this section shall be published beginning at least three days before the broadcast and ending at least 10 days after the broadcast.

§215.268. Bankruptcy and Liquidation Sales.

A person who advertises a liquidation sale, auction sale, or going out of business sale shall state the correct name and permanent address of the ~~[owner of the]~~ business in the advertisement. The phrases "going out of business," "closing out," "shutting doors forever," "bankruptcy sale," "foreclosure," "bankruptcy," or similar phrases or words indicating that a business ~~[an enterprise]~~ is ceasing operation ~~[business]~~ shall not be used unless the business is closing its operations and follows the procedures required by Business and Commerce Code, Chapter 17, Subchapter F.

§215.270. Enforcement.

(a) The department may file a Notice of Department Decision against a license holder alleging a violation of an advertising provision pursuant to Occupations Code, §2301.203, provided the department can show:

(1) that the license holder who allegedly violated an advertising provision has received from the department a notice of an opportunity to cure the violation by certified mail, return receipt requested, in compliance with subsection (b) of this section; and

(2) that the license holder committed a subsequent violation of the same advertising provision.

(b) An effective notice of an opportunity to cure issued under subsection (a)(1) of this section must:

(1) state that the department has reason to believe that the license holder violated an advertising provision and must identify the provision;

(2) set forth the facts upon which the department bases its allegation of a violation; and

(3) state that if the license holder commits a subsequent violation of the same advertising provision, the department will [formally] file a Notice of Department Decision under §224.56 of this title (relating to Notice of Department Decision).

(c) As a part of the cure procedure, the department may require a license holder who allegedly violated an advertising provision to publish a retraction notice to effect an adequate cure of the alleged violation. A retraction notice must:

(1) appear in a newspaper of general circulation in the area in which the alleged violation occurred;

(2) appear in the portion of the newspaper devoted to motor vehicle advertising, if any;

(3) identify the date and the medium of publication, print, electronic, or other, in which the advertising alleged to be a violation appeared; and

(4) identify the alleged violation of the advertising provision and contain a statement of correction.

(d) A cure is made solely for the purpose of settling an allegation and is not an admission of a violation of these rules; Occupations Code, Chapter 2301; or other law.

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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For further information, please call: (512) 465-4160



SUBCHAPTER G. WARRANTY PERFORMANCE OBLIGATIONS

43 TAC §§215.201 - 215.210

STATUTORY AUTHORITY. The department proposes repeals to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board

to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes repeals under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These repeals would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.201. *Purpose and Scope.*

§215.202. *Filing of Complaints.*

§215.203. *Review of Complaints.*

§215.204. *Notification to Manufacturer, Converter, or Distributor.*

§215.205. *Mediation; Settlement.*

§215.206. *Hearings.*

§215.207. *Contested Cases: Final Orders.*

§215.208. *Lemon Law Relief Decisions.*

§215.209. *Incidental Expenses.*

§215.210. *Compliance with Order Granting Relief.*

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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SUBCHAPTER G. ADMINISTRATIVE SANCTIONS

43 TAC §215.500

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation

Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These amendments would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§215.500. *Administrative Sanctions [and Procedures].*

[(a)] An administrative sanction may include:

- (1) denial of an application for a license;
- (2) suspension of a license;
- (3) revocation of a license;
- (4) the imposition of civil penalties; or
- (5) a refund under §215.504 of this title (relating to Buyer [concerning buyer] or Lessee Refund [lessee refund]).

[(b)] The department shall issue and mail a Notice of Department Decision to a license applicant, license holder, or other person by certified mail, return receipt requested, to the last known address upon a determination under Occupations Code, Chapters 2301 and 2302 or Transportation Code, Chapter 503 that:]

- [(1)] an application for a license should be denied; or]
- [(2)] administrative sanctions should be imposed.;

[(c)] The last known address of a license applicant, license holder, or other person is the last mailing address provided to the

department when the license applicant applies for its license, when a license holder renews its license, or when the license holder notifies the department of a change in the license holder's mailing address.}]

[(d) The Notice of Department Decision shall include:}]

[(1) a statement describing the department decision and the effective date;}]

[(2) a description of each alleged violation;}]

[(3) a description of each administrative sanction being adopted;}]

[(4) a statement regarding the legal basis for each administrative sanction;}]

[(5) a statement regarding the license applicant, license holder, or other person's right to request a hearing;}]

[(6) the procedure to request a hearing, including the deadline for filing; and}]

[(7) notice to the license applicant, license holder, or other person that the adopted decision and administrative sanctions in the Notice of Department Decision will become final on the date specified if the license applicant, license holder, or other person fails to timely request a hearing.}]

[(e) The license applicant, license holder, or other person must submit, in writing, a request for a hearing under this section. The department must receive a request for a hearing within 26 days of the date of the Notice of Department Decision.}]

[(f) If the department receives a timely request for a hearing, the department will set a hearing date and give notice to the license applicant, license holder, or other person of the date, time, and location of the hearing.}]

[(g) If the license applicant, license holder, or other person does not make a timely request for a hearing or enter into a settlement agreement within 27 days of the date of the Notice of Department Decision, the department decision becomes final.}]

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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Laura Moriaty

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Texas Department of Motor Vehicles

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SUBCHAPTER I. PRACTICE AND PROCEDURE FOR HEARINGS CONDUCTED BY THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

43 TAC §§215.301 - 215.303, 215.305 - 215.308, 215.310,
215.311, 215.314 - 215.317

STATUTORY AUTHORITY. The department proposes repeals to Chapter 215 under Occupations Code, §2301.151, which

gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, § 503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes repeals under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These repeals would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

- §215.301. *Purpose and Scope.*
- §215.302. *Conformity with Statutory Requirements.*
- §215.303. *Application of Board and SOAH Rules.*
- §215.305. *Filing of Complaints, Protests, and Petitions; Mediation.*
- §215.306. *Referral to SOAH.*
- §215.307. *Notice of Hearing.*
- §215.308. *Reply to Notice of Hearing and Default Proceedings.*
- §215.310. *Issuance of Proposals for Decision and Orders.*
- §215.311. *Amicus Briefs.*
- §215.314. *Cease and Desist Orders.*
- §215.315. *Statutory Stay.*
- §215.316. *Informal Disposition.*
- §215.317. *Motion for Rehearing.*

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Laura Moriaty

General Counsel

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SUBCHAPTER J. ADMINISTRATIVE SANCTIONS

43 TAC §§215.501, 215.502, 215.505

STATUTORY AUTHORITY. The department proposes repeals to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on

probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, § 503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes repeals under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These repeals would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

- §215.501. *Final Decisions and Orders; Motions for Rehearing.*
- §215.502. *Judicial Review of Final Order.*
- §215.505. *Denial of Dealer or Converter Access to Temporary Tag System.*

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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Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

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CHAPTER 217. VEHICLE TITLES AND REGISTRATION

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §217.56

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes to amend 43 Texas Administrative Code (TAC) Subchapter B, Motor Vehicle Registration, §217.56 concerning vehicle registration reciprocity agreements. The amendments are necessary to incorporate by reference the current edition of the International Registration Plan (IRP) dated January 1, 2022. The amendments are also necessary to clarify language, to make the terminology consistent with other department rules, to delete certain language regarding the process for an appeal under §217.56, and to refer to proposed new Chapter 224 of this title (relating to Adjudicative Practice and Procedure) for an appeal of the department's decision against a vehicle registrant regarding an assessment, cancellation, or revocation under §217.56. In this issue of the *Texas Register*, the department is proposing new Chapter 224, which would include all department adjudicative practice and procedure rules.

EXPLANATION.

Proposed amendments to §217.56(c)(2)(B) would incorporate by reference the current edition of IRP dated January 1, 2022. Texas is bound by IRP, which is a vehicle registration reciprocity agreement between the 48 contiguous states, the District of Columbia, and the Canadian provinces. Section 217.56 must incorporate the latest edition of IRP because it contains language regarding the nature and requirements of vehicle registration under IRP. Texas is a member of IRP, as authorized by Transportation Code, §502.091 and 49 U.S.C. §31704, and must comply with the current edition of IRP. The jurisdictions that are members of IRP amended the January 1, 2021, edition of IRP as follows to create the January 1, 2022, edition: added Section 601 (Uploading Data to the Repository), amended Section 1505 (Amendment Introduction Process), amended Section 1515 (Ballot Process), and amended Section 1520 (Effective Date of Plan Amendments).

A proposed amendment to §217.56(c)(2)(J) would replace the current catch line for subparagraph (J) to provide a better description of the contents of subparagraph (J). A proposed amendment to §217.56(c)(2)(J)(ii) would change the word "ruling" to "decision" to be consistent with other department rules. Proposed amendments to §217.56(c)(2)(J)(iii) would ref-

erence proposed new §224.122 of this title (relating to Appeal of Decision Regarding Assessment, Cancellation, or Revocation Under §217.56), which would prescribe the requirements for a vehicle registrant that wants to appeal a decision against the registrant under subparagraph (J) of an assessment (a financial penalty under §217.56(c)(2)(G)) or a cancellation or revocation of the registrant's apportioned registration under IRP. Proposed amendments to §217.56(c)(2)(J)(iii) would also add a citation to Transportation Code, Chapter 502 and proposed new Chapter 224 of this title (relating to Adjudicative Practice and Procedure), which would govern an appeal under subparagraph (J). In addition, proposed amendments would delete language regarding the procedure for an appeal under current subparagraph (J), including the procedures under Chapter 206, Subchapter D of this title (relating to Procedures in Contested Cases). In this issue of the *Texas Register*, the department is proposing amendments that would repeal Subchapter D of Chapter 206 and replace it with provisions in proposed new Chapter 224.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the amendments will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Jimmy Archer, Director of the Motor Carrier Division (MCD), has determined that there will be no significant impact on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Mr. Archer has also determined that, for each year of the first five years the amended section is in effect, there are two anticipated public benefits regarding the amendments.

Anticipated Public Benefits. One public benefit anticipated as a result of the proposal is an updated rule that references the current edition of IRP. IRP governs the department's issuance of apportioned registration under IRP, so the public might need to know the current edition of IRP to review the provisions in IRP. Another public benefit is the deletion of language regarding the procedure for an appeal under current §217.56(c)(2)(J). The department's proposed new Chapter 224 would contain language regarding the adjudicative practice and procedure for all of the department's contested cases, including an appeal under §217.56(c)(2)(J). Chapter 224 would provide more information for a registrant who wants to file an appeal under §217.56(c)(2)(J), in addition to providing more clarity and consistency regarding the department's adjudicative practice and procedure for all contested cases.

Anticipated Costs To Comply With The Proposal. Mr. Archer anticipates that there will be no costs to comply with these amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by Government Code, §2006.002, the department has determined that the proposed amendments will not have an adverse economic effect on small businesses, micro-businesses, and rural communities because the amendments to the January 1, 2022, edition of IRP do not directly impact registrants under IRP.

