

ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 25. HEALTH SERVICES

PART 1. DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 265. GENERAL SANITATION SUBCHAPTER L. PUBLIC SWIMMING POOLS AND SPAS

25 TAC §265.190

The Executive Commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), adopts an amendment to §265.190, concerning Safety Features for Pools and Spas.

Section 265.190 is adopted without changes to the proposed text as published in the January 19, 2024, issue of the *Texas Register* (49 TexReg 236). This rule will not be republished.

BACKGROUND AND JUSTIFICATION

The amendment is necessary to comply with Texas Health and Safety Code §341.0645, which requires DSHS adopt pool safety standards necessary to prevent drowning. The amendment revises the requirement for pool and spa signs to clarify that prohibiting persons under the age of 14 years from being in a pool or spa without adult supervision applies only to pools and spas where a lifeguard is not required or provided.

This long-standing provision was inadvertently removed during amendments to Texas Administrative Code (TAC), Title 25, Chapter 265, Subchapter L in 2021. The amendment restores the language that had been in place since at least 1999. The amendment also clarifies lighting requirements and makes editorial changes for clearer language.

COMMENTS

The 31-day comment period ended February 19, 2024.

During this period, DSHS received comments regarding the proposed rule from seven commenters, including Live Like Cati, Naomi's Grace, Fort Worth Park and Recreation, Houston Swim Club, Robert's Pool Service, Inc., National Drowning Prevention Alliance, and Fort Worth Drowning Prevention Coalition. A summary of comments relating to the rule and DSHS's responses follows.

Comment: All commenters suggested that the pool and spa sign revisions be reversed because the revision will allow parents of children under the age of 14 to drop their children off at pools and rely on lifeguards for supervision. Two commenters remarked that the lifeguards would be used as babysitters. Commenters were also concerned that this change would result in an

increase of accidents and drowning. One commenter mentioned that drowning is the leading cause of death for children between the ages of 1 - 4 years.

Response: DSHS respectfully disagrees and declines to revise the rule in response to these comments. As noted above, the language is being restored after it was inadvertently removed during a previous rule amendment.

The purpose of the Public Swimming Pools and Spas Rule under 25 TAC Chapter 265, Subchapter L is to establish minimum standards for swimming pools and spas concerning pool operation and management, water quality, safety standards unrelated to design and construction, signage, enclosures, and safety features. This is intended to reduce the possibility of drowning or injury to a practical minimum and provide guidance for safe pool operation consistent with best practices common to most states and the Model Aquatic Health Code.

In addition, the amended rule does not prohibit a local regulatory authority's ability to adopt more stringent requirements for pools and spas within their jurisdiction, as described in 25 TAC Subchapter L §265.181(g).

Comment: One commenter suggested adding a definition for "adult supervision."

Response: DSHS disagrees and declines to revise the rule in response to this comment. Texas recognizes 18 years as the age when residents are legally considered adults as provided in Texas Civil Practice and Remedies Code §129.001 and the use of "supervision" in the rule does not go beyond the common dictionary definition of the term.

STATUTORY AUTHORITY

The amendment is adopted under Texas Health and Safety Code §341.002, which authorizes the Executive Commissioner of HHSC to adopt rules and establish standards and procedures for the management and control of sanitation and for health protection measures; and Texas Government Code §531.0055 and Texas Health and Safety Code §1001.075, which authorize the Executive Commissioner of HHSC to adopt rules and policies necessary for the operation and provision of health and human services by DSHS and for the administration of Texas Health and Safety Code Chapter 1001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401551

Cynthia Hernandez
General Counsel
Department of State Health Services
Effective date: May 2, 2024
Proposal publication date: January 19, 2024
For further information, please call: (512) 834-6787

◆ ◆ ◆
TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 6. LICENSE TO CARRY HANDGUNS

SUBCHAPTER B. ELIGIBILITY AND APPLICATION PROCEDURES FOR A LICENSE TO CARRY A HANDGUN

37 TAC §6.17

The Texas Department of Public Safety (the department) adopts amendments to §6.17, concerning Designations. This rule is adopted without changes to the proposed text as published in the March 1, 2024, issue of the *Texas Register* (49 TexReg 1244) and will not be republished.

The proposed amendments add additional designations on a license to carry a handgun, clarifying the requirements for each designation, and renaming the rule accordingly as "Designations."

No comments were received regarding the adoption of this rule.

This rule is adopted pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Government Code §411.197, which authorizes the director to adopt rules to administer this subchapter; and Texas Government Code §411.179, which authorizes the department to adopt the form of the license by rule, for which House Bill 918 and House Bill 2675, 87th Leg., R.S. (2021), added designations for individuals who have a protective order or are at-risk of becoming a victim of violence.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401504
D. Phillip Adkins
General Counsel
Texas Department of Public Safety
Effective date: May 2, 2024
Proposal publication date: March 1, 2024
For further information, please call: (512) 424-5848

◆ ◆ ◆
TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 206. MANAGEMENT

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 206, Subchapter A, Organization and Responsibilities, §206.1 and §206.2; Subchapter B, Public Meetings and Hearings, §206.22 and §206.23; Subchapter C, Procedure for Petition to Adopt Rules, §206.41; Subchapter E, Advisory Committees, §206.92 and §206.93; Subchapter F, Department Vehicle Fleet Management, §206.111; Subchapter G, Electronic Signatures, §206.131; and Subchapter H, Risk-Based Monitoring and Preventing Fraudulent Activity, §206.151. In conjunction with these amendments, the department adopts the repeal of Subchapter D, Procedures in Contested Cases. In addition, the department adopts new §206.101 in Subchapter E.

The department adopts amendments to §§206.1, 206.41, and 206.111 without changes to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8192) and will not be republished. The department adopts §§206.2, 206.22, 206.23, 206.92, 206.93, 206.101, 206.131 and 206.151 with changes to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8192) and will be republished. In response to comments made by the Texas Independent Automobile Dealers Association (TIADA), the department made a nonsubstantive amendment to §206.2(a)(2)(C) to delete the word "and" at the end of the clause, and the department made a substantive amendment to §206.22(a)(1) to clarify that a person speaking before the board on an agenda item will be allowed an opportunity to speak prior to any motion by the board on the agenda item. The remainder of the changes made at adoption are described in the following paragraphs of this preamble.

REASONED JUSTIFICATION.

Subchapter A. Organization and Responsibilities

The adopted amendments to Subchapter A clarify the authority of the executive director and delete rule text that is redundant with statute. The adopted amendments to §206.1 cite the statutory provision from which the executive director receives authority to delegate certain functions to staff within the department and clarify that such delegation must be consistent with applicable law.

The adopted amendments to §206.2(a) clarify that the executive director hires and oversees the department's general counsel, and align the rule text with Transportation Code, §1001.041 and §1001.0411. In response to a comment from TIADA, the department adopts §206.2(a)(2)(C) with a change at adoption to remove the misplaced "and" after the semicolon at the end of the clause. The adopted amendment to §206.2(a)(3) removes unnecessary limitations on the executive director's powers to delegate to staff. The adopted amendment to §206.2(b) removes an unnecessary and redundant citation to the title of Government Code, Chapter 551. The adopted amendments strike §206.2(c) because it is duplicative of Transportation Code, §1001.004.

Subchapter B. Public Meetings and Hearings

In response to a comment from TIADA, the department adopts §206.22(a)(1) with a change at adoption to substitute the word "motion" for the word "vote" to require the board to take public comment on an agenda item before entertaining a motion on

that agenda item. This change will give the board members the benefit of any public comments on an agenda item, which may impact the board members' decisions regarding a proposed motion. Adopted amendments to §206.22 delete subsection (f) and remove a cross-reference to it because its provisions on contested cases are combined with the department's other rules on contested cases in new Chapter 224, Adjudicative Practice and Procedure, which is adopted in this issue of the *Texas Register*. Adopted amendments to §206.22(b) and (c) simplify and clarify the language, revise existing terminology for consistency with other department rules, and revise the rule text for consistency with current practice. Adopted amendments to §206.22(b)(3) and (d) clarify that public comments, rather than full presentations by the public, are allowed at board meetings. The department adopts §206.22(c) with changes at adoption to clarify that a person who has special communication or accommodation needs and who plans to attend a board meeting may contact the department's contact listed in the posted meeting agenda for the purpose of requests for auxiliary aids or services. At adoption, the department also deleted reference to contacting the department in Austin because the language was vague.

The department adopts amendments to §206.23(b) to clarify and streamline the language without changing its meaning. An adopted amendment to §206.23(c)(1) allows the executive director to designate another person to ask questions of speakers at a public hearing, to allow the executive director flexibility to delegate. The adopted amendments to §206.23(c)(4) clarify that the executive director or his designee may represent the department in a public hearing, as well as the board chair or presiding officer. Amendments to §206.23(d) are necessary to remove the term "with disabilities" and to clarify that anyone with special communication or accommodation needs who plans to attend public hearings under this section may contact the department to request auxiliary aids or services. The department adopts §206.23(d) with changes at adoption to clarify that a person who has special communication or accommodation needs and who plans to attend a public hearing under this section may contact the department's contact listed in the public hearing notice for the purpose of requests for auxiliary aids or services, regardless of whether the public hearing will be conducted by the board, the executive director, or the executive director's designee. There is no need to have a different process for a person to request auxiliary aids or services for a public hearing, depending on whether the public hearing will be conducted by the board or the executive director or designee. At adoption, the department also deleted reference to contacting the department in Austin because the language was vague.

Subchapter C. Procedure for Petition to Adopt Rules

The adopted amendments to Subchapter C, §206.41 streamline and clarify the procedure for submitting to the department a petition to adopt rules under Texas Government Code, §2001.021, clarify the required content of a petition, and remove unnecessary language.

Subchapter D. Procedures in Contested Cases

The department adopts the repeal of Subchapter D, Procedures in Contested Cases, to consolidate all of the department's contested case rules into new Chapter 224, Adjudicative Practice and Procedure, which the department adopts in this issue of the *Texas Register*. Adopted amendments also reletter the remaining subchapters in Chapter 206.

Subchapter E. Advisory Committees

An adopted amendment reletters Subchapter E to Subchapter D because the department adopts the repeal of current Subchapter D and reletters the subsequent subchapters accordingly.

An adopted amendment to §206.92 deletes the definition of "division director" because the term is not used elsewhere in the subchapter. An adopted amendment to §206.92 also renumbers the paragraphs accordingly due to the deletion of the definition of "division director."

The department adopts §206.92(1) with changes at adoption. The department decapitalized the word "committee" in §206.92(1) because the term "advisory committee" isn't capitalized in the subchapter, except when it is used as part of the name of an advisory committee. The department also added the word "to" before the words "the executive director" in §206.92(1).

The department adopts §206.93(a) with a change at adoption to indicate that the department is deleting the word "the" before the term "executive director." The department adopts amendments to §206.93(b) and the deletion of §206.93(c) to streamline and clarify the qualifications and appointment requirements for advisory committee members into one subsection. The department adopts §206.93(b) with a change at adoption to replace the reference to subsection (i) with a reference to subsection (h) of this section regarding the reporting of the advisory committee's recommendations to the board. The department also adopts the deletion of §206.93(c) to remove certain language that is redundant with statutory requirements. Adopted amendments to relettered §206.93(f) and (g), remove unnecessary statutory titles. The department adopts the deletion of subsection (i) because new §206.101 addresses public access to advisory committee meetings. The adopted amendments to relettered §206.93(i) clarify that both the executive director and the board shall consider an advisory committee's recommendations in developing policy, and remove an unnecessary reference to an advisory committee's reports. The adopted amendments delete §206.93(m) to remove unnecessary language that is duplicative of Texas Government Code, §2110.008. Adopted amendments reletter the subsections of §206.93 due to deletions of subsections.

Adopted new §206.101 clarifies the requirements and parameters for public comment during advisory committee meetings. Adopted new §206.101 closely parallels the requirements for public comments during board meetings in §206.22 (relating to Public Access to Board Meetings). Additionally, adopted new §206.101 allows each public commenter three minutes to comment on any advisory committee agenda item or in an open comment period on any topic within the scope of the specific advisory committee. The department adopts new §206.101(a)(1) with a change at adoption to clarify that a person speaking before the advisory committee on an agenda item will be allowed an opportunity to speak prior to any motion by the advisory committee on the agenda item. This change to new §206.101 will give the advisory committee members the benefit of any public comments on an agenda item, which may impact the advisory committee members' decisions regarding a proposed motion. This change to new §206.101(a)(1) makes the language consistent with §206.22(a)(1), which the department amends at adoption in response to a comment from TIADA that requested public comment be allowed prior to a board motion. The department adopts new §206.101(a)(1) with a change at adoption to clarify that a person who has special communication or accommodation needs and who plans to attend an advisory committee meeting

may contact the department's contact listed in the posted meeting agenda for the purpose of requests for auxiliary aids or services. This change at adoption is consistent with the changes the department made to §206.22(c) and §206.23(d). Adopted new §206.101(d) sets requirements for conduct and decorum at advisory committee meetings to assist the acting advisory committee chair in maintaining order; these requirements mirror the same requirements for conduct and decorum at board meetings under §206.22(d). Adopted new §206.101(e) allows the acting advisory committee chair flexibility to waive any requirements of §206.101 as necessary to allow the advisory committee or the department to perform their responsibilities. Adopted new §206.101 allows the acting advisory committee chairs to remain responsive to the need for public comment without unnecessarily encumbering the public comment process. Adopted new §206.101 does not allow written public comment for advisory committee meetings to streamline the process, provide a consistent method of receiving comments, and ensure that advisory committee members are able to ask follow-up questions of the commenters.

Subchapter F. Department Vehicle Fleet Management

An adopted amendment reletters Subchapter F to Subchapter E because the department adopts the repeal of current Subchapter D and reletters the subsequent subchapters accordingly.

An adopted amendment to §206.111 clarifies that a written documented finding must be signed by the executive director to support an assignment of a department fleet vehicle to an individual employee on an everyday basis.

Subchapter G. Electronic Signatures

An adopted amendment reletters Subchapter G to Subchapter F because the department adopts the repeal of current Subchapter D and reletters the subsequent subchapters accordingly. An adopted amendment to §206.131 also renames the title of the subchapter from "Electronic Signatures" to "Digital Certificates" for accuracy and consistency.

Adopted amendments to §206.131(d)(2)(A) clarify that a personal identification certificate with a photograph must be unexpired to qualify as an acceptable form of identity verification. An adopted amendment to §206.131(d)(2)(B) deletes a concealed handgun license as an acceptable form of identification because such license is no longer required by law. Adopted amendments to §206.131(d)(2)(E) and (G) correct the name of the federal agency that issues a Form I-94. An adopted amendment to §206.131(g) clarifies that the rule refers to digital certificates. The department adopts §206.131(h)(1) with a change at adoption to add the word "digital" before the word "certificate" for clarity. Adopted amendments to §206.131(i) substitute the word "certificate" for "signature" and reword the second sentence to increase consistency and accuracy.

Subchapter H. Risk-Based Monitoring and Preventing Fraudulent Activity

An adopted amendment reletters Subchapter H to Subchapter G because the department adopts the repeal of Subchapter D and reletters the subsequent subchapters accordingly.

Adopted amendments to §206.151 clarify and specify the department's internal risk-based monitoring system required by Transportation Code, §520.004(4). The department adopts §206.151(a) with changes at adoption to clarify that it applies to the department's users of the department's Registration and Title System (RTS), regardless of whether the department's

users are accessing RTS at the one of the department's offices or remotely from a non-department location. At adoption, the department moved the phrase "Texas Department of Motor Vehicles (department)" from the middle of the first sentence to the beginning portion of the first sentence after the word "All."

The adopted amendments to §206.151 will subject internal users of the department's RTS to periodic examination to determine whether to classify the user as priority or nonpriority. The adopted amendments to §206.151 are necessary to allow the department to prioritize those examinations based on each user's assigned classification of priority or non-priority. Adopted amendments to §206.151 set out the factors the department considers in classifying an internal RTS user as a priority or non-priority user. Additionally, the adopted amendments set minimum goals for frequency of inspections to create more predictability for RTS users, providing that RTS users who are classified as a priority will be inspected not less than twice per year, and that RTS users classified as a non-priority will be inspected not less than once per year. The adopted amendments further provide that the inspections may be virtual, on premises at the RTS user's location, or a combination of both, to give the department flexibility to conserve resources when possible.

Additional nonsubstantive amendments are adopted throughout Chapter 206 to correct punctuation, grammar, and capitalization; and to renumber or reletter as necessary.

SUMMARY OF COMMENTS.

The department received comments from TIADA.

Comment: TIADA recommended the deletion of the word "and" at the end of §206.2(a)(2)(C).

Response: The department agrees. The department adopts a change to the proposed text at adoption to remove the word "and" at the end of §206.2(a)(2)(C).

Comment: TIADA recommends that the department modify §206.22(a)(1) to ensure that public comment is allowed prior to board members making motions on an agenda item.

Response: The department agrees. The department adopts a change to the proposed text at adoption to replace the word "vote" with "motion" in §206.22(a)(1).

SUBCHAPTER A. ORGANIZATION AND RESPONSIBILITIES

43 TAC §206.1, §206.2

STATUTORY AUTHORITY.

The department adopts amendments to Chapter 206 under Transportation Code, §1001.041, which requires the executive director to appoint deputies, assistants and other personnel, including a general counsel; Transportation Code, §1001.0411(b), which allows the executive director to delegate duties or responsibilities; Transportation Code, §1001.0411(c), which requires the executive director to hire and oversee a general counsel to advise the department; Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; 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; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, §2001.004; and Transportation Code, Chapters 1001 and 1002.

§206.2. *Texas Department of Motor Vehicles.*

(a) Executive director.

(1) To assist in discharging the duties and responsibilities of the executive director, the executive director may organize, appoint, and retain administrative staff.

(2) The executive director shall:

(A) serve the board in an advisory capacity, without vote;

(B) submit to the board quarterly, annually, and biennially, detailed reports of the progress of the divisions and a detailed statement of expenditures;

(C) hire, promote, assign, reassign, transfer, and, consistent with applicable law and policy, terminate staff necessary to accomplish the roles and missions of the department;

(D) hire and oversee a general counsel to advise the department; and

(E) perform other responsibilities as required by law or assigned by the board.

(3) The executive director may, consistent with applicable law, delegate one or more of the functions listed under paragraph (2) of this subsection to the staff of the department.

(b) Department staff. The staff of the department, under the direction of the executive director, is responsible for:

(1) implementing the policies and programs of the board by:

(A) formulating and applying operating procedures; and

(B) prescribing such other operating policies and procedures as may be consistent with and in furtherance of the roles and missions of the department;

(2) providing the chair and board members administrative support necessary to perform their respective duties and responsibilities;

(3) preparing an agenda under the direction of the chair and providing notice of board meetings and hearings as required by Government Code, Chapter 551; and

(4) performing all other duties as prescribed by law or as assigned by the board.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401494

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER B. PUBLIC MEETINGS AND HEARINGS

43 TAC §206.22, §206.23

STATUTORY AUTHORITY.

The department adopts amendments to Chapter 206 under Transportation Code, §1001.0411(b), which allows the executive director to delegate duties or responsibilities; Transportation Code, §1004.002, which requires the board and the department to develop and implement policies that provide the public with a reasonable opportunity to appear before the board or the department and to speak on any issue under the jurisdiction of the board or the department; Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; 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; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, §2001.004; and Transportation Code, Chapters 1001, 1002 and 1004.

§206.22. *Public Access to Board Meetings.*

(a) Posted agenda items. A person may speak before the board on any matter on a posted agenda by submitting a request, in a form and manner as prescribed by the department, prior to the matter being taken up by the board. A person speaking before the board on an agenda item will be allowed an opportunity to speak:

(1) prior to a motion by the board on the item; and

(2) for a maximum of three minutes, except as provided in subsections (d)(6) and (e) of this section.

(b) Open comment period.

(1) At each regular board meeting, the board shall allow an open comment period to receive public comment on any other matter that is under the jurisdiction of the board.

(2) A person wanting to speak to the board under this subsection shall complete a registration form, as provided by the department, prior to the beginning of the open comment period.

(3) Except as provided in subsections (d)(6) and (e) of this section, each person shall be allowed to speak for a maximum of three minutes in the order in which requests to speak were received.

(c) Disability accommodation. Persons who have special communication or accommodation needs and who plan to attend a meeting, may contact the department's contact listed in the posted meeting agenda for the purpose of requests for auxiliary aids or services. Requests shall be made at least two days before a meeting. The department shall make every reasonable effort to accommodate these needs.

(d) Conduct and decorum. The board shall receive public input as authorized by this section, subject to the following guidelines.

(1) Questioning of speakers shall be reserved to board members and the department's administrative staff.

(2) Organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible.

(3) Comments shall remain pertinent to the issue being discussed.

(4) A person who disrupts a meeting shall leave the meeting room and the premises if ordered to do so by the chair.

(5) Time allotted to one speaker may not be reassigned to another speaker.

(6) The time allotted for comments under this section may be increased or decreased by the chair, or in the chair's absence, the vice chair, as may be appropriate to assure opportunity for the maximum number of persons to appear.

(e) Waiver. Subject to the approval of the chair, a requirement of this section may be waived in the public interest if necessary for the performance of the responsibilities of the board or the department.

§206.23. Public Hearings.

(a) The board may hold public hearings:

(1) to consider the adoption of rules;

(2) in accordance with the programs operated by the department; and

(3) to provide, when deemed appropriate by the board or when otherwise required by law, for public input regarding any other issue under the jurisdiction of the board.

(b) The executive director or designee may hold public hearings under subsection (a)(2) and (3) of this section.

(c) Public hearings shall be conducted in a manner that maximizes public access and input while maintaining proper decorum and orderliness, and shall be governed by the following guidelines:

(1) Questioning of those making presentations shall be reserved to board members, the executive director, the executive director's designee, or if applicable, the presiding officer.

(2) Organizations, associations, or groups are encouraged to present their commonly held views and same or similar comments through a representative member where possible.

(3) Presentations shall remain pertinent to the issue being discussed.

(4) A person who disrupts a public hearing shall leave the hearing room and the premises if ordered to do so by the chair, the executive director, the executive director's designee, or, if applicable, the presiding officer.

(5) Time allotted to one speaker may not be assigned to another speaker.

(d) Persons who have special communication or accommodation needs and who plan to attend a public hearing under this section may contact the department's contact listed in the public hearing notice for the purpose of requests for auxiliary aids of services. Requests shall be made at least two days before the hearing. The department shall make every reasonable effort to accommodate these needs.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401495

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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

◆ ◆ ◆
**SUBCHAPTER C. PROCEDURE FOR
PETITION TO ADOPT RULES**

43 TAC §206.41

STATUTORY AUTHORITY.

The department adopts amendments to Chapter 206 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, §2001.021(b), which requires state agencies to adopt rules that prescribe the form and procedures for a petition for rulemaking; Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, §2001.021(b); and Transportation Code, Chapters 1001 and 1002.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401496

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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

◆ ◆ ◆
**SUBCHAPTER D. PROCEDURES IN
CONTESTED CASES**

43 TAC §§206.61 - 206.73

STATUTORY AUTHORITY.

The department adopts repeals to Chapter 206 under Government Code, §2001.039 which requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule; 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; and Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted repeals implement Government Code, §2001.004 and §2001.039; and Transportation Code, Chapters 1001 and 1002.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401498

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER D. ADVISORY COMMITTEES

43 TAC §§206.92, 206.93, 206.101

STATUTORY AUTHORITY.

The department adopts amendments to Chapter 206 and adopts new §206.101 under Transportation Code, §643.155, which authorizes the department to adopt rules to create a rules advisory committee consisting of the public, the department, and representatives of motor carriers transporting household goods using small, medium, and large equipment; Transportation Code, §1001.031, which requires the board to establish advisory committees; Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; 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, Chapter 2110, which sets out the requirements for advisory committees and requires that the agency make rules to establish the purpose and tasks of the committee and the manner in which the committee will report to the agency; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated by reference.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, §2001.004 and Chapter 2110; and Transportation Code, §643.155 and Chapters 1001 and 1002.

§206.92. *Definitions.*

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

- (1) Advisory committee--Any committee created by the board to make recommendations to the board or to the executive director pursuant to Transportation Code, §1001.031 and §643.155.
- (2) Board--The board of the Texas Department of Motor Vehicles.
- (3) Department--The Texas Department of Motor Vehicles.
- (4) Executive director--The chief executive officer of the Texas Department of Motor Vehicles.

(5) Member--An appointed member of an advisory committee created under this subchapter.

(6) Presiding officer--The presiding officer of an advisory committee elected by the membership of the advisory committee created under this subchapter.

§206.93. *Advisory Committee Operations and Procedures.*

(a) Role of advisory committee. The role of an advisory committee under this subchapter is to provide advice and recommendations to the board or executive director. Advisory committees shall meet and carry out their functions upon a request from the department or board for advice and recommendations on any issues.

(b) Appointment and qualifications of advisory committee members. The board shall appoint members to an advisory committee in accordance with Transportation Code, §643.155 and §1001.031(b) by selecting potential members from a list provided to the board by the executive director. Board members shall not serve as advisory committee members. Each advisory committee shall elect from its members a presiding officer, who shall report the advisory committee's recommendations to the board or the executive director in accordance with subsection (h) of this section. The executive director may designate a division or divisions of the department to participate with, or to provide subject-matter expertise, guidance, or administrative support to the advisory committee as necessary.

(c) Composition of advisory committees. In making appointments to the advisory committees, the board shall, to the extent practical, ensure representation of members from diverse geographical regions of the state.

(d) Committee size and quorum requirements. An advisory committee shall be composed of a reasonable number of members not to exceed 24 as determined by the board. A simple majority of advisory committee members will constitute a quorum. An advisory committee may only deliberate on issues within the jurisdiction of the department or any public business when a quorum is present.

(e) Terms of service. Advisory committee members will serve terms of four years. A member will serve on the committee until the member resigns, is dismissed or replaced by the board, or the member's term expires.

(f) Member training requirements. Each member of an advisory committee must receive training regarding Government Code, Chapter 551; and Government Code, Chapter 552.

(g) Compliance with Open Meetings. The advisory committee shall comply with Government Code, Chapter 551.

(h) Reporting recommendations. Recommendations of the advisory committee shall be reported to the board at a board meeting prior to board action on issues related to the recommendations. The recommendations shall be in writing and include any necessary supporting materials. The presiding officer of the advisory committee or the presiding officer's designee may appear before the board to present the committee's advice and recommendations. This subsection does not limit the ability of the advisory committee to provide advice and recommendations to the executive director as necessary.

(i) Board and executive director use of advisory committee recommendations. In developing department policies, the board and the executive director shall consider the written recommendations submitted by advisory committees.

(j) Reimbursement. The department may, if authorized by law and the executive director, reimburse advisory committee members for reasonable and necessary travel expenses.

§206.101. *Public Access to Advisory Committee Meetings.*

(a) Posted agenda items. A person may speak before an advisory committee on any matter on a posted agenda by submitting a request, in a form and manner as prescribed by the department, prior to the matter being taken up by the advisory committee. A person speaking before an advisory committee on an agenda item will be allowed an opportunity to speak:

(1) prior to a motion by the advisory committee on the item; and

(2) for a maximum of three minutes, except as provided in subsections (d)(6) and (e) of this section.

(b) Open comment period.

(1) At each regular advisory committee meeting, the advisory committee shall allow an open comment period, not to exceed one hour, to receive public comment on any other matter that is within the scope of the specific advisory committee under §206.94(a) of this title (relating to Motor Vehicle Industry Regulation Advisory Committee (MVIRAC)), §206.95(a) of this title (relating to Motor Carrier Regulation Advisory Committee (MCRAC)), §206.96(a) of this title (relating to Vehicle Titles and Registration Advisory Committee (VTRAC)), §206.97(a) of this title (relating to Customer Service and Protection Advisory Committee (CSPAC)), or §206.98(a) of this title (relating to Household Goods Rules Advisory Committee (HGRAC)).

(2) A person wanting to make a comment under this subsection shall complete a registration form, as provided by the department, prior to the beginning of the open comment period.

(3) Except as provided in subsections (d)(6) and (e) of this section, each person shall be allowed to speak for a maximum of three minutes for each comment in the order in which the requests to speak were received.

(c) Disability accommodation. Persons who have special communication or accommodation needs and who plan to attend a meeting, may contact the department's contact listed in the posted meeting agenda for the purpose of requests for auxiliary aids or services. Requests shall be made at least two days before a meeting. The department shall make every reasonable effort to accommodate these needs.

(d) Conduct and decorum. An advisory committee shall receive public input as authorized by this section, subject to the following guidelines:

(1) questioning of speakers shall be reserved to advisory committee members and the department's administrative staff;

(2) organizations, associations, or groups are encouraged to present their commonly held views, and same or similar comments, through a representative member where possible;

(3) comments shall remain pertinent to the issue being discussed;

(4) a person who disrupts an advisory committee meeting shall leave the meeting room and the premises if ordered to do so by the acting advisory committee chair;

(5) time allotted to one speaker may not be reassigned to another speaker; and

(6) the time allotted for comments under this section may be increased or decreased by the acting advisory committee chair, as may be appropriate to assure opportunity for the maximum number of persons to appear.

(e) Waiver. Subject to the approval of the acting advisory committee chair, a requirement of this section may be waived in the public interest if necessary for the performance of the responsibilities of the advisory committee or the department.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401499

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER E. DEPARTMENT VEHICLE FLEET MANAGEMENT

43 TAC §206.111

STATUTORY AUTHORITY.

The department adopts amendments to Chapter 206 under Government Code, §2171.1045, which requires state agencies to adopt rules relating to the assignment and use of the agency's vehicles, including a requirement that an agency may assign a vehicle to an individual administrative or executive employee on a regular or everyday basis only if the agency makes a written documented finding that the assignment is critical to the needs and mission of the agency; Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and 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.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, §2001.004 and §2171.1045; and Transportation Code, Chapters 1001 and 1002.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401501

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER F. DIGITAL CERTIFICATES

43 TAC §206.131

STATUTORY AUTHORITY.

The department adopts amendments to Chapter 206 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, §2054.060, which authorizes a digital signature to be used to authenticate a written electronic communication sent to a state agency if the digital signature complies with rules adopted by the Texas Department of Information Resources; and Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, §2001.004 and §2054.060; and Transportation Code, Chapter 1002.

§206.131. *Digital Certificates.*

(a) General. This section prescribes the requirements that govern the issuance, use, and revocation of digital certificates issued by the Texas Department of Motor Vehicles (department) for electronic commerce in eligible department programs. The provisions of 1 TAC Chapter 203, Subchapter B govern this section in the event of a conflict between that subchapter and a provision of this section.

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

(1) Business entity--An entity recognized by law through which business is conducted with the department, including a sole proprietorship, partnership, limited liability company, corporation, joint venture, educational institution, governmental agency, or non-profit organization.

(2) Certificate holder--An individual to whom a digital certificate is issued.

(3) Digital certificate--A certificate, as defined by 1 TAC §203.1, issued by the department for purposes of electronic commerce.

(4) Digital signature--Has the same meaning assigned by 1 TAC §203.1.

(5) Division director--The chief administrative officer of a division of the department.

(c) Program authorization. A division director may authorize the use of digital signatures for a particular program based on whether the applicable industries or organizations are using such technology, the frequency of document submission, and the appropriateness for the program. The solicitation documentation for eligible programs will include the information that digital signatures may be used.

(d) Application and issuance of digital certificate.

(1) A request for a digital certificate shall be in writing and shall be signed by the individual authorized by the business entity to request a digital certificate.

(2) The department may request information necessary to verify the identity of the individual requestor or the identity of the individual to whom the certificate is to be issued. To verify identity under this paragraph a person shall present:

(A) an unexpired Texas driver's license or unexpired personal identification certificate with a photograph;

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

(C) an unexpired United States passport;

(D) a United States citizenship (naturalization) certificate with identifiable photograph;

(E) an unexpired United States Customs and Border Protection document that:

(i) was issued for a period of at least one year;

(ii) is valid for not less than six months from the date it is presented to the department with a completed application; and

(iii) contains verifiable data and an identifiable photograph;

(F) an unexpired United States military identification card for active duty, reserve, or retired personnel with an identifiable photograph; or

(G) a foreign passport with a valid or expired visa issued by the United States Department of State with an unexpired United States Customs and Border Protection Form I-94:

(i) that was issued for a period of at least one year, is marked valid for a fixed duration, and is valid for not less than six months from the date it is presented to the department with a completed application; or

(ii) that is marked valid for the duration of the person's stay and is accompanied by appropriate documentation.

(3) The department may take actions necessary to confirm that the individual who signed the request is authorized to act on behalf of the business entity, including requiring the individual requestor or the person authorizing the request to personally appear at the department location responsible for the issuing of the certificate.

(4) The department shall issue a digital certificate only to an individual. Information identifying the business entity that authorized the issuance of the certificate may be embedded in the digital certificate.

(e) Refusal to issue a digital certificate. The department shall not issue a digital certificate if the identity of the individual to whom the certificate is to be issued, or the identity of the individual requesting the certificate on behalf of a business entity, cannot be established. The department will not issue a digital certificate if the business entity on whose behalf the request is allegedly being made does not authorize its issuance.

(f) Responsibilities of certificate holder. A certificate holder shall:

(1) maintain the security of the digital certificate;

(2) use the certificate solely for the purpose for which it was issued; and

(3) renew the certificate in a timely manner, if continued use is intended.

(g) Responsibilities of business entity. A business entity is responsible for:

(1) determining what individual may request a certificate for the business entity;

(2) determining to what individual a certificate is to be issued; and

(3) requesting within a reasonable time the revocation of the business entity's digital certificate if the security of the certificate

has been compromised or if the business entity is changing its certificate holder.

(h) Revocation of certificate. The department shall revoke a digital certificate:

(1) upon receipt of a written request for revocation of the business entity's digital certificate, signed by an individual authorized to act on behalf of the business entity for which it was issued;

(2) for suspension or debarment of the individual or business entity; or

(3) if the department has reason to believe that continued use of the digital certificate would present a security risk.

(i) Use of digital certificate.

(1) A digital certificate issued by the department shall only be used for the purpose of digitally signing electronic documents filed with the department. Use of a digital certificate is binding on the individual to whom the certificate was issued and the represented business entity, as if the document were signed manually.

(2) The department may use the digital certificate to identify the certificate holder when granting or verifying access to secure computer systems used for electronic commerce.

(j) Forms. The department may prescribe forms to request, modify, or revoke a digital certificate.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401502

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER G. RISK-BASED MONITORING AND PREVENTING FRAUDULENT ACTIVITY

43 TAC §206.151

STATUTORY AUTHORITY.

The department adopts amendments to Chapter 206 under Transportation Code, §520.004, which requires the department by rule to establish a risk-based system of monitoring and preventing fraudulent activity related to vehicle registration and titling in order to efficiently allocate resources and personnel; Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and 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.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, §2001.004; and Transportation Code, §520.004 and Chapters 1001 and 1002.

§206.151. *Internal Risk-Based Monitoring System.*

(a) All Texas Department of Motor Vehicle (department) users of the Registration and Title System (RTS) are subject to periodic examination by the department. As a result of the examination, the department will assign each RTS user a classification of priority or non-priority for the purposes of prioritizing inspections to determine whether there is evidence of fraud by the user. In classifying an RTS user, the department may consider factors including, but not limited to:

(1) the RTS user's transaction volume;

(2) the RTS user's past violations of the department's rules and procedures within the last five years;

(3) title error investigations performed by the department on titles issued by the RTS user;

(4) public complaints received by the department against the RTS user; and

(5) discrepancies in data reflecting the RTS user's transactions.

(b) It is the department's goal to inspect each RTS user as follows:

(1) if the RTS user is classified as priority, the RTS user will be inspected not less than twice per year; or

(2) if the RTS user is classified as non-priority, the RTS user will be inspected not less than once per year.

(c) Inspections under this section may be virtual, on premises at the RTS user's location, or a combination of both.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401503

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to Subchapter A, General Provisions, §§215.1 and 215.2; repeal of Subchapter B, relating to 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 - 215.85, 215.87, and 215.89; in Subchapter D, Franchised Dealers, Manufacturers, Distributors, and Converters, amendments to §§215.101, 215.103 - 215.106, 215.108 - 215.111, 215.113, and 215.115 - 215.217, repeal of §215.112, and new §§215.102, 215.120, and 215.121; in Subchapter E, General Distinguishing Numbers, amendments

to §§215.131 - 215.133; 215.135, 215.137 - 215.141, 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; amendments to Subchapter F, Lessors and Lease Facilitators, §§215.171, 215.173 - 215.180; repeal of Subchapter G, Warranty Performance Obligations, §§215.201 - 215.210; amendments to Subchapter H, Advertising, §§215.242, 215.244, 215.249, 215.250, 215.257, 215.261, 215.264, 215.268, and 215.270; 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, amendments to §215.500, and repeal of §§215.501, 215.502, and 215.505.

The following amended sections are adopted without changes to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8202) and will not be republished: §§215.2, 215.83 - 215.85, 215.89, 215.101, 215.103, 215.108, 215.110, 215.115 - 215.117, 215.131, 215.132, 215.137, 215.139, 215.143, 215.149 - 215.152, 215.155, 215.161, 215.171, 215.173, 215.177, 215, 215.180, 215.242, 215.244, 215.257, 215.261, 215.264, 215.268, 215.270, and 215.500.

The following sections are adopted with changes at adoption to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8202) and will be republished: §§215.1, 215.82, 215.87, 215.102, 215.104, 215.105, 215.106, 215.109, 215.111, 215.113, 215.120, 215.121, 215.133, 215.134, 215.135, 215.138, 215.140, 215.141, 215.144, 215.145, 215.147, 215.148, 215.154, 215.160, 215.174, 215.175, 215.176, 215.178, 215.179, 215.249, and 215.250.

The following sections are adopted with substantive changes to the proposed text: §§215.82, 215.87, 215.102, 215.105, 215.111, 215.120, 215.121, 215.140, 215.141, 215.144, 215.175, and 215.178. Each substantive change is described in the Explanation of Adopted Amendments and Repeals below and some of these changes are also referenced in the department's response to comments.

The following sections are adopted with nonsubstantive changes to the proposed text: §§215.1, 215.82, 215.102, 215.104, 215.105, 215.106, 215.109, 215.111, 215.113, 215.120, 215.121, 215.133, 215.134, 215.135, 215.138, 215.140, 215.141, 215.144, 215.145, 215.147, 215.148, 215.154, 215.160, 215.174, 215.175, 215.176, 215.178, 215.179, 215.249, and 215.250. Each nonsubstantive change is described in the Explanation of Adopted Amendments and Repeals below.

Explanation of adopted amendments and repeals

Subchapter A. General Provisions

Adopted amendments to §215.1 and §215.2(a) delete a stray reference to Transportation Code, Chapter 1000, which does not exist. Adopted amendments to §215.1 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 which encompasses all vehicles including trailers and all license types under Occupations Code, Chapter 2301, and Transportation Code, Chapter 503. An adopted amendment to §215.1 clarifies the scope of the rules in Chapter 215, which is to describe licensing requirements and rules governing license holder operations. The missing phrase "the vehicle industry" is

added at adoption to the text of the last sentence in §215.1 because the proposed sentence was incomplete.

Adopted amendments to §215.2(b) delete definitions for terms used in contested cases because rules using those terms are adopted for repeal in this chapter and are included in adopted new Chapter 224, (relating to Adjudicative Practice and Procedure), which is published for adoption in this issue of the *Texas Register*. The deleted definitions include the terms ALJ, executive director, final order authority, hearing officer, motion for rehearing authority, and SOAH. The remaining definitions are renumbered accordingly. Adopted amendments in renumbered §215.2(b)(1) 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. An adopted amendment to renumbered §215.2(b)(2) adds a definition for "day" and for standardization and consistency throughout the chapter. Adopted amendments to §215.2(b)(3) substitute the term "division" for "department" to correctly refer to the responsible organizational unit in the department and substitute the term "department staff" for "personnel" for clarity and consistency. An adopted amendment to renumbered §215.2(b)(4) adds a reference to Transportation Code, Chapter 503, which defines the types of general distinguishing numbers that the department may issue. An adopted amendment to renumbered §215.2(b)(5) clarifies that any state agency other than the department is included in the definition of a governmental agency. Adopted §215.2(b)(6) adds 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, and recognizes that each plate has a different statutorily prescribed term and cost and is obtained from the department through a different process.

Subchapter B. (relating to Adjudicative Practice and Procedure)

The department adopts the repeals of all sections of Subchapter B, (relating to Adjudicative Practice and Procedure), in this same issue of the *Texas Register* because the substance of each rule and any amendments are incorporated into adopted new Chapter 224, (relating to Adjudicative Practice and Procedure), which is also published for adoption in this issue of the *Texas Register*. The adopted repeals include §§215.21 - 215.24, 215.27, 215.29, 215.30, 215.32, 215.35 - 215.49, 215.55, 215.56, and 215.58 - 215.63.

Subchapter C. Licenses, Generally

This subchapter is adopted to be relettered as Subchapter B because the department is adopting the repeal of former Subchapter B, (relating to Adjudicative Practice and Procedure).

The adopted amendment to the title of §215.82 replaces "Duplicate" from the proposed language with "Replacement Standard" to clarify the section's purpose. Adopted amendments 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 may print a license copy on demand by accessing the department's electronic licensing system. Adopted amendments to §215.82(c) delete the subsection designation and substitute "standard" for "metal" to identify the plate type to which the replacement process applies. Adopted amendments to §215.82(c) clarify that the same process applies for obtaining a replacement sticker, and that a request for a replacement standard license plate or sticker must be submitted electronically in the depart-

ment-designated licensing system. In §215.82(c)(3), the department adopts a nonsubstantive change to the text at adoption to rephrase "system for licensing" to "licensing system" for improved readability.

In the adopted amendments §215.82 and §215.134, the proposed text is changed at adoption to move the license plate type descriptor "standard" before the term "license plate" for consistency.

Adopted amendments to §215.83(a)(1) and (d) modernize the rule by clarifying that an application for a new license, a license amendment, or a license renewal must be filed electronically. An adopted amendment to §215.83(a)(3) specifies 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. An adopted amendment to §215.83(b) clarifies 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. An adopted amendment to §215.83(c) clarifies 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.

An adopted amendment to §215.83(d)(2) deletes 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.

Adopted amendments to §215.83(e) 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 adopted amendments reletter the remaining subsections and internal references accordingly.

Adopted amendments to relettered §215.83(i) add the phrase "military service members or" in multiple places in subparagraphs (1), (2), and (3). These amendments implement Senate Bill (SB) 422, 88th Legislature, Regular Session (2023), which added military service members who hold out-of-state licenses as persons eligible for special business or occupational authorization or licensing consideration. An adopted amendment to relettered §215.83(i) clarifies that the requirements and procedures authorized under Texas law do not modify or alter rights under federal law.

In relettered §215.83(i)(1), adopted amendments delete two duplicative references to Occupations Code, §55.0041. Also, in relettered §215.83(i)(1), an adopted amendment substitutes 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 adopted amendments to relettered §215.83(i)(3) are adopted to implement SB 422 which amended certain provisions of Occupations Code, Chapter 55. Adopted amendments 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 adopted amendment implements Occupations Code, §55.005(a), which

requires a state agency to issue a license no later than the 30th day after an application is filed and Occupations Code, §55.0041, 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 adopted amendment to relettered §215.83(i)(3) adds 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.

An adopted amendment to relettered §215.83(j) adds a reference to Government Code, §2001.054 for ease of reference. An adopted 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 to provide a license holder.

Adopted amendments to relettered §215.83(n) substitute the term "standard" for "metal" to more accurately describe the type of dealer's license plate addressed in this subsection and add the phrase "is canceled" to clarify that a standard dealer's license plate expires on the date the dealer's General Distinguishing Number (GDN) is canceled under Transportation Code, §503.038.

An adopted amendment to §215.84(a) inserts an introductory paragraph with a statutory citation 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 reletters the remaining subparagraphs accordingly. Adopted amendments to relettered §215.84(b) add two clarifying phrases "in the definition of broker" and "acting as a" for consistency with the statute and delete duplicate phrasing to improve readability. Adopted amendments to relettered §215.84(c) 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. The adopted amendments to §215.84(c) also correct punctuation in relettered §215.84(c), 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 update a reference to the relettered subchapter containing the advertising rules. Adopted amendments to relettered §215.84(d) clarify that §215.84 does not apply to a person who is not a broker as defined in Occupations Code, §2301.002, and delete a redundant phrase "or entity" as entities are included in the definition of "person" in Occupations Code, §2301.002. An adopted amendment deletes current §215.84(d) because the content of that subsection is incorporated into adopted relettered §215.84(c)(7).

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

Adopted amendments to §215.87 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. An adopted amend-

ment to §215.87(a) adds a list of license types eligible to request a standard license plate and is necessary for completeness and clarity. A proposed amendment to §215.87(b) clarified that a standard license plate expires when the associated license is canceled, and at adoption, the phrase "closed, or revoked" was added to clarify all the circumstances under which a license plate issued by the department to a license holder expired. An adopted amendment to §215.87(c) clarifies that a license holder may be required to pay tax when ordering a standard license plate as required under Tax Code, §152.027. Another adopted amendment creates new §215.87(d), which describes for clarity and ease of reference the process a dealer must use to apply for or renew a personalized prestige license plate issued under Transportation Code, §503.0615.

Adopted amendments to §215.89(a) and (b) delete the redundant "or department" because the word "board" is defined to include department staff to whom the board delegates a duty. An adopted amendment to §215.89(a)(2) adds a reference for clarity and ease of 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. An adopted amendment to §215.89(b)(6) adds 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. Adopted amendments to §215.89(b)(10) add "final" and substitute "after" for "through" for clarity and consistency with department contested case procedures, and replace "citizens" with "residents" for consistency with statute and the rest of the chapter.

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

This subchapter is adopted to be relettered as Subchapter C because the department has adopted the repeal of current Subchapter B in this issue of the *Texas Register*.

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

Adopted new §215.102 sets out in one rule for clarity and ease of reference the application requirements for manufacturers, distributors, converters, and franchised dealers for new, renewal, and amendment license applications, including the requirement to attach documents, pay statutorily 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. Adopted new §215.102(a)-(d) includes requirements that apply to all franchised dealers, manufacturers, distributors, and converters. Adopted new §215.102(c) requires 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 allows the department to implement its re-

sponsibilities under Occupations Code §§2301.251, 2301.252, 2301.256-2301.260, 2301.303, and 2301.304.

Adopted new §215.102(e)(1) describes the information that must be submitted in the application, denoting any differences by license type. In adopted new §215.102(e)(1)(L)(ii), the adopted text differs from the proposed text as an "and" was added at the end, and in §215.102(e)(1)(L)(iii), the adopted text differs from the proposed text as an "and" was deleted and a period substituted for a semicolon. These changes were necessary at adoption because the content of §215.102(e)(1)(L)(iv) "the terms of the contract under which the distributor will act for the manufacturer," was moved at adoption to §215.102(e)(1)(N)(iv) for clarity. Adopted §215.102(e)(1)(L) describes the information that an applicant must provide when applying for either a manufacturer's or a distributor's license. Not all manufacturers have a distributor, so for added clarity the requirement to provide terms of a distributor's contract is moved at adoption to §215.102(e)(1)(N) which describes the additional information that an applicant must provide when applying for a distributor's license. In adopted new §215.102(e)(1)(N)(iv), the adopted text differs from the proposed text as language in that provision duplicates the following language in §215.102(e)(1)(L)(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." At adoption the department deleted the unnecessary duplicate language and replaced this language with "the terms of the contract under which the distributor will act for the manufacturer" for clarity. At adoption, the department changed the proposed text to replace "if" with "whether" in §215.102(e)(1)(P)(iii) for consistency. In adopted new §215.102(e)(1)(P)(v), the adopted text differs from the proposed text to correct a referenced section title, §215.133 to "GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction."

Adopted new §215.102(e)(2) describes the documents that must be attached to the application and denotes differences by license type. The adopted information and attachment requirements vary for each license type based on different statutory requirements and related consumer fraud or public safety considerations resulting from the applicant's operation, the applicant's business model, including distribution methods, and the specific new vehicle types manufactured, distributed, or offered for sale by the applicant. At adoption, the department changed the proposed text of §215.102(e)(2)(C) to remove the phrase "at least" because it is unnecessary. In adopted new §215.102(e)(2)(E)(i), the adopted text differs from the proposed text in that "offers for sale or sales of motor vehicle in Texas" is changed to "motor vehicle sales or offers to sell to Texas residents, "dealer" is changed to "dealer or person" or "dealer's or person's," and "product" is changed to "new motor vehicle" to add clarity and consistency. This adopted amendment to §215.102(e)(2)(E)(i) incorporates best practice recommendations from the American Association of Motor Vehicle Administrators (AAMVA) to prevent public harm that may result from sales to Texas residents by out-of-state dealers authorized by a manufacturer or distributor to sell new vehicles in Texas exclusively through an online sales model. In adopted new §215.102(e)(2)(G), the department changed the text at adoption to narrow the specific information or pages from the distribution agreement that the department requires an applicant for a distributor's license to provide, to avoid unnecessary disclosure of confidential business information. At adoption the department also clarified that if a completed questionnaire was provided, a manufacturer's authorized representative may sign

the questionnaire, however, the applicant or applicant's authorized representative may not sign on behalf of a manufacturer.

Adopted new §215.102(e)(3) describes the fees that must be paid when an applicant applies for a license. Adopted new §215.102(f) prohibits a license applicant from using a name or assumed name that could be confused with a governmental entity or could be deceptive or misleading to the public to prevent consumer fraud and abuse. Adopted new §215.102(g) describes the process through which a manufacturer or distributor may add a new line make to an existing license during the license period. The department adopts nonsubstantive changes to the text at adoption throughout §215.102 to change license type references to the singular possessive form "manufacturer's," "distributor's," "converter's," and "franchised dealer's" for consistency with Occupations Code, Chapter 2301 and in §215.120(f) to change "must" to "shall" for consistency within the subsection.

In §§215.102, 215.104, 215.105, 215.109, 215.111, 215.113, and 215.121, the department adopts a nonsubstantive change to the text at adoption to rephrase "system for licensing" to "licensing system" to improve readability. In adopted amendments to §§215.102(b), 215.104(g), and 215.105(e), a change to the text at adoption substitutes "must" for "shall" for consistency with drafting standards. In §215.104(c) and (d) a change to the text at adoption substitutes "must" for "is required to" for consistency in terminology. In adopted amendments to §§215.105(b), 215.106(b), 215.113(c)-(e), and 215.120(h), a change in the text at adoption substitutes "shall" for "will" for consistency in terminology. In §215.111(a) and §215.120(e), (f), and (i) adopted amendments substitute "shall" for "must" for consistency in terminology.

Adopted amendments to §215.103(a) substitute "performs" for the phrase "will only perform" and add the phrase "and not new motor vehicle sales" to clarify and emphasize that the franchised dealer activity that may not be performed at a service-only facility is new motor vehicle sales. The phrase "and nonwarranty" is deleted because the department does not license non-warranty repair services. Similarly, the last sentence in §215.103(a) is deleted in the adopted amendments because Occupations Code, Chapter 2301 does not require warranty repair services to be performed only at a licensed dealer location. Offsite sales are limited in Occupations Code, §2301.362, but no statutory provision limits the location in which warranty services may be provided. This change conforms the rule text with statutory language and provides franchised dealers with the flexibility allowed by statute to perform warranty repairs using mobile services managed out of a licensed location. Adopted amendments to §215.103(b) delete a redundant word and change the term "line" to "line-make" for consistency. An adopted amendment to §215.103(d) deletes the word "only" as this term is not required by statute and a franchised dealer may prefer to have contracting flexibility to obtain more attractive commercial terms.

Adopted amendments to §215.104(a) and §215.104(b)(3) delete unnecessary words to improve readability without changing the meaning. Adopted amendments throughout §215.104 update and modernize the license amendment process by requiring a franchised dealer to submit an amendment application electronically in the designated licensing system. An adopted amendment in §215.104(a)(1) clarifies and modernizes the rule by requiring that amendment application attachments must be legible and accurate electronic images. An adopted

amendment in §215.104(a)(2) adds a reference to new adopted Chapter 224, (relating to Adjudicative Practice and Procedure), which includes procedures related to processing protests of a franchised dealer's application and is published for adoption in this issue of the *Texas Register*. An adopted amendment in §215.104(b)(3) modernizes and standardizes the process through which a publicly held corporation informs the department of an ownership change by requiring that corporation to file an amendment application electronically when a person or entity acquires a 10% ownership share. An adopted amendment to §215.104(c)(5) deletes an archaic requirement for a franchised dealer to notify the department if the dealer's facsimile number has changed, and to renumber accordingly. An adopted amendment to §215.104(d)(1) substitutes "oversees" with "is in charge of" for consistency and clarity without changing the meaning of the provision. Adopted amendments to §215.104(e) and §215.104(f) add "franchised" and delete the phrase "licensed new motor vehicle" for consistency in describing a dealer under this subchapter and add the word "amendment" to describe the type of application required to process the referenced change to the franchised dealer's license.

In an adopted amendment to §215.105(b), the department changed the text at adoption to specify the forms of notice the department will use to notify a franchised dealer about an opportunity to protest an application, including certified mail and email. Adopted amendments to §215.105(b) and §215.105(c) add "franchised" and delete the phrase "licensed new motor vehicle" for consistency in describing a dealer under this subchapter. An adopted amendment to §215.105(d) clarifies and modernizes 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 licensing system" and pay the required fee.

An adopted amendment to §215.106(a)(1) clarifies 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, and clarifies that a notice of protest must be filed within 15 days after the date in the department's notice. An adopted amendment to §215.106(a)(2) modernizes the protest process by requiring the notice of protest to be filed in the department's designated electronic system, and an adopted amendment to §215.106(a)(3) clarifies that the fee must be paid at the time the application is submitted. An adopted amendment to §215.106(b)(2) clarifies that the protest will be rejected if payment is not made or is later dishonored.

Adopted amendments to §§215.108, 215.109, 215.110, and 215.113 add the word "franchised" and delete the phrase "licensed new motor vehicle," for consistency in describing a dealer under this subchapter.

An adopted amendment to §215.109(4) requires a franchised dealer to submit a dealership replacement application electronically in the designated department licensing system to modernize the process.

Adopted amendments to §215.110(a) split the subsection into three separate subsections lettered (a) through (c), modify internal references in relettered (b) and (c) from "subsection" to "section" to reflect the new organization, and reletter current subsection (b) to subsection (d) accordingly to improve readability. Adopted amendments in §215.110(a) 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. An adopted amendment to relettered §215.110(b) clarifies that an applicant may submit temporary evidence of franchise electronically. Adopted amendments to relettered §215.110(c) clarify that an applicant is required to provide the designated franchise agreement pages to the department before a license may be issued.

Adopted amendments to §215.111 organize the existing language into two subsections to improve readability. An adopted 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 removes language that duplicates the statute. Adopted amendments to new §215.111(b) require a franchised dealer to file a written notice of protest electronically in the department's designated licensing system. The department changed the text of §215.111(b) at adoption to add a clarifying reference to the minimum number of days that a manufacturer or distributor must provide a franchised dealer to file a protest before terminating or discontinuing a franchise agreement. The amendments to §215.111(b) modernize the process and conform the rule to the statute.

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 adopted for repeal in this issue of the *Texas Register* because §215.112(a) expressly limits applicability of the rule to motor home shows requiring department approval.

An adopted amendment §215.113(a) replaces "new motor vehicle dealer" with "franchised dealer" as the statutory term in Occupations Code, §2301.002 is "franchised dealer." Adopted amendments to §215.113(a), (d), and (e) require the notice of protest to be filed electronically in the department's designated licensing system to modernize the process. Adopted amendments to §215.113(c) substitute the more general Occupations Code subchapter designation for the specific section series reference so that any future statutory changes will not require a rule change, and add a reference to the subchapter in adopted new Chapter 224, (relating to Adjudicative Practice and Procedure), which applies to this subsection and is published for adoption in this issue of the *Texas Register*. Adopted amendments to §215.113(f) add a reference to the subchapter in adopted new Chapter 224, (relating to Adjudicative Practice and Procedure), which applies to this subsection and is published for adoption in this issue of the *Texas Register*, delete archaic language as contested case hearing scheduling is determined by the State Office of Administrative Hearings (SOAH) and its procedural rules, and substitute the word "issued" for "rendered" for consistency.