Also, the amendments regarding an appeal under §217.56(c)(2)(J) only apply if the registrant chooses to appeal an assessment or a proposed cancellation or revocation of the registrant's apportioned registration under IRP. In addition, the proposed amendments would not change the fact that the

tinue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 295, Occupational Health, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 295" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202304723

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: December 13, 2023



Health and Human Services Commission

Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

Chapter 350, Early Childhood Intervention Services

Subchapter A General Rules

Subchapter B Procedural Safeguards and Due Process Procedures

Subchapter C Staff Qualifications

Subchapter D Case Management for Infants and Toddlers With Developmental Disabilities

Subchapter E Specialized Rehabilitative Services

Subchapter F Public Outreach

Subchapter G Referral, Pre-Enrollment, And Developmental Screening

Subchapter H Eligibility, Evaluation, And Assessment

Subchapter J Individualized Family Service Plan (IFSP)

Subchapter K Service Delivery

Subchapter L Transition

Subchapter M Child and Family Outcomes

Subchapter N Family Cost Share System

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 350, Early Childhood Intervention Services, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review

Chapter 350" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202304920

Jessica Miller

Director, Rules Coordination Officer

Health and Human Services Commission

Filed: December 20, 2023



The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

Chapter 361, Guardianship Services

Subchapter A General Provisions

Subchapter B Eligibility and Assessment of Individuals for Guardianship Services

Subchapter C Contractor Requirements

Subchapter D Records Management

Subchapter E Contract Monitoring and Compliance

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 361, Guardianship Services, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to HHSRulesCoordinationOffice@hhs.texas.gov. When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 361" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 26, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings (texas.gov).

TRD-202304921

Jessica Miller

Director, Rules Coordination Office

Health and Human Services Commission

Filed: December 20, 2023



Texas Department of Motor Vehicles

Title 43, Part 10

The Texas Department of Motor Vehicles (department) will review and consider whether to readopt, readopt with amendments, or repeal 43 Texas Administrative Code, Chapter 206, Management; Chapter 215, Motor Vehicle Distribution; and Chapter 221, Salvage Vehicle Deal-

ers. This review is being conducted pursuant to Government Code, § 2001.039.

The board will assess whether the reasons for initially adopting these rules continue to exist and whether the rules should be repealed, readopted, or readopted with amendments.

If you want to comment on this rule review proposal, submit your written comments by 5:00 p.m. CST on January 28, 2024. 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.

Proposed changes to sections of these chapters are published in the Proposed Rules section of this issue of the *Texas Register* and are open for a 30-day public comment period.

TRD-202304738

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Filed: December 14, 2023



Adopted Rule Reviews

Office of Consumer Credit Commissioner

Title 7, Part 5

The Finance Commission of Texas (commission) has completed the rule review of Texas Administrative Code, Title 7, Part 5, Chapter 85, Subchapter B, concerning Rules for Crafted Precious Metal Dealers. The rule review was conducted under Texas Government Code, §2001.039.

Before publishing notice of the review in the *Texas Register*, the Office of Consumer Credit Commissioner (OCCC) issued an informal advance notice of the rule review to stakeholders. In response to the advance notice, the OCCC received one informal precomment from an individual in the gold buying business. This precomment suggested "that the current rules be left alone" because "they seem to be sufficient."

Notice of the review of 7 TAC Chapter 85, Subchapter B was published in the October 6, 2023, issue of the *Texas Register* (48 TexReg 5827). The commission received no official comments in response to that notice. The commission believes that the reasons for initially adopting the rules contained in this subchapter continue to exist.

As a result of the rule review, the commission finds that the reasons for initially adopting the rules in 7 TAC Chapter 85, Subchapter B continue to exist, and readopts this subchapter in accordance with the requirements of Texas Government Code, §2001.039.

TRD-202304839

Matthew Nance

General Counsel

Office of Consumer Credit Commissioner

Filed: December 15, 2023



Department of State Health Services

Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts the review of the chapter below in Title 25, Part 1, of the Texas Administrative Code (TAC):

Chapter 221, Meat Safety Assurance

Subchapter A Transporting Dead Animals and Rendering

Subchapter B Meat and Poultry Inspection

Notice of the review of this chapter was published in the September 22, 2023, issue of the *Texas Register* (48 TexReg 5553). HHSC and DSHS received no comments concerning this chapter.

HHSC and DSHS have reviewed Chapter 221 in accordance with §2001.039 of the Texas Government Code, which requires state agencies to assess, every four years, whether the initial reasons for adopting a rule continue to exist. The agencies determined that the original reasons for adopting all rules in the chapter continue to exist and readopts Chapter 221. Any amendments or repeals to Chapter 221 identified by HHSC and DSHS in the rule review will be proposed in a future issue of the *Texas Register*.

This concludes HHSC's and DSHS' review of 25 TAC Chapter 221 as required by the Texas Government Code, §2001.039.

TRD-202304726

Jessica Miller

Director, Rules Coordination Office

Department of State Health Services

Filed: December 13, 2023



Texas Commission on Environmental Quality

Title 30, Part 1

The Texas Commission on Environmental Quality (TCEQ) has completed its Rule Review of 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles, as required by Texas Government Code, §2001.039. Texas Government Code, §2001.039, requires a state agency to review and consider for readoption, readoption with amendments, or repeal each of its rules every four years. TCEQ published its Notice of Intention to Review these rules in the June 30, 2023 issue of the *Texas Register* (48 TexReg 3523).

The review assessed whether the initial reasons for adopting the rules continue to exist and TCEQ has determined that those reasons exist. The rules in Chapter 114 are required to implement programs and control measures that reduce emissions from on-road motor vehicles and non-road equipment. Chapter 114 includes provisions for several major mobile-source programs implemented to meet federal Clean Air Act requirements for attainment and maintenance of the National Ambient Air Quality Standards established by the United States Environmental Protection Agency. These include the Vehicle Inspection and Maintenance Program; oxygenated fuel, low emission diesel, and regional low Reid vapor pressure fuel programs; and transportation conformity. The chapter also includes provisions for voluntary mobile-source programs that support the State Implementation Plan. These include vehicle idling restrictions, the Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program, and the Texas Emissions Reduction Plan.

Public Comment

The public comment period closed on August 1, 2023. TCEQ did not receive comments on the rules review of this chapter.

SUBCHAPTER H. ENFORCEMENT

43 TAC §§219.122, 219.124, 219.127

STATUTORY AUTHORITY.

The department proposes repeals under Transportation Code, §621.008, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 621; Transportation Code, §622.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 622, including Transportation Code, §622.051, *et seq.*, which authorize the department to issue a permit for transporting poles required for the maintenance of electric power transmission and distribution lines; Transportation Code, §623.002, which authorizes the board to adopt rules that are necessary to implement and enforce Transportation Code, Chapter 623; Transportation Code, §623.271, which authorizes the department to impose an administrative penalty or revoke an oversize or overweight permit issued under Transportation Code, Chapter 623, and states that the notice and hearing requirements under Transportation Code, §643.2525 apply to the imposition of an administrative penalty or the revocation of a permit under §623.271; Transportation Code, §623.272, which authorizes the department to impose an administrative penalty on a shipper who violates a provision under Transportation Code, §623.272 or §623.274, and states that the notice and hearing requirements under Transportation Code, §643.2525 apply to the imposition of an administrative penalty under §623.272; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department under the Transportation Code and other laws of this state.

The department also proposes repeals under Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Government Code, §2001.054, which specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license; and the statutory authority referenced throughout the preamble.

CROSS REFERENCE TO STATUTE. The repeals would implement Transportation Code, Chapters 621, 622, and 623; and Government Code, Chapter 2001.

§219.122. *Administrative Sanctions.*

§219.124. *Administrative Proceedings.*

§219.127. *Cost of Preparing Agency Record.*

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 December 14, 2023.

TRD-202304781

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: January 28, 2024

For further information, please call: (512) 465-4160

CHAPTER 221. SALVAGE VEHICLE DEALERS

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes to amend 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, §§221.1 and 221.2; Subchapter B, Licensing, §§221.11, 221.13 - 221.20; Subchapter C, Licensed Operations, §§221.41 - 221.47 and 221.49 - 221.54; Subchapter D, Records, §§221.71 - 221.73; and Subchapter F, Administrative Sanctions, §§221.111, 221.112, and 221.115. The department proposes to repeal §221.48 and Subchapter E, Administrative Procedures, §§221.91 - 221.96. The proposed amendments are necessary to modify language to be consistent with statutes and other chapters in Title 43 of the Texas Administrative Code; to clarify the purpose of a rule by amending the rule title and language; to modify language to be consistent with current practice including the use of records or electronic systems; to improve readability by use of consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions, terms, and references or other language; to delete language that is inconsistent with statute, to implement statutory changes and add conforming language; to deter fraud or abuse by expanding fingerprint requirements to salvage vehicle dealers and setting minimum standards for business operations; to clarify existing requirements; and to modernize language and improve understanding and readability. Proposed amendments would implement Senate Bill (SB) 422, 88th Legislature, Regular Session (2023), which amended Occupations Code §§55.004, 55.0041, and 55.005 affecting licensing of military service members, and would conform language with SB 604, 86th Legislature, Regular Session (2019), which eliminated salvage vehicle dealer license endorsements, and House Bill (HB) 1667, 86th Legislature, Regular Session (2019) which granted certain motor vehicle dealers the option to act as a salvage dealer.

Repeals are proposed to remove a section which duplicates §217.86 of this title and to move the adjudicative rules in Subchapter E to proposed new Chapter 224 of this title (relating to Adjudicative Practice and Procedure), which is proposed in this edition of the *Texas Register* to consolidate all department adjudicative practice and procedure rules in one chapter. Subchapter F is also proposed for relettering because the preceding subchapter is proposed for repeal.

EXPLANATION.

Subchapter A. General Provisions

Proposed conforming amendments to §221.1 would more completely describe the scope of the chapter to include holders of an independent motor vehicle dealer's general distinguishing number (GDN) issued under Transportation Code, Chapter 503, who act as salvage vehicle dealers. HB 1667, 86th Legislature, Regular Session (2019), added Occupations Code, §2302.009 and amended §2302.101, granting these dealers the ability to perform salvage activities without obtaining a salvage vehicle dealer's license, but at the same time requiring these dealers to comply with Occupations Code, Chapter 2302 requirements. For completeness, a proposed amendment would add a reference to persons exempt from licensure as Occupations Code, Chapter 2302 contains exceptions for metal recyclers, insurance companies, and used automotive recyclers licensed under Occupations Code, Chapter 2309.

The proposed amendments to §221.2 would add the following definitions for consistency: "day" in §221.2(4) to mean a calendar day, unless otherwise stated or the context clearly indicates otherwise; "director" in §221.2(6) to mean the division director that regulates the distribution and sales of motor vehicles, including any department staff to whom the director delegates any duty assigned under this chapter; and "General Distinguishing Number (GDN)" in §221.2(7) to match the definition of the same term in Occupations Code, §2301.002(17). A proposed amendment to §221.2(8) would also conform the definition of "license holder" to include an independent motor vehicle dealer GDN authorized to operate as a salvage vehicle dealer consistent with Occupations Code, §2302.009 and §2302.102. A proposed amendment to renumbered §221.2(15) would also substitute the current definition of "person" for the definition in Occupations Code, §2301.002 for consistency. The proposed amendments to §221.2 would also remove the definition of "corporation" in §221.2(4) because a special definition for corporation is unnecessary. The proposed amendments to §221.2 would remove the definition of "final order authority" in §221.2(6) because the sections of Chapter 221 that use the term "final order authority", §221.93 and §221.95, are proposed for repeal and will be incorporated into new proposed Chapter 224 of this title (relating to Adjudicative Practice and Procedure). The proposed amendments to §221.2 would also remove the definitions of "major component part," in §221.2(8) and "minor component part" in §221.2(10) because these two terms are not referenced in Chapter 221. Proposed amendments would also renumber the definitions to correspond with the proposed revisions.

Subchapter B. Licensing

The proposed amendment to § 221.11(b) would make a minor change to reflect that a motor vehicle may be either registered or titled to operate on public highways. Proposed amendments to §221.11(c) would substitute a statutory reference to a person exempt from licensure and would delete rule language that duplicates the statute to ensure consistency with any future statutory changes.

A proposed amendment to § 221.13(c) would set a fee for a salvage vehicle dealer license amendment at \$25. Occupations Code, §2302.052 assigns the board the duty of setting reasonable and necessary fees. Occupations Code, §2301.264(e) prescribes a \$25 license amendment fee for licenses issued under Occupations Code, Chapter 2301 and Transportation Code, Chapter 503. The department construes the fee amount prescribed in statute to be reasonable and necessary and proposes adopting the same fee because department resources required to process a license amendment are similar across all license types.

A proposed amendment to §221.14(a) would make a minor edit to remove redundant language. Occupations Code, §2302.103 requires an applicant to submit an application on a form prescribed by the department. Proposed amendments to §221.14(b) would update application requirements for a new salvage vehicle dealer license, license amendment, or license renewal. These proposed amendments include language consistent with current practices and new requirements to deter and prevent fraud in the application process, such as fingerprinting and site visits, that have proven to be successful in reducing fraud in the issuance of dealer GDNs, a related license type. Proposed amendments §221.14(b) would specify that the application must be on a department-approved form; completed by the applicant, license holder, or authorized repre-

sentative who is an employee, a licensed attorney, or a certified public accountant; and accompanied by the required fee from an account held by the applicant or license holder, or from a trust account of the applicant or license holder, or from a trust account of the applicant's or license holder's attorney or certified public accountant. Proposed amendments would create new §221.14(c) to modernize the application process by requiring license applications and fees to be submitted to the department electronically and paid for by credit card or electronic funds transfer. Proposed amendments would create new §221.14(d), intended to reduce application fraud by giving the department the option to require a site visit to determine whether a business location meets the requirements of Chapter 221. Proposed amendments would add new §221.14(e) to reduce application fraud by requiring salvage vehicle dealers applying for or renewing a license to comply with fingerprint requirements in §211.6 of Title 43. The proposed fingerprinting requirement would be a one-time requirement if a person maintains an active license. Proposed amendments would create new §221.14(f) to clarify that the department will not provide information regarding the status of an application, application deficiencies, or pending new license numbers to a person other than to the applicant, license holder, or authorized representative, unless the person files a written request under the Texas Public Information Act. These proposed revisions to §221.14 would provide more clarity and certainty regarding the salvage vehicle dealer license application process.

Proposed amendments to §221.15 update the information required on a salvage vehicle dealer application. Proposed new §221.15(a) would modernize the application process by requiring an applicant for a new salvage dealer license to register for an account in the online licensing system, to designate an account administrator, to provide the name and email address for that person, and to provide the business telephone number, name, business type, and social security number or employer identification number, as applicable. Proposed new §221.15(a) would specify that the applicant's license account administrator must be an owner, officer, manager, or bona fide employee to reduce fraud and increase responsiveness and accountability by the applicant.

Proposed amendments would create a new subsection §221.15(b) that would include language currently in §221.15. Proposed new §221.15(b) would require the applicant to provide the reason for the application and certain other business information. Proposed amendments to the existing language incorporated into proposed new §221.15(b) would remove surplus language and provide additional detail regarding required business information to improve the department's ability to identify fraud and investigate applicants, including clarifying that the business address is the physical address of the business, and that the following information is required: business email address; telephone number; Texas Sales Tax Identification Number; National Motor Vehicle Title Information System Identification Number (NMVTIS); and Secretary of State filing number, if applicable. Proposed amendments to the text in proposed new §221.15(b) would prohibit the business name or assumed name from being misleading to the public so that accurate information about the nature of the salvage business is disclosed to the public. Proposed amendments to the text incorporated into proposed new §221.15(b) would also require the applicant to provide an application contact name, email address, and telephone number to allow the division to contact the applicant easily and would delete the prior requirement that the

department consider the applicant's last known address as the applicant's designated mailing address to decrease misdirected mail. Additionally, proposed new §221.15(b) would consolidate previous subsections that set out separate requirements for the applicant to apply as a sole proprietor, a general partnership, or a limited partnership, limited liability company, or corporation. To allow the department to identify and investigate applicants, the proposed amendments to §221.15(b) would require the applicant to provide: the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a publicly traded company; the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity; the name, employer identification number, ownership percentage, and non-profit or publicly-traded status for each legal entity that owns the applicant in full or in part; the name, social security number, date of birth, and identity document information of at least one manager or other bona fide employee who will be present at the business location if the license holder is out of state or will not be present during business hours at the business location in Texas. To facilitate the department's evaluation of applicants and its efforts to protect the public from crime, proposed amendments to the text incorporated into new §221.15(b) would clarify that criminal history record information required for an application is criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including the offense description, date, and location. Other proposed amendments to the text incorporated into new §221.15(b) would clarify that applicants are required to provide their military service status to enable the department to determine eligibility for special licensing considerations provided under law to veterans. Proposed amendments to the text incorporated into new §221.15(b) would facilitate department investigations of applicants by clarifying the requirement for an applicant to provide information regarding previously submitted license applications, whether under this chapter or the laws of another jurisdiction, the result of previous applications, and whether the applicant 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, or has an unpaid administrative penalty. These proposed requirements in proposed new §221.15(b) are consistent with Occupations Code, §2302.104, which prescribes information that must be obtained from an applicant, and that is necessary for the department to investigate an applicant's qualifications as required under Occupations Code, §2302.105. Proposed amendments in proposed new §221.15(b) would require an applicant to provide information about each business location and business premises sufficient to demonstrate compliance with related premises rules in Chapter 221, Subchapter C. Proposed amendments in proposed new §221.15(b) would also clarify that a salvage vehicle dealer renewing or amending its license must verify its current license information and provide information for any new requirements or changes to the license.

Proposed amendments to §221.16 would require an applicant to attach a legible and accurate image of each required document to allow the department to investigate and process the application as required under Occupations Code, Chapter 2302. Proposed amendments to §221.16 would specify that required attachments include the certificate of filing, certificate of incor-

poration, or certificate of registration on file with the Secretary of State, if applicable; each assumed name certificate on file with the Secretary of State or county clerk; at least one identity document for each natural person listed in the application; documents proving premises ownership or a valid lease; business premises photos with a notarized affidavit; a Texas Use and Sales Tax Permit; a Franchise Tax Account Status issued by the Comptroller's Office, and any other documents required by the department to evaluate the application under current law and board rules. These proposed amendments would consolidate previous separate requirements for sole proprietors, general partnerships, limited partnerships, limited liability companies, and corporations. The proposed amendments to §221.16(c) would also update references to types of identification consistent with current usage and changes in statute. The proposed amendments to §§221.16(d) and (e) would clarify and add requirements that the license application includes documents proving business premises ownership or a fully executed lease or sublease agreement for the license period, and business premises photos with a notarized affidavit certifying that all premises requirements in Subchapter C are met and will be maintained during the license period. These changes are necessary to prevent and deter fraud in the application process and to improve compliance with premises requirements in Chapter 221, Subchapter C. These requirements are consistent with GDN dealer requirements, which have proven successful in preventing and deterring fraud and improving compliance with premises requirements. A proposed amendment to §221.16(h) would further authorize the department to require any other documents necessary to evaluate the application to ensure that the department can comply with its statutory duty to investigate each license application as required under Occupations Code, §2302.105.

A proposed amendment to §221.17(a) would exempt a license holder from any increased fee or penalty for failing to timely renew a license because the license holder was on active military duty. This amendment is necessary to conform to Occupations Code, §55.002.

Proposed amendments to §221.17(b) would add the phrase "military service members or" in multiple places in subparagraphs (1), (2), and (3). These proposed amendments are necessary to implement SB 422, which entitled military service members with out-of-state licenses to be eligible for special business or occupational authorization or licensing consideration that is already afforded for military spouses.

Proposed amendments in §221.17(b)(1) would delete duplicate references to Occupations Code, §55.0041 and would substitute the phrase "being stationed" for "residency" to clarify that eligibility for special licensing consideration for both the military service member and military spouse is based on the military service member being stationed in Texas rather than residing in Texas.

Three other amendments to §221.17(b)(3) are proposed to implement SB 422. Proposed amendments would change the word "may" to "shall" and add the phrase "within 30 days" to set a deadline by which the department must issue a license to a military service member or spouse. This change is necessary to implement changes to Occupations Code, §55.005(a) from SB 422, which requires a state agency to issue a license no later than the 30th day after an application is filed. Issuing a license within 30 days would also fulfill the requirement of Occupations Code, §55.0041, as amended by SB 422, which requires that the department confirm within 30 days that the military service member or military spouse is authorized to engage in the licensed

business or occupation. Another amendment to §221.17(b)(3) would add the phrase "or modified" to recognize that provisions of Occupations Code, Chapter 55 may require the department to modify standard licensing processes when processing an application for a military service member or military spouse and to clarify that the department's licensing process for military service members and military spouses will be in accordance with all Occupations Code, Chapter 55 requirements. A proposed amendment would add new §221.17(c) to clarify that the requirements and procedures authorized under Texas law do not modify or alter rights under federal law.

Proposed amendments to §§221.18(a-c) would modernize the notification requirements by specifying that a license holder notify the department if the license holder opens or closes an additional location by electronically submitting a license amendment in the department's designated licensing system. Proposed amendments to §221.18(a)(2) and §221.18(b)(2) would remove surplus language. A proposed amendment to §221.18(c) would clarify the appropriate action a license holder must take when closing a location depending on the number of locations listed in the license. A proposed amendment would add new §221.18(d) to clarify an existing requirement that a license holder must apply for a new license if the license holder is opening a new location not located in the same county.

Proposed amendments to §221.19 would update the title to reflect the scope of the section. Proposed amendments to §221.19(a) and (b) would modernize the process for requesting a license amendment by requiring the license holder to submit a license amendment application electronically in the department's designated licensing system. A proposed amendment to §221.19(a) would clarify that a license holder is required to submit a change in assumed name to the department to enable the department to investigate whether the assumed name is misleading or deceptive or otherwise violates a law or rule. Proposed amendments would add new §221.19(b)(4) to clarify that a license holder must notify the department of a change in business email address, telephone number, mailing address, or license contact so that the department can communicate with a license holder. Another proposed amendment would add §221.19(c), which would require the license holder to provide the department with any information necessary for the department to fully evaluate a license amendment to enable the department before approving to conduct a thorough and efficient investigation as required by Occupations Code, §2302.105.

Proposed amendments to §221.20(a), (d), (e), (h), and relettered (j) would simplify the language and improve readability without changing meaning. Proposed amendments to §221.20(c) would change "salvage vehicle dealer's" to "license holder's" for clarity and consistency, correct the time frame in which the department will provide notice of license expiration from 30 to 31 days consistent with Occupations Code, §2302.152, add "of expiration" to clarify a reference to a written notice, and add "license" to clarify the description of a renewal fee. A proposed amendment to §220.20(i) would add new language to clarify that a license holder who timely submits a renewal application may continue to operate under the expired license until the status of the renewal application is determined by the department in accordance with Government Code, §2001.054. The current language in §220.20(i) is relettered to §220.20(j).

Subchapter C. Licensed Operations

Proposed amendments to §221.41 would make minor changes to simplify and modernize the language to add clarity without

changing meaning. Proposed amendments to §221.41(1) would add new requirements that apply if a salvage dealer leases or subleases property for a business location. Proposed amendments to create new §§221.41(1)(D) and (E) would require a property owner signature or a signed and notarized statement from the property owner if the location is subleased and the property owner is not the lessor. The property owner statement must include the property owner's full name, email address, mailing address, and phone number and confirm that the dealer is authorized to sublease the location and to operate a salvage vehicle dealer business. These proposed changes are necessary to prevent fraud in the application process, to prevent consumer abuse, and to protect public health and safety. This provision also protects salvage vehicle dealer applicants: the department has received applications from dealers with a signed sublease who are unable to operate a business because the property owner has not authorized a dealer to operate such a business on the property.