An adopted amendment to the title of §215.115 adding the phrase "Vehicle Sales" describes the scope of the section more accurately. Adopted amendments to §215.115(a), (b), (d) and (f) delete the phrase "a representative of" as this phrase is unnecessary. Adopted amendments to §215.115(a), (b), and (f) add language to allow a record to be submitted to the department electronically upon request to modernize the process. Adopted amendments to §215.115(b) correct preposition use to improve readability without changing the meaning.

An adopted amendment to the title of §215.116 adds the term "Franchised Dealership" to describe the scope of this section more accurately. An adopted amendment to §215.116(a) adds

the descriptor "franchised" to the term dealer and deletes duplicate language without changing meaning.

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

The title of adopted new §215.120 was changed at adoption to add "Standard" to the adopted title as the title "Standard License Plates," describes the content of this section more accurately. Adopted new §215.120 creates a consolidated chapter for all the department's requirements related to the use of license plates by manufacturers, distributors, and converters for ease of reference and clarity. Adopted new §215.120(a) specifies when a manufacturer, distributor, or converter may apply for a standard license plate and adopted new §215.120(a) and (b) specify the type of vehicle and purposes for which a license plate may be used. Adopted new §215.120(c) explains where the license plate is to be placed on the license holder's vehicle. Adopted new §215.120(d) contains the recordkeeping requirements for these license plates. In adopted new §215.121(b)(10), the proposed text is changed at adoption to correct a subchapter reference from "Subchapter H" to "Subchapter F." The department changed the text of adopted new §215.120(d)(3) at adoption to add a clarifying phrase "if one has been assigned" because some vehicles that manufacturers register may not have an assigned Vehicle Identification Number (VIN) such as a prototype or concept vehicle. In adopted new §215.120(d)(4), the department made a change to the text at adoption to specify that the license plate record only needs to contain the identity of the person in control of the standard license plate. Adopted new §215.120(e) and (f) describe what a manufacturer, distributor or converter is required to do if a license plate is lost, stolen, or damaged. Adopted new §215.120(g) requires license plate records be available for inspection or review if requested by the department. Adopted new §215.120(h) specifies the criteria the department will use to evaluate a license holder's request for additional standard license plates. Adopted new §215.120(i) requires 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.

Adopted new §215.121 describes the powers of the board and department to sanction a manufacturer, distributor, or converter. This adopted new section provides these license holders with information about which violations may result in civil penalties or may affect licensing eligibility. Adopted new §215.121(a) describes 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. Adopted new §215.121(b) describes which acts or omissions may result in a sanction. A change to the proposed text of §215.121(b) at adoption removes the clause "a representative of" because it is unnecessary. A change to the proposed text for §215.121(b)(2) at adoption replaces the word "timely" with the more specific phrase "within 15 days" to specify the time period certain license holders have to provide records in response to a request by the department. In adopted new §215.121(b)(10), the proposed text is changed at adoption to correct a subchapter reference from "Subchapter H" to "Subchapter F," the relettered subchapter containing the advertising rules.

Subchapter E. General Distinguishing Numbers

This subchapter is adopted to be relettered as Subchapter D because the department has adopted the repeal of current Subchapter B in this issue of the *Texas Register* and the subsequent subchapters are adopted to be relettered accordingly. An

adopted amendment to the title of this subchapter adds in-transit licenses which are issued to drive-a-way operators under Transportation Code, §503.023.

Adopted amendments to §215.131 add a reference to Transportation Code, Chapters 1001-1005 and clarify that provisions in this subchapter apply to GDNs and drive-a-way operator in-transit licenses issued by the department.

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

An adopted amendment to §215.133 retitles the section to "GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction" to accurately reflect the scope of the section. Transportation Code, §503.022 requires a wholesale motor vehicle auction to hold a GDN for each business location, and Transportation Code, §503.030 requires an applicant to submit information required by the department in the application. A wholesale motor vehicle auction is not "a dealer" as defined in Transportation Code, §503.001(4). To clarify the scope of this section, which is intended to include all GDN application requirements, the phrase "or a Wholesale Motor Vehicle Auction" was added to the title and the application requirements are expanded to include this GDN category. An adopted amendment to §215.133(a) adds a reference to a wholesale motor vehicle auction to reflect the expanded scope of the rule and deletes a redundant word. Adopted amendments to §215.133(c) add multiple references to wholesale motor vehicle auction throughout to expand the requirements of the rule to include wholesale motor vehicle auction GDN holders, add a clarifying 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. Adopted amendments to §215.133(c)(1) 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. Adopted amendments to §215.133(c)(2) clarify §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 add the word "business" in §215.133(c)(2)(G) to clarify the phrase "premises photos." Adopted amendments to §215.133(c)(3) delete a redundant phrase in §215.133(c)(3)(A), add a clarifying reference in §215.133(c)(3)(B) to applicable taxes, and substitute "standard" for "metal" for a more precise description of a dealer's license plate. In §215.133(d), adopted amendments add a fingerprint requirement for wholesale motor vehicle auction GDNs to allow the department to evaluate the criminal histories of applicants to prevent and deter application fraud, and update the title of a referenced section. Adopted amendments to §215.133(e) delete "dealer" to clarify that all GDN applicants and holders must follow the assumed name requirements in that subsection and add the phrase "a name or" to denote that an applicant cannot use a business name or an assumed name that is confusing, deceptive, or otherwise misleading to the public. Adopted new

§215.133(j) clarifies that a person holding an independent motor vehicle GDN and performing salvage activities must apply for a National Motor Vehicle Title Information System Identification number and provide that number to the department in the application so the department can verify that the applicant meets federal registration requirements and is qualified to perform salvage activities. The next subsection, adopted §215.133(k), is relettered accordingly.

In the adopted amendments to §§215.133, 215.134, 215.135, 215.141, and 215.145, the department made a nonsubstantive change to the proposed text to rephrase "system for licensing" to "licensing system" for consistency and to improve readability. In the adopted amendments to §§215.133(c), 215.134(b), 215.138(a)(i), 215.140(a)(1)(A), 215.144(j)(3), and 215.160(d), the department substitutes "must" in the proposed text for "shall" at adoption for consistency with drafting standards. In adopted §215.133(c)(2)(D) and §215.134(e)(2)(C), the phrase "at least" is deleted at adoption as unnecessary. In §215.135(b) and (c), a change to the text at adoption substitutes "is required to" with "must" for consistency in terminology.

Transportation Code, §503.023 requires a drive-a-way operator who transports or drives a vehicle in Texas to hold a drive-a-way in-transit license. Transportation Code §503.031 requires an applicant for this license type to submit an application containing information required by the department. Adopted new §215.134 is necessary to define application requirements for a drive-a-way operator in-transit license. Adopted new §215.134(a) defines the requirement that a person have a drive-a-way operator license to engage in the business in Texas. Adopted new §215.134(b) defines the application process and requires an applicant to complete an application form prescribed by the department and submit the application through the department's designated electronic licensing system. Adopted new §215.134(c) requires a license holder renewing or amending a license to verify current information and provide related information and documents for any new requirements or changes to the license and pay required fees. Adopted new §215.134(d) instructs new applicants how to register in the department-designated licensing system. Adopted new §215.134(e)(1) describes the information that must be submitted in the application for a drive-a-way operator in-transit license. Adopted new §215.134(e)(2) describes 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. Adopted new §215.134(e)(3) describes the fees that must be paid when an applicant applies for a license. Adopted new §215.134(f) requires 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 to deter and prevent application fraud. Adopted new §215.134(g) protects the public by prohibiting an in-transit license holder from using a business name or assumed name that is confusing, deceptive, or misleading. Adopted amendments to §215.135(a) and (b) substitute "municipality" for "city" as municipality is a defined term in the Local Government Code, Chapter 1, and is adopted as a defined term in §215.132. The department made a change to the proposed text at adoption to replace "city" with "municipality" in the adopted amendments to §215.135(c) as well, to create consistency. An adopted amendment to §215.135(a) updates a reference to align with the title of §215.140. Adopted amendments to §215.135(b) and (c) correct punctuation. The adopted amendment to §215.135(d) requires a GDN holder to notify the

department of a new, closed or relocated business location by filing an amendment electronically in the designated licensing system to modernize the process.

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

Adopted amendments to the title of §215.138 and throughout the section delete "metal" or "assigned metal dealer's" to describe a dealer's standard license plate for consistency in terminology. An adopted amendment to §215.138(a) deletes a requirement to attach a plate to a license plate holder, references §217.27, Vehicle Registration Insignia, for plate placement requirements, and is necessary for consistency. Adopted amendments to §215.138(b) replace the phrase "so that the receipt can be presented" with "to present" to add clarity without changing meaning. Adopted amendments combine the definition of light truck in §215.138(e) and rule language in §215.138(f) into relettered §215.138(e) to add clarity, and the remaining sections are relettered accordingly. Adopted amendments to relettered §215.138(h) 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. Adopted amendments to relettered §215.138(i) and (j) clarify the procedures for reporting a license plate that is lost, stolen, or damaged. Adopted new §215.138(k) requires that a dealer's license plate records be available for inspection or to submit to the department electronically upon request to allow the department to investigate potential misuse of license plates. Adopted new §215.138(l) requires 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. At adoption, the phrase "standard or personalized prestige" is placed after "dealer" and before "license plate" throughout new adopted §215.138 to clarify that the requirements of this section apply to all dealer license plate types. In adopted relettered §215.138(j), the text was reorganized at adoption to add clarity and in §215.138(j)(2) "must" was deleted as this word is duplicative and unnecessary. In adopted new §215.138(l), the text is changed at adoption to substitute the term "dealer" in place of "license holder" and to replace "shall" with "must" for consistency of terminology.

Adopted amendments to the title of §215.139 and throughout the section and attached graphics delete "metal" and add "standard" to describe a dealer plate more accurately and consistently. In §215.139(d) and in §215.139(f)(2), adopted amendments remove passive verbs and thereby improve readability without changing the meaning. In the attached graphic to §215.139(f)(1), adopted amendments 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 adopted amendments correct inadvertent errors made when the graphic was last published. The adopted amendments delete §215.139(h) as an unnecessary disclaimer because other adopted amendments to §215.87(d) and §215.138(h) explicitly address procedures relating to personalized prestige dealer plates.

An adopted amendment to §215.140 adds a subsection letter (a) to distinguish premises requirements for GDN dealers from premises requirements for wholesale motor vehicle auctions, which are adopted in new subsection (b). Adopted amend-

ments to §215.140(a)(1)(B) and §215.140(a)(2) 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. Adopted amendments to §215.140(a)(5)(F) 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 and municipality in which the business is located. An adopted amendment to §215.140(a)(5)(F) deletes "metal" to describe the dealer's license plate more consistently. An adopted amendment to §215.140(a)(11)(B)(ii) clarifies that a display area must be reserved exclusively for the dealer's inventory. Adopted amendments to §215.140(a)(11)(B)(iv) and (vii) 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 recommendations for the maximum weight that one person may safely lift without assistance. Adopted amendments to §215.140(a)(11)(C) replace "dealer" with "GDN holder." Adopted amendments to §215.140(a)(11)(C) include a change to the proposed text at adoption to replace the proposed requirement that a GDN holder disclose all storage lots in the license application process with a more limited requirement that a GDN holder disclose the location of a storage lot or location of a motor vehicle in inventory upon request by the department, so the department can inspect the lot to ensure compliance with department rules and investigate complaints. The adopted changes in §215.140(a)(11) prevent fraud and consumer abuse and protect public health and safety. An adopted amendment to §215.140(a)(12) deletes an exclusion for salvage pool operators because this exclusion is not consistent with public welfare as the public should not be misled about the status or condition of a salvage vehicle. If a dealer is selling both motor vehicles and salvage vehicles, each salvage vehicle must be clearly and conspicuously marked. An adopted amendment to §215.140(a)(14) moves to the end of the paragraph the requirement to post a dealer's GDN and bond notice in each location to improve clarity without changing the meaning.

Adopted new §215.140(b) adds premises requirements for wholesale motor vehicle auctions and implements the requirements of Transportation Code, §503.032. The text of adopted new §215.140(b)(6)(G) is changed at adoption to limit the requirement that a GDN holder disclose the address or location of a storage lot to be only upon request of the department, rather than as part of the license application. The text of adopted new §215.140(b)(7)(C)(ii) is changed at adoption to correct a reference by replacing "dealer" with "wholesale motor vehicle auction."

Adopted amendments to §215.141(a) 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. Adopted amendments to §215.141(b)(1) add a reference to the relevant statute and to the requirement to post a bond notice and delete an archaic reference to a bond amount. Adopted new §215.141(b)(2) addresses the failure of a license holder to meet or maintain the established and permanent place of business premises requirements as this failure is one of the most common violations requiring a sanction under this subchapter, and the remaining paragraphs are renumbered accordingly. Adopted amendments to renumbered §215.141(b)(4) clarify that a license holder under this subchap-

ter may be sanctioned for either failing to provide electronic records, or for refusing or failing to comply with a department request to review electronic or physical records at the licensed business location"the text is changed at adoption to add the phrase "electronic or physical" for additional clarity. An adopted amendment to renumbered §215.141(b)(4)(A) corrects the title to a cross-referenced section of rule. At adoption, text was added to renumbered §215.141(b)(4)(B) to delete an unnecessary "and" because additional language is being adopted in this subparagraph. Adopted new §215.141(b)(4)(D) adds 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 investigate compliance with Transportation Code requirements for an established and permanent place of business. Adopted amendments reletter the remaining subsections to accommodate adopted new §215.141(b)(4)(D). An adopted amendment to relettered §215.141(b)(6) deletes a redundant reference to §215.140 because a reference to that section is adopted in §215.141(b)(2) and removes subsection delineations within §215.141(b)(6) because they are unnecessary. Adopted amendments to relettered §215.141(b)(8) clarify that a license holder under this subchapter may be sanctioned if the license holder fails to submit a license amendment in the designated department electronic licensing system to change an address within 10 days of the change. The proposed text of §215.141(b)(8) is changed at adoption to align with changes made at adoption to §215.140, removing all reference to the proposed requirement for GDN applicants to disclose storage lots on the license application, which is removed from §215.140. An adopted amendment to relettered §215.141(b)(9) clarifies that a license holder under this subchapter may be sanctioned if a person fails to submit a license amendment in the designated department electronic licensing system to notify the department of a change in name or change in management or ownership within 10 days of the change. The adopted amendments to §215.141(b)(8) and (9) modernize the process with references to the electronic licensing system. Adopted amendments to relettered §215.141(b)(12) and (13) delete "metal" from the description of license plate consistent with statutory language in Transportation Code, Chapter 503. An adopted amendment to relettered §215.141(b)(16) deletes an incorrect reference to non-existent Transportation Code, Chapter 1000. An adopted amendment to relettered §215.141(b)(17) adds a clarifying reference to §211.3, Criminal Offense Guidelines. An adopted amendment to relettered §215.141(b)(20) clarifies that providing a false or forged document to the department may result in a sanction. In an adopted amendment to §215.141(b)(21), the text is changed at adoption to delete a stray reference to Transportation Code, Chapter 1000, which does not exist. An adopted amendment to relettered §215.141(b)(22) clarifies 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. Adopted new §215.141(b)(25) clarifies 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. Adopted amendments to relettered §215.141(b)(28) delete an archaic effective date and add the title of a referenced statutory provision for clarity. The text of adopted relettered §215.141(b)(28) is changed at adoption to correct punctuation by removing an errant period. Adopted 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 the board is able to enforce its refund orders. Adopted new §215.141(b)(30) adds 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 because 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.

Transportation Code, §503.035 requires the department to issue an in-transit license plate to a drive-a-way operator holding an in-transit license. Adopted new §215.143 describes the process for a drive-away operator to obtain an in-transit standard license plate and the requirements for using an in-transit standard license plate. Adopted new §215.143(a) specifies when and how a drive-a-way operator may apply for an in-transit standard license plate. Adopted new §215.143(b) describes when and where the license plate is to be placed on a vehicle. Adopted new §215.143(c) describes the recordkeeping requirements for in-transit standard license plates. Adopted §215.143(d) and (e) describe what a drive-a-way operator is required to do if a standard in-transit license plate is lost, stolen, or damaged. Adopted new §215.143(f) requires license plate records to be available for inspection or review if requested by the department to allow the department to investigate potential fraud or complaints. Adopted new §215.143(g) specifies the criteria the department will use to evaluate a request for additional in-transit standard license plates to ensure that the plate allocation is sufficient to meet but not exceed the licensee's legitimate needs so as to not increase the opportunity for plate fraud. Adopted new §215.143(h) requires 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 to prevent fraudulent use of in-transit standard license plates.

An adopted amendment to the title of §215.144 adds "Vehicle" to the title to describe the scope more accurately as pertaining to vehicle records. Adopted amendments to §215.144(a) add a reference to a wholesale motor vehicle auction and delete the redundant phrase "a representative of"--the text is changed at adoption to include "of" in the deleted phrase and thereby correct an error in the proposed text. An adopted amendment to §215.144(b) adds a reference to records that must be kept by an independent mobility motor vehicle dealer for ease of reference, with a change in the text at adoption to remove an unnecessary "the." An adopted amendment to §215.144(c) deletes unnecessary punctuation. Adopted amendments to §215.144(d) clarify language regarding department records requests and correct a reference from "division" to "department" for consistency. Adopted amendments to §215.144(e)(7) delete an archaic reference to the title of a tax receipt form and substitute the general phrase "county tax assessor-collector receipt marked paid," because the receipt form may vary by county. Adopted amendments to §215.144(e)(8) improve sentence structure, clarify that records must be kept for both the purchase and the sale of a vehicle, delete a reference to an archaic form, and add requirements to keep a copy of the purchaser's photo identification, the odometer disclosure statement signed by the buyer unless the vehicle is exempt, and the rebuilt salvage disclosure, if applicable. A change to the proposed text of §215.144(e)(8)(M) at adoption adds the phrase "unless the vehicle is exempt" to the adopted text for clarity.

These additional record requirements in §215.144(e)(8)(L)-(N) prevent consumer harm and reduce potential for fraud. Adopted amendments to §215.144(e)(9) rephrase the existing requirement to improve readability without changing the meaning. Adopted amendments to §215.144(f)(2) add a reference to a statutory exemption and update the language consistent with current statutory requirements because any willing county tax assessor-collector may process a title or registration request. Adopted amendments to §215.144(f)(3) add clarity by changing 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. An adopted amendment to §215.144(g)(1) adds clarity by changing the presumed reasonable time for a dealer to act for out-of-state sales from 20 working days to 30 days; the definition of "days" under §215.2(b)(2) is adopted to be calendar days. Adopted amendments to §215.144(h) update the language consistent with current statutory requirements because any willing county tax assessor-collector may process a title or registration request. Adopted amendments to §215.144(j) delete the unnecessary phrase "a representative of" to describe the department, 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 update a citation to the federal odometer disclosure requirements in §215.144(j)(3)(F). An adopted amendment to §215.144(k) deletes the unnecessary phrase "a representative of" in describing the department. Adopted amendments to §215.144(l) update the subsection title to refer to the department's electronic titling and registration system for clarity and delete unnecessary punctuation. In the adopted amendments to §215.144(a), (b), (d), (h), (j), and (l), the text is changed at adoption to substitute "shall" for "must" for consistency in terminology.

An adopted amendment to §215.145(a) deletes a duplicative word, and adopted amendments to §215.145(b) modernize the provision by requiring a dealer to submit a license amendment electronically in the department's designated licensing system. Adopted amendments to §215.145(c)-(f) remove redundant language or restate language to improve readability without changing the meaning. Another adopted amendment to §215.145(f) modernizes the provision by adding a reference to filing a GDN application electronically in the department's designated licensing system. An adopted amendment to §215.145(g) deletes unnecessary punctuation and corrects the title of a referenced statute.

The department adopts the repeal of the entirety of §215.146 in this issue of the *Texas Register* because the rule language is incorporated into new adopted §215.120, relating to Standard License Plates.

Adopted amendments to §215.147(a) correct a reference to a driver license and delete an archaic reference to a concealed handgun license. An adopted amendment to §215.147(b) substitutes "dealer's" for "license holder's" for consistency in terminology without changing the meaning. An adopted amendment to §215.147(c) adds "Vehicle" for consistency with an adopted title change to §215.144, relating to Vehicle Records. A change to the text at adoption §215.147(c) substitutes "must" with "shall" for consistency with drafting standards.

Adopted amendments to §215.148 add references to Transportation Code, Chapter 503 and adopted new Chapter 224

of this title (relating to Adjudicative Practice and Procedure), which is published for adoption in this issue of the *Texas Register*, update an adopted title change to §215.144, and remove redundant and unnecessary words and punctuation. A change to the text at adoption §215.148(a) substitutes "shall" for "must" and in §215.148(d) substitutes "must" for "shall" for consistency with drafting standards.

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

An adopted amendment to §215.150(a) adds "or lease" to clarify that a dealer may issue a temporary tag for a leased vehicle. An adopted amendment to §215.150(b)(1) updates a reference to adopted new Chapter 224 of this title (relating to Adjudicative Practice and Procedure), which is published for adoption in this issue of the *Texas Register*. Adopted amendments to §215.150(c) change word order to "buyer's temporary tag" for consistency.

An adopted amendment to §215.151(a) adds "governmental agency" to the list of entities that must display temporary tags on the rear of a vehicle in operation. As a result, the deletion of §215.151(b) is adopted, and the remaining subsections are relettered accordingly. Adopted amendments to relettered §215.151(c) 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.

Adopted amendments to §215.152(a) and (b) delete an unnecessary phrase as a governmental agency is defined in §215.2 to include federal, state, and local agencies. Adopted amendments in §215.152(f) increase the allotment of temporary tags for a franchised dealer from 600 to 1,000 based on the department's historical experience. Since the time that 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. Increasing the initial amount allocated to this dealer type will help ensure a new franchised dealer has the requisite number of tags to support daily operations. Adopted amendments in §215.152(i) 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(l) clarifies that temporary tag allotments do not carry over to subsequent years.

An adopted amendment to §215.154(a) adds "or lease" to clarify that a dealer may issue a dealer's temporary tag for a vehicle the dealer is authorized to lease. An adopted amendment to §215.154(c) deletes "metal" and adds "standard or personalized prestige" to accurately describe the license plate types the dealer may use. In §215.154(d), changes to the text at adoption added punctuation to statutory references for consistency. An adopted amendment to §215.154(d)(2)(B) adds a reference to §215.138(d) for clarity and ease of reference. Adopted amendments to §215.154(e) and (g) delete these two subsections as the language in these subsections duplicates §215.138, to which a reference is adopted in §215.154(d)(2)(B), and the remaining subsections are relettered accordingly.

Adopted amendments to §215.155(a) clarify that a buyer's temporary tag may only be displayed on a vehicle from the selling dealer's inventory, reorganize and combine the content in

§215.155(a) and (b) in a numbered list for clarity and readability, and add "or lease" to clarify that a dealer may issue a dealer's temporary tag for a vehicle the dealer is authorized to lease. Adopted new §215.155(b) clarifies 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 clarifies that the temporary tag must not be displayed on the vehicle in these circumstances. This clarification facilitates title-only vehicle sales for vehicles that will not be driven on Texas roads. An adopted amendment to §215.155(c) deletes "metal" for consistency. Adopted amendments to §215.155(e) delete unnecessary punctuation and phrasing without changing the meaning. Adopted amendments to §215.155(f) and adopted new §215.155(g) reorganize and rephrase language in §215.155(f) to improve clarity and readability without changing meaning.

The text of amended §215.160(a) and (b) changed at adoption, replacing redundant phrases "a regular title" and "issued a title" with "been titled" for clarity and readability without changing the meaning. The text of amended §215.160(a) changed at adoption to remove a redundant citation to Transportation Code, §501.100. An adopted amendment to §215.160(b) increases the required font size from 11-point to 14-point in the rebuilt vehicle acknowledgment or vehicle disclosure form to increase visibility. An adopted amendment in §215.160(c) requires a separate signature on the acknowledgment or disclosure form. Adopted amendments in §215.160(d) reorder language to improve clarity and update a referenced section title; the department also changed the proposed text in §215.160(d) at adoption to replace "shall" with "must" for consistency with drafting standards. The adopted amendments increasing the required font size and requiring a signature protect consumers and prevent consumer harm.

Adopted amendments to §215.161 update the title to add "Provider" for clarity because the requirements in this section relate to motor vehicle licensing education course providers. Adopted new §215.161(f) clarifies that the department does not offer an approved licensing education course.

Subchapter F. Lessors and Lease Facilitators

This subchapter is adopted to be relettered as Subchapter E as the department adopts the repeal of current Subchapter B in this issue of the *Texas Register* and the following subchapters are adopted to be relettered accordingly.

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

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

In the adopted amendments to §§215.174(a), 215.178(a), (d), and 215.179(b), the department changed the proposed text at adoption to substitute "shall" for "must" for consistency in terminology. In the adopted amendments to §§215.174, 215.175, and 215.179, the department changed the proposed text at adoption to replace "system for licensing" with "licensing system" to improve readability.

The adopted amendments to §215.174 modernize the provision by requiring use of the department's electronic licensing system. Adopted amendments to §215.174(a) add a reference to §215.83 and clarify that applications, including supporting documentation and fees, are to be submitted electronically in the designated department licensing system. Adopted new §215.174(b)

requires a license holder renewing or amending a license to verify current information and provide related information and documents for any changes to the license and pay required fees. These adopted amendments modernize the license renewal and amendment process. Adopted new §215.174(c) instructs a new applicant how to register in the department-designated licensing system. Adopted new §215.174(d) describes the information that must be submitted in the application, and the remaining subsections are relettered accordingly. The department changed the proposed text of §215.174(d) at adoption to delete extraneous brackets. Adopted amendments to relettered §215.174(e) specify the supporting documentation that an applicant for a vehicle lessor's license must provide so the department can investigate the applicant and its business practices prior to issuing a new or renewal license. The adopted amendments to relettered §215.174(e) 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. In adopted §215.174(e)(2), the introductory phrase "at least" in this paragraph is deleted at adoption as this phrase is unnecessary.

The department changed the proposed text at adoption in §215.174(e) and (f) to replace "must" with "shall" for consistency with drafting standards. Adopted amendments to relettered §215.174(f) specify the supporting documentation that an applicant for a vehicle lease facilitator's license must provide so the department can investigate the applicant and its business practices prior to issuing a new or renewal license. The adopted amendments to relettered §215.174(f) 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. Adopted new §215.174(g) protects the public by prohibiting a vehicle lessor or vehicle lease facilitator from using a business name or assumed name that is confusing, deceptive, or misleading. Adopted new §215.174(h) clarifies 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 designated licensing system.

Adopted amendments to §215.175(b)(5) and (6) 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 designated licensing system. An adopted amendment to §215.175(b)(7) updates a statutory reference. An adopted amendment to §215.175(b)(8) updates a subchapter designation to match the adopted relettering. The department changed the proposed text at adoption in §215.175(b)(10) to correct a citation to the department's rule that sets guidelines for the department's treatment of criminal offenses by license holders. Adopted amendments to §215.175(b)(13) delete the term "willfully" to make any omission of material information sanctionable conduct and clarify that a material misrepresentation includes

providing a false or forged identity document or a false or forged photograph, electronic image, or document. Adopted amendments to §215.175(c) and (d) modernize the provision to clarify that the vehicle lessor and the vehicle lease facilitator must notify the department by electronically submitting a license amendment in the designated licensing system.

An adopted amendment to §215.176 adds "business" to the title of the section to describe the section. An adopted amendment in §215.176(b) substitutes "municipality" for "city" for consistency with the term defined in §215.132. In §215.176(b) a change to the text at adoption substitutes "must" for "is required to" for consistency in terminology.

An adopted amendment to the title of §215.177 adds "Premises Requirements" to describe the scope of the section. An adopted amendment to §215.177(a) removes unnecessary words to improve readability. An adopted amendment to §215.177(a)(1)(A) sets minimum standards for a license holder's availability and responsiveness to the public and the department 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. Adopted amendments to §215.177(a)(1)(B) clarify that "chairs" is interpreted as two chairs and clarify that a vehicle lessor or vehicle facilitator's office must have internet access to ensure a license holder has the minimum level of facilities to adequately serve the public. Adopted amendments to §215.177(a)(1)(C) further ensure that a vehicle lessor or vehicle facilitator's office meets minimum standards to serve the public by requiring the office to 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. Adopted amendments to §215.177(a)(1)(E) and (F) remove unnecessary language without changing the meaning. Adopted amendments to §215.177(a)(2) protect the public from being misled or confused by a license holder'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. Adopted amendments to §215.177(a)(3) clarify premises lease requirements and modernize the language. The adopted amendments in §215.177(a) are consistent with the minimum requirements for a retail dealer and deter fraud and protect consumers. An adopted amendment deletes 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 are relettered accordingly.

Adopted amendments to §215.178(a) clarify that the records kept by lessors and lease facilitators include vehicle purchase, leasing, and sales records. The adopted amendments to §215.178(a) include a change to the text at adoption to add the phrase "of leased vehicles" to align subsection (a) with subsection (a)(1) by clarifying that sales records relate to vehicles sold at the end of a lease, and that a lessor is required to keep records of leases as well as records of sales. The adopted amendments to §215.178(a) also include a change to the text at adoption to replace "must" with "shall" for consistency with drafting standards. Adopted amendments to §215.178(a)(1) 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. Adopted amendments to §215.178(b) improve clarity and readability and revise the requirement for a vehicle lease facilitator to provide an employee's work address and not a home address. Adopted new §215.178(c) describes the vehicle lessor's recordkeeping requirements if a leased vehicle is later sold, and the subsequent subsections are relettered accordingly. Adopted amendments to relettered §215.178(d) consist of minor edits throughout to fix cross-references and improve clarity and readability, and do not change the meaning of the rule. Adopted amendments to relettered §215.178(f) 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. Adopted amendments to relettered §215.178(g) modernize the provision by adding the option for a vehicle lessor or a vehicle lease facilitator to send records to the department electronically, and make minor edits to improve readability.

Adopted amendments throughout §215.179 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 designated licensing system, remove redundant or unnecessary language, and update the title of a referenced section of this chapter.

An adopted amendment to §215.180 substitutes a subchapter designation for a list of sections so that a future statutory change will not require a rule change.

Subchapter G. Warranty Performance Obligations

The department adopts the repeal of all sections of Subchapter G, Warranty Performance Obligations, in this issue of the *Texas Register* because the substance of each rule and any adopted amendments are incorporated into adopted new Chapter 224, (relating to Adjudicative Practice and Procedure) which is also published for adoption in this issue of the *Texas Register*. The adopted repeal includes §§215.201-215.210.

Subchapter H. Advertising

This subchapter is adopted to be relettered as Subchapter F because the department adopts the repeal of current Subchapters B and G in this issue of the *Texas Register* and the remaining subchapters are adopted to be relettered accordingly.

An adopted amendment to §215.242 substitutes "deemed" for "considered" for consistency.

Adopted amendments to §215.244(11) delete an unnecessary definition for a license holder. As a result, adopted amendments to §215.244 renumber the remaining definitions and fix cross references accordingly. An adopted amendment to renumbered §215.244(17) clarifies that the communication referred to in the provision is a notice of opportunity to cure.

An adopted amendment to the title of §215.249 substitutes "or" for "/" for clarity and style consistency. An adopted amendment to §215.249(c) deletes "the State of" for consistency.

In §215.249(a) and §215.250(a) changes to the text at adoption substitutes "must" for "shall" for consistency in terminology.

Adopted amendments to §215.250(a) delete "new or used" as this phrase is 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. Adopted amendments to §215.250(b)(3) add clarity that fees and charges expressly allowed by law do not have to be included in a featured sales price.

An adopted amendment to §215.257 clarifies 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.

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

An adopted amendment to §215.264(c) substitutes "other disclosure or deal term" for the lengthy list of disclosures and deal terms in this section for clarity and brevity. Adopted amendments to §215.264(f) and (h) delete references to specific paragraphs as the paragraph references are unnecessary.

Adopted amendments to §215.268 delete unnecessary language and substitute terms for consistency and clarity and do not change the meaning of the section.

Adopted amendments to §215.270(b) add clarity by identifying the referenced notice as an opportunity to cure and update a reference to the adopted new §224.56, Notice of Department Decision, which is adopted in this issue of the *Texas Register*.

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 adopted for repeal in this issue of the *Texas Register* because the substance of each rule and any adopted amendments are incorporated into adopted new Chapter 224, (relating to Adjudicative Practice and Procedure) which is adopted in this issue of the *Texas Register*. The adopted repeal includes §§215.301 - 215.303, 215.305 - 215.308, 215.310, 215.311, and 215.314 - 215.317.

Subchapter J. Administrative Sanctions

This subchapter is adopted to be relettered as Subchapter G because the department adopts the repeal of current Subchapters B, G, and I in this issue of the *Texas Register* and the remaining subchapters are adopted to be relettered accordingly.

Adopted amendments to §215.500 delete "and Procedures" from the title and delete all of subsection (b) because the procedures from this section are adopted into new Chapter 224, (relating to Adjudicative Practice and Procedure), which is published for adoption in this issue of the *Texas Register*. Adopted amendments to §215.500(a) delete the (a) designation and correct a reference to a referenced section.

The remaining sections of Subchapter J, §§215.501, 215.502, and §215.505, are adopted for repeal in this issue of the *Texas Register* and are adopted for inclusion in new Chapter 224, (relating to Adjudicative Practice and Procedure), which is published for adoption in this issue of the *Texas Register*.

SUMMARY OF COMMENTS.

The department received nine written comments on the proposal.

The department received written comments from six individuals, the Texas Automobile Dealers Association (TADA), the Texas Independent Automobile Dealers Association (TIADA), and the Texas Recreational Vehicle Association (TRVA).

Comment: TADA requested that the proposed amendments to §§215.102, 215.103, 215.171, and 215.173 - 215.180 be withdrawn from consideration due to pending litigation.

Response: The department disagrees. The department does not believe that withdrawing these rules is necessary as these rules are not at issue in pending litigation, except as authority for regular ongoing enforcement activities.

Comment: TADA stated that the word "authorized" is unclear in §215.102(e)(2)(E)(i).

Response: The department disagrees. The department believes that "authorized" is a term that a manufacturer or distributor can reasonably interpret when applying for a license. The department modified other language in the sentence for clarity and consistency in response to this comment.

Comment: An individual commenter requested the department change the proposed amendments to §215.102 to clarify which specific terms in a distributor agreement must be disclosed to the department under Occupations Code, §2301.260 because a distribution agreement may contain confidential or proprietary information that is irrelevant to distributor licensing requirements.

Response: The department agrees. The department modified the proposed language in §215.102(e)(2)(g) at adoption to address this concern by specifying the contract terms that an applicant for a distributor license must provide the department.

Comment: Four individual commenters stated their full support for amendments to §215.103 and expressed the view that a franchised dealership's ability to offer mobile warranty repair services will enable franchised dealers to provide a higher level of service to the public and improve customer satisfaction.

Response: The department agrees.

Comment: An individual commenter requested that an electronic notice requirement be added to §215.105 and §215.106.

Response: The department agrees. Electronic notice is an efficient and preferred notice method. The department added language at adoption to §215.105 and §215.106 in response to this comment to require electronic notice in addition to notice by certified mail, return receipt requested.

Comment: TADA requested clarifying language be added to §215.111 regarding the minimum number of days that a manufacturer or distributor must provide a franchised dealer to file a protest before terminating or discontinuing a franchise.

Response: The department agrees. The department added language in §215.111(b) at adoption to clarify that the effective date of a franchise termination or discontinuance must not be less than 60 days after the franchised dealer receives notice.

Comment: TADA and TRVA requested the department not repeal §215.112.

Response: The department disagrees. The department lost statutory authority for §215.112 on September 1, 2019. This rule has been unenforceable for more than four years and must be repealed. The statutory limitations on sales such as prohibitions on weekend sales ("blue law") and off-site sales remain in effect and enforceable on their own, without any need for the depart-

ment to repeat them in rule. The department remains committed to working with stakeholders to propose a new rule for board consideration consistent with the department's current statutory authority.

Comment: TIADA stated that the department should not require license applicants to provide additional or specific forms of identification and recommended striking the words "at least" before the phrase "one of the following" in §215.133(c)(2)(D).

Response: The department agrees. The department does not require a natural person to provide more than one form of identification and a person may choose any form of identification from the list in §215.133(c)(2)(D). Some applicants have chosen to upload more than one type of identification to facilitate license processing due to concerns about scanned image quality. However, this situation has become less prevalent, and the department agrees that "at least" is unnecessary language and has deleted that phrase.

Comment: TIADA recommended simplifying the language in relettered §215.138(j).

Response: The department agrees. The department reorganized the language in relettered §215.138(j) at adoption to improve clarity.

Comment: TADA and TIADA had concerns about the proposed new requirement in §215.140(a)(11)(C) for a GDN applicant or holder to disclose the physical address of a storage lot.

Response: The department agrees. In response, the department changed the language of §215.140(a)(11)(C) at adoption to make the requirement less burdensome by only requiring a GDN holder or applicant to disclose the address of a storage lot or location of a vehicle in inventory upon department request, rather than through the license application or license amendment process.

Comment: TIADA questioned whether the minimum premises standards for wholesale motor vehicle auctions in §215.140(b)(6)(g) are appropriate.

Response: The department disagrees. The department proposed minimum standards based on the wholesale nature of this GDN type and believes these provisions are necessary to implement Transportation Code, §503.032. The department did not receive any comments from wholesale motor vehicle auction GDN holders regarding these minimum standards.

Comment: TIADA pointed out incorrect usage of the term "dealer" in §215.140(b)(6)(g).

Response: The department agrees. The department changed the language of §215.140(b)(6)(g) at adoption to replace "dealer" with "wholesale motor vehicle auction."

Comment: TIADA suggested adding "if applicable" to the odometer disclosure recordkeeping requirement in §215.144(e)(8)(M).

Response: The department agrees. The department changed the language of §215.144(e)(8)(M) at adoption to add a clarifying phrase.

Comment: TADA requested that license holders be allowed adequate time to reprint forms or reprogram systems to meet new font and format requirements in §215.160(b) and (c) to minimize financial impact to affected license holders.

Response: The department agrees. The department notes that it, too, must reprogram department systems to implement some of the adopted amendments. Accordingly, the department is recommending a future effective date of June 1, 2024, to the Board for all amendments.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §215.1, §215.2

STATUTORY AUTHORITY. The department adopts 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 adopts 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 adopts 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 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 1001-1005 require the Texas Department of Motor Vehicles to license and regulate the vehicle industry to ensure a sound system of distributing and selling 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 vehicles. This chapter describes licensing requirements and the rules governing the vehicle industry.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401555

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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 adopts 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 adopts 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 implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.



SUBCHAPTER B. LICENSES, GENERALLY

43 TAC §§215.82 - 215.85, 215.87, 215.89

STATUTORY AUTHORITY. The department adopts 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 adopts 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 adopts 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 adopted revisions 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. *Replacement Standard License Plates and Stickers.*

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

- (1) did not receive the applicable standard license plate or sticker;
- (2) makes the request within 45 days of the date the applicable standard license plate or sticker was mailed to the license holder; and
- (3) submits a request electronically in the licensing system designated by the department.

§215.87. *License and Standard License Plate Terms and Fees.*

(a) Except as provided by other law, the term of a license or standard 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 license plate issued by the department expires on the date the associated license expires or is canceled, closed, or revoked.

(c) The fee for a license or standard license plate is computed by multiplying the applicable annual fee by the number of years of the license term. The entire 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401557

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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 adopts 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 adopts 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 adopted revisions 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.

§215.102. *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 must be on a form prescribed by the department and properly completed by the applicant. A license application must include all required information, supporting documents, and fees and must be submitted to the department electronically in the licensing system designated by the department.

(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 (as applicable), and website address as 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's, distributor's, or converter's 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's or distributor's 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; and

(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.

(M) if applying for a manufacturer's 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's 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) the terms of the contract under which the distributor will act for the manufacturer.

(O) if applying for a converter's 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's license:

(i) reason for the new application;

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

(iii) whether 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 GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction).

(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, as applicable;

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

(C) 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's, distributor's, or converter's 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's or distributor's license:

(i) a list of each franchised dealer in Texas including the dealer's name and physical address, or if motor vehicle sales or

offers to sell to Texas residents will solely be over the internet, a list of each out-of-state dealer or person authorized by the manufacturer or distributor to sell a new motor vehicle online to a Texas resident including the dealer's or person's name, physical address, and license number issued by the state in which the dealer or person is located; and

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

(F) if applying for a manufacturer's 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's license, either:

(i) pages of the executed distributor agreement containing at minimum the following:

(I) the legal business name of each party;

(II) authorized signature of each party;

(III) distribution territory;

(IV) distribution agreement effective date and

end date,

or written confirmation from the distributor and manufacturer that the distribution agreement is expected to be in effect for the entire license period;

(V) physical location, mailing address, and email address of each party;

(VI) distributor responsibilities under the agreement related to warranty matters under Occupations Code, Chapter 2301, and franchised dealer matters under Occupations Code, Chapter 2301, Subchapter H, Dealers, Subchapter I, Warranties: Reimbursement of Dealer, Subchapter J, Manufacturers, Distributors, and Representative, and Subchapter K, Mediation Between Dealer and Manufacturer or Distributor;

(VII) party or person responsible for providing warranty services; and

(VIII) motor vehicle line-makes and vehicle types included in the agreement; or

(ii) a completed department-provided questionnaire containing the information required in clause (i) signed by the applicant and the manufacturer as true and complete. An authorized representative for the manufacturer may sign the questionnaire, however, the applicant or applicant's representative may not sign the questionnaire on behalf of a manufacturer.

(H) if applying for a franchised dealer's 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's or distributor's license must be approved by the department before the new line-make may be added to a franchised dealer's license.

§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 to request an additional line-make at the dealer's currently licensed showroom. The amendment application must be filed electronically in the licensing system designated by the department.

(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 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 (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 the licensing system designated by the department.

(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 if one person or entity acquires 10% or greater interest in the licensed entity.

(c) A franchised dealer must file an amendment application electronically in the licensing system designated by the department 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 email address.

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

- (1) a change in management, dealer principal, or change of other person who oversees 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 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 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 must obtain department approval prior to opening a supplemental location or relocating an existing location by filing an amendment application electronically in the licensing system designated by the department. A franchised dealer must notify the department electronically in the licensing system designated by the department 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's 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 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. The department shall send notice electronically and by certified mail, return receipt requested, to the email address and mailing address in the franchised dealer's license record.

(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 licensing system designated by the department 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 must 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 must 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 must 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 must 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 Time (CST or CDT, as applicable) on the 15th day after the department issued the notice as evidenced by the date in the notice;

(2) filed in the department's designated electronic filing system; and

(3) submitted with the filing fee paid.

(b) The department shall 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.

§215.109. Replacement Dealership.

An application for a franchised 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 licensing system designated by 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.

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

(a) A manufacturer or distributor shall give notice of termination or discontinuance of a dealer's franchise to a franchised dealer and the department in accordance with Occupations Code, §2301.453.

(b) A dealer must file a written notice of protest of the franchise termination or discontinuance pursuant to Occupations Code, §2301.453 electronically in the licensing system designated by the department, prior to the effective date of the franchise termination or discontinuance stated in the notice from the manufacturer or distributor, which must not be less than 60 days after the franchised dealer receives the notice of termination or discontinuance.

§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 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 licensing system designated by the department 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 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 period for manufacturer or distributor ownership or control of a franchised 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 period. The director shall 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 O 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 licensing system designated by the department. Upon receipt of

a subsequent request, the department shall initiate a hearing in accordance with Occupations Code, Chapter 2301, Subchapter O, 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 shall 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 licensing 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 shall 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). The franchised 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 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).

§215.120. Standard 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 standard license plate request application electronically in the system designated by the department.

(b) A manufacturer may use a manufacturer's standard license 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 license 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 standard 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 standard license plate issued to the manufacturer, distributor, or converter by the department. The license plate record 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, if one has been assigned; and
- (4) the name of the person in control of the license plate.

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

- (1) document the license plate as "void" in the license plate record in subsection (d); 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 standard license plate is no longer valid for use after the manufacturer, distributor, or converter reports to the department that the license plate is lost, stolen, or damaged. A manufacturer, distributor, or converter must render a void license plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once marked, shall 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 shall 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 standard licenses plates;
- (5) the license holder's record of tracking and reporting missing or damaged license plates to the department; and
- (6) any other factor the Department in its discretion deems necessary to support the number of license plates requested.

(i) a license holder shall 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 within 15 days to 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 licensing system designated by the department 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 licensing system designated by the department 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 F 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 adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401558

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



43 TAC §215.112

STATUTORY AUTHORITY. The department adopts 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 adopts 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 implements Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401559

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



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

STATUTORY AUTHORITY. The department adopts 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 adopts 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 adopts 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 adopted revisions 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.

§215.133. GDN 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 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 must 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 must include all required information, required supporting documents, and required fees and must be submitted to the department electronically in the licensing system designated by the department. 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 (as applicable), and website address, as 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, 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) 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) 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) 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) military service status;

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

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

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

(P) 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, as 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) 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.

(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 each type of license requested as prescribed by law; and

(B) the fee, including applicable taxes, for each standard 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), as applicable.

(e) An applicant for a GDN operating under a name other than the applicant's business name 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 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 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's 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) 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 must 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 must include all required information, required supporting documents, and required fees, and must be submitted to the department electronically in the licensing system designated by the department.

(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 (as applicable), and website address, as 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, as applicable;

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

(C) 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 drive-a-way in-transit standard 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, 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 of the initial dealership must:

(1) obtain a new GDN; and

(2) provide a new surety bond reflecting the additional location 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 municipality or relocates to a point not within the limits of the same municipality of the initial location must:

(1) obtain a new GDN; and

(2) provide a new surety bond reflecting the new address 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 licensed location by filing an amendment application electronically in the licensing system designated by the department. 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.

§215.138. Use of Dealer's License Plates.

(a) A dealer's standard or personalized prestige license plate must be attached to the rear of a vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(b) A copy of the receipt for a dealer's standard or personalized prestige license plate issued by the department should be carried in the vehicle to present to law enforcement personnel upon request.

(c) A dealer's standard or personalized prestige 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) 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) A dealer's standard or personalized prestige 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 dealer's standard or personalized prestige license plate on a new motor vehicle.

(g) A dealer's standard or personalized prestige license plate may be displayed only on a vehicle that has a valid inspection in accordance with Transportation Code, Chapter 548.

(h) A dealer shall maintain a record of each dealer's standard or personalized prestige license plate issued by the department to that dealer. The license plate record must contain:

(1) the license plate number;

(2) the year and make of the vehicle to which the 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) If a dealer cannot account for a dealer's standard or personalized prestige license plate that the department issued to that dealer, the dealer shall:

(1) document the dealer's license plate as "void" in the dealer's license plate record;

(2) within three days of discovering that the 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; and

(3) if found, cease use of the dealer's license plate.

(j) A dealer's standard or personalized prestige license plate is no longer valid for use after the dealer reports to the department that the dealer's license plate is lost, stolen, or damaged. A dealer shall:

(1) render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X"; and

(2) destroy or recycle the license plate or return the license plate to the department 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 shall return a department-issued license plate, sticker, or receipt to the department within 10 days of the dealer closing the associated license or the department revoking or canceling the license.

§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 must 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 exte-

rior 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 capable of receiving U.S. mail, and have an assigned emergency services property address. The department will not mail a 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 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 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 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. A GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department.

(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.

(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. 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. A GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department.

(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 wholesale motor vehicle auction 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;
- (4) assess a civil penalty;
- (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 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) fails to maintain records required under this chapter;

(4) refuses or fails to comply with a request by the department for electronic records or to examine and copy electronic or physical records 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 Vehicle 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) refuses or fails to timely comply with a request for records made by a representative of the department;

(6) 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;

(7) sells or offers to sell a type of vehicle that the person is not licensed to sell;

(8) fails to submit a license amendment application in the electronic licensing system designated by the department 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;

(9) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a license holder's name change, or management or ownership change within 10 days of the change;

(10) 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) fails to remove a license plate or registration insignia from a vehicle that is displayed for sale;

(12) misuses a dealer's license plate or a temporary tag;

(13) fails to display a dealer's license plate or temporary tag, as required by law;

(14) 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) 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) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 503 and 1001-1005; 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 of this chapter (relating to Advertising);

(17) 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) 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) has not assigned at least five vehicles in the prior 12 months, provided the dealer has been licensed more than 12 months;

(20) 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) 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 1001 - 1005; or other laws;

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

(24) sells a new motor vehicle without a franchised dealer's license issued by the department;

(25) 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) violates any state or federal law or regulation relating to the sale of a motor vehicle;

(28) 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.

§215.144. Vehicle Records.

(a) Purchases and sales records. A dealer and wholesale motor vehicle auction shall 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 the department during business hours.

(b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer shall 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 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 from a representative of the department, a dealer shall 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 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;

(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 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 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;

(L) the purchaser's photo identification;

(M) the odometer disclosure statement signed by the buyer, unless the vehicle is exempt; 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 offered for sale by a dealer which must be 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 dealer must apply in the name of the purchaser of a vehicle for the title and registration, as applicable, of the vehicle with a county tax assessor-collector.

(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 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 involving a vehicle to be transferred out of state, the dealer must:

(1) within 30 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 must 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 county tax assessor-collector. 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 shall 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 the department during business hours.

(1) A wholesale motor vehicle auction license holder shall 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, a wholesale motor vehicle auction license holder shall 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 must, 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's 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;

(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 the department, except as provided by subsection (l) of this section.

(l) Use of department electronic titling and registration systems. 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), shall 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 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 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 licensing system. 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 licensing system. 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 as a sole proprietor, 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 under the current dealer license until the end of the license term.

(d) For purposes of subsection (c) of this section, the sole proprietor's 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 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 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 name to the existing bond.

(f) For purposes of subsection (c) of this section, a 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 licensing system.

(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 license;

(3) a 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 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 must 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 shall 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 (relating to Adjudicative Practice and Procedure)).

(d) A dealer's authorization to an agent or employee must:

(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 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.

§215.154. 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 temporary tag or its 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 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.

(f) 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) 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) 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) 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) 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.

§215.160. 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 has subsequently been titled under Transportation Code, §501.100, a dealer shall disclose in writing that the motor vehicle has been repaired, rebuilt, or reconstructed. 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 subsequently titled 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 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 a separate signature.

(d) An original signed acknowledgement or vehicle disclosure form required by subsection (b) of this section must 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401560

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



43 TAC §215.146

STATUTORY AUTHORITY. The department adopts 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 adopts 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 implements Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401561

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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 adopts 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 adopts 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 adopted revisions 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.

§215.174. Application for a License.

(a) An applicant for a vehicle lessor's or vehicle lease facilitator's license shall 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, accompanied by all required supporting documentation, and required fees, and submitted to the department electronically in the licensing system designated by the department.

(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, as applicable, and website address, as 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) The supporting documentation for a vehicle lessor's license application must 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;
- (2) 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;
- (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) The supporting documentation for a vehicle lease facilitator's license application must 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;
- (2) one of the following unexpired 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;

(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;

(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 licensing system designated by the department.

§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 licensing system designated by the department 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 licensing system designated by the department 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;

(8) fails to maintain advertisement records or otherwise fails to comply with the advertising requirements of:

(A) §215.178; or

(B) Subchapter F 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 §211.3 of this title (relating to Criminal Offense Guidelines), 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) 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 licensing system designated by the department 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 licensing system designated by the department 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 or relocates to a point not within the limits of the same municipality of the initial business location must 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.

§215.178. Records Required for Vehicle Lessors and Vehicle Lease Facilitators.

(a) Vehicle purchase, leasing, and sales records. A vehicle lessor or vehicle lease facilitator shall maintain a complete record of all vehicle purchases, leases, and sales of leased vehicles for at least one year after the expiration of the vehicle lease.

(1) Complete 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.

(2) Within 15 days of receipt of a request from a representative of the department, a vehicle lessor or vehicle lease facilitator shall 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;

(2) the name, mailing address, physical address, and telephone number of each vehicle lessee;

(3) the name, address, telephone number, and license number of the lease facilitator;

(4) the name, work 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's license number if the vehicle 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.

(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) Records of advertising. A vehicle lessor or vehicle lease facilitator shall 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 the department at the business location during posted business hours.

(1) A vehicle lessor and a vehicle lease facilitator shall comply with all federal and state advertising laws and regulations, including Subchapter F of this chapter (relating to Advertising).

(2) A vehicle lessor's or vehicle lease facilitator's advertising or promotional materials may not state or infer, either directly or indirectly, that the business involves the sale of new motor vehicles.

(e) 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) Letters of representation or appointment. A letter of representation or appointment between a vehicle lessor and a vehicle lease facilitator must be executed by both parties and maintained by each party.

(g) 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.

§215.179. Change of Vehicle Lessor or Vehicle Lease Facilitator Status.

(a) Change of ownership. A vehicle lessor or vehicle lease facilitator that sells or assigns 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 licensing system designated by the department. 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 licensing system designated by the department. 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 licensing system designated by the department.

(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 licensing system designated by the department and receiving electronic notice of approval prior to relocating or opening a satellite location. A license holder shall 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 licensing system designated by the department.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.
TRD-202401562

Laura Moriarty
General Counsel
Texas Department of Motor Vehicles
Effective date: June 1, 2024
Proposal publication date: December 29, 2023
For further information, please call: (512) 465-4160

◆ ◆ ◆
**SUBCHAPTER G. WARRANTY
PERFORMANCE OBLIGATIONS**

43 TAC §§215.201 - 215.210

STATUTORY AUTHORITY. The department adopts 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 adopts 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 implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401563

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



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 adopts 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 adopts 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 adopts 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 adopted revisions implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§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 must 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 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 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 must 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 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.)

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.
TRD-202401564
Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
Effective date: June 1, 2024
Proposal publication date: December 29, 2023
For further information, please call: (512) 465-4160



**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 adopts 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 adopts 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 adopts 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 implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401565

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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

SUBCHAPTER G. ADMINISTRATIVE SANCTIONS

43 TAC §215.500

STATUTORY AUTHORITY. The department adopts 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 autho-

rizes 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 adopts 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 adopts 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 implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.
TRD-202401566

Laura Moriarty
General Counsel
Texas Department of Motor Vehicles
Effective date: June 1, 2024
Proposal publication date: December 29, 2023
For further information, please call: (512) 465-4160



43 TAC §§215.501, 215.502, 215.505

STATUTORY AUTHORITY. The department adopts 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 adopts 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 adopts 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 implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401567

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



CHAPTER 217. VEHICLE TITLES AND REGISTRATION

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §217.56

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) §217.56 regarding vehicle registration reciprocity agreements. The department adopts amendments to §217.56 with changes to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8262). The rule will be republished.

The department adopts §217.56 with nonsubstantive changes. The department replaced the word "edition" with "version" in §217.56(c)(2)(B) to reference the International Registration Plan (IRP) and the IRP Audit Procedures Manual to be consistent with the terminology on the IRP website. Also, the department changed the order of the citations to adopted new Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and Transportation Code, Chapter 502 in §217.56(c)(2)(J)(iii) for clarity.

The adopted amendments incorporate by reference the January 1, 2022, version of the IRP, clarify language, make the terminology consistent with other department rules, delete certain language regarding the process for an appeal under §217.56, and refer to adopted new Chapter 224 of this title 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 adopts new Chapter 224, which includes all department adjudicative practice and procedure rules.

REASONED JUSTIFICATION. An adopted amendment to §217.56(c)(2)(B) incorporates by reference the January 1, 2022, version of IRP. 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 IRP because it contains language regarding the nature and requirements of vehicle registration under IRP. Also, Government Code, §2001.004(1) requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. In addition, Texas is a member of IRP, as authorized by Transportation Code, §502.091 and 49 U.S.C. §31704, and must comply with IRP. The jurisdictions that are members of IRP amended the January 1, 2021, version of IRP as follows to create the January 1, 2022, version: 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).