Proposed amendments to the title and language of §221.42 would make minor wording changes to clarify and remove surplus wording.

Proposed amendments to §221.43(a) would require a salvage vehicle dealer who sells to a retail customer to be open at least four days per week for at least four consecutive hours per day and prohibit the office to be open solely by appointment. These proposed amendments would create standard minimum business hours across the industry by requiring the office of a salvage pool operator selling only to a wholesale dealer to be open at least two weekdays per week for at least two consecutive hours per day and prohibit the office to be open solely by appointment. Occupations Code, §2302.0015 requires a person to allow the department, law enforcement officers, and others to enter and inspect a business during normal business hours. Minimum normal business hours are not defined in statute or rule; therefore, these proposed amendments are necessary to establish these standards, and the board is authorized to do so under the rulemaking authority in Occupations Code, §2302.051. Proposed minimum standards for salvage vehicle dealers are consistent with current minimum requirements for GDN dealers in §215.140(1)(A) of this title and proposed minimum standards for salvage pool operators that only sell to wholesale dealers are consistent with current requirements for wholesale GDN dealers in §215.140(2) of this title. These proposed minimum hours are necessary to deter and prevent fraud in the application process, prevent consumer harm, and ensure the department and others authorized by law have access to a salvage vehicle dealer's location for inspection purposes. Proposed amendments to §221.43(c) and (d) would make minor word changes for clarity. An additional proposed amendment to §221.43(d) would give license holders more flexibility by adding options for the office telephone to be answered by the owner or a voicemail service in addition to a bona fide employee, answering service, or answering machine.

Proposed amendments to §221.44(a) would clarify that a permanent business sign must be made of durable, weather resistant material. Proposed amendments to §221.44(b) would clarify that a sign will be considered permanently mounted if it is bolted to an exterior building wall or bolted or welded to a dedicated sign pole or a sign support permanently installed in the ground. Proposed new §221.44(c) would authorize a license holder to use a temporary sign or banner if that license holder can show proof that a business sign that meets the above requirements has been ordered and provides a written statement that the busi-

ness sign will be promptly and permanently mounted upon delivery. This proposed amendment would allow a license holder to open their business without delay if all other department requirements are met. Proposed new §221.44(d) would clarify that a license holder is still responsible for ensuring that the business sign complies with applicable municipal ordinances and that any signage requirements in a lease comport with the requirements of this section.

A proposed amendment to §221.45(a) would clarify that a business must be located in a building that has a permanent roof. A proposed amendment to §221.45(c) would clarify that a business may not conduct operations in a room or building not open to the public. A proposed amendment would create new §221.45(e) to clarify that a business may not be virtual or provided by a subscription for office space or office services. A proposed amendment would create new §221.45(f) to require the physical address of a business be in Texas, recognized by the U.S. Postal Service, and have an assigned emergency services property address, to ensure that both the public and department personnel can readily locate the place of business, and confirm the municipality in which the property is located. A proposed amendment to §221.45(g) would modernize the business access requirements by requiring the business to be equipped with internet access. These amendments are consistent with minimum standards for public health and safety and business operation and are necessary to deter and prevent fraud in the licensing process.

Proposed amendments to §221.46 regarding the requirements to display a license would make minor wording changes to simplify language for clarity without changing meaning.

A proposed amendment to §221.47 would clarify that a salvage vehicle dealer must properly process vehicle records in accordance with §217.86 of this title regarding the dismantling, scrapping, or destruction of motor vehicles. The following provision, §221.48, duplicates §217.86 and is therefore proposed for repeal because it is redundant and unnecessary with the proposed addition of a citation to §217.86 in §221.47.

A proposed amendment to §221.49 would add a phrase from the title of the section to the body of the section for clarification.

Proposed amendments to §221.50(a) would clarify that a sale or transfer of a flood-damaged vehicle must be in accordance with §217.88 of this title, regarding the sale, transfer, or release of ownership of a non-repairable or salvage motor vehicle. Proposed amendments to §221.50(b) would make wording and format changes to clarify the language without changing the meaning. Proposed amendments to §221.50(c) and (d) would delete duplicative language also found in §217.88.

Proposed amendments to §221.51 would make wording changes to clarify the language and comport with current practice. Proposed amendments to §221.51(c) and (d) would remove the phrase "or any other state" to reflect that the department does not have jurisdiction over out-of-state highways. Proposed amendments to §221.51(f) would allow flexibility for a salvage vehicle dealer who offers only salvage vehicles for sale to install a conspicuous permanent sign to provide the required notice to consumers under §221.51(a) and (c). A proposed amendment to §221.51(h) would rephrase the existing requirement to recognize that a separate salvage pool license endorsement no longer exists in statute as salvage vehicle dealer license endorsements were eliminated by SB 604, 86th Legislature, Regular Session (2019).

The proposed amendment to §221.52(a) would add a reference to §217.88 of this title. A proposed amendment to §221.52(b) would remove duplicate language found in §217.88 of this title, and the remaining subsections would be relettered. A proposed change to relettered §221.52(b) would change the retention period for a copy of a purchaser's photo identification from 48 to 36 months for consistency with §217.88.

Proposed amendments to §221.53 would reference §217.88 and delete redundant language found in §217.88.

Proposed amendments to §221.54 would add "vehicle" for consistency in terminology and would add two factors the department will consider in determining whether to conduct a site visit: whether a business location fails to meet premises or operating requirements and whether records require further investigation by the department. These criteria are proposed to be added because they are indicators of fraud and consumer harm that frequently arise in complaints investigated by the department.

Subchapter D. Records

Proposed amendments to §221.71 would edit language to remove surplus language and improve grammar and clarity. A proposed amendment to §221.71(c) would modernize the rule by deleting a reference to a requestor being present at the business location and adding an option for records to be provided electronically upon request. A proposed amendment to §221.71(e) would increase the deadline from 10 days to 15 days for a salvage vehicle dealer to provide copies of requested records to the department.

Proposed amendments to §221.72 would clarify an existing requirement that a salvage vehicle dealer maintain a record of each vehicle that is dismantled, in addition to each vehicle scrapped or destroyed, and shortens the length of retention of these records from the fourth anniversary of the date the report was acknowledged as received by the department to the third anniversary for consistency with other sections. Lastly, proposed amendments to §221.72(c) would add a word and remove a comma for clarity without changing the meaning of the rule.

Proposed amendments to §221.73 would make wording changes to improve clarity and reflect current practice regarding both vehicle purchase and vehicle sales records. Proposed amendments would add references to §221.52 and §217.89 and would remove redundant language in this section, related to unnecessary descriptors including various types of photo identification. The proposed amendments to §221.73(a) would expand the list of records that may be applicable to a particular purchase or sale for clarification and consistency with other rules and because these records are necessary for the department to determine a dealer's compliance with existing laws and rules.

Subchapter E. Administrative Procedures

All sections in Subchapter E are proposed for repeal because the substance of each rule and any proposed amendments are incorporated into proposed new Chapter 224, Adjudicative Practice and Procedure, which is published in this issue of the *Texas Register*. The proposed repeal includes §§221.91-221.96.

Subchapter F. Administrative Sanctions

Proposed amendments to §221.111 would delete unnecessary phrases without changing the meaning and would update a citation to improve clarity. Additionally, proposed amendments to §221.111(a)(5-6) would remove the phrase "is unfit to hold the

licenses, is ineligible for licensure" from the factors the department considers to determine denial of licensure as that language is not found in Occupations Code, Chapter 2302.

Proposed amendments to §221.112 would delete unnecessary phrases without changing the meaning, add statutory and rule references and explanatory language for clarity, remove surplus language associated with those references, and renumber accordingly.

Proposed amendments to §221.115 would remove the language stating that the department will not refund license fees in the case of a licensure denial, suspension, or revocation and would substitute language that allows a refund with director approval unless a license application is withdrawn, denied, suspended, or revoked, or the license applicant or license holder is subject to an unpaid civil penalty imposed by a final order against the license applicant or license holder. This provision would ensure that the department receives as much of the civil penalties it assesses as possible but would also give the department flexibility to refund an application fee in other circumstances. These proposed amendments are consistent with the refund process for other license types.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the amendments will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Monique Johnston, Director of the Motor Vehicle Division (MVD), has determined that there will be no significant impact on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Ms. Johnston also determined that, for each year of the first five years the proposed amendments are in effect, several significant public benefits are anticipated, and certain applicants and license holders may incur costs to comply with the proposal. In proposing these amendments, the department prioritized the public benefits associated with reducing fraud and related crime and improving public health and safety, while carefully considering potential costs to salvage vehicle dealers consistent with board and department responsibilities.

A proposed amendment would charge a \$25 fee for a license amendment, the same amount paid by all other license holders for filing an amendment. Ms. Johnston has determined department resources to process a salvage vehicle dealer license amendment is approximately the same on average as for other dealer license types and a \$25 fee is reasonable and fair.

Proposed amendments to §§221.14, 221.15, and 221.16, may require applicants and license holders to provide more information in the application. While some applicants may be required to spend more time completing an application or providing additional information, Ms. Johnston has determined these costs will be offset by the reduced risk of license applicants and holders incurring financial penalties due to noncompliance with applicable federal, state, or local statutes or property owner requirements, which will benefit both license holders and the public. The department's civil penalty guidelines for license holders who violate statutory provisions range \$500 to \$10,000 per violation.

In proposed amendments to §221.15, an applicant or license holder may not use a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public. Ms. Johnston

estimates that a small number of current license holders may have to change a confusing, deceptive, or misleading business name or assumed name and may incur related secretary of state or county filing fees or signage cost. The Secretary of State filing fee to amend a business name is \$150. Department research suggests the cost for an exterior sign will vary between \$30 to \$167, with an average expected cost of about \$80. The department recognizes that these costs may vary widely based on business owner style and design preferences. The department's civil penalty guidelines for license holders who violate statutory provisions range \$500 to \$10,000 per violation. Ms. Johnston has determined that the signage cost will be offset by the reduced risk of these license holders incurring financial penalties due to noncompliance with laws and regulations and will benefit the public by informing the public and preventing consumer harm.

A proposed amendment to §221.14 would add fingerprint requirements for a salvage vehicle dealer license applicant and holder. Fingerprint requirements allow the department to verify the identity of license applicants, preventing fraudulent applications under false or stolen identities, while giving the department access to more accurate and comprehensive criminal history record information to use in evaluating fitness for licensure under its criminal offense guidelines in §211.3. These new fingerprint requirements benefit the public by preventing bad actors with a history of criminal offenses that directly relate to the duties and responsibilities of a license holder from obtaining licenses from the department and using those licenses to perpetrate fraudulent and criminal actions, or otherwise taking advantage of the position of trust created by the license. Ms. Johnston anticipates that there will be no additional costs on regulated persons to comply with the fingerprint requirements under this proposal as the new section does not establish fees for fingerprinting or processing criminal background checks. Fees for fingerprinting and access to criminal history reports are established by DPS under the authority of Texas Government Code Chapter 411.

Proposed amendments to §221.73 may require a salvage vehicle dealer to keep more document copies in a vehicle records file. Ms. Johnston anticipates that while most bona fide dealers already comply with these requirements, a few dealers may have to add up to four additional pages to the sales file. Department research suggests that the cost of a copy ranges from \$0.14 to \$0.22 per page. She has determined that these costs are necessary to prevent fraud and protect consumers.