An adopted amendment to §217.56(c)(2)(J) replaces the catch line for subparagraph (J) to provide a better description of the contents of subparagraph (J). The adopted amendment to §217.56(c)(2)(J)(ii) changes the word "ruling" to "decision" to be consistent with other department rules. An adopted amendment to §217.56(c)(2)(J)(iii) references adopted new §224.122 of this title (relating to Appeal of Decision Regarding Assessment, Cancellation, or Revocation Under §217.56), which prescribes 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. An adopted amendment to §217.56(c)(2)(J)(iii) states that an appeal will be governed by adopted new Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and Transportation Code, Chapter 502. In addition, adopted amendments to §217.56(c)(2)(J)(iii) delete language regarding the prior procedure for an appeal under subparagraph (J), including the procedure under prior Chapter 206, Subchapter D of this title (relating to Procedures in Contested Cases). In this issue of the *Texas Register*, the department adopts amendments that repeal Subchapter D of Chapter 206 and replace it with provisions in adopted new Chapter 224.

SUMMARY OF COMMENTS.

No comments on the proposed amendments were received.

STATUTORY AUTHORITY. The department adopts amendments to §217.56 under Transportation Code, §502.091(b), which authorizes the department to adopt and enforce rules to carry out IRP; Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department;

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 this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. These amendments implement Transportation Code, Chapter 502, and Government Code, Chapter 2001.

§217.56. *Registration Reciprocity Agreements.*

(a) Purpose. To promote and encourage the fullest possible use of the highway system and contribute to the economic development and growth of the State of Texas and its residents, the department is authorized by Transportation Code, §502.091 to enter into agreements with duly authorized officials of other jurisdictions, including any state of the United States, the District of Columbia, a foreign country, a state or province of a foreign country, or a territory or possession of either the United States or of a foreign country, and to provide for the registration of vehicles by Texas residents and nonresidents on an allocation or distance apportionment basis, and to grant exemptions from the payment of registration fees by nonresidents if the grants are reciprocal to Texas residents.

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

(1) Cab card--The apportioned vehicle registration receipt that contains, but is not limited to, the vehicle description and the registered weight at which the vehicle may operate in each jurisdiction.

(2) Department--The Texas Department of Motor Vehicles.

(3) Director--The director of the Motor Carrier Division, Texas Department of Motor Vehicles.

(4) Executive director--The chief executive officer of the department.

(5) Regional Service Center--A department office which provides specific services to the public, including replacement titles, bonded title rejection letters, and apportioned registration under the International Registration Plan (IRP).

(6) Temporary cab card--A temporary registration permit authorized by the department that allows the operation of a vehicle for 30 days subject to all rights and privileges afforded to a vehicle displaying apportioned registration.

(c) Multilateral agreements.

(1) Authority. The executive director may on behalf of the department enter into a multilateral agreement with the duly authorized officials of two or more other jurisdictions to carry out the purpose of this section.

(2) International Registration Plan.

(A) Applicability. The IRP is a registration reciprocity agreement among states of the United States and other jurisdictions providing for payment of registration fees on the basis of fleet distance operated in various jurisdictions. Its purpose is to promote and encourage the fullest possible use of the highway system by authorizing apportioned registration for commercial motor vehicles and payment of appropriate vehicle registration fees and thus contributing to the economic development and growth of the member jurisdictions.

(B) Adoption. The department adopts by reference the January 1, 2022, version of the IRP. The department also adopts by reference the January 1, 2016, version of the IRP Audit Procedures Manual. In the event of a conflict between this section and the IRP or the IRP Audit Procedures Manual, the IRP and the IRP Audit Procedures Manual control. Copies of the documents are available for review in the Motor Carrier Division, Texas Department of Motor Vehicles. Copies are also available on request.

(C) Application.

(i) An applicant must submit an application to the department on a form prescribed by the director, along with additional documentation as required by the director. An applicant shall provide the department with a copy of the applicant's receipt under the Unified Carrier Registration System Plan and Agreement under 49 U.S.C. §14504a (UCR) to prove the applicant is currently registered under UCR if the applicant is required to register under UCR.

(ii) Upon approval of the application, the department will compute the appropriate registration fees and notify the registrant.

(D) Fees. Upon receipt of the applicable fees in the form as provided by §209.23 of this title (relating to Methods of Payment), the department will issue one or two license plates and a cab card for each vehicle registered.

(E) Display of License Plates and Cab Cards.

(i) The department will issue one license plate for a tractor, truck-tractor, trailer, and semitrailer. The license plate issued to a tractor or a truck-tractor shall be installed on the front of the tractor or truck-tractor, and the license plate issued for a trailer or semitrailer shall be installed on the rear of the trailer or semitrailer.

(ii) The department will issue two license plates for all other vehicles that are eligible to receive license plates under the IRP. Once the department issues two license plates for a vehicle listed in this clause, one plate shall be installed on the front of the vehicle, and one plate shall be installed on the rear of the vehicle.

(iii) The cab card shall be carried at all times in the vehicle in accordance with the IRP. If the registrant chooses to display an electronic image of the cab card on a wireless communication device or other electronic device, such display does not constitute consent for a peace officer, or any other person, to access the contents of the device other than the electronic image of the cab card.

(iv) The authority to display an electronic image of the cab card on a wireless communication device or other electronic device does not prevent the Texas State Office of Administrative Hearings or a court of competent jurisdiction from requiring the registrant to provide a paper copy of the cab card in connection with a hearing, trial, or discovery proceeding.

(F) Audit. An audit of the registrant's vehicle operational records may be conducted by the department according to the IRP provisions and the IRP Audit Procedures Manual. Upon request, the registrant shall provide the operational records of each vehicle for audit in unit number order, in sequence by date, and including, but not limited to, a summary of distance traveled by each individual vehicle on a monthly, quarterly, and annual basis with distance totaled separately for each jurisdiction in which the vehicle traveled.

(G) Assessment. The department may assess additional registration fees of up to 100% of the apportionable fees paid by the registrant for the registration of its fleet in the registration year to which the records pertain, as authorized by the IRP, if an audit conducted under subparagraph (F) of this paragraph reveals that:

(i) the operational records indicate that the vehicle did not generate interstate distance in two or more member jurisdictions for the distance reporting period supporting the application being audited, plus the six-month period immediately following that distance reporting period;

(ii) the registrant failed to provide complete operational records; or

(iii) the distance must be adjusted, and the adjustment results in a shortage of registration fees due Texas or any other IRP jurisdiction.

(H) Refunds. If an audit conducted under subparagraph (F) of this paragraph reveals an overpayment of fees to Texas or any other IRP jurisdiction, the department will refund the overpayment of registration fees in accordance with Transportation Code, §502.195 and the IRP. Any registration fees refunded to a carrier for another jurisdiction will be deducted from registration fees collected and transmitted to that jurisdiction.

(I) Cancellation or revocation. The director or the director's designee may cancel or revoke a registrant's apportioned registration and all privileges provided by the IRP as authorized by the following:

(i) the IRP; or

(ii) Transportation Code, Chapter 502.

(J) Procedures for assessment, cancellation, or revocation.

(i) Notice. If a registrant is assessed additional registration fees, as provided in subparagraph (G) of this paragraph, and the additional fees are not paid by the due date provided in the notice or it is determined that a registrant's apportioned license plates and privileges should be canceled or revoked, as provided in subparagraph (I) of this paragraph, the director or the director's designee will mail a notice by certified mail to the last known address of the registrant. The notice will state the facts underlying the assessment, cancellation, or revocation; the effective date of the assessment, cancellation, or revocation; and the right of the registrant to request a conference as provided in clause (ii) of this subparagraph.

(ii) Conference. A registrant may request a conference upon receipt of a notice issued as provided by clause (i) of this subparagraph. The request must be made in writing to the director or the director's designee within 30 days of the date of the notice. If timely requested, the conference will be scheduled and conducted by the director or the director's designee at division headquarters in Austin and will serve to abate the assessment, cancellation, or revocation unless and until that assessment, cancellation, or revocation is affirmed or disaffirmed by the director or the director's designee. In the event matters are resolved in the registrant's favor, the director or the director's designee will mail the registrant a notice of withdrawal, notifying the registrant that the assessment, cancellation, or revocation is withdrawn, and stating the basis for that action. In the event matters are not resolved in the registrant's favor, the director or the director's designee will issue a decision reaffirming the department's assessment of additional registration fees or cancellation or revocation of apportioned license plates and privileges. The registrant has the right to appeal in accordance with clause (iii) of this subparagraph.

(iii) Appeal. If a conference held in accordance with clause (ii) of this subparagraph fails to resolve matters in the registrant's favor, the registrant may submit an appeal under §224.122 of this title (relating to Appeal of Decision Regarding Assessment, Cancellation, or Revocation Under §217.56). An appeal will be governed by Chapter

224 of this title (relating to Adjudicative Practice and Procedure) and Transportation Code, Chapter 502.

(K) Reinstatement.

(i) The director or the director's designee will reinstate apportioned registration to a previously canceled or revoked registrant if all applicable fees and assessments due on the previously canceled or revoked apportioned account have been paid and the applicant provides proof of an acceptable recordkeeping system for a period of no less than 60 days.

(ii) The application for the following registration year will be processed in accordance with the provisions of the IRP.

(L) Denial of apportioned registration for safety reasons. The department will comply with the requirements of the Performance and Registration Information Systems Management program (PRISM) administered by the Federal Motor Carrier Safety Administration (FMCSA).

(i) Denial or suspension of apportioned registration. Upon notification from the FMCSA that a carrier has been placed out of service for safety violations, the department will:

(I) deny initial issuance of apportioned registration;

(II) deny authorization for a temporary cab card, as provided for in subparagraph (M) of this paragraph;

(III) deny renewal of apportioned registration; or

(IV) suspend current apportioned registration.

(ii) Issuance after denial of registration or reinstatement of suspended registration. The director or the director's designee will reinstate or accept an initial or renewal application for apportioned registration from a registrant who was suspended or denied registration under clause (i) of this subparagraph upon presentation of a Certificate of Compliance from FMCSA, in addition to all other required documentation and payment of fees.

(M) Temporary cab card.

(i) Application. The department may authorize issuance of a temporary cab card to a motor carrier with an established Texas apportioned account for a vehicle upon proper submission of all required documentation, a completed application, and all fees for either:

(I) Texas title as prescribed by Transportation Code, Chapter 501 and Subchapter A of this chapter (relating to Motor Vehicle Titles); or

(II) registration receipt to evidence title for registration purposes only (Registration Purposes Only) as provided for in Transportation Code, §501.029 and §217.24 of this title (relating to Vehicle Last Registered in Another Jurisdiction).

(ii) Title application. A registrant who is applying for a Texas title as provided for in clause (i)(I) of this subparagraph and is requesting authorization for a temporary cab card, must submit to a Regional Service Center a photocopy of the title application receipt issued by the county tax assessor-collector's office.

(iii) Registration Purposes Only. A registrant who is applying for Registration Purposes Only under clause (i)(II) of this subparagraph and is requesting authorization for a temporary cab card, must submit an application and all additional original documents or copies of original documents required by the director to a Regional Service Center.

(iv) Department approval. On department approval of the submitted documents, the department will send notice to the registrant to finalize the transaction and make payment of applicable registration fees.

(v) Finalization and payment of fees. To finalize the transaction and print the temporary cab card, the registrant may compute the registration fees through the department's apportioned registration software application, TxIRP system, and:

(I) make payment of the applicable registration fees to the department as provided by §209.23 of this title; and

(II) afterwards, mail or deliver payment of the title application fee in the form of a check, certified cashier's check, or money order payable to the county tax assessor-collector in the registrant's county of residency and originals of all copied documents previously submitted.

(vi) Deadline. The original documents and payment must be received by the Regional Service Center within 72-hours after the time that the office notified the registrant of the approval to print a temporary cab card as provided in clause (iv) of this subparagraph.

(vii) Failure to meet deadline. If the registrant fails to submit the original documents and required payment within the time prescribed by clause (vi) of this subparagraph, the registrant's privilege to use this expedited process to obtain a temporary cab card will be denied by the department for a period of six months from the date of approval to print the temporary cab card.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 11, 2024.

TRD-202401486

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



43 TAC §217.63

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code §217.63, concerning Digital License Plate Fees and Payment. The department adopts amendments to §217.63 with changes to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8265). The rule will be republished.

REASONED JUSTIFICATION.

Adopted amendments to §217.63(a) reduce the digital license plate administrative fee from \$95 to \$45. The reduction in the fee addresses concerns from stakeholders that the administrative fee associated with the digital license plate is too high and does not incentivize Texans to adopt the new digital license plate technology. This fee reduction would provide an incentive for customers to choose a digital license plate over another type of specialty plate, which would result in the issuance of more digital license plates. Increased sales of digital license plates would

allow the department to recoup the costs of administering the digital license plate program more quickly than it will be able to achieve while relying on the current fees from slow sales of very few plates. Adopted amendments to §217.63(a)(1) also streamline the description of how the administrative fee is paid to more accurately reflect current practice.

Adopted amendments to §217.63(a)(2) clarify that the registration period of the digital license plate will be aligned with the vehicle registration period, and that the initial administrative fee will be prorated based on the remaining registration period. The amendments do not change the meaning of the provision but clarify it for the reader.

At adoption a nonsubstantive change in the text to §217.63(a)(3) corrected a citation to Transportation Code, §502.195 by deleting an extraneous space.

Adopted amendments to §217.63(b) clarify the purpose of the rule by amending the subsection title and language. Adopted amendments to §217.63(b)(2) correct the description of the payment process for digital license plate fees to clarify that the fees for issuance of digital license plates are paid directly to the state through the digital license plate provider and state systems, in accordance with current practices.

SUMMARY OF COMMENTS.

No comments on the proposed amendments were received.

STATUTORY AUTHORITY. The department adopts amendments to §217.63 under Transportation Code, §§504.151-504.157, which provides the board with rulemaking authority to implement the digital license plate statutory provisions including setting specifications and requirements for digital license plates and establishing a fee in an amount necessary to cover any administrative costs incurred that relate to the issuance of a digital license plate and exceed the administrative costs incurred for the issuance of a physical license plate. The department also adopts amendments under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Transportation Code, Chapter 504, Subchapter B-1 relating to Digital License Plates.

§217.63. *Digital License Plate Fees and Payment.*

(a) Fees.

(1) A person issued a digital license plate must pay an administrative fee of \$45 upon initial application for a digital license plate and on renewal of registration for a vehicle with a digital license plate.

(2) The registration period of the digital license plate will be aligned with the registration period for the vehicle and the administrative fee due under subsection (a) will be prorated to yield the appropriate fee based on the remaining registration period.

(3) A digital license plate administrative fee will be refunded only when registration fees are overcharged under Transportation Code, §502.195.

(b) Payment of fees.

(1) All state, county, local, and other applicable fees are due at the time of registration of a vehicle with a digital license plate.

(2) The fees for issuance of digital license plates will be paid directly to the state through the digital license plate provider and state systems.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401492

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: May 2, 2024

Proposal publication date: December 29, 2023

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



CHAPTER 218. MOTOR CARRIERS

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Subchapter B, Motor Carrier Registration, §218.10 and §218.16; Subchapter C, Records and Inspections, §218.33; Subchapter E, Consumer Protection, §218.64; and Subchapter F, Enforcement, §§218.70 - 218.72. The department adopts §§218.16, 218.64, and 218.70 with changes to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8267). Sections 218.16, 218.64, and 218.70 will be republished. The department adopts §§218.16, 218.64, and 218.70 with nonsubstantive changes: for clarity, the department changed the order of the citations to new adopted Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and chapters in the Transportation Code.

The department adopts §§218.10, 218.33, 218.71, and 218.72 without changes to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8267). These rules will not be republished.

The department adopts the repeal of 43 TAC Subchapter F, Enforcement, §§218.73 and 218.75 - 218.78.

The adopted amendments delete certain language regarding adjudicative practice and procedure and refer to new Chapter 224 of this title. In this issue of the *Texas Register*, the department adopts new Chapter 224, which includes all department adjudicative practice and procedure rules in one chapter. The adopted amendments also make the terminology consistent with statute and current practice.

REASONED JUSTIFICATION. The adopted amendment to §218.10 replaces the word "accident" with "accidental" to be consistent with the terminology in Transportation Code, §643.106.

An adopted amendment to §218.16(d)(6) replaces the reference to orders issued or adopted by the department regarding self-insured status with a reference to the department's approval letter. When the department grants an applicant self-insured status under §218.16(d) and Transportation Code, §643.102, the department issues an approval letter that contains the scope and terms of the approval, including maintenance requirements. Also, an adopted amendment to §218.16(d) clarifies the scope of the reasons for which self-insured status could be revoked by referring to the applicable requirements under §218.16, in-

stead of the requirements under §218.16(d)(6). In addition, an adopted amendment to §218.16(d)(6) states that the revocation of self-insured status will be governed by adopted new Chapter 224 of this title and Transportation Code, Chapter 643. The department adopts §218.16(d)(6) with nonsubstantive changes to the text at adoption that reverse the order of the citations in the last sentence for clarity and readability.

Adopted amendments to §218.16(d)(7) delete reference to revocation of self-insured status and modify the catch line to indicate this change because revocations are addressed in §218.16(d)(6). Revocations are treated differently than a denial of an application for self-insured status under adopted new Chapter 224 of this title. Government Code, §2001.054 authorizes this distinction between the two actions and the applicable procedures. An adopted amendment to §218.16(d)(7) also replaces the term "self-insurance status" with "self-insured status" to be consistent with the terminology in §218.16(d). In addition, adopted amendments to §218.16(d)(7) reference adopted new §224.126 of this title (relating to Appeal of a Denial of Self-Insured Status) regarding the filing of an appeal of a denial of an application for self-insured status, and clarify that the applicant must file an appeal, rather than a petition for an administrative hearing. Further, an adopted amendment to §218.16(d)(7) deletes the reference to Chapter 206, Subchapter D of this title (relating to Procedures in Contested Cases). In this issue of the *Texas Register*, the department adopts amendments that repeal Subchapter D of Chapter 206 and replace it with provisions in adopted new Chapter 224 of this title.

The adopted amendment to §218.16(h) replaces the word "accidents" with "collisions" to be consistent with terminology in Transportation Code, §643.105 as amended by House Bill 2190, 88th Texas Legislature, Regular Session (2023).

The adopted amendments to §218.33 replace the reference to Subchapter F of Chapter 218 with a reference to adopted new Chapter 224, which includes all department adjudicative practice and procedure rules in one chapter.

The adopted amendments to §218.64(c)(7) replace the prior procedure for the rejection of a collective ratemaking agreement under Transportation Code, §643.154 with a new procedure that is governed by adopted new Chapter 224. Department staff do not recall having any hearings in the history of the department regarding the rejection of a collective ratemaking agreement, which may be because the requirements for an acceptable collective ratemaking agreement are minimal. The adopted amendments to §218.64(c)(7) provide for greater flexibility in the procedure for these cases and make the procedure consistent with Transportation Code, §643.154 and other contested cases under Transportation Code, Chapter 643 to the extent applicable. The department adopts §218.64(c)(7) with nonsubstantive changes to the text at adoption that reverse the order of the citations for clarity and to improve readability.

The adopted amendment to the heading for Subchapter F of Chapter 218 makes the heading consistent with the amendments and repeals in Subchapter F that change the scope of the subchapter. Adopted amendments to §218.70 make the section consistent with the amendments to and repeals of sections within Subchapter F. Also, an adopted amendment to §218.70 references the assessment of civil penalties under §218.71 in certain cases under federal law regarding the interstate movement of household goods. In addition, an adopted amendment to §218.70 states that the enforcement actions under Chapter

218 are governed by adopted new Chapter 224 of this title and Transportation Code, Chapters 643 and 645, as applicable.

Further, an adopted amendment to §218.70 deletes reference to Transportation Code, Chapter 648 regarding foreign commercial motor transportation because the department enforces the insurance requirements under Transportation Code, Chapter 643, rather than Chapter 648. Transportation Code, §643.101(b) requires the department by rule to set the amount of liability insurance required for a motor carrier at an amount that does not exceed the amount required under a federal regulation adopted under 49 U.S.C. §13906(a)(1). The insurance requirements in 49 C.F.R. Part 387 were adopted under 49 U.S.C. §13906. The department adopted the insurance requirements in Subchapter G of Chapter 218 under Transportation Code, §643.101(b). Also, Transportation Code, Chapter 648 does not provide the department with enforcement authority. Sections in Transportation Code, Chapter 643 provide the department with enforcement authority, such as §§643.251, 643.252, 643.2525, 643.254, and 643.256. The department adopts §218.70 with nonsubstantive changes to the text at adoption that reverse the order of the citations in the last sentence for clarity and readability.

The adopted amendments to §218.71 delete subsections (b) and (d) and re-letter the section accordingly. In this issue of the *Texas Register*, the department adopts new Chapter 224, which includes new §224.115 of this title (relating to Administrative Penalty and Sanction Assessment; Probation of Suspension), which contains the language found in deleted §218.71(b). Chapter 224 also includes new §224.116 of this title (relating to Administrative Proceedings), which contains a modified version of deleted §218.71(d).

The adopted amendments to §218.72(a) add language regarding the department's authority to deny a certificate of registration to a motor carrier under Transportation Code, §643.252, as well as the department's authority to place on probation a motor carrier whose registration is suspended. Also, an adopted amendment to §218.72(a) changes the word "for" to "on."

Adopted amendments to §218.72 delete subsection (c) and re-letter the section accordingly. In this issue of the *Texas Register*, the department adopts new Chapter 224, which includes new §224.115 of this title (relating to Administrative Penalty and Sanction Assessment; Probation of Suspension), which contains a modified version of the language found in deleted §218.72(c) regarding the probation of any suspension ordered under Transportation Code, §643.252.

The department adopts the repeal of the following sections: §§218.73, 218.75, 218.76, 218.77, and 218.78. In this issue of the *Texas Register*, the department adopts new Chapter 224, which includes the language from these repealed sections with some modifications.

SUMMARY OF COMMENTS.

No comments on the proposed amendments and repeals were received.

SUBCHAPTER B. MOTOR CARRIER REGISTRATION

43 TAC §218.10, §218.16

STATUTORY AUTHORITY. The department adopts the amendments under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.101(b), which

requires the department by rule to set the amount of liability insurance required for a motor carrier at an amount that does not exceed the amount required under a federal regulation adopted under 49 U.S.C. §13906(a)(1); Transportation Code, §643.102, which authorizes a motor carrier to comply with the requirements under Transportation Code, §643.101 through self-insurance if it complies with the requirements; Transportation Code, §643.2525, which provides the administrative hearing process under Transportation Code, Chapter 643; Transportation Code, Section 648.102, which requires the department to adopt rules that conform with 49 C.F.R. Part 387 that require motor carriers operating foreign commercial motor vehicles in this state to maintain financial responsibility; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; 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 this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The amendments implement Transportation Code, Chapters 643 and 648; and Government Code, Chapter 2001.

§218.16. Insurance Requirements.

(a) Automobile liability insurance requirements. A motor carrier must file proof of commercial automobile liability insurance with the department on a form acceptable to the director for each vehicle required to be registered under this subchapter. The motor carrier must carry and maintain automobile liability insurance that is combined single limit liability for bodily injury to or death of an individual per occurrence, loss or damage to property (excluding cargo) per occurrence, or both. Extraneous information will not be considered acceptable, and the department may reject proof of commercial automobile liability insurance if it is provided in a format that includes information beyond what is required. Minimum insurance levels are indicated in the following table. However, a motor carrier that operates a foreign commercial motor vehicle must comply with the minimum level of financial responsibility in 49 C.F.R. Part 387 to the extent Part 387 prescribes a higher level of financial responsibility than the following table. The department adopts by reference 49 C.F.R. Part 387. Effective October 23, 2015, the department adopts by reference the amendments to 49 C.F.R. Part 387 with an effective date of October 23, 2015. Figure: 43 TAC §218.16(a) (No change.)

(b) Cargo insurance. Household goods carriers shall file and maintain with the department proof of financial responsibility.

(1) The minimum limits of financial responsibility for a household goods carrier for hire is \$5,000 for loss or damage to a single shipper's cargo carried on any one motor vehicle.

(2) The minimum limits of financial responsibility for a household goods carrier for hire is \$10,000 for aggregate loss or damage to multiple shipper cargo carried on any one motor vehicle. In cases in which multiple shippers sustain damage and the aggregate amount of cargo damage is greater than the cargo insurance in force, the insurance company shall prorate the benefits among the shippers in relationship to the damage incurred by each shipper.

(c) Workers' compensation or accidental insurance coverage.

(1) A motor carrier that is required to register under this subchapter and whose primary business is transportation for compensation or hire between two or more incorporated cities, towns, or villages shall provide workers' compensation for all its employees or accidental insurance coverage in the amounts prescribed in paragraph (2) of this subsection.

(2) Accidental insurance coverage required by paragraph (1) of this subsection shall be at least in the following amounts:

(A) \$300,000 for medical expenses and coverage for at least 104 weeks;

(B) \$100,000 for accidental death and dismemberment, including 70 percent of employee's pre-injury income for not less than 104 weeks when compensating for loss of income; and

(C) \$500 for the maximum weekly benefit.

(d) Qualification of motor carrier as self-insured.

(1) General qualifications. A motor carrier may meet the insurance requirements of subsections (a) and (b) of this section by filing an application, in a form prescribed by the department, to qualify as a self-insured. The application must include a true and accurate statement of the motor carrier's financial condition and other evidence that establishes its ability to satisfy obligations for bodily injury and property damage liability without affecting the stability or permanency of its business. The department may accept USDOT evidence of the motor carrier's qualifications as a self-insured.

(2) Applicant guidelines. In addition to filing an application as prescribed by the department, an applicant for self-insured status must submit materials that will allow the department to determine the following information.

(A) Applicant's net worth. An applicant's net worth must be adequate in relation to the size of its operations and the extent of its request for self-insurance authority. The applicant must demonstrate that it can and will maintain an adequate net worth.

(B) Self-insurance program. An applicant must demonstrate that it has established and will maintain a sound insurance program that will protect the public against all claims involving motor vehicles to the same extent as the minimum security limits applicable under this section. In determining whether an applicant is maintaining a sound insurance program, the department will consider:

- (i) reserves;
- (ii) sinking funds;
- (iii) third-party financial guarantees;
- (iv) parent company or affiliate sureties;
- (v) excess insurance coverage; and
- (vi) other appropriate aspects of the applicant's program.

(C) Safety program. An applicant must submit evidence of substantial compliance with the federal motor carrier safety regulations as adopted by the Texas Department of Public Safety and with Transportation Code, Chapter 644.

(3) Other securities or agreements. The department may accept an application for approval of a security or agreement if satisfied that the security or agreement offered will adequately protect the public.

(4) Periodic reports. An applicant shall file annual statements, semi-annual and quarterly reports, and any other reports re-

quired by the department reflecting the applicant's financial condition and the status of its self-insurance program while the motor carrier is self-insured.

(5) Duration and coverage of self-insured status. The department may approve an applicant as a self-insured for any specific time or for an indefinite time. An approved self-insured status only applies to the type of cargo that the applicant reported to the department in the application for self-insured status.

(6) Revocation of self-insured status. On receiving evidence that a self-insured motor carrier's financial condition has changed, that its safety program or record is inadequate, or that it is otherwise not in compliance with this subchapter, the department may at any time require the self-insured to provide additional information. On 10 days' notice from the department, the self-insured shall appear and demonstrate that it continues to have adequate financial resources to pay all claims involving motor vehicles for bodily injury and property damage liability. The self-insured shall also demonstrate that it remains in compliance with the requirements of this section and of any active self-insurance requirements included in the department's approval letter. If an applicant fails to comply with the applicable requirements under this section, its self-insured status may be revoked. The revocation of self-insured status will be governed by Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and Transportation Code, Chapter 643.

(7) Appeal of denial of application for self-insured status. An applicant may appeal a denial of self-insured status by filing an appeal in accordance with §224.126 of this title (relating to Appeal of a Denial of Self-Insured Status).

(e) Filing proof of insurance with the department.

(1) Forms.

(A) A motor carrier shall file and maintain proof of automobile liability insurance for all vehicles required to be registered under this subchapter at all times. This proof shall be filed on a form acceptable to the director.

(B) A household goods carrier shall also file and maintain proof of cargo insurance for its cargo at all times. This proof shall be on a form acceptable to the director.

(2) Filing proof of insurance. A motor carrier's insurer shall file and maintain proof of insurance on a form acceptable to the director:

(A) at the time of the original application for motor carrier certificate of registration;

(B) on or before the cancellation date of the insurance coverage as described in subsection (f) of this section;

(C) when the motor carrier changes insurers;

(D) when the motor carrier asks to retain the certificate number of a revoked certificate of registration;

(E) when the motor carrier changes its name under §218.13(e)(2) of this title (relating to Application for Motor Carrier Registration);

(F) when the motor carrier, under subsection (a) of this section, changes the classification of the cargo being transported; and

(G) when replacing another active insurance filing.

(3) Filing fee. Each certificate of insurance or proof of financial responsibility filed with the department for the coverage required under this section shall be accompanied by a nonrefundable fil-

ing fee of \$100. This fee applies both when the carrier submits an original application and when the carrier submits a supplemental application when retaining a revoked certificate of registration number.

(4) Acceptable filings. The motor carrier's insurer must file proof of insurance with the department in a form prescribed by the department and approved by an authorized agent of the insurer.

(f) Cancellation of insurance coverage. Except when replaced by another acceptable form of insurance coverage or proof of financial responsibility approved by the department, no insurance coverage shall be canceled or withdrawn until 30 days after notice has been given to the department by the insurer in a form approved by the department. Nonetheless, proof of insurance coverage for a seven day or 90 day certificate of registration may be canceled by the insurer without 30 days' notice if the certificate of registration is expired, suspended, or revoked, and the insurer provides a cancellation date on the proof of insurance coverage.

(g) Replacement insurance filing. The department will consider a new insurance filing as the current record of financial responsibility required by this section if:

(1) the new insurance filing is received by the department; and

(2) a cancellation notice has not been received for previous insurance filings.

(h) Insolvency of insurance carrier. If the insurer of a motor carrier becomes insolvent or becomes involved in a receivership or other insolvency proceeding, the motor carrier must file an affidavit with the department. The affidavit must be executed by an owner, partner, or officer of the motor carrier and show that:

(1) no collisions have occurred and no claims have arisen during the insolvency of the insurance carrier; or

(2) all claims have been satisfied.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401522

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER C. RECORDS AND INSPECTIONS

43 TAC §218.33

STATUTORY AUTHORITY. The department adopts the amendments under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.251, which authorizes the department to impose an administrative penalty against a motor carrier required to register under Subchapter B of Transportation Code, Chapter 643 that violates Chapter 643 or a rule or order adopted under Chapter 643; Transportation Code, §643.252, which authorizes the department to

suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended; Transportation Code, §643.2525, which provides the administrative hearing process under Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; 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 this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The amendments implement Transportation Code, Chapters 643 and 645; and Government Code, Chapter 2001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401525

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER E. CONSUMER PROTECTION

43 TAC §218.64

STATUTORY AUTHORITY. The department adopts the amendments under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended; Transportation Code, §643.2525, which provides the administrative hearing process under Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; 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 this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The amendments implement Transportation Code, Chapter 643; and Government Code, Chapter 2001.

§218.64. Rates.

(a) **Rate-making.** A household goods carrier and/or its household goods agent shall set maximum rates and charges for services in its applicable tariff. The household goods carrier and/or its household goods agent shall disclose the maximum rates and charges to prospective shippers before transporting a shipment between two incorporated cities.

(b) **Prohibited charges and allowances.** A household goods carrier and/or its household goods agent shall not charge more than the maximum charges published in its tariff on file with the department for services associated with transportation between two incorporated cities.

(c) **Collective ratemaking agreements.**

(1) **Eligibility.** In accordance with Transportation Code, §643.154, a household goods carrier and/or its household goods agent may enter into collective ratemaking agreements between one or more other household goods carriers or household goods agents concerning the establishment and filing of maximum rates and charges, classifications, rules, or procedures.

(2) **Designation of collective ratemaking associations.** An approved association may be designated by a member household goods carrier as its collective ratemaking association for the purpose of filing a tariff containing maximum rates and charges required by §218.65 of this title (relating to Tariff Registration).

(3) **Submission.** In accordance with Transportation Code, §643.154, a collective ratemaking agreement shall be filed with the department for approval. The agreement shall include the following information:

(A) full and correct name, business address (street and number, city, state and zip code), and phone number of the association;

(B) whether the association is a corporation or partnership; and

(i) if a corporation, the government, state, or territory under the laws of which the applicant was organized and received its present charter; and

(ii) if an association or a partnership, the names of the officers or partners and date of formation;

(C) full and correct name and business address (city and state) of each household goods carrier on whose behalf the agreement is filed and whether it is an association, a corporation, an individual, or a partnership;

(D) the name, title, and mailing address of counsel, officer, or other person to whom correspondence in regard to the agreement should be addressed; and

(E) a copy of the constitution, bylaws, or other documents or writings, specifying the organization's powers, duties, and procedures.

(4) **Signature.** The collective ratemaking agreement shall be signed by all parties subject to the agreement or the association's executive officer.

(5) **Incomplete agreement.** If the department receives an agreement which does not comply with this subsection, the department will send a letter to the individual submitting the agreement. The letter shall identify the information that is missing and advise the association that the agreement will not be processed until the information is received.

(6) **Approval.** In accordance with Transportation Code, §643.154, the director or designee will approve a collective ratemaking agreement if the agreement provides that:

(A) all meetings are open to the public; and

(B) notice of meetings shall be sent to shippers who are multiple users of household good carriers.

(7) **Noncompliance.** If the director or the director's designee determines that an agreement does not comply with paragraph (6) of this subsection, the matter will be governed by Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and Transportation Code, Chapter 643.

(8) **New parties to an agreement.** An updated agreement shall be filed with the department as new parties are added.

(9) **Amendments to approved agreements.** Amendments to approved agreements (other than as to new parties) may become effective only after approval of the department.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401526

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER F. ADMINISTRATIVE PENALTIES AND SANCTIONS

43 TAC §§218.70 - 218.72

STATUTORY AUTHORITY. The department adopts the amendments under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.251, which authorizes the department to impose an administrative penalty against a motor carrier required to register under Subchapter B of Transportation Code, Chapter 643 that violates Chapter 643 or a rule or order adopted under Chapter 643; Transportation Code, §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended; Transportation Code, §643.2525, which provides the administrative hearing process under Transportation Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to appeal the denial of an application for registration, renewal of registration, or reregistration under Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; 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 this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The amendments implement Transportation Code, Chapters 643 and 645; and Government Code, Chapter 2001.

§218.70. Purpose.

The purpose of this subchapter is to provide for administrative penalties and sanctions under Transportation Code, Chapters 643 and 645, as well as the probation of the suspension of a motor carrier's certificate of registration. This subchapter also provides for the assessment of civil penalties in certain cases under federal law regarding the interstate movement of household goods. The enforcement actions under this chapter are governed by Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and Transportation Code, Chapters 643 and 645, as applicable.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401553

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER F. ENFORCEMENT

43 TAC §§218.73, 218.75 - 218.78

STATUTORY AUTHORITY. The department adopts the repeals under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.251, which authorizes the department to impose an administrative penalty against a motor carrier required to register under Subchapter B of Transportation Code, Chapter 643 that violates Chapter 643 or a rule or order adopted under Chapter 643; Transportation Code, §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended; Transportation Code, §643.2525, which provides the administrative hearing process under Transportation Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to appeal the denial of an application for registration, renewal of registration, or reregistration under Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; 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 this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The repeals implement Transportation Code, Chapters 643 and 645; and Government Code, Chapter 2001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401527

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



CHAPTER 219. OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Subchapter F, Compliance, §219.82; and Subchapter H, Enforcement, §§219.120, 219.121 and 219.126. The department adopts amendments to §§219.82, 219.120, 219.121 and 219.126 without changes to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8274). The department also adopts the repeal of Subchapter H, Enforcement, §§219.122, 219.124 and 219.127 without changes. The rules will not be republished.

The adopted amendments and repeals delete certain language regarding adjudicative practice and procedure. In addition, amendments refer to adopted new Chapter 224 of this title (relating to Adjudicative Practice and Procedure), which the department adopts in this issue of the *Texas Register*. Adopted new Chapter 224 includes all department adjudicative practice and procedure rules in one chapter.

REASONED JUSTIFICATION. Adopted amendments to §219.82 delete the word "enforcement" and add a reference to adopted new Chapter 224, which applies to any adjudicative practice and procedure under the department's rules, including Chapter 219.

The adopted amendment to the heading for Subchapter H changes the heading from "Enforcement" to "Administrative Penalties and Sanctions." This amendment makes the heading for Subchapter H consistent with the rules under Subchapter H because the amendments and repeals change the contents of this subchapter.

The adopted amendments to §219.120 make the section consistent with the amendments to and repeals of sections within Subchapter H. An adopted amendment to §219.120 also states that the enforcement actions under this chapter are governed by adopted new Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and Transportation Code, Chapters 621 through 623 for clarity and ease of reference.

Adopted amendments to §219.121 replace the language with a summary of the department's authority under Transportation Code, §623.271 to investigate and impose an administrative penalty or revoke an oversize or overweight permit. An adopted amendment to §219.121 deletes subsection (a) because it

repeats the language found in Transportation Code, §623.271. It is not necessary to repeat statutory language in rules. The adopted amendment to the title of §219.121 includes the word "sanctions" and a reference to Transportation Code, §623.271 to address the expanded scope of §219.121 due to the amendments and to distinguish §219.121 from §219.126 of this title (relating to Administrative Penalty for False Information on Certificate by a Shipper) regarding the administrative penalty under Transportation Code, §623.272.

An adopted amendment to §219.121 deletes subsection (b) regarding the calculation of administrative penalties under Transportation Code, §623.271. The language in deleted §219.121(b) is addressed in adopted new §224.115 of this title (relating to Administrative Penalty and Sanction Assessment; Probation of Suspension). In this issue of the *Texas Register*, the department adopts new Chapter 224 of this title (relating to Adjudicative Practice and Procedure).

Adopted amendments to §219.126 cite to Transportation Code, §623.272 and modify the language to summarize the department's authority to investigate and impose an administrative penalty under Transportation Code, §623.272. Also, an adopted amendment to §219.126 adds a comma to the citation to Transportation Code, §623.274(b) for consistency with other department rules. Further, an adopted amendment to §219.126 deletes subsection (b) because an amendment to §219.120 states that the enforcement actions under Chapter 219 are governed by adopted new Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and Transportation Code, Chapters 621 through 623. In addition, an adopted amendment to §219.126 deletes subsection (c) regarding the calculation of an administrative penalty under §219.126. The language in deleted §219.126(c) is addressed in adopted new §224.115 of this title (relating to Administrative Penalty and Sanction Assessment; Probation of Suspension). In this issue of the *Texas Register*, the department adopts new Chapter 224 of this title (relating to Adjudicative Practice and Procedure). Due to the deletions of §219.126(b) and (c), an adopted amendment to §219.126 deletes "(a)" because there is only one subsection in §219.126.

The department adopts the repeal of §219.122. Section 219.122(a) repeats the language found in Transportation Code, §623.271. It is not necessary to repeat statutory language in rules. Section 219.122(b) was not expressly authorized under Transportation Code, Chapter 623.

The department also adopts the repeal of §219.124 and §219.127. In this issue of the *Texas Register*, the department adopts new Chapter 224, which includes the language from §219.124 and §219.127 with some modifications.

SUMMARY OF COMMENTS.

No comments on the proposed amendments and repeals were received.

SUBCHAPTER F. COMPLIANCE

43 TAC §219.82

STATUTORY AUTHORITY. The department adopts amendments 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; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; 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 and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The amendments implement Transportation Code, Chapters 621, 622, and 623; and Government Code, Chapter 2001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 11, 2024.

TRD-202401488

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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

SUBCHAPTER H. ADMINISTRATIVE PENALTIES AND SANCTIONS

43 TAC §§219.120, 219.121, 219.126

STATUTORY AUTHORITY. The department adopts amendments 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; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; 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 and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The amendments implement Transportation Code, Chapters 621, 622, and 623; and Government Code, Chapter 2001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 11, 2024.

TRD-202401490

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER H. ENFORCEMENT

43 TAC §§219.122, 219.124, 219.127

STATUTORY AUTHORITY. The department adopts the 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; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; 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 and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The repeals implement Transportation Code, Chapters 621, 622, and 623; and Government Code, Chapter 2001.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 11, 2024.

TRD-202401489

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



CHAPTER 221. SALVAGE VEHICLE DEALERS

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 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 also adopts the repeal of §221.48 and Subchapter E, Administrative Procedures, §§221.91 - 221.96. Subchapter F is also adopted for relettering as Subchapter E because the preceding subchapter is repealed.

Sections 221.1, 221.11, 221.14 - 221.20, 221.41, 221.43 - 221.46, 221.48, 221.49, 221.54, 221.72, 221.111, 221.112, and 221.115 are adopted without changes to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8278) and will not be republished.

Section 221.13 is adopted with changes to the proposed text published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8278) and will be republished. Sections 221.2, 221.42, 221.47, 221.50 - 221.53, 221.71, and 221.73 are adopted with nonsubstantive changes to the proposed

text published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8278) and will be republished.

Explanation of adopted amendments and repeals

Subchapter A. General Provisions

Adopted conforming amendments to §221.1 are necessary to more completely describe the scope of the chapter to include holders of independent motor vehicle dealer's general distinguishing numbers (GDN) issued under Transportation Code, Chapter 503, who act as salvage vehicle dealers and to add a reference to persons exempt from licensure. House Bill (HB) 1667, 86th Legislature, Regular Session (2019), added Occupations Code, §2302.009 and amended Occupations Code, §2302.101, granting independent motor vehicle 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. A second adopted amendment is necessary to 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 adopted amendments to §221.2 add the following definitions for consistency: "day" in §221.2(4) to mean a calendar day, unless otherwise stated; "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). The phrase "or context clearly indicates otherwise" that was proposed in §221.2(4) was not adopted because it was duplicative of the first sentence in §221.2. The proposed citation to the Occupations Code in §221.2(7) was simplified at adoption to remove the subsection citation, to align it with the citation format used in §221.2(27). An adopted amendment to §221.2(8) is necessary to 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 §2302.101. An adopted amendment to renumbered §221.2(15) is necessary to substitute the current definition of "person" for the definition in Occupations Code, §2301.002(27) for consistency. The adopted amendments to §221.2(4) removes the definition of "corporation" because a special definition for corporation is unnecessary. The adopted amendments to §221.2(6) remove the definition of "final order authority" because the sections of Chapter 221 that use the term "final order authority", §221.93 and §221.95, are repealed and are incorporated into new adopted Chapter 224 of this title (relating to Adjudicative Practice and Procedure). The adopted amendments 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. Adopted amendments also renumber the definitions to correspond with the adopted revisions.

Subchapter B. Licensing

The adopted amendment to §221.11(b) adds a reference to reflect that a motor vehicle is required to be both titled and registered to operate on public highways under Transportation Code, §502.040. Adopted amendments to §221.11(c) substitute a statutory reference to the Occupations Code for deleted rule

language that duplicated the statute, to ensure consistency with any future statutory changes.

An adopted amendment to §221.13(c) sets a \$25 license amendment fee. 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 adopts the same fee because department resources required to process license amendment are similar across all license types. The department added the following clarifying language to §221.13(c) at adoption to identify the specific types of license amendments to which the fee applies: "and applies to a license amendment changing a license holder's name, changing ownership or management, or when adding a new business address and assumed name."

An adopted amendment to §221.14(a) removes redundant language without changing the meaning of the rule. Occupations Code, §2302.103 requires an applicant to submit an application on a form prescribed by the department. Adopted amendments to §221.14(b) update the application requirements for a new salvage vehicle dealer license, license amendment, or license renewal to prevent and deter fraud. These adopted 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. Adopted amendments §221.14(b) require that the application must be on a department-approved form; completed by the applicant, license holder, or authorized representative 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. Adopted new §221.14(c) modernizes 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. Adopted new §221.14(d) is 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. Adopted new §221.14(e) reduces application fraud by requiring salvage vehicle dealers applying for or renewing a license to comply with fingerprint requirements in §211.6 of Title 43 (relating to Fingerprint Requirements for Designated License Types). This adopted fingerprinting requirement is a one-time requirement if a person maintains an active license. Adopted new §221.14(f) clarifies 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 adopted revisions to §221.14 provide more clarity regarding the salvage vehicle dealer license application process and are necessary to deter and prevent fraud.

Adopted amendments to §221.15 clarify and update the information required on a salvage vehicle dealer application. Adopted new §221.15(a) clarifies the application process by providing information about the steps and information required for a new salvage dealer license applicant. These steps include registering for an account in the online licensing system, designating

an account administrator, providing the name and email address for that person, and providing the business telephone number, name, business type, and social security number or employer identification number, as applicable. Adopted new §221.15(a) specifies 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. The adopted amendments in §221.15(b) create a new subsection to include language currently in §221.15. Adopted amendments to §221.15(b)(1) require the applicant to provide the reason for the application and certain other business information. Adopted amendments to the existing language incorporated into adopted new §221.15(b)(2) remove surplus language and provides additional clarity and detail regarding required business information necessary to improve the department's ability to identify fraud and investigate applicants. These adopted amendments include clarifying that the business address is the physical address of the business and requiring the following information: business email address; telephone number; Texas Sales Tax Identification Number; National Motor Vehicle Title Information System Identification Number, if applicable; and Secretary of State filing number, if applicable. Adopted new §221.15(b)(2)(A) prohibits 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. Adopted amendments to §221.15(b)(3) require the applicant to provide an application contact name, email address, and telephone number to allow the department to easily contact the applicant and delete unnecessary language regarding the applicant's last known address. To improve readability, adopted amendments to the existing language incorporated into §221.15(b) 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, adopted amendments to §221.15(b)(4)-(7) 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, adopted amendments to §221.15(b)(8) 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, and requires an applicant to provide a description of the criminal offense, the date, and location. Adopted amendments in §221.15(b)(9) 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. Adopted amendments incorporated in §221.15(b)(10) are necessary to facilitate department investigations of appli-

cants 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 adopted requirements in §221.15(b) are necessary for the department to be able to discharge its responsibilities under Occupations Code, §2302.104, which prescribes information that must be obtained from an applicant, and Occupations Code, §2302.105, which requires the department to investigate an applicant's qualifications. Adopted amendments in §221.15(b)(11) require an applicant to provide information about each business location and the business premises sufficient to demonstrate compliance with related premises rules in Chapter 221, Subchapter C. Adopted amendments in §221.15(b)(12) require an applicant to provide a signed Certification of Responsibility, which is a department form signed by the applicant, in which the applicant certifies that the information provided or attached to the application is true, complete, and correct, and that the applicant has complied with all applicable state laws and ordinances. This certification is necessary to ensure that an applicant understands the applicant's responsibilities under Texas law and the consequences of providing incomplete or false information.

Adopted amendments in new §221.15(c) clarify that a salvage vehicle dealer renewing or amending its license must verify its current license information and provide information relating to any new requirements or changes to the license.

Adopted amendments to §221.16 require an applicant to attach a legible and accurate image of each required document. These amendments are necessary to allow the department to investigate and process the application as required under Occupations Code, Chapter 2302. Adopted amendments to §221.16 specify that required attachments include the certificate of filing, certificate of incorporation, 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 adopted amendments consolidate previous separate requirements for sole proprietors, general partnerships, limited partnerships, limited liability companies, and corporations and are necessary to improve readability. The adopted amendments to §221.16(3) also update references to types of identification consistent with current usage and statutory changes. The adopted amendments to §§221.16(4) and (5) 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 com-

pliance with premises requirements. An adopted amendment to §221.16(8) authorizes 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.

An adopted amendment to §221.17(a) exempts 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. Adopted amendments to §221.17(b) would add the phrase "military service members or" in multiple places in subparagraphs (1), (2), and (3). These adopted amendments are necessary to implement Senate Bill (SB) 422, 88th Legislature, Regular Session (2023), which entitles 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. Adopted amendments in §221.17(b)(1) delete duplicate references to Occupations Code, §55.0041 and 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 residence in Texas. Three other amendments to §221.17(b)(3) are adopted to implement SB 422. Adopted amendments 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 Occupations Code, §55.005(a), as amended by 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 adopted amendment to §221.17(b)(3) adds 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. Adopted new §221.17(c) clarifies that the requirements and procedures authorized under Texas law do not modify or alter rights under federal law.

Adopted amendments to §221.18(a)-(c) are necessary to modernize notification requirements by specifying that a license holder must 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. Adopted amendments to §221.18(a)(2) and §221.18(b)(2) remove surplus language. An adopted amendment to §221.18(c) clarifies the appropriate action a license holder must take when closing a location depending on the number of locations listed in the license. Adopted new §221.18(d) clarifies 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.

Adopted amendments to §221.19 update the section title to reflect the scope of the section. Adopted amendments to §221.19(a) and (b) modernize the application process by requir-

ing the license holder to submit a license amendment application electronically in the department's designated licensing system. An adopted amendment to §221.19(a) clarifies 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, deceptive or otherwise violates a law or rule. Adopted new §221.19(b)(4) clarifies 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 the license holder. Another adopted amendment to §221.19(c) requires a license holder to provide the department with any information necessary for the department to fully evaluate a license amendment and is necessary to enable the department to conduct a thorough and efficient investigation before approving a license amendment consistent with the department's obligations under Occupations Code, §2302.105.

Adopted amendments to §221.20(a), (d), (e), (h), and relettered (j) simplify the language and improve readability without changing meaning. An adopted amendment substitutes "A" for "The" and corrects a verb to "is" from "are" for consistency and clarity. Adopted amendments to §221.20(c) change "salvage vehicle dealer's" to "license holder's" for clarity and consistency, and 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. An adopted amendment to §221.20(d) adds "of expiration" to clarify a reference to a written notice. An adopted amendment to §221.20(e) adds "a" before "salvage vehicle dealer" and adds "license" after "salvage vehicle dealer" to clarify the description of a renewal fee. An adopted amendment to §221.20(i) clarifies 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. An adopted amendment reletters the language that previously appeared in §220.20(i) to §220.20(j).

Subchapter C. Licensed Operations

Adopted amendments to §221.41 simplify and modernize the language and add clarity without changing meaning. Adopted amendments to §221.41(1) add new requirements that apply if a salvage dealer leases or subleases property for a business location. Adopted new §221.41(1)(D) and (E) 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 adopted changes are necessary to prevent fraud in the application process, to prevent consumer abuse, and to protect public health and safety. These provisions also protect 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. Adopted amendments to §221.41(2) substitute "under" for "by" and "municipality" for "city" for clarity and consistency in use of these terms.

Adopted amendments to the title and language of §221.42 make minor wording changes to clarify and remove surplus wording.

Adopted amendments to §221.43(a) 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 from being open solely by appointment. These adopted amendments 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 not 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 adopted amendments are necessary to establish these standards, and the board is authorized to do so under the rulemaking authority in Occupations Code, §2302.051. The adopted minimum standards for salvage vehicle dealers are consistent with current minimum requirements for GDN dealers in §215.140(1)(A) of this title (relating to Established and Permanent Place of Business Premises Requirements); the adopted 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 (relating to Established and Permanent Place of Business Premises Requirements). These adopted 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. Adopted amendments to §221.43(c) and (d) make minor word changes to add clarity. An additional adopted amendment to §221.43(d) gives 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.

Adopted amendments to §221.44(a) clarify that a permanent business sign must be made of durable, weather resistant material. Adopted amendments to §221.44(b) 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. Adopted new §221.44(c) authorizes 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 business sign will be promptly and permanently mounted upon delivery and is consistent with the flexibility provided to other license holders. This adopted amendment is necessary to allow a license holder to open their business without delay if all other department requirements are met. Adopted new §221.44(d) clarifies 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.

An adopted amendment to §221.45(a) clarifies that a business must be located in a building that has a permanent roof. An adopted amendment to §221.45(c) clarifies that a business may not operate in a room or building not open to the public. Adopted new §221.45(e) clarifies that a business may not be virtual or provided by a subscription for office space or office services. Adopted new §221.45(f) requires 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 to confirm the municipality in which the property is located. Adopted new §221.45(g) modern-

izes 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, allow the department and the public access to the license holder, and are necessary to deter and prevent fraud in the licensing process.

Adopted amendments to §221.46 regarding the requirements to display a license make minor wording changes to simplify language without changing meaning and are necessary to add clarity.

An adopted amendment to §221.47 clarifies that a salvage vehicle dealer must properly process vehicle records in accordance with §217.86 of this title (relating to Dismantling, Scrapping, or Destruction of Motor Vehicles).

The department adopted the repeal of §221.48 because it duplicates §217.86 and therefore became redundant and unnecessary with the citation to §217.86 adopted in §221.47.

An adopted amendment to §221.49 adds a phrase from the title of the section to the body of this section for clarification.

Adopted amendments to §221.50(a) clarify that a sale or transfer of a flood-damaged vehicle must be in accordance with §217.88 of this title, (relating to Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle). Adopted amendments to §221.50(b) make wording and format changes without changing the meaning and are necessary to clarify the language. Adopted amendments to §221.50(c) delete duplicative language that is also in §217.88.

Adopted amendments to §221.51(a) are necessary to clarify the language and comport with current practice. Adopted amendments to §221.51(c) and (d) remove the phrase "or any other state" to reflect that the department does not have jurisdiction over out-of-state highways. Adopted amendments to §221.51(f) 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). An adopted amendment to §221.51(h) rephrases 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 adopted amendment to §221.52(a) adds a reference to §217.88 of this title, (relating to Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle) and is necessary for completeness. An adopted amendment to §221.52(b) removes duplicate language found in §217.88 of this title, and the remaining subsections are relettered. An adopted amendment to relettered §221.52(b) changes the retention period for a copy of a purchaser's photo identification from 48 to 36 months for consistency with §217.88. These amendments are necessary to add clarity and for consistency.

Adopted amendments to §221.53 reference §217.88 and delete redundant language found in §217.88 to add clarity.

Adopted amendments to §221.54 add "vehicle" for consistency in terminology and add two factors the department will consider in determining whether to conduct a site visit: if a business location fails to meet premises or operating requirements, and if records require further investigation by the department. Both factors are indicators of potential fraud and consumer harm and regularly arise in department complaint investigations.

At adoption, the department adopted a non-substantive amendment to §§221.42, 221.47, and 221.50-221.53 to change the proposed term "non-repairable" to "nonrepairable" for consistency with Occupations Code, Chapter 2302 and Transportation Code, Chapter 501.

Subchapter D. Records

Adopted amendments to §221.71 edit language to remove surplus language and improve grammar and clarity. An adopted amendment to §221.71(c) modernizes 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. An adopted amendment to §221.71(e) increases the deadline from 10 days to 15 days for a salvage vehicle dealer to provide copies of requested records to the department.

Adopted amendments to §221.72(b) 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 shorten 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, adopted amendments to §221.72(c) add a word and remove a comma for clarity without changing the meaning of the rule.

Adopted amendments to §221.73 make wording changes to improve clarity and reflect current practice regarding both vehicle purchase and vehicle sales records. Adopted amendments add references to §221.52 and §217.89 (relating to Rebuilt Salvage Motor Vehicles) and remove redundant language in this section, related to unnecessary descriptors including various types of photo identification. The adopted amendments to §221.73(a) 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.

At adoption, the department made a non-substantive amendment to §221.71 and §221.73 to change "non-repairable" to "nonrepairable" for consistency with Occupations Code, Chapter 2302 and Transportation Code, Chapter 501.

Subchapter E. Administrative Procedures

The department adopted the repeal of all sections in Subchapter E. The substance of the rules from Subchapter E are incorporated into adopted new Chapter 224, Adjudicative Practice and Procedure, which is published in this issue of the *Texas Register*. The adopted repeal includes §§221.91 - 221.96.

Subchapter F. Administrative Sanctions

Adopted amendments to §221.111 delete unnecessary phrases without changing the meaning and update a citation to improve clarity. Additionally, an adopted amendment to §221.111(a)(5) removes the phrase "is unfit, ineligible for license" and an adopted amendment to §221.111(a)(6) removes the phrase "is unfit to hold the license, is ineligible for licensure" from the factors the department considers to determine denial of licensure because that language is not found in Occupations Code, Chapter 2302.

Adopted amendments to §221.112 delete unnecessary phrases without changing the meaning, add statutory and rule references and explanatory language, remove surplus language associated with those references, and renumber accordingly. These amendments are necessary to add clarity.

Adopted amendments to §221.115 remove the language stating that the department will not refund license fees in the case of a licensure denial, suspension, or revocation and 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 ensures that the department receives as much as possible of the assessed civil penalties, but also gives the department flexibility to refund an application fee in other circumstances. These adopted amendments are consistent with the refund process for other license types.