Proposed changes to §221.43 requires a salvage vehicle dealer to observe minimum requirements for weekly business hours which vary based on whether a dealer sells at retail to the public or to wholesale customers. Ms. Johnston anticipates that bona fide salvage vehicle dealers exceed these minimum requirements. However, a salvage vehicle dealer may be required to establish more regular hours to comply. Ms. Johnston has determined that the minimum 16 hours per week for retail dealers and four hours per week for wholesale dealers is set so that the hiring of additional staff should not be required and that establishing minimum requirements for regular business hours is necessary to prevent fraud and ensure the public and department has access to the licensed business.

A proposed amendment would require a salvage vehicle dealer to have internet access in the office. Ms. Johnston anticipates that most bona fide salvage vehicle dealers already have access either at their office or on a mobile device. If a salvage dealer does not have access a dealer could purchase a mobile phone with a data plan. Department research suggests that this cost

ranges from \$15 to \$90 per month and that basic internet service costs \$65 per month. Ms. Johnston has determined that these requirements are reasonable minimum standards as the public and the department must be able to communicate with a license holder and these requirements are necessary to prevent fraud and consumer harm.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.

The cost analysis in the Public Benefit and Cost Note section of this proposal determined that proposed amendments may result in additional costs for a few license holders. Based on data from the Comptroller and the Texas Workforce Commission, the department estimates that most license holders are small or micro-businesses. The department has tried to minimize costs to license holders. The new proposed requirements are designed to be the minimum standards that will prevent fraud in the application process, prevent consumer abuse, and protect public health and safety. These requirements do not include requirements that will cause a license holder to incur unnecessary or burdensome costs, such as employing additional persons.

Under Government Code §2006.002, the department must perform a regulatory flexibility analysis. The department considered the alternatives of not adopting amendments, exempting small or micro-businesses, and rural community license holders from these amendments, and adopting a limited version of these amendments for these license holders. The department rejects all three options. The department reviewed licensing and enforcement records, including records for license holders whose license has been revoked and determined that small and micro-business license holders are largely the bad actors perpetrating fraud in the application process and causing consumer harm, and that rural communities are not currently affected because department records indicate that no rural community holds a salvage dealer license. The department, after considering the purpose of the authorizing statutes, does not believe it is feasible to waive or limit the requirements of the proposed amendments for small or micro-business salvage vehicle dealers. Also, Government Code §2006.002(c-1) does not require the department to consider alternatives that might minimize possible adverse impacts on small businesses, micro-businesses, or rural communities if the alternatives would not be protective of the health and safety of the state.

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 the Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed amendments and repeals are in effect, the amendments will not create or eliminate a government program; will not require the creation of new employee positions and will not require the elimination of existing employee positions; will not require an increase or decrease in future legislative appropriations to the department; will require an increase in fees paid to the department by certain license holders who are required to file a license amendment; will expand existing regulations, delete some existing regulations, and make other existing regulations more flexible as described in the explanation section of this proposal; will repeal existing regulations to improve overall organization of de-

partment rules in conjunction with other proposals published in this issue of the *Texas Register*; will not increase or decrease the number of individuals subject to the rule's applicability; and will positively affect the Texas economy by deterring fraud and preventing consumer harm.

REQUEST FOR PUBLIC COMMENT. If you want to comment on the proposal, submit your written comments by 5:00 p.m. Central Time on January 28, 2024. 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 Chapter 221 under Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a license issued under Occupations Code, Chapter 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.052, which assigns the board a duty to set reasonable and necessary application fees, license fees, renewal fees, and other fees as required to implement the chapter; Occupations Code, §2302.103, which requires a salvage vehicle dealer to apply for a license on a form prescribed by the department and pay an application fee; Occupations Code, §2302.104, which prescribes content that must be included in an application; Occupations Code, §2302.105, which requires the department to complete an investigation of the applicant's qualifications before issuing a license; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which 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. These rule revisions would implement Government Code, Chapter 411 and 2001; Occupations Code, Chapter 2302; and Transportation Code, Chapter 1002.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §221.1, §221.2

STATUTORY AUTHORITY.

The department proposes amendments to Chapter 221 under Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a license issued under Occupations Code, Chapter 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.052, which assigns the board a duty to set reasonable and necessary application fees, license fees, renewal fees, and

other fees as required to implement Chapter 2302; Occupations Code, §2302.103, which requires a salvage vehicle dealer to apply for a license on a form prescribed by the department and pay an application fee; Occupations Code, §2302.104, which prescribes content that must be included in an application; Occupations Code, §2302.105, which requires the department to complete an investigation of the applicant's qualifications before issuing a license; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department also proposes amendments under the authority of Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and to take any action that is necessary or convenient to exercise that authority; Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These rule revisions would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, 2301, and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§221.1. Purpose and Scope.

Transportation Code, §1001.002, provides that the department shall administer and enforce Occupations Code, Chapter 2302. Chapter 2302 provides that a person may not act as a salvage vehicle dealer, unless the department issues that person a salvage vehicle dealer license, or an independent motor vehicle dealer's general distinguishing number issued under Chapter 503, Transportation Code, or a person is exempt from licensure under Occupations Code, Chapter 2302. This chapter describes the procedures by which a person obtains a salvage vehicle dealer license and the rules governing how a license holder or an independent motor vehicle dealer with authority to operate as a salvage vehicle dealer, must operate, and the procedures by which the department will administer and enforce Occupations Code, Chapter 2302, and this chapter.

§221.2. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Board--The Board of the Texas Department of Motor Vehicles.

(2) Casual sale--A sale as defined by Transportation Code, §501.091.

(3) Component part--As defined by Occupations Code, §2302.251.

(4) Day--Means a calendar day unless otherwise stated or context clearly indicates otherwise. [~~Corporation--A business entity, including a corporation, or limited liability company, but not a sole proprietorship or general partnership, which has filed a certificate of formation or registration with the Texas Secretary of State.~~]

(5) Department--The Texas Department of Motor Vehicles.

(6) Director--Means the division director that regulates the distribution and sales of motor vehicles, including any department staff to whom the director delegates any duty assigned under this chapter. [~~Final order authority--The person with authority under Occupations Code, Chapter 2302, or board rules to issue a final order.~~]

(7) General Distinguishing Number (GDN)--As defined by Occupations Code, §2301.002(17).

(8) [(7)] License holder--A person that holds a salvage vehicle dealer license or an independent motor vehicle dealer GDN that authorizes the dealer to operate as a salvage vehicle dealer [~~issued by the department~~].

[(8)] Major component part--As defined by Transportation Code, §501.091.]

(9) Metal recycler--As defined by Transportation Code, §501.091.

[(10)] Minor component part--As defined by Occupations Code, §2302.251.]

(10) [(11)] Nonrepairable motor vehicle--As defined by Transportation Code, §501.091.

(11) [(12)] Nonrepairable record of title--As defined by Transportation Code, §501.091.

(12) [(13)] Nonrepairable vehicle title--As defined by Transportation Code, §501.091.

(13) [(14)] Out-of-state buyer--As defined by Transportation Code, §501.091.

(14) [(15)] Out-of-state ownership document--As defined by Transportation Code, §501.091.

(15) [(16)] Person--Has the meaning assigned by Occupations Code, §2301.002. [~~A natural person, partnership, corporation, trust, association, estate, or any other legal entity.~~]

(16) [(17)] Public highway--As defined by Transportation Code, §502.001.

(17) [(18)] Retail sale--As defined by Occupations Code, §2301.002.

(18) [(19)] Salvage motor vehicle--As defined by Transportation Code, §501.091.

(19) [(20)] Salvage record of title--As defined by Transportation Code, §501.091.

(20) [(21)] Salvage vehicle dealer--As defined by Transportation Code, §501.091.

(21) [(22)] Salvage vehicle title--As defined by Transportation Code, §501.091.

(22) [(23)] Used part--As defined by Transportation Code, §501.091.

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 December 15, 2023.

TRD-202304795

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: January 28, 2024

For further information, please call: (512) 465-4160



SUBCHAPTER B. LICENSING

43 TAC §§221.11, 221.13 - 221.20

STATUTORY AUTHORITY. The department proposes amendments to Chapter 221 under Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a license issued under Occupations Code, Chapter 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.052, which assigns the board a duty to set reasonable and necessary application fees, license fees, renewal fees, and other fees as required to implement Chapter 2302; Occupations Code, §2302.103, which requires a salvage vehicle dealer to apply for a license on a form prescribed by the department and pay an application fee; Occupations Code, §2302.104, which prescribes content that must be included in an application; Occupations Code, §2302.105, which requires the department to complete an investigation of the applicant's qualifications before issuing a license; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department also proposes amendments and under the authority of Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code,

§2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These rule revisions would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§221.11. License Required.

(a) A person must hold a salvage vehicle dealer license, or an independent motor vehicle dealer's general distinguishing number issued under Chapter 503; Transportation Code to:

- (1) act as a salvage vehicle dealer or rebuilder; or
- (2) store or display a motor vehicle as an agent or escrow agent of an insurance company.

(b) A person may not engage in the business of buying, selling or exchanging motor vehicles that can be titled or registered to operate on public highways, including selling a salvage motor vehicle that has been rebuilt, repaired or reconstructed, unless the person holds a general distinguishing number issued by the department under Transportation Code, Chapter 503.

(c) The provisions of this subchapter do not apply to a person exempt from licensure under Occupations Code, Chapter 2302.[:]

[(1) a person who purchases no more than five (5) nonrepairable or salvage motor vehicles at casual sale in a calendar year from:]

[(A) a salvage vehicle dealer; or]

[(B) an insurance company;]

[(2) a metal recycler, unless a motor vehicle is sold, transferred, released, or delivered to the metal recycler for the purpose of reuse or resale as a motor vehicle, or as a source of used parts, and is used for that purpose;]

[(3) a person who casually repairs, rebuilds, or reconstructs no more than five (5) salvage motor vehicles in the same calendar year;]

[(4) a person who is a non-United States resident who purchases nonrepairable or salvage motor vehicles for export only;]

[(5) an agency of the United States, an agency of this state, or a local government;]

[(6) a financial institution or other secured party that holds a security interest in a motor vehicle and is selling that motor vehicle in the manner provided by law for the forced sale of a motor vehicle;]

[(7) a receiver, trustee, administrator, executor, guardian, or other person appointed by or acting pursuant to the order of a court;]

[(8) a person selling an antique passenger car or truck that is at least 25 years old or a collector selling a special interest motor vehicle as defined in Transportation Code, §683.077, if the special interest vehicle is at least 12 years old; and]

[(9) a licensed auctioneer who, as a bid caller, sells or offers to sell property to the highest bidder at a bona fide auction under the following conditions:]

[(A) neither legal nor equitable title passes to the auctioneer;]

[(B) the auction is not held for the purpose of avoiding a provision of Occupations Code, Chapter 2302, or this subchapter; and]

~~[(C) the auction is conducted of motor vehicles owned, legally or equitably, by a person who holds a salvage vehicle dealer's license and the auction is conducted at their licensed location or at a location approved by the department.]~~

§221.13. License Terms and Fees.

(a) The term of a salvage vehicle dealer license issued by the department under Occupations Code, Chapter 2302, and this chapter, is two years. The fee for a salvage vehicle dealer license is \$190. The entire amount of the fee is due at the time of application for the license.

(b) The department may prorate the fee for a salvage vehicle dealer license to allow the salvage vehicle dealer license to expire on the same day as another license issued by the department under Occupations Code, Chapter 2301; Chapter 2302; or Transportation Code, Chapter 503.