SUMMARY OF COMMENTS.

The department received one written comment on the proposal from the Texas Independent Automobile Dealers Association (TIADA) with recommendations for changes to §221.19 and §221.111.

Comment: TIADA recommended that in §221.19, a salvage vehicle dealer not be required to pay a \$25 license amendment fee to update a business email address, telephone number, mailing address or change in license contact.

Response: The department agrees that salvage vehicle dealers should not incur a \$25 amendment fee for changes that do not involve department processing time or expense. The department therefore added the following clarifying language to §221.13(c) at adoption to identify the specific types of license amendments to which the fee applies: "and applies to a license amendment changing a license holder's name, changing ownership or management, or when adding a new business address and assumed name."

With this revision at adoption, while a salvage vehicle dealer must submit a license amendment to report a change in business email address, telephone number, mailing address or license contact, the dealer will only incur a \$25 amendment fee for a change in business name, a change in ownership or management, or when adding a new business address and assumed name. This latter group of changes requires department processing time and expense and are consistent with when GDN dealers are charged an amendment fee.

Comment: TIADA recommended that the department amend §221.111 or add a new rule to describe the department's use of a licensing committee in reviewing applications, including the composition of the committee and deadlines for the committee's review and decision-making.

Response: The department disagrees. The Motor Vehicle Division's licensing committee is an internal management review process to help ensure consistency in application processing and does not place a new requirement on a license holder or affect a license holder's rights under Occupations Code, Chapter 2302. Therefore, a rule is not required under Government Code, Chapter 2001. The department does not want to place limitations on the composition of the committee or on the timelines for its decision-making to allow the department necessary flexibility to staff the committee and determine the length of its review as necessitated by the details and complexity of each specific application.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §221.1, §221.2

STATUTORY AUTHORITY.

The department adopts amendments to Chapter 221 under Government Code, §411.122(d)(24), 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 adopts 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.

Occupations Code, §55.002 requires a state agency that issues a license to adopt rules to exempt an individual license holder from incurring any increased fee or other penalty for failing to renew the license in a timely manner if the individual establishes that failure to timely renew the license is because the individual was serving as a military service member. Occupations Code, §55.004 requires a state agency that issues a license to adopt rules for the issuance of the license to an applicant who is a military service member, military veteran, or military spouse and holds a current license issued by another jurisdiction with substantially equivalent requirements or held a Texas license within the prior five years. Occupations Code, §55.0041 requires a state agency that issues a license to adopt rules to recognize equivalent out-of-state licenses for a military service member, military veteran, or military spouse within 30 days of application and issue a license or authorization. Occupations Code, §55.005 requires a state agency that issues a license to process an application and issue a license within 30 days for a military service member, military veteran, or military spouse.

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 adoptions 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.

§221.2. *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.
- (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.
- (7) General Distinguishing Number (GDN)--As defined by Occupations Code, §2301.002.
- (8) 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.
- (9) Metal recycler--As defined by Transportation Code, §501.091.
- (10) Nonrepairable motor vehicle--As defined by Transportation Code, §501.091.
- (11) Nonrepairable record of title--As defined by Transportation Code, §501.091.
- (12) Nonrepairable vehicle title--As defined by Transportation Code, §501.091.
- (13) Out-of-state buyer--As defined by Transportation Code, §501.091.
- (14) Out-of-state ownership document--As defined by Transportation Code, §501.091.
- (15) Person--As defined by Occupations Code, §2301.002.
- (16) Public highway--As defined by Transportation Code, §502.001.
- (17) Retail sale--As defined by Occupations Code, §2301.002.
- (18) Salvage motor vehicle--As defined by Transportation Code, §501.091.
- (19) Salvage record of title--As defined by Transportation Code, §501.091.
- (20) Salvage vehicle dealer--As defined by Transportation Code, §501.091.

(21) Salvage vehicle title--As defined by Transportation Code, §501.091.

(22) Used part--As defined by Transportation Code, §501.091.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401509

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER B. LICENSING

43 TAC §§221.11, 221.13 - 221.20

STATUTORY AUTHORITY.

The department adopts amendments to Chapter 221 under Government Code, §411.122(d)(24), 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 adopts 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 adoptions 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.

§221.13. 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 and applies to a license amendment changing a license holder's name, changing ownership or management, or when adding a new business address and assumed name.

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

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401510

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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 adopts amendments and 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 adopts 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 implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

§221.42. Operations Only at Licensed Business Location.

A salvage vehicle dealer may not sell or offer to sell a salvage motor vehicle or nonrepairable motor vehicle from any location other than a licensed business location.

§221.47. Evidence of Ownership.

A salvage vehicle dealer must receive a properly assigned salvage vehicle title, salvage record of title, nonrepairable vehicle title, nonrepairable record of title, or out-of-state ownership document, as applicable, when acquiring a nonrepairable motor vehicle or salvage motor vehicle in accordance with §217.86 of this title (relating to Dismantling, Scrapping, or Destruction of Motor Vehicles).

§221.50. Restrictions on Sales of Flood Damaged Vehicles.

(a) A motor vehicle that is a nonrepairable 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 Nonrepairable or Salvage Motor Vehicle).

(b) A salvage vehicle dealer may sell, transfer, or release a nonrepairable motor vehicle or salvage motor vehicle if the salvage vehicle dealer provides a written disclosure that the vehicle has been classified as a nonrepairable 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 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 nonrepairable motor vehicle it displays or offers for sale that:

- (1) is visible from outside of the nonrepairable motor vehicle;
- (2) contains lettering that is two inches or more in height; and
- (3) states as follows: *"This is a nonrepairable titled motor vehicle that can never be operated on a public highway of this state."*

(d) Upon the sale of a nonrepairable 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 nonrepairable vehicle; this vehicle will never be able to operate on a public highway of this state and will never be registered to operate on a public highway of this state; and, before selling this nonrepairable vehicle I must have the nonrepairable 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 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 nonrepairable 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.

§221.52. Export-only Sales.

(a) A license holder may sell a nonrepairable 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 Nonrepairable or Salvage Motor Vehicle).

(b) 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 months after the sale of a salvage motor vehicle or a nonrepairable motor vehicle for "export-only."

(c) 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 nonrepairable 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 nonrepairable 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 Nonrepairable or Salvage Motor Vehicle).

(c) A person who purchases a salvage motor vehicle or a nonrepairable motor vehicle through a casual sale may not sell that salvage motor vehicle or nonrepairable motor vehicle until the salvage vehicle title, salvage record or title, nonrepairable vehicle title or nonrepairable record of title, as applicable, is in the person's name.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401511

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



43 TAC §221.48

STATUTORY AUTHORITY.

The department adopts the 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 adopts the repeal 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 repeal would implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401513

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER D. RECORDS

43 TAC §§221.71 - 221.73

STATUTORY AUTHORITY.

The department adopts 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 adopts 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 nonrepairable 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 of the department.

(d) A salvage vehicle dealer must make records available for review and copying upon request by the department. The department may request records in person, by mail, or electronically from a department email or a department-designated system.

(e) A salvage vehicle dealer must provide copies of requested records to the department within 15 days of receipt of the request.

(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.

§221.73. *Content of Records.*

(a) The records of a salvage vehicle dealer for purchases and sales shall include:

(1) the date the license holder purchased the salvage motor vehicle, or nonrepairable motor vehicle;

(2) the name and address of the person who sold the salvage motor vehicle or nonrepairable motor vehicle to the salvage vehicle dealer;

(3) if the person is not an insurance company or a license holder, a photocopy of the photo identification document of the person who purchased the salvage motor vehicle or nonrepairable motor vehicle from the salvage vehicle dealer or sold the salvage motor vehicle or nonrepairable motor vehicle to the salvage vehicle dealer;

(4) a description of the salvage motor vehicle or nonrepairable 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 nonrepairable motor vehicle ownership document, if applicable;

(6) a copy of the salvage record of title or nonrepairable record of title, if applicable, or a copy of the front and back of the ownership document for the salvage motor vehicle or nonrepairable motor vehicle;

(7) a copy of the form if the ownership document has been surrendered to the department;

(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).

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

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401514

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER E. ADMINISTRATIVE PROCEDURES

43 TAC §§221.91 - 221.96

STATUTORY AUTHORITY.

The department adopts 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 adopts 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401516

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER E. ADMINISTRATIVE SANCTIONS

43 TAC §§221.111, 221.112, 221.115

STATUTORY AUTHORITY.

The department adopts 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 adopts 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 adoptions would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 1001-1003, and 1005.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401518

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



CHAPTER 224. ADJUDICATIVE PRACTICE AND PROCEDURE

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts new 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, §§224.1, 224.3, 224.5, 224.7, 224.9, 224.11, 224.13, 224.15, 224.17, 224.19, 224.21, 224.23, 224.25, 224.27, 224.29, 224.31; Subchapter B, Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement, §§224.50, 224.52, 224.54, 224.56, 224.58, 224.60, 224.62, 224.64; Subchapter C, Contested Cases Between Motor Vehicle Industry License Holders or Applicants, §§224.80, 224.82, 224.84, 224.86, 224.88, 224.90, 224.92, 224.94; Subchapter D, Motor Carrier and Oversize or Overweight Vehicle or Load Enforcement, §§224.110, 224.112, 224.114 - 224.116, 224.118, 224.120, 224.122, 224.124, 224.126, 224.128, 224.130; Subchapter E, Contested Cases Referred to SOAH, §§224.150, 224.152, 224.154, 224.156, 224.158, 224.162, 224.164, 224.166; Subchapter F, Board Procedures in Contested Cases, §§224.190, 224.192, 224.194, 224.196, 224.198, 224.200, 224.202, 224.204, 224.206; and Subchapter G, Lemon Law and Warranty Performance Claims, §§224.230, 224.232, 224.234, 224.236, 224.238, 224.240, 224.242, 224.244, 224.246, 224.248, 224.250, 224.252, 224.254, 224.256, 224.258, 224.260, 224.262, 224.264, 224.266, and 224.268.

The department adopts §§224.1, 224.3, 224.5, 224.7, 224.9, 224.11, 224.13, 224.15, 224.17, 224.19, 224.21, 224.23, 224.25, 224.27, 224.29, 224.31, 224.50, 224.56, 224.60, 224.62, 224.80, 224.82, 224.84, 224.86, 224.88, 224.92, 224.94, 224.110, 224.112, 224.114 - 224.116, 224.118, 224.120, 224.122, 224.124, 224.126, 224.128, 224.130, 224.150,

224.152, 224.154, 224.158, 224.162, 224.164, 224.166, 224.192, 224.194, 224.200, 224.202, 224.204, 224.206, 224.230, 224.232, 224.234, 224.236, 224.238, 224.240, 224.242, 224.244, 224.246, 224.248, 224.250, 224.252, 224.254, 224.256, 224.258, 224.260, 224.262, 224.264, 224.266, and 224.268 without changes to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8298). These rules will not be republished.

The department adopts §§224.52, 224.54, 224.58, 224.64, 224.90, 224.115, 224.156, 224.190, 224.196, and 224.198 with changes to the proposed text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8298). The department adopts §§224.64, 224.90, 224.156, 224.190, and 224.198 with nonsubstantive changes as described below. The department adopts §§224.52, 224.54, 224.115, and 224.196 with substantive changes, which are described below in the department's response to comments. The department adopts §224.58 with a substantive change, which is described below.

REASONED JUSTIFICATION. In this issue of the *Texas Register*, the department adopts revisions that delete language regarding adjudicative practices and procedures in 43 TAC §217.56 and Chapters 206, 215, 218, 219, and 221. The department reorganized these rules into new Chapter 224 for easier reference and to add rules consistent with the department's authority and responsibility under Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; Transportation Code, Chapters 502, 503, 621-623, 643, 645, and 1001-1005; and rules promulgated by the State Office of Administrative Hearings (SOAH). New Chapter 224 is organized into seven subchapters.

To the extent the department's prior rules regarding adjudicative practices and procedures worked well and are currently authorized by law, the department incorporated the relevant language from those rules into new Chapter 224. The department did not change adjudicative practices and procedures unless there was a reason to do so. The department, prior parties, and the representatives for prior parties are familiar with the department's prior rules regarding adjudicative practices and procedures, which evolved over time to provide predictability and fairness to the parties.

To the extent the department's prior rules regarding adjudicative practices and procedures did not include language that is required by law, the department added the language to new Chapter 224. For example, Government Code, §2001.004, requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Additional statutory requirements are summarized in this preamble in the sections regarding statutory authority. To the extent the department's prior rules regarding adjudicative practices and procedures did not include clarifications that would be helpful to parties and others involved in adjudicative practices and procedures, the department added clarifications to new Chapter 224.

Subchapter A. General Provisions

Adopted new §224.1 describes the purpose and scope of new Chapter 224, which includes all contested case matters in which the department has jurisdiction. Subchapter A applies to all contested case matters unless expressly excluded or limited in another subchapter. Language regarding the purpose or scope of contested case matters from the following sections of this title are incorporated into new Chapter 224: §206.61, relating to Scope and Purpose; §215.21, relating to Purpose and Scope; §215.201, relating to Purpose and Scope; §218.70, relating to

Purpose; and §219.120, relating to Purpose. These provisions are all adopted for repeal or amendment in this issue of the *Texas Register*.

Adopted new §224.3 includes definitions for terms used throughout Chapter 224. New §224.3 incorporates terms defined in relevant content from 1 TAC §155.5, relating to Definitions, which are definitions used by SOAH. Relevant contested case-related definitions from the following sections of this title are also incorporated into new §224.3: §215.2, relating to Definitions; Conformity with Statutory Requirements; §221.2, relating to Definitions; and §206.62, relating to Definitions.

Adopted new §224.5 addresses prohibited communication during a contested case, including *ex parte* communication, and incorporates the provisions of §215.22 of this title, relating to Prohibited Communications, which is repealed in this issue of the *Texas Register*.

Adopted new §224.7 addresses the appearance by an authorized representative, intervention in a contested case, and the invitation of a person who is not a contested case party to participate in mediation. Relevant content is incorporated into new §224.7 from 1 TAC §155.201, relating to Representation of Parties, as well as §215.23 of this title, relating to Appearances, which is repealed in this issue of the *Texas Register*.

Adopted new §224.9 provides guidance on computing time consistent with Government Code, §311.014. New §224.9 also incorporates relevant content from the provisions of §215.29 of this title, relating to Computing Time, which is repealed in this issue of the *Texas Register*.

Adopted new §224.11 provides general procedures related to filing and service of documents. New §224.11 incorporates relevant content from 1 TAC §155.101 (a-d), relating to Filing Documents. New §224.11 also incorporates other sections of this title—§215.30, relating to Filing of Documents, and §215.49, relating to Service of Pleading, Petitions, Briefs, and Other Documents—which are repealed in this issue of the *Texas Register*.

Adopted new §224.13 addresses discovery matters, including the requirement for cooperation between the contested case parties and criteria and processes for a party to request a commission or subpoena. New §224.13 incorporates relevant content from 1 TAC §155.259, relating to Discovery Motions. New §224.113 also incorporates content from §206.67 of this title, relating to Discovery, which is repealed in this issue of the *Texas Register*.

Adopted new §224.15 addresses hearing recording and transcription costs. New §224.15 incorporates relevant content from 1 TAC §155.423, relating to Making a Record of the Proceeding. New §224.15 also incorporates relevant content from §215.37(a-c) of this title, relating to Recording and Transcriptions of Hearing Cost, which are repealed in this issue of the *Texas Register*.

Adopted new §224.17 addresses when proceedings may be consolidated. New §224.17 incorporates relevant provisions from §215.38 of this title, relating to Consolidation of Proceedings, which is repealed in this issue of the *Texas Register*.

Adopted new §224.19 addresses the timing and criteria for informally disposing of a contested case. New §224.19 incorporates relevant content from §215.316 of this title, relating to Informal Disposition, which is repealed in this issue of the *Texas Register*.

Adopted new §224.21 addresses criteria for when a party may waive a hearing and consent to an agreed order. New §224.21 incorporates relevant content from §215.39 of this title, relating to Waiver of Hearing, which is repealed in this issue of the *Texas Register*.

Adopted new §224.23 requires a contested case hearing to be open to the public. New §224.23 incorporates content from §215.36 of this title, relating to Hearings To Be Public, which is repealed in this issue of the *Texas Register*.

Adopted new §224.25 addresses when a deadline may or may not be extended. New §224.25 incorporates content from §215.32 of this title, relating to Extension of Time, which is repealed in this issue of the *Texas Register*.

Adopted new §224.27 implements provisions of Government Code Chapter 2001, Subchapter F that govern the issuance of final orders and motions for rehearing. New §224.27 includes related content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.55, relating to Final Decision, §215.501, relating to Final Decisions and Orders; Motions for Rehearing, §215.505, relating to Denial of Dealer or Converter Access to Temporary Tag System, and §221.93, relating to Final Decisions and Orders; Motions for Rehearing.

Adopted new §224.29 addresses delegation of final order authority in accordance with Occupations Code, §2301.154(c) and §2301.711; and Transportation Code, §1003.005(b), as applicable. New §224.29 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.43, relating to Conduct and Decorum, §215.58, relating to Delegation of Final Order Authority, and §221.95, relating to Delegation of Final Order Authority.

Adopted new §224.31 addresses the cost of providing a contested case record for appeal purposes. New §224.31 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.37(d), relating to Recording and Transcriptions of Hearing Cost, §218.75, relating to Cost of Preparing the Agency Record, and §219.127, relating to Cost of Preparing Agency Record.

Subchapter B. Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement

Adopted new §224.50 addresses the purpose and scope of this subchapter and identifies the other subchapters that apply to these types of contested cases. New §224.50 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.21, relating to Purpose and Scope, and §215.201, relating to Purpose and Scope.

Adopted new §224.52 addresses procedures related to cease and desist orders issued under Occupations Code, Chapters 2301 or 2302, including the notice and opportunity required for due process. New §224.52 also addresses the delegation of signature authority to the department's Enforcement Division Director to sign interlocutory cease-and-desist orders. New §224.52 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.314, relating to Cease and Desist Orders, and §221.96, relating to Cease and Desist Order. The delegation of signature authority for an interlocutory cease-and-desist order is new text that was not contained in the department's sections of this title. The delegation of signature authority is

necessary to address a situation in which the facts warrant the issuance of an interlocutory cease-and-desist order as soon as possible. Additionally, new §224.52 clarifies the notice and opportunity to respond for an individual who may be subject to a cease-and-desist order, to ensure consistent due process. The department adopts §224.52(b)(2) with changes at adoption to correct the references from subsection (c) to subsection (b) of this section.

Adopted new §224.54 addresses criteria used by the department to assess a civil penalty or to revoke a license consistent with and under the authority of Occupations Code, §2301.801 and §2302.354; and Transportation Code, §503.095, as applicable. These criteria are currently reflected in the department's disciplinary matrix for motor vehicle dealers that is published on the department's website. Adopted new §224.54 also addresses the department's disciplinary matrix regarding the matters under Chapter 224, Subchapter B. The department adopts §224.54(e) with changes at adoption to add language to address concerns raised by the Texas Independent Automobile Dealers Association (TIADA) in a public comment described below. The text added at adoption clarifies that the disciplinary matrix published on the department's website at the time of the violation will be the applicable matrix for guiding the department's decisions on penalties and sanctions, but also notes that the disciplinary matrix does not limit either the department from seeking or the board from ordering penalties and sanctions that are outside the ranges recommended in the penalty matrix. The text added at adoption brings more predictability for license holders but still allows the department and the board to exercise discretion as necessary within statutory limits. New §224.54 creates clarity and ease of reference for license holders, administrative law judges, and board members seeking to determine the appropriate penalty in a contested case. At adoption the department also changed the title by adding "and Revocation" before "Assessment" to better reflect the scope of the rule.

Adopted new §224.56 addresses the requirements for a notice of department decision issued to a person who is alleged to have violated a statute or department rule. New §224.56 incorporates relevant content from the following: §215.500 of this title, regarding Administrative Sanctions and Procedures, which is amended in this issue of the *Texas Register*, and §221.91 of this title, regarding Notice of Department Decision, which is repealed in this issue of the *Texas Register*.

Adopted new §224.58 addresses the process for denying access to the temporary tag system as authorized under Transportation Code, §503.0632(f). New §224.58 incorporates content from §215.505 of this title, regarding Denial of Dealer or Converter Access to Temporary Tag System, which is repealed in this issue of the *Texas Register*. At adoption, the text "listed on the application" in §224.58(a)(5) was deleted, as the requirement to disclose a storage lot on the application was changed at adoption to a more limited requirement that a GDN holder disclose the location of a storage lot or location of a motor vehicle in inventory upon request by the department.

Adopted new §224.60 describes the process for filing and service of documents under this subchapter. New §224.60 incorporates relevant content from 1 TAC §155.101 (a-d), relating to Filing Documents, as well as the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.30, relating to Filing of Documents, and §215.49, relating to Service of Pleading, Petitions, Briefs, and Other Documents.

Adopted new §224.62 addresses the process for referring a contested case under this subchapter to SOAH. New §224.62 incorporates relevant content from 1 TAC §155.51, relating to Jurisdiction, and §155.53, relating to Request to Docket Case, as well as §215.306 of this title, relating to Referral to SOAH, which is repealed in this issue of the *Texas Register*.

Adopted new §224.64 addresses the process for the department to issue a notice of hearing for contested cases under this subchapter. New §224.64 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.34, relating to Notice of Hearing in Contested Case, and §221.92, relating to Notice of Hearing. The department adopts §224.64 with changes at adoption to replace the word "notifies" with "shall notify."

Subchapter C. Contested Cases Between Motor Vehicle Industry License Holders or Applicants

Adopted new §224.80 addresses the purpose and scope of this subchapter and identifies the other subchapters that apply to these types of contested cases for clarity and ease of reference. New §224.80 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.21, relating to Purpose and Scope, and §215.201, relating to Purpose and Scope.

Adopted new §224.82 addresses the requirements for a franchised dealer to file a protest or complaint consistent with the department's responsibilities under Occupations Code, Chapter 2301. New §224.82 incorporates relevant content from §215.106 of this title, relating to Time for Filing Protest.

Adopted new §224.84 addresses how a protest, complaint, or other document must be filed, including the requirement to file any document electronically, and include all assigned docket numbers. New §224.84 incorporates relevant content from 1 TAC §155.101 (a-d), relating to Filing Documents, as well as the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.24, relating to Petitions, §215.30, relating to Filing of Documents, §215.49, relating to Service of Pleading, Petitions, Briefs, and Other Documents, and §215.305, relating to Filing of Complaints, Protests, and Petitions; Mediation.

Adopted new §224.86 describes the process used by the department to review a protest or complaint to determine if the protest or complaint meets the minimum statutory requirements and is appropriate to refer to SOAH for a hearing at SOAH consistent with the department's responsibilities under Occupations Code, Chapter 2301.

Adopted new §224.88 describes the department's procedure for docketing a contested case under this subchapter, the issuance of a stay as authorized by Occupations Code, §2301.803, the notice to the parties, the opportunity for the parties to accept or decline a department mediator and retain a private mediator, and the deadline to notify the department regarding the mediator option chosen by the parties. Mediation is required under Occupations Code, Chapter 2301, Subchapter K and §2301.703.

Adopted new §224.90 describes the procedures related to mediation including the timeline for mediation, requirements if a private mediator is selected by the parties, the requirement for a mediator to submit a written report, and the department's actions upon receiving the report including notifying SOAH whether a party refused to participate in or attend mediation. New §224.90 allows a SOAH Administrative Law Judge (ALJ) to recommend a sanction in the final proposal for decision for refusal to attend

or participate in a statutorily required mediation. New §224.90 incorporates relevant content from §215.305 of this title, relating to Filing of Complaints, Protests, and Petitions; Mediation, which is repealed in this issue of the *Texas Register*. The department adopts §224.90 with the following nonsubstantive changes to the text at adoption: 1) changed the word "the" to "this" in subsections (g)(2) and (h)(4) to refer to "§224.88 of this title"; and 2) added the word "in" and changed the order of the words in subsection (m) to be consistent with the language in subsection (l)(3), which refers to a party who "refused to attend or participate in a mediation."

Adopted new §224.92 addresses the process for referring a contested case under this subchapter to SOAH. New §224.92 incorporates relevant content from 1 TAC §155.51, relating to Jurisdiction, and §155.53, relating to Request to Docket Case, as well as §215.306 of this title, relating to Referral to SOAH, which is repealed in this issue of the *Texas Register*.

Adopted new §224.94 addresses the process for the department to issue a notice of hearing for contested cases under this subchapter. New §224.94 incorporates relevant content from §215.34 of this title, relating to Notice of Hearing in Contested Cases, which is repealed in this issue of the *Texas Register*.

Subchapter D. Motor Carrier and Oversize or Overweight Vehicle or Load Enforcement

Adopted new §224.110 addresses the purpose and scope of this subchapter and identifies the other subchapters that apply to these types of contested cases. New §224.110 incorporates relevant content from the following sections of this title: §218.1, relating to Purpose, §218.70, relating to Purpose, §219.1, relating to Purpose and Scope, and §219.120, relating to Purpose.

Adopted new §224.112 references definitions used in statute and existing rules to avoid duplication and potential conflict when incorporating definitions from the Transportation Code, and the following sections of this title: §218.2, relating to Definitions, and §219.2, relating to Definitions.

Adopted new §224.114 addresses procedures related to cease-and-desist orders issued under Transportation Code, §643.256. New §224.114 incorporates relevant content from §218.77, relating to Cease and Desist Order, which is repealed in this issue of the *Texas Register*.

Adopted new §224.115 addresses criteria used by the department to assess an administrative penalty under Transportation Code, §§623.271, 623.272, and 643.251. Transportation Code, §643.251 provides the dollar caps for administrative penalties, as well as the factors on which the administrative penalty shall be based. Transportation Code, §623.271 and §623.272 state that the amount of an administrative penalty imposed under §623.271 and §623.272, respectively, is calculated in the same manner as the amount of an administrative penalty imposed under Transportation Code, §643.251. New §224.115 also addresses the criteria the department will use to determine whether to probate a suspension of a motor carrier's registration, as well as the length of the probation and the reporting requirements during the probation. Many of these criteria are currently reflected in the department's disciplinary matrix for motor carriers that is published on the department's website. Adopted new §224.115 also addresses the department's disciplinary matrix regarding the matters under Chapter 224, Subchapter D. The department's disciplinary matrix for motor carriers includes the factors on which the administrative penalty and sanction shall be based for the most common violations. Although an administra-

tive penalty may generally be called a sanction, Transportation Code, §643.252, which is titled "Administrative Sanctions," lists the factors for which the department may suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643. Transportation Code, §643.251, which is titled "Administrative Penalty," addresses administrative penalties that the department may impose against a motor carrier.

The department adopts new §224.115(e) with changes at adoption to add language to address concerns raised by TIADA in a public comment described below. The text added at adoption clarifies that the disciplinary matrix published on the department's website at the time of the violation will be the applicable matrix for guiding the department's decisions on penalties and sanctions, but also notes that the disciplinary matrix does not limit either the department from seeking or the director from ordering penalties and sanctions that are outside the ranges recommended in the penalty matrix. The text added at adoption brings more predictability for motor carriers but still allows the department and the director to exercise discretion as necessary within statutory limits. The department also changed the title of §224.115 at adoption by adding "Sanction Assessment;" because §224.115 references the disciplinary matrix that the department will publish on its website to provide guidance to motor carriers on the penalties and sanctions that may be assessed for the most common violations.

Adopted new §224.115 creates clarity and provides ease of reference for motor carriers, administrative law judges, and the Motor Carrier Division Director seeking to determine the appropriate administrative penalty and sanction in a contested case. New §224.115 incorporates relevant content from §218.71, relating to Administrative Penalties; §218.72, relating to Administrative Sanctions; §219.121, relating to Administrative Penalties; and §219.126 relating to Administrative Penalty for False Information on Certificate by a Shipper, which are amended in this issue of the *Texas Register*.

Adopted new §224.116 addresses procedures when the department decides to take enforcement action under any of the following sections of this title: §218.16, relating to Insurance Requirements; §218.64, relating to Rates; §218.71, relating to Administrative Penalties; §218.72, relating to Administrative Sanctions; §219.121, relating to Administrative Penalties and Sanctions under Transportation Code, §623.271; or §219.126, relating to Administrative Penalty for False Information on Certificate by a Shipper. New §224.116 incorporates relevant content from the following sections of this title, which are amended or repealed in this issue of the *Texas Register*: §218.71, relating to Administrative Penalties; §218.73, relating to Administrative Proceedings; and §219.124, relating to Administrative Proceedings.