(c) The fee for a license amendment is \$25.

§221.14. License Applications Generally.

(a) A salvage vehicle dealer license may be issued for multiple locations within a single county. A separate license and fee is required for a business location ~~[or locations located]~~ in another county.

(b) An application for a new license, license amendment, or license renewal filed with the department must be: ~~[A license applicant must submit a signed application on a form prescribed by the department; provide any required attachments; and remit the required fees at the time of submission of the application.]~~

(1) on a form approved by the department;

(2) completed by the applicant, license holder, or authorized representative who is an employee, a licensed attorney, or a certified public accountant; and

(3) accompanied by the required fee from an account held by the applicant or license holder, or from a trust account of the applicant's or license holder's attorney or certified public accountant.

(c) License applications and fees must be submitted to the department electronically in a system designated by the department for licensing. Fees may be paid by credit card or electronic funds transfer.

(d) In evaluating a new or renewal salvage vehicle dealer license application or an application for a new location, the department may require a site visit to determine if the business location meets the requirements in this chapter.

(e) An applicant for a salvage vehicle dealer license must also comply with fingerprint requirements in §211.6 of this title (relating to Fingerprint Requirements for Designated License Applicants and License Holders).

(f) The department will not provide information regarding the status of an application, application deficiencies, or pending new license numbers to a person other than a person listed in subsection (b)(2) of this section unless the person files a written request under Government Code, Chapter 552.

§221.15. Required License Application Information.

(a) An applicant for a new salvage dealer license must register for an account in the department-designated licensing system by selecting the licensing system icon on the dealer page of the department website. An applicant must designate the account administrator and provide the name and email address for that person, and provide the business telephone number, name, business type, and social security number or employer identification number, as applicable. The applicant's licensing account administrator must be an owner, officer, manager, or bona fide employee.

(b) Once registered, an applicant for a new salvage dealer license may apply for a license and must provide the following: [The following information must be provided on each salvage vehicle dealer application:]

(1) the application reason [full legal name of the applicant];

(2) business information including:

(A) the name, provided that the applicant may not use a name or assumed name under which the applicant is authorized to do business that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public;

(B) mailing address;

(C) [(2)] the full business physical 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;

(D) business email;

(E) telephone number;

(F) Texas Sales Tax Identification Number;

(G) National Motor Vehicle Title Information System (NMVTIS) Identification Number;

(H) Secretary of State file number, if applicable; and

(I) website address, if applicable.

(3) application contact name, email address, and telephone number [the business telephone number and email address];

(4) the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a publicly traded company [the mailing address];

(5) the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity; [a statement acknowledging that the department will consider the applicant's designated mailing address the applicant's last known address for 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) the name, employer identification number, ownership percentage, and non-profit or publicly-traded status for each legal entity that owns the applicant in full or in part; [all assumed names as registered with the secretary of state or county clerk, as applicable;]

(7) the name, social security number, date of birth, and identity document information of at least one manager or other bona fide employee who will be present at the business location if the license holder is out of state or will not be present during business hours at the business location in Texas; [if applying as a sole proprietor, the social security number, address and telephone number for the sole proprietor;]

(8) criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location; [if applying as a general part-

nership, the social security number, address and telephone number for each of the general partners;]

(9) military service status; [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;]

(10) licensing history required to evaluate business reputation, character, and fitness for licensure including a statement indicating whether the applicant or any person described in §211.2 of this title (relating to Application of Subchapter) 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 title, 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; [the state sales tax number;]

(11) information about each business location and business premises to demonstrate compliance with related rules in this chapter; [the National Motor Vehicle Title Information System (NMVTIS) number evidencing that the applicant is registered with NMVTIS;]

(12) signed Certification of Responsibility, which is a form provided by the department; and [a statement indicating whether the applicant or any person described in §211.2 of this title (relating to Application of Subchapter) 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 title, 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) any other information required by the department to evaluate the application under current law and board rules. [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 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) details of the criminal history of the applicant and any person described in §211.2 of this title;]

[(15) details of the professional information of the applicant and any person described in §211.2 of this title;]

[(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, is, and will remain in compliance with all state and federal laws relating to the licensed activity;]

(c) A salvage vehicle dealer renewing or amending its license must verify current license information and provide related information for any new requirements or changes to the license.

§221.16. Required Attachments to the License Application.

A legible and accurate electronic image of each applicable required document must be attached to the license application:

(1) the certificate of filing, certificate of incorporation, or certificate of registration on file with the Secretary of State, if applicable;

(2) each assumed name certificate on file with the Secretary of State or county clerk;

(3) at least one of the following valid and current identity documents for each natural person listed in the application:

(A) driver's license;

(B) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

(C) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(D) United States or foreign passport; or

(E) United States military identification card;

(4) documents proving business premises ownership, or a fully executed lease or sublease agreement for the license period;

(5) business premises photos and a notarized affidavit certifying that all premises requirements in Subchapter C of the chapter are met and will be maintained during the license period;

(6) Texas Use and Sales Tax Permit;

(7) Franchise Tax Account Status issued by the Comptroller's Office; and

(8) any other documents required by the department to evaluate the application under current law and board rules.

[(a) If the applicant is a sole proprietor or general partnership, in addition to the information required by §221.15 of this title (relating to Required License Application Information), the applicant must submit a legible copy of one of the following types of identification that is valid and active at the time of application for the sole proprietor and each of the general partners:]

[(1) driver's license, Department of Public Safety identification, or state identification certificate issued by a state or territory of the United States;]

[(2) concealed handgun license or license to carry a handgun issued by the Department of Public Safety under Government Code, Chapter 411, Subchapter H;]

[(3) United States or foreign passport;]

[(4) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State Identification document;]

[(5) United States military identification card; or]

[(6) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement.]

[(b) If the applicant is a limited partnership, limited liability company, or a corporation, the applicant must submit a legible copy of one of the following current types of identification that is valid and active at the time of application for each partner of the limited partnership, each member of the limited liability company, and for each officer of the corporation:]

[(1) driver's license, Department of Public Safety identification, or state identification certificate issued by a state or territory of the United States;]

[(2) concealed handgun license or license to carry a handgun issued by the Department of Public Safety under Government Code, Chapter 411, Subchapter H;]

[(3) United States or foreign passport;]

[(4) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State Identification document;]

[(5) United States military identification card; or]

[(6) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement.]

[(c) If the applicant is a corporation, the applicant must submit a copy of the certificate of incorporation issued by the secretary of state or a certificate issued by the jurisdiction where the applicant is incorporated, and a verification that, at the time the application is submitted, all business franchise taxes of the corporation have been paid.]

[(d) If the applicant is a limited partnership, the applicant must submit a copy of the certificate of partnership issued by the secretary of state or a certificate issued by the jurisdiction where the applicant is formed, and verification that, at the time the application is submitted, all business franchise taxes of the limited partnership have been paid.]

[(e) Upon request by the department, the applicant shall submit documents demonstrating that the applicant owns the real property on which the business is situated or has a written lease for the property that has a term of not less than the term of the license.]

[(f) If the applicant is a sole proprietor or general partnership, in addition to the information required by §221.15, the applicant must submit a legible copy of the Assumed Name Certificate (DBA) issued by the county clerk in which the business is located.]

[(g) If the applicant is a limited partnership, limited liability company, or a corporation, the applicant must submit a legible copy of the Assumed Name Certificate (DBA) as registered with the Texas Secretary of State's office.]

[(h) If the applicant is a sole proprietor or general partnership, in addition to the information required by §221.15, the applicant must submit a legible copy of the Texas Sales and Use Tax Permit.]

[(i) If the applicant is a limited partnership, limited liability company, or a corporation, the applicant must submit a legible copy of the Texas Sales and Use Tax Permit.]

§221.17. License Processing for Military Service Members, Spouses, and Veterans.

(a) The department will process a license, amendment, or renewal application submitted for licensing of a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient renewal application because the license holder was on active duty is exempt from any increased fee or penalty imposed by the department.

(b) A military service member or military spouse may engage in a business or occupation for which a department issued license is required if the military service member or military spouse meets the requirements of Occupations Code, §55.0041 and this section.

(1) A military service member or [To meet the requirements of Occupations Code, §55.0041, a] military spouse must submit to the department:

(A) notice of the military service member or military spouse's intent to engage in a business or occupation in Texas for which a department issued license is required;

(B) proof of the military service member being stationed [military spouse's] [residency] in Texas and a copy of the military service member or military spouse's military identification card[, as required by Occupations Code, §55.0041(b)(2)]; and

(C) documentation demonstrating that the military service member or military spouse is licensed and in good standing in another jurisdiction for the relevant business or occupation.

(2) Upon receipt of the notice and documentation required by paragraphs (1)(B) and (1)(C) of this subsection the department shall:

(A) confirm with the other licensing jurisdiction that the military service member or military spouse is currently licensed and in good standing for the relevant business or occupation; and

(B) conduct a comparison of the other jurisdiction's license requirements, statutes, and rules with the department's licensing requirements to determine if the requirements are substantially equivalent.

(3) If the department confirms that a military service member or military spouse is currently licensed in good standing in another jurisdiction with substantially equivalent licensing requirements, the department shall [may] issue a license to the military service member or military spouse for the relevant business or occupation within 30 days. The license is subject to the requirements of this chapter and Occupations Code, Chapter 2302 in the same manner as a license issued under the standard application process, unless exempted or modified under Occupations Code, Chapter 55.

(c) This section establishes requirements and procedures authorized or required by Occupations Code, Chapter 55, and does not modify or alter rights that may be provided under federal law.

§221.18. Additional, New, or Closed Location.

(a) If the license holder intends to conduct business at more than one location within the same county, the applicant must:

(1) notify the department no later than 10 days before opening the additional location by electronically submitting a license amendment application in the department-designated licensing system; [to amend the license to add an additional location;]

(2) acknowledge that the additional location[, at the time of submitting the amendment,] is and will remain in compliance with all ordinances and rules of the municipality or county for the additional location and board rules; and

(3) obtain approval from the department before conducting business at the additional location.

(b) If the license holder intends to relocate its business to a new location within the same county, the license holder must:

(1) notify the department no later than 10 days before opening the new location by electronically submitting a license amendment application in the department-designated licensing system [to amend the license] to add a new location and remove the existing location from the department's records;

(2) acknowledge that the new location[, at the time of submitting the amendment,] is and will remain in compliance with all ordinances and rules of the municipality or county for the new location and board rules; and

(3) obtain approval from the department before conducting business at the new location.

(c) A license holder must notify the department in writing within 10 days of ~~[the] closing [of] a business location by electronically submitting a license amendment application in the department-designated licensing system to delete the location if more than one location is listed on the license, or closing the license if a single location is listed on the license.~~

(d) If a license holder is opening a new location not located in the same county, the license holder must apply for a new license.

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

(a) A license holder shall notify the department by electronically submitting a license amendment application in the department-designated licensing system to amend its license within 30 days of a change in the license holder's business name or assumed name. Upon submission of an amendment to change the business name or assumed 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) of this section.

(b) A salvage vehicle dealer shall notify the department by electronically submitting a license amendment application in the department-designated licensing system [by submitting a request for license amendment] within 30 days of 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 title (relating to Application of Subchapter);

(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; or[-]

(4) a business email address, telephone number, mailing address, or change in license contact.

(c) The license holder must submit to the department ~~[a notice of change and]~~ all information required by the department to evaluate the license amendment application under current law and rules ~~[needed for that specific license modification].~~

§221.20. License Renewal.

(a) A salvage vehicle dealer license expires on the second anniversary of the date the license was issued ~~[of issuance of the salvage vehicle dealer license].~~

(b) The salvage vehicle dealer license may be renewed for an additional period of two years upon timely submission of a renewal application on a form approved by the department with all required information, attachments, and fees. A renewal application is considered "timely" submitted if the renewal application with all required information, attachments, and required fees are received by the department on or before the expiration date of the existing license.

(c) The department will send a written notice of expiration to a license holder's ~~[salvage vehicle dealer's]~~ email address at least 31 ~~[30]~~ days before expiration of a license.

(d) Failure by the department to send written notice ~~of expiration~~ under this section does not relieve a license holder from timely renewing a license.

(e) The renewal fee for salvage vehicle dealer license is \$170.

(f) A license holder may renew an expired license by submitting a renewal application and paying a late renewal fee of \$85 in addition to the renewal fee, if 90 or fewer days have elapsed since the license expired.

(g) A license holder may renew an expired license by submitting a renewal application and paying a late renewal fee of \$170 in addition to the renewal fee, if more than 90 days but less than one year has elapsed since the license expired.

(h) If a license has been expired for ~~[a period of]~~ one year or longer and the department has not received ~~[is not in receipt of]~~ a renewal application ~~[with all required information and attachments]~~, the department will close the license, and the license holder must apply for a new license ~~[in the same manner as an applicant for an initial license].~~

(i) In accordance with Government Code, §2001.054, a license holder that timely submits a renewal application under subsection (b) of this section may continue to operate under the expired license until the status of the renewal application is determined by the department.

(j) ~~[(i)]~~ If the department does not receive a timely ~~[is not in receipt of a]~~ renewal application with all required information and attachments and the applicable renewal fee on or before ~~[prior to]~~ the license expiration date ~~[cancellation date of the license]~~, a salvage vehicle dealer may not engage in the activities that require the license until the license has been renewed by the department.

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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For further information, please call: (512) 465-4160



SUBCHAPTER C. LICENSED OPERATIONS

43 TAC §§221.41 - 221.47, 221.49 - 221.54

STATUTORY AUTHORITY. The department proposes amendments to Chapter 221 under §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department also proposes amendments and under the authority of Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary

or convenient to exercise that authority; Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These new rules would implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§221.41. Location Requirements.

A salvage vehicle dealer must meet and maintain the following requirements at each licensed business location [and must maintain the following requirements] during the [entire] term of the license.

(1) If the licensed business location is not owned by the license holder, the license holder must maintain a lease that is continuous during the period of time for which the license will be issued [that extends through the period for which the license will be issued]. The lease agreement must be on a properly executed form [an executed lease contract] containing at a minimum:

(A) the name of the property owner as the lessor of the premises and the name of the dealer as the tenant or lessee of the premises [the names of the lessor and lessee];

(B) the period of time for which the lease is valid; [and]

(C) the street address or legal description of the property, provided that if only a legal description of the property is provided, the license holder must attach a statement verifying that the property description in the lease agreement is the physical street address identified on the application;[-]

(D) the signature of the property owner as the lessor and the signature of the dealer as the tenant or lessee; and

(E) if the lease agreement is a sublease in which the property owner is not the lessor, the dealer must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the dealer is authorized to sublease the location and may operate a salvage vehicle dealer business from the location.

(2) Any business location requirement in this subchapter are in addition to any requirements by municipal [city] ordinance, county rule, or state law.

§221.42. Operations Only at Licensed Business Location.

A salvage vehicle dealer may not sell or offer to sell a salvage motor vehicle [vehicles] or non-repairable motor vehicle [vehicles] from any location other than a licensed [the] business location [that has been approved by the department].

§221.43. Business Hours.

(a) The office of a salvage vehicle dealer who sells to a retail customer shall be open at least four days per week for at least four consecutive hours per day and may not be open solely by appointment. The office of a salvage pool operator selling only to a wholesale dealer must be open at least two weekdays per week for at least two consecutive hours per day and may not be open solely by appointment. The business hours must be posted at the main entrance of the business's office that is accessible to the public.

(b) The license holder or a bona fide employee of the license holder shall be at the licensed business location during the posted business hours for the purpose of operating the salvage business and allowing the inspection of the business location and records.

(c) If the license holder or a bona fide employee of the license holder is not available to conduct business during the posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time the license holder or bona fide employee of the license holder will resume operations at the licensed business location.

(d) Regardless of the license holder's business hours, the license holder's [licensee's] telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine.

§221.44. Business Sign Requirements.

(a) The license holder must display a permanent business sign with letters at least six inches in height showing the license holder's business name or assumed name as reflected on the [license holder's] license issued by the department. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(b) A business [The] sign must be permanently mounted at each physical business [the] address listed on the license. A business sign is considered permanently mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground.

(c) A license holder may use a temporary sign or banner if that license holder can show proof that a business sign that meets the requirements of this paragraph has been ordered and provides a written statement that the business sign will be promptly and permanently mounted upon delivery.

(d) A license holder is responsible for ensuring that the business sign complies with municipal ordinances, and that any lease signage requirements are consistent with the signage requirements in this section.

§221.45. Business Office.

(a) The license holder's office must be located at the licensed business [license] location in a building with a permanent roof and connecting exterior walls on all sides.

(b) A license holder's office structure must comply with all applicable local zoning ordinances and deed restrictions.

(c) A license holder's office may not be located within a residence, apartment house or building, hotel, motel, [or] rooming house, or any room or building not open to the public.

(d) A portable-type office structure may qualify as a business office only if the structure meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(e) A license holder's office may not be virtual or provided by a subscription for office space or office services.

(f) The physical address of the salvage vehicle dealer's office must be in Texas, recognized by the U.S. Postal Service, and have an assigned emergency services property address.

(g) A license holder's office must be equipped with internet access.

§221.46. *Display of License.*

At each licensed business location, a [A] license holder must continuously display [at its business location the original or copy of] the license issued by the department [at all times] in a conspicuous manner that makes the license easily readable by the public [and is displayed in a conspicuous place at each licensed business location for which the license is issued].

§221.47. *Evidence of Ownership.*

A salvage vehicle dealer must receive a properly assigned salvage vehicle title, salvage record of title, non-repairable vehicle title, non-repairable record of title, or out-of-state ownership document, as applicable, when acquiring a non-repairable motor vehicle or salvage motor vehicle in accordance with §217.86 of this title (relating to Dismantling, Scrapping, or Destruction of Motor Vehicles).

§221.49. *Unique Inventory Number.*

Occupations Code, §2302.255, sets out the requirements for a salvage vehicle dealer in assigning a unique inventory number when the salvage vehicle dealer purchases or takes delivery of a component part.

§221.50. *Restrictions on Sales of Flood Damaged Vehicles.*

(a) A motor vehicle that is [classified as] a non-repairable motor vehicle or salvage motor vehicle based solely on flood damage may be sold or transferred only as provided by this section and §217.88 of this title (relating to Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle).

(b) A salvage vehicle dealer may sell, transfer, or release a non-repairable motor vehicle or salvage motor vehicle if the salvage vehicle dealer provides [to anyone if a non-repairable or salvage vehicle title or a comparable out-of-state ownership document has been issued for the motor vehicle provided] a written disclosure [has been made] that the vehicle has been classified as a non-repairable motor vehicle or salvage motor vehicle based solely on flood damage.

~~[(c) If a non-repairable or salvage vehicle title or a comparable out-of-state ownership document has not been issued for the motor vehicle, a salvage vehicle dealer may only sell, transfer, or release a non-repairable motor vehicle or salvage motor vehicle to:]~~

~~[(1) an insurance company;]~~

~~[(2) a governmental entity;]~~

~~[(3) a licensed salvage vehicle dealer;]~~

~~[(4) an out-of-state buyer;]~~

~~[(5) a metal recycler; or]~~

~~[(6) a used automotive parts recycler, provided a written disclosure has been made that the vehicle has been classified as a non-repairable motor vehicle or salvage motor vehicle based solely on flood damage.]~~

§221.51. *Duty to Identify Motor Vehicles Offered for Sale.*

(a) A salvage vehicle dealer shall place a notice ~~[sign]~~ on each salvage motor vehicle it displays or offers for sale that:

(1) is visible from outside of the salvage motor vehicle;

(2) contains lettering that is two inches or more in height identifying the vehicle is a salvage motor vehicle; and

(3) states as follows: *"This is a salvage titled vehicle that cannot be operated on a public highway. If the salvaged vehicle is to be registered in Texas, the purchaser must apply to a county tax assessor-collector's office, surrender the salvage title, submit the required information on repairs that have been made to the vehicle and pay the applicable fees before the vehicle may be titled and/or registered to operate on the public highway."*

(b) Upon the sale of a salvage motor vehicle, a salvage vehicle dealer shall obtain the purchaser's signature to a disclosure statement written in eleven point or larger font that states as follows: *"I, (name of purchaser), acknowledge that at the time of purchase, I am aware that: the vehicle is titled on a salvage title; if I intend to operate the vehicle on a public highway in Texas, I am responsible for applying for a title for this salvage vehicle through a Texas county tax assessor-collector's office accompanied by the required forms showing that repairs have been made to the vehicle; I am responsible for paying the applicable fees; and, I may not drive this salvage vehicle on a public highway until after a titled branded rebuilt salvage and registration have been issued."*

(c) A salvage vehicle dealer shall place a sign on each non-repairable motor vehicle it displays or offers for sale that:

(1) is visible from outside of the non-repairable motor vehicle;

(2) contains lettering that is two inches or more in height; and

(3) states as follows: *"This is a non-repairable titled motor vehicle that can never be operated on a public highway of this state [or any other state]."*

(d) Upon the sale of a non-repairable motor vehicle, a salvage vehicle dealer shall obtain the purchaser's signature to a disclosure statement written in eleven point or larger font that states as follows: *"I, (name of purchaser), acknowledge that at the time of purchase, I am aware that the vehicle is a non-repairable vehicle; this vehicle will never be able to operate on a public highway of this state [or any other state] and will never be registered to operate on a public highway of this state [or any other state]; and, before selling this non-repairable vehicle I must have the non-repairable vehicle titled in my name."*

(e) A salvage vehicle dealer shall maintain a copy of the written disclosures required by this section as part of its records of sales in accordance with §221.73 of this title (relating to Content of Records).

(f) The notice requirements of subsections (a) and (c) can be met if the salvage vehicle dealer conspicuously displays a permanent sign that [single notice or notices if] all of the vehicles being offered for sale by the salvage vehicle dealer are salvage motor vehicles or non-repairable motor vehicles.

(g) If the salvage vehicle dealer conducts a sale of a salvage motor vehicle or a non-repairable motor vehicle in Spanish or other foreign language, the notices and disclosures required by this section shall be in that language.

(h) This section does not apply to a vehicle that is displayed or offered for sale by a salvage vehicle dealer who operates solely as a

salvage pool operator and only sells vehicles at wholesale [person who holds a salvage pool license on the premises of the licensed salvage pool operator].

§221.52. *Export-only Sales.*

(a) A license holder may sell a non-repairable motor vehicle or a salvage motor vehicle to a person who resides in a jurisdiction outside the United States only as provided by Transportation Code, §501.099 and §217.88 of this title (relating to Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle).

[(b) A license holder may accept any of the following types of government-issued photo identification documents to establish that the purchaser resides outside the United States:]

[(1) passport;]

[(2) driver's license;]

[(3) consular identity document;]

[(4) national identification certificate or identity document; or]

[(5) other photo identification card issued by the jurisdiction where the purchaser resides that contains the name, address, and date of birth of the purchaser.]

(b) [(e)] A legible copy of the purchaser's photo identification document must be maintained in the records of the license holder for a period of 36 [48] months after the sale of a salvage motor vehicle or a non-repairable motor vehicle for "export-only."

(c) [(d)] The limitation on the number of casual sales that may be made to a person under §221.53 of this title (relating to Casual Sales) does not apply to sales to a person who resides in a jurisdiction outside the United States and who purchases salvage motor vehicles and non-repairable motor vehicles for "export-only."

§221.53. *Casual Sales.*

(a) A license holder may not make more than five (5) casual sales of salvage motor vehicles or non-repairable motor vehicles during a calendar year to the same person.

(b) A license holder must maintain records of each casual sale made in accordance with §217.88 of this title (relating to Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle). [during the previous 36 months, as provided by §221.72 of this title (relating to Record Retention). Such records must contain the following information regarding each casual sale:]

[(1) the complete name, address and phone number of the purchaser;]

[(2) a copy of one of the following valid and current photo identification documents for the purchaser:]

[(A) driver's license, Department of Public Safety identification, or state identification certificate issued by a state or territory of the United States;]

[(B) concealed handgun license or license to carry a handgun issued by the Department of Public Safety under Government Code, Chapter 411, Subchapter H;]

[(C) United States or foreign passport;]

[(D) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State Identification document;]

[(E) United States military identification card; or]

[(F) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement; and]

[(3) the year, make, model, color and vehicle identification number for the salvage motor vehicle or non-repairable motor vehicle.]

(c) A person who purchases a salvage motor vehicle or a non-repairable motor vehicle through a casual sale may not sell that salvage motor vehicle or non-repairable motor vehicle until the salvage vehicle title, salvage record or title, non-repairable vehicle title or non-repairable record of title, as applicable, is in the person's name.

§221.54. *Criteria for Site Visits.*

In determining whether to conduct a site visit at an active salvage vehicle dealer's location, the department will consider whether the dealer has:

(1) failed to respond to a records request;

(2) failed to operate from the license location; [or]

(3) an enforcement history that reveals failed compliance inspections or multiple complaints with administrative sanctions being taken by the department;[-]

(4) a business location that fails to meet premises or operating requirements under this chapter; or

(5) records that require further investigation by the department.

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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43 TAC §221.48

STATUTORY AUTHORITY. The department proposes a repeal to Chapter 221 under §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department also proposes repeals under the authority of Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, 2001.054, and 2001.039 in addition to the statutory authority referenced throughout this preamble.

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

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. This repeal would implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§221.48. *Scrapped or Destroyed Motor Vehicle.*

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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SUBCHAPTER D. RECORDS

43 TAC §221.71 - 221.73

STATUTORY AUTHORITY. The department proposes amendments to Chapter 221 under §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department also proposes amendments and under the authority of Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These new rules would implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§221.71. *Records; Generally.*

(a) A salvage vehicle dealer shall maintain a record of each salvage motor vehicle and non-repairable motor vehicle purchased, sold, or exchanged by the salvage vehicle dealer.

(b) A salvage vehicle dealer's records must be maintained at the licensed business location.

(c) Any records required to be maintained by a license holder may be maintained in an electronic format if the record can be reviewed and printed at the licensed business location or provided electronically upon request [by a representative] of the department [at the time the requestor is at the business location].

(d) A salvage vehicle dealer must make records available for review and copying upon request by [a representative of] the department. The department may request records [A request for records may be made by the department] in person, by mail, or electronically from a department email or a department-designated system [by electronically document transfer].

(e) [Upon receipt of a request for review of records sent by mail or electronic document transfer from the department, a] A salvage vehicle dealer must provide [produce] copies of requested [specified] records to the department [requestor] within 15 [10 calendar] days of receipt of the request [by mail or electronic document transfer].

(f) Occupations Code, §2302.254, establishes the requirements that a salvage vehicle dealer maintain a record of an inventory of component parts purchased by or delivered to the salvage vehicle dealer.

§221.72. *Record Retention.*

(a) A salvage vehicle dealer must retain at the licensed business location, or have electronic access at the licensed business location of records stored electronically, a complete record of all purchases and sales of salvage motor vehicles and nonrepairable motor vehicles for a minimum period of 36 months from the date of the transaction.

(b) A salvage vehicle dealer shall maintain at the licensed business location a record of each vehicle that is dismantled, scrapped or destroyed, and a photocopy of the front and back of all salvage vehicle titles and nonrepairable vehicle titles, or a photocopy or electronic copy of all salvage records of title, and nonrepairable records of title, and, if applicable, a photocopy of any out-of-state evidence of ownership surrendered to the department, until the third [fourth] anniversary of the date the report was acknowledged as received by the department.

(c) A salvage vehicle dealer utilizing the department's web-based title application known as webDEALER, as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems), must comply with §217.74 of this title (relating to Access to and Use of webDEALER). Original hard copy titles are not required to be kept at the licensed business location[;] but must be made available to the department upon request.

§221.73. *Content of Records.*

(a) The records of a salvage vehicle dealer for purchases and sales shall include:

(1) the date the license holder purchased ~~[of purchase of]~~ the salvage motor vehicle, or non-repairable motor vehicle;

(2) the name and address of the person who sold the salvage motor vehicle or non-repairable motor vehicle to the salvage vehicle dealer;

(3) if the person ~~[who sold the salvage motor vehicle or non-repairable motor vehicle to the salvage motor vehicle dealer]~~ is not an insurance company or a license holder ~~[salvage pool operator]~~, a photocopy of ~~[one of]~~ the ~~[following current]~~ photo identification document ~~[documents]~~ of the person who purchased the salvage motor vehicle or non-repairable motor vehicle from the salvage vehicle dealer or sold the salvage motor vehicle or non-repairable motor vehicle to the salvage vehicle dealer;~~[-]~~

~~[(A) driver's license, Department of Public Safety identification, or state identification certificate issued by a state or territory of the United States;]~~

~~[(B) concealed handgun license or license to carry a handgun issued by the Department of Public Safety under Government Code, Chapter 411, Subchapter H;]~~

~~[(C) United States or foreign passport;]~~

~~[(D) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State Identification document;]~~

~~[(E) United States military identification card; or]~~

~~[(F) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement;]~~

(4) a description of the salvage motor vehicle or non-repairable motor vehicle, including the model, year, make, and vehicle identification number, if applicable;

(5) the ownership document number and state of issuance of the salvage motor vehicle or non-repairable motor vehicle ownership document, if applicable;

(6) a copy of the salvage record of title or non-repairable record of title, if applicable, or a copy of the front and back of the ownership document for the salvage motor vehicle or non-repairable motor vehicle;

(7) a copy of the form if the ownership document has been surrendered to the department; ~~[and]~~

(8) any evidence indicating that the motor vehicle was dismantled, scrapped, or destroyed;~~[-]~~

(9) the sales contract or buyer's order;

(10) the salvage disclosure notice required under §221.51 of this title (relating to Duty to Identify a Motor Vehicle Offered for Sale);

(11) a copy of the photo identification document required for export sales under §221.52 (relating to Export-Only Sales);

(12) records for a casual sale as required under §221.53 (relating to Casual Sales); and

(13) any other records required under current rules in this title.

(b) If the salvage motor vehicle has been rebuilt, repaired, or reconstructed by the salvage vehicle dealer the salvage vehicle dealer's records must also include a form prescribed by the department in accordance with §217.89 of this title (relating to Rebuilt Salvage Motor Vehicles). ~~[for "Rebuilt Vehicle Statement," listing all repairs made to the motor vehicle, and, when required to be completed, a form prescribed by the department for "Component Part(s) Bill of 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.

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SUBCHAPTER E. ADMINISTRATIVE PROCEDURES

43 TAC §§221.91 - 221.96

STATUTORY AUTHORITY. The department proposes repeals to Chapter 221 under §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department also proposes repeals under the authority of Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, 2001.054, and 2001.039 in addition to the statutory authority referenced throughout this preamble.

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

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These repeals would implement Government Code, Chapter 2001; Occupations Code,

Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§221.91. *Notice of Department Decision.*

§221.92. *Notice of Hearing.*

§221.93. *Final Decisions and Orders; Motions for Rehearing.*

§221.94. *Judicial Review of Final Order.*

§221.95. *Delegation of Final Order Authority.*

§221.96. *Cease and Desist Order.*

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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SUBCHAPTER F. ADMINISTRATIVE SANCTIONS

43 TAC §§221.111, 221.112, 221.115

STATUTORY AUTHORITY. The department proposes amendments to Chapter 221 under Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a license issued under Occupations Code, Chapter 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.052, which assigns the board a duty to set reasonable and necessary application fees, license fees, renewal fees, and other fees as required to implement Chapter 2302; Occupations Code, §2302.103, which requires a salvage vehicle dealer to apply for a license on a form prescribed by the department and pay an application fee; Occupations Code, §2302.104, which prescribes content that must be included in an application; Occupations Code, §2302.105, which requires the department to complete an investigation of the applicant's qualifications before issuing a license; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department also proposes amendments and under the authority of Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Transportation Code,

§§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

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

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These rule revisions would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§221.111. *Denial of License.*

(a) The [board or] department may deny an application for a new license or an application for a license 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, 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) made a false statement, 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 title, has been convicted, or considered convicted under Occupations Code §53.021(d), 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 is independently disqualifying under Occupations Code §53.021;

(4) the applicant's or any owner's, officer's, director's, or other person described in §211.2 of this title, previous license was revoked;

(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; or

(6) the applicant, or any owner, officer, or director, or other person described in §211.2 of this title [is 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.

(b) If the department denies an application for a license to be issued under the authority of Occupations Code Chapter 2302, the applicant may request an administrative hearing in the manner specified in §224.54 [§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 motor vehicles;

(3) willfully defrauds a purchaser;

(4) fails to maintain purchase, sales, and inventory records as required by Occupations Code, Chapter 2302, Transportation Code, Chapter 501, Chapter 217, Subchapter D of this title, 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;

(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 license holder information as required under §221.19 of this title (relating to Notice of Change in License Holder Information) [legal business entity name, assumed name, mailing address, or email address within 30 days of such change by submitting an amendment to the license];

(9) fails to notify the department of a change in location prior to operating in a new location or closing a location in accordance with §221.18 of this title (relating to Additional, New, or Closed Location) [described in §221.19(b) of this title (relating to Change of License Holder's Name, Ownership, or Control) as required in that section];

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

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

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

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

(14) violates any law, ordinance, rule or regulation governing the purchase, sale, exchange, or storage, of salvage motor vehicles or nonrepairable motor vehicles;

(15) sells or offers for sale a nonrepairable motor vehicle or a salvage motor vehicle from any location other than the salvage vehicle dealer's licensed business location;

(16) is, or any owner, officer, director, or other person described in §211.2 of this title (relating to Application of Subchapter), is convicted, or considered convicted under Occupations Code §53.021(d), 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 is independently disqualifying under Occupations Code §53.021 after initial issuance or renewal of the salvage vehicle dealer license, or that has not been reported to the department as required;

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

(18) fails to timely remit payment for administrative penalties imposed by the department;

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

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

~~[(21) dismantles a salvage motor vehicle or a nonrepairable motor vehicle]~~

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

§221.115. Refund of Fees.

In the absence of director approval, the department will not refund a fee paid by a license applicant or a license holder if:

(1) the application or license is withdrawn, denied, suspended, or revoked; or

(2) the license applicant or license holder is subject to an unpaid civil penalty imposed against the license applicant or license holder by a final order.

[The department will not refund fees paid if a license is denied, suspended or revoked.]

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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