Adopted new §224.118 requires a person to file a document according to written instructions provided by the department as different systems and methods may be used depending on the party and type of enforcement action.

Adopted new §224.120 describes the procedures followed by the department upon receiving a final order issued under Family Code, §§232.003, 232.008, or 232.009, regarding child support enforcement. New §224.120 incorporates relevant content from §218.76 of this title, relating to Registration Suspension Ordered Under the Family Code, which is repealed in this issue of the *Texas Register*.

Adopted new §224.122 prescribes the requirements for a vehicle registrant that wants to appeal a decision against the registrant

of an assessment (a financial penalty under §217.56(c)(2)(G) of this title, relating to Registration Reciprocity Agreements) or a cancellation or revocation of the registrant's apportioned registration under the International Registration Plan (IRP). New §224.122 incorporates relevant content from §217.56(c)(2)(J)(iii) of this title, which is amended in this issue of the *Texas Register*.

Adopted new §224.124 describes the appeal process for a person who is denied registration under a new, renewal, or reregistration application under Transportation Code, Chapter 643. New §224.124 incorporates relevant content from §218.78 of this title, relating to Appeal of Denial, which is repealed in this issue of the *Texas Register*.

Adopted new §224.126 describes the appeal process for a person whose application for self-insured status is denied under §218.16(d), relating to Insurance Requirements. Relevant content is incorporated from §218.16(d), which is amended in this issue of the *Texas Register*.

Adopted new §224.128 addresses the process for referring a contested case under this subchapter to SOAH. Relevant content is incorporated from 1 TAC §155.51, relating to Jurisdiction, and §155.53, relating to Request to Docket Case.

Adopted new §224.130 addresses the process for the department to issue a notice of hearing for contested cases under this subchapter consistent with the statutory requirements under Government Code, Chapter 2001, and SOAH's rule regarding notice of hearing in 1 TAC §155.401, relating to Notice of Hearing.

Subchapter E. Contested Cases Referred to SOAH

Adopted new §224.150 describes the types of contested cases that are referred to SOAH, the transfer of jurisdiction from the department to SOAH, and the transfer of jurisdiction from SOAH back to the department. New §224.150 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.21, relating to Purpose and Scope; §215.201, relating to Purpose and Scope; and §215.303, relating to Application of Board and SOAH Rules.

Adopted new §224.152 describes the department's procedures for referring a contested case to SOAH consistent with SOAH's rules. Relevant content is incorporated into new §224.152 from SOAH's related rules in 1 TAC §155.51, relating to Jurisdiction, and §155.53, relating to Request to Docket Case, as well as §215.306 of this title, relating to Referral to SOAH, which is repealed in this issue of the *Texas Register*.

Adopted new §224.154 addresses applicable notice of hearing requirements under Government Code, §2001.052; Occupations Code, §2301.705; 1 TAC §155.401, relating to Notice of Hearing; and Transportation Code, Chapters 623 and 643; provides for service on parties outside the United States to the extent authorized by applicable law; and addresses the amendment of a notice of hearing under Government Code, §2001.052(b). New §224.154 incorporates relevant content from SOAH's related rules in 1 TAC §155.401, as well as the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.34, relating to Notice of Hearing in Contested Cases; §215.307, relating to Notice of Hearing; §218.73, relating to Administrative Proceedings; §219.124, relating to Administrative Proceedings; and §221.92, related to Notice of Hearing. Transportation Code, §643.2525(a) requires the department to give written notice to the motor carrier by first class mail for an enforcement action under Transportation

Code, §643.251 or §643.252 regarding administrative penalties and sanctions, respectively. Transportation Code, §623.271(b) and §623.272(b) state that the notice and hearing requirements under Transportation Code, §643.2525 apply to the imposition of an administrative penalty or revocation of a permit under §623.271 and the imposition of an administrative penalty under §623.272.

Adopted new §224.156 describes the process for a party to reply to a notice of hearing and the consequences for when a party does not appear at a hearing. New §224.156 incorporates relevant content from §215.308 of this title, relating to Reply to Notice of Hearing and Default Proceedings, which is repealed in this issue of the *Texas Register*. Adopted new §224.156 also incorporates applicable sections of SOAH's rules of procedure for contested cases within SOAH's jurisdiction, including 1 TAC §155.301 relating to Required Form of Pleadings, and §155.501, relating to Failure to Attend Hearing and Default Proceedings. The department adopts §224.156(a) with changes at adoption to replace the word "on" with the word "in" in the last clause of the second sentence.

Adopted new §224.158 describes the process and deadlines for an ALJ to consider an amicus brief. The new rule allows amicus briefs to be incorporated into the administrative record of the contested case for review and consideration by the ALJ, as well as the board, the board delegate, or the director responsible for issuing a final order in the case. New §224.158 incorporates relevant content from §215.311 of this title, relating to Amicus Briefs, which is repealed in this issue of the *Texas Register*.

Adopted new §224.162 addresses an ALJ's responsibilities to hear and rule on a request regarding a statutory stay and the right for a party to file an interlocutory appeal with the board. Adopted new §224.162 incorporates relevant content from §215.315 of this title, relating to Statutory Stay, which is repealed in this issue of the *Texas Register*.

Adopted new §224.164 describes the ALJ and party responsibilities relating to a proposal for decision in a contested case. New §224.164 incorporates relevant content from SOAH's related rule in 1 TAC §155.507, relating to Proposals for Decision; Exceptions and Replies, as well as §215.310 of this title, relating to Issuance of Proposals for Decision and Orders, which is repealed in this issue of the *Texas Register*.

Adopted new §224.166 describes the process by which jurisdiction transfers back to the board or board delegate for a final decision, consistent with the requirements of Government Code, Chapter 2001.

Subchapter F. Board Procedures in Contested Cases

Adopted new §224.190 describes the scope of the subchapter, which includes review and consideration of a contested case and issuance of a final order by the board or board delegate. New §224.190 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.21, relating to Purpose and Scope, and §215.201, relating to Purpose and Scope. The department adopts §224.190 with changes at adoption to change the semicolons to commas at the end of paragraphs one and two.

Adopted new §224.192 describes the process for a person to appeal an interlocutory cease-and-desist or stay order authorized under Occupations Code, Chapter 2301, to comply with the statutory requirement that the board rule on appeals of such interlocutory orders. New §224.192 incorporates relevant con-

tent from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.314, relating to Cease and Desist Orders, and §221.96, relating to Cease and Desist Order. New §224.192 also clarifies the timelines and process through which a party would request to make an oral presentation or to provide written materials to the board when it reviews the appeal of the interlocutory order. New §224.192 also stipulates that the board's review of an appeal of an interlocutory order is limited to the review and changes allowed under Texas Government Code, §2001.058(e), to clarify the separate roles of the SOAH ALJ and the board in reviewing an interlocutory order issued by the department.

Adopted new §224.194 describes the process for scheduling the review of a contested case by the board or a board delegate and allows the decision-making authority to review the case during a public meeting to increase public insight into the decision-making process.

Adopted new §224.196 describes department's procedures, deadlines, and order of presentations, if a contested case party wants to make an oral presentation to the board as part of the board's consideration of the contested case. New §224.196 incorporates relevant content from §215.59 of this title, relating to Request for Oral Presentation, which is repealed in this issue of the *Texas Register*. New §224.196 complies with Transportation Code, §1004.002, which requires the board to develop policies that provide the public with a reasonable opportunity to appear before the board and speak on any issue under the jurisdiction of the board. A party that complies with the requirements under new §224.196 will be allowed a maximum of 15 minutes to make their oral presentation to the board unless the board chair increases this time under new §224.200. The department adopts §224.196(e) with a change at adoption to address a comment from TIADA, which is described in further detail below. The change to the text at adoption allows a party to speak as a public commenter on a contested case agenda item only if the party is not also making an oral presentation to the board. This will allow parties who failed to give the proper and timely notice necessary to make an oral presentation an opportunity to briefly address and answer questions from the board, so that a missed oral presentation deadline does not completely preclude a party from appearing before the board to defend its position in a contested case.

Adopted new §224.198 describes the responsibilities and deadlines for a party that wants to provide written materials to the board as part of the board's consideration of the contested case. New §224.198 incorporates relevant content from §215.60 of this title, relating to Written Materials and Evidence, which is repealed in this issue of the *Texas Register*. The department made a nonsubstantive change to §224.198(b) at adoption by changing the word "aren't" to "are not" for stylistic consistency.

Adopted new §224.200 describes the responsibilities and limitations for a party making an oral presentation as part of the board's consideration of the contested case. New §224.200 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §206.22(f), relating to Public Access to Board Meetings, §215.61, relating to Limiting Oral Presentation and Discussion to Evidence in the Administrative Record, and §215.62, relating to Order of Presentations to the Board for Review of a Contested Case.

Adopted new §224.202 describes the order of presentations at the board meeting in which the board is considering a contested

case. New §224.202 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §206.22(f), relating to Public Access to Board Meetings, and §215.62, relating to Order of Presentations to the Board for Review of a Contested Case.

Adopted new §224.204 addresses board member conduct while reviewing and considering a contested case. New §224.204 incorporates relevant content from §215.63 of this title, relating to Board Conduct and Discussion When Reviewing a Contested Case, which is repealed in this issue of the *Texas Register*.

Adopted new §224.206 describes the requirements for a final order issued by the board or a board delegate and when the order is final. New §224.206 incorporates relevant content from §215.501 of this title, relating to Final Decisions and Orders; Motions for Rehearing, which is repealed in this issue of the *Texas Register*.

Subchapter G. Lemon Law and Warranty Performance Claims

Adopted new §224.230 describes the scope of this subchapter, provides statutory references, and defines terms used in the subchapter. New §224.230 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.21, regarding Purpose and Scope, and §215.201, regarding Purpose and Scope.

Adopted new §224.232 describes the requirements for a person to file a lemon law or warranty performance claim, the process, and the assistance available from the department to enable a person to do so. New §224.232 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.27, relating to Complaints, and §215.202, relating to Filing of Complaints.

Adopted new §224.234 describes how the department reviews a complaint to determine if the department has jurisdiction and meets minimum statutory requirements. New §224.234 incorporates relevant content from §215.203 of this title, relating to Review of Complaints, which is repealed in this issue of the *Texas Register*.

Adopted new §224.236 describes the process regarding the notification to the manufacturer, distributor, or converter. New §224.236 incorporates relevant content from §215.204 of this title, relating to Notification to Manufacturer, Converter, or Distributor, which is repealed in this issue of the *Texas Register*.

Adopted new §224.238 describes the process for mediation, settlement, and referral for hearing with a hearings examiner. New §224.238 incorporates relevant content from §215.205 of this title, relating to Mediation; Settlement, which is repealed in this issue of the *Texas Register*.

Adopted new §224.240 describes the notice of hearing requirements consistent with Government Code, Chapter 2001. New §224.240 incorporates relevant content from §215.34 of this title, relating to Notice of Hearing in Contested Cases, which is repealed in this issue of the *Texas Register*.

Adopted new §224.242 describes the requirements for a party to make a motion, as well as the fact that a motion is not granted unless a hearings examiner makes a ruling. New §224.242 incorporates relevant content from §215.47 of this title, relating to Motions, which is repealed in this issue of the *Texas Register*.

Adopted new §224.244 describes the methods by which a document may be filed and served in this subchapter. New §224.244 incorporates relevant content from §215.49 of this title, relating

to Service of Pleading, Petitions, Briefs, and Other Documents, which is repealed in this issue of the *Texas Register*.

Adopted new §224.246 describes the role and powers of the hearings examiner and the recusal or substitution process. New §224.246 incorporates relevant content from §215.41 of this title, relating to Presiding Officials, which is repealed in this issue of the *Texas Register*.

Adopted new §224.248 describes the criteria for the granting of a continuance by a hearings examiner. New §224.248 incorporates relevant content from §215.40 of this title, relating to Continuance of Hearing, which is repealed in this issue of the *Texas Register*.

Adopted new §224.250 describes a party's rights during the hearing, provides guidance as to how a hearing will be conducted, and addresses participant conduct and decorum in a hearing. New §224.250 incorporates relevant content from the following provisions of this title, which are repealed in this issue of the *Texas Register*: §215.42, relating to Conduct of Hearing, and §215.43, relating to Conduct and Decorum.

Adopted new §224.252 addresses the procedure that will be followed during a hearing. New §224.252 incorporates related content from §215.206 of this title, relating to Hearings, which is repealed in this issue of the *Texas Register*.

Adopted new §224.254 addresses the standards and handling of evidence during a hearing. New §224.254 incorporates relevant content from the following sections of this title, which are repealed in this issue of the *Texas Register*: §215.44, relating to Evidence, and §215.45, relating to Stipulation of Evidence.

Adopted new §224.256 addresses how objections and exceptions may be handled during a hearing conducted by a hearings examiner. New §224.256 incorporates relevant content from §215.46 of this title, relating to Objections and Exceptions, which is repealed in this issue of the *Texas Register*.

Adopted new §224.258 specifies that the hearings examiner has final order authority in cases under this subchapter. New §224.258 incorporates relevant content from §215.55 of this title, relating to Final Decision, which is repealed in this issue of the *Texas Register*.

Adopted new §224.260 describes how lemon law relief decisions will be evaluated by a hearings examiner, the presumptions that may be applied, and how refunds may be calculated, in addition to other important criteria. New §224.260 incorporates content from §215.208 of this title, relating to Lemon Law Relief Decisions, which is repealed in this issue of the *Texas Register*. However, language in §215.208 requiring a different presumptive useful life calculation for a towable recreational vehicle that is lived in full-time was omitted as useful life may vary based on whether the towable recreational vehicle is at a fixed location or used for traveling. New §224.260 allows the hearings examiner to consider the evidence presented regarding usage and adjust the calculation accordingly.

Adopted new §224.262 details which incidental costs may be included in a final refund amount ordered by a hearings examiner. New §224.262 incorporates relevant content from §215.209 of this title, relating to Incidental Expenses, which is repealed in this issue of the *Texas Register*.

Adopted new §224.264 describes the requirements for a hearings examiner to issue a final order, the process for filing and considering a motion for rehearing, and notification to the par-

ties. New §224.264 incorporates relevant content from §215.207 of this title, relating to Contested Cases: Final Orders, which is repealed in this issue of the *Texas Register*.

Adopted new §224.266 describes the complainant's option to accept or reject the final order and the responsibilities of a manufacturer, distributor, or converter if a complainant accepts the final order. New §224.266 incorporates relevant content from §215.210 of this title, relating to Compliance with Order Granting Relief, which is repealed in this issue of the *Texas Register*.

Adopted new §224.268 describes the process for a party to appeal a final order in Travis County district court under Government Code, Chapter 201, subject to Occupations Code, §2301.609. New §224.268 incorporates relevant content from §215.207(f) of this title, relating to Contested Cases: Final Orders, which is repealed in this issue of the *Texas Register*.

SUMMARY OF COMMENTS.

The department received two written comments on the proposal. The department received a written comment from an individual and TIADA.

§224.54

Comment: TIADA recommended that the department add a sentence to §224.54(e), stating the department will consider the disciplinary matrix published at the time of the offense and that the disciplinary matrix does not prevent the department from seeking sanctions above or below the recommended ranges. TIADA stated that an administrative law judge in a prior case was not certain which of two versions of the disciplinary matrix that were in effect during the pendency of the litigation should apply to that particular case.

Response: The department agrees with the comment. In response to the comment, the department added a modified version of the recommended language to §224.54 and §224.115.

The department added language to §224.54(e), stating the department will consider the disciplinary matrix published at the time of the violation, rather than at the time of the offense, to be consistent with the terminology used in §224.54 and the relevant statutes. In addition to stating the disciplinary matrix does not prevent the department from seeking administrative penalties and sanctions above or below the recommended ranges listed in the disciplinary matrix, the department added clarifying language that says the disciplinary matrix does not prevent the board or the board's delegate from ordering administrative penalties and sanctions above or below the recommended ranges listed in the disciplinary matrix. This clarifying language documents the current practice in which neither the board nor the board's delegate are bound by the published disciplinary matrix that applies to matters that fall within the scope of Chapter 224, Subchapter B of this title (relating to Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement). The proposed text stated that the published disciplinary matrix provides guidance to license holders on the sanctions that may be assessed for the most common violations; however, it is preferable to provide more detail to license holders to explain what this text means. Also, the department amended the heading for §224.54 and added language to §224.54(e) to include the assessment regarding revocation because §224.54 also addresses factors regarding whether license revocation is appropriate.

Although the commenter did not cite to §224.115, the department also added language to §224.115(e), stating the department will consider the disciplinary matrix published at the time of the viola-

tion because §224.115 addresses the disciplinary matrix for contested cases under Chapter 224, Subchapter D of this title (relating to Motor Carrier and Oversize or Overweight Vehicle or Load Enforcement). In addition to stating the disciplinary matrix does not prevent the department from seeking penalties and sanctions above or below the recommended ranges listed in the disciplinary matrix, the department also added clarifying language that says the disciplinary matrix does not prevent the director from ordering administrative penalties and sanctions above or below the recommended ranges listed in the disciplinary matrix. The proposed text stated that the published disciplinary matrix provides guidance to motor carriers on the penalties and sanctions that may be assessed for the most common violations; however, it is preferable to provide more detail to motor carriers to explain what this text means. The added language references the director because the board delegated final order authority to the department's Motor Carrier Division director under §224.29(c) to the extent the director does not already have such authority under statutes, such as Transportation Code, §643.2525.

Also, the department amended the title of §224.115 at adoption to include the assessment of sanctions because §224.115 references the disciplinary matrix that the department will publish on its website to provide guidance to motor carriers on the penalties and sanctions that may be assessed for the most common violations. Although an administrative penalty may generally be called a sanction, Transportation Code, §643.252, which is titled "Administrative Sanctions," lists the factors for which the department may suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643. Transportation Code, §643.251, which is titled "Administrative Penalty," addresses administrative penalties that the department may impose against a motor carrier.

§224.196

Comment: TIADA recommended that the department strike rule text that says if a party fails to timely submit a written request for an oral presentation, that party shall not make an oral presentation at the board meeting. TIADA says that most other tribunals do not require a party to notify the tribunal that the party will attend a scheduled hearing and that the department should follow those tribunals.

Response: The department agrees with the comment in part, with respect to the opportunity for a party to make a public comment even when it has failed to submit a timely request to make an oral presentation, and made certain changes to §224.196.

The department disagrees, however, that the board should follow the procedures used in tribunals. The board is not a tribunal. The board is not authorized to retry the contested case, and the board has limited authority under Government Code, §2001.058(e) to change a finding of fact or conclusion of law made by the SOAH ALJ. Also, the board is prohibited from considering evidence that is not contained within SOAH's administrative record, so the parties do not need to appear before the board to present new evidence. In addition, the board has access to the entire SOAH administrative record for each case and is able to review every exhibit, testimony transcript, and filing made in the case.

Since February 2021, the department has operated under §206.22(f) of this title, relating to Public Access to Board Meetings, and §215.59 of this title, relating to Request for Oral Presentation, which are repealed in this issue of the *Texas*

Register. Sections 206.22(f) and 215.59 only authorize a party to a contested case to make an oral presentation to the board if the party timely submitted a written request to make an oral presentation. However, if a party failed to timely submit a written request to make an oral presentation to the board, the board chairman authorized the party to make a public comment under §206.22(a) on the agenda item for the contested case. This process worked well for the two contested cases that the board considered at the December 2023 and February 2024 board meetings.

It is not fair to the party who timely submitted a written request if the board allows the other party to make an oral presentation without timely submitting a request. Also, Transportation Code, §1004.002 requires the board to develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board and the rule to be adopted is consistent with this statutory requirement.

For these reasons, the department will retain the requirement under §224.196 for a party to timely submit a written request for an oral presentation before the party is allowed to make an oral presentation to the board under Chapter 224, Subchapter F (relating to Board Procedures in Contested Cases).

The department amended §224.196(e) to authorize a party to make a public comment regarding the party's contested case during the posted agenda item for the contested case under §206.22 of this title (relating to Public Access to Board Meetings); however, a party is not authorized to make a public comment regarding the party's contested case under §206.22 in addition to making an oral presentation regarding the party's contested case. If a party timely complies with the requirements to make an oral presentation under Subchapter F of Chapter 224, §224.196 authorizes the party to make an oral presentation to the board for up to 15 minutes unless the board chair increases the time under §224.200. Fifteen minutes is ample time for a party to make an oral presentation to the board, so a party does not need an additional three minutes to make a public comment regarding their contested case. Also, the time that a party spends answering board questions is not counted against their 15 minutes. In addition, if the board chair decides that the parties need more than 15 minutes to make an oral presentation, §224.200 authorizes the board chair to increase the oral presentation time. If a party fails to comply with the requirements to make an oral presentation, the party can attend the board meeting and make a public comment under §206.22 for up to three minutes unless the board chair increases the time.

§224.198

Comment: An individual recommended that the department add a sentence to §224.198 that says a proposed final order or a draft motion for possible board action are not counted against the 15-page limit under §224.198(d) for written materials. The individual stated that allowing the parties to a contested case to propose a final order or a motion for board action will assist board members in focusing on the key points in the case and will help them to reach a final decision.

Response: The department disagrees with the comment and declines to make the requested change. Adopted new §224.198-like §215.60 of this title (relating to Written Materials and Evidence), which is repealed in this issue of the *Texas Register*-imposes a 15-page limit for written materials that a party can submit to the department to provide to the board. New §224.198

expressly allows a party to provide a proposed final order and a draft motion for possible board action if the party complies with the requirements under §224.198. The 15-page limit has been sufficient for prior contested cases that were submitted to the board for a final order under §215.60, which was adopted in February 2021. In at least one case, a party submitted a proposed three-page final order as part of their 15 pages of written materials under §215.60. Also, in the five contested cases in which the board issued a final order from April of 2023 to February of 2024, the longest final order was five pages, not including the Proposal for Decision that was incorporated into one of the final orders. The parties can choose to submit a proposed final order or motion as part of their 15 pages of written materials without using all 15 pages for the proposed final order or motion.

The commenter's requested change opens the door to allowing a party to submit an unlimited number of pages of written materials to the board, which is unnecessary because the board is not authorized to relitigate the case or to receive new evidence in the case. The board has limited authority under Government Code, §2001.058(e) to change a finding of fact or conclusion of law made by the SOAH ALJ. The board is prohibited from considering evidence not contained within SOAH's administrative record, and the board has access to the entire SOAH administrative record for each case and is able to review every exhibit, testimony transcript, and filing made in the case. Further, the department includes, at a minimum, the following materials in the board books provided to board members and published on the department's website, so the parties can direct board members to specific pages, rather than providing the materials to the board members again in written materials: 1) the SOAH ALJ's Proposal for Decision; 2) any exceptions that a party filed with SOAH regarding the ALJ's Proposal for Decision; and 3) the SOAH ALJ's exceptions letter regarding the Proposal for Decision. Finally, it is not necessary for a party to submit a proposed final order or a proposed motion for possible board action. If a board member needs assistance with drafting a proposed motion or proposed final order, the department's general counsel is available to assist the board member.

§224.202

Comment: TIADA recommended that the department strike the language in §224.202(b) and (c). TIADA also recommended that the department modify the order of oral presentations to the board to follow typical judicial procedure, which allows the party that brought the lawsuit to present first, rather than allowing the party that is adversely affected to present first.

Response: The department disagrees with the comment and declines to make the requested changes. The board is not a court. Also, requiring the adversely affected party to present first helps the board to focus on issues the board is authorized to address, and recognizes the SOAH ALJ's role in assessing the evidence, deciding fact issues, and making a recommendation in the Proposal for Decision.

Adopted new §224.202-like §215.62 of this title (relating to Order of Presentations to the Board for Review of a Contested Case), which is repealed in this issue of the *Texas Register*-authorizes the party that is adversely affected by the ALJ's Proposal for Decision to make their oral presentation to the board first, followed by the party or parties that are not adversely affected. This process worked well under §215.62, which became effective in February 2021. Moreover, the board has already considered and decided this issue: when the department proposed §215.62, the board considered and addressed public comments regarding the

order of presentation, including comments requesting that the adversely affected party present first.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §§224.1, 224.3, 224.5, 224.7, 224.9, 224.11, 224.13, 224.15, 224.17, 224.19, 224.21, 224.23, 224.25, 224.27, 224.29, 224.31

STATUTORY AUTHORITY.

The department adopts new Chapter 224 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; 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 provide for compliance with warranties; 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, §2301.602, which requires the board to adopt rules for the enforcement and implementation of Subchapter M of Occupations Code, Chapter 2301; Occupations Code, §2301.651, which authorizes the board 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 licensee; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §502.091(b), which authorizes the department to adopt and enforce rules to carry out the International Registration Plan (IRP); Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; 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; 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 §623.272, and states that the notice and hearing requirements under Transportation Code, §643.2525 apply to the imposition of an

administrative penalty under §623.272; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.102, which authorizes a motor carrier to comply with the requirements under Transportation Code, §643.101 through self-insurance if it complies with the requirements; Transportation Code, §643.251, which authorizes the department to impose an administrative penalty against a motor carrier required to register under Subchapter B of Transportation Code, Chapter 643 that violates Chapter 643 or a rule or order adopted under Chapter 643; Transportation Code, §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended; Transportation Code, §643.2525, which provides the process for an administrative hearing under Transportation Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to appeal the denial of an application for registration, renewal of registration, or reregistration under Transportation Code, Chapter 643; Transportation Code, §645.003, which authorizes the department to adopt rules providing for administrative penalties for a failure to register or submit information and documents under the unified carrier registration plan and agreement or for a violation of the unified carrier registration plan and agreement; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to one or more board members or certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. These new rules implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 502, 503, 621-623, 643, 645, and 1002-1005.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401530

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER B. MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRY ENFORCEMENT

43 TAC §§224.50, 224.52, 224.54, 224.56, 224.58, 224.60, 224.62, 224.64

STATUTORY AUTHORITY.

The department adopts new Chapter 224 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; 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 authorizes the board 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 licensee; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; 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; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to one or more board members or certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. These new rules implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 502, 503, 1002, and 1003.

§224.52. Cease and Desist Order; Delegation of Authority.

(a) When a person is alleged to be violating a provision of Occupations Code, Chapter 2301, or a board rule or order, the department may enter an interlocutory order requiring the person to cease and desist from the violation under the following procedures.

(1) In accordance with Occupations Code, §2301.154(c) and Transportation Code, §1003.005(b), the department's Enforcement Division director is delegated the authority to issue an interlocutory cease-and-desist order under the procedures established in this subsection.

(2) A person requesting an interlocutory cease-and-desist order must present a petition or complaint, verified by affidavit, containing a plain statement of the grounds for seeking the cease-and-desist order to the department's Enforcement Division director in accordance with the procedures set forth in §224.84 of this section (regarding Filing and Service of a Protest, Complaint, or Other Document). The department shall not issue an interlocutory cease-and-desist order without a verified petition or complaint that meets the requirements of this subsection.

(3) At least three days prior to entering an interlocutory order requiring a person to cease and desist, the department must send a

letter notifying the person of the allegations against them to all current addresses for the person in the department's records by both electronic service and certified mail, return receipt requested.

(4) The notice letter must include a statement of the alleged conduct that forms the basis for the interlocutory cease-and-desist order and must provide the person the opportunity to show cause in writing within three days why the department should not issue a cease-and-desist order.

(5) In considering whether to issue an interlocutory cease-and-desist order, the department must determine if the conditions set forth in Occupations Code, §2301.802(b) are present and consider the person's written response, if any, to the letter notifying the person of the alleged violations. The department shall email a copy of the department's decision to the person in addition to sending a copy by certified mail, return receipt requested.

(6) Each interlocutory cease-and-desist order must include:

(A) the date and hour of issuance;

(B) a statement of which of the conditions in Occupations Code, §2301.802(b) the department determined were present to necessitate the cease-and-desist order;

(C) a notice of hearing at SOAH to determine the validity of the order;

(D) the reasons for its issuance; and

(E) a description in reasonable detail of the act or acts to be restrained.

(7) If the ALJ determines after a hearing that the cease-and-desist order should remain in place during the pendency of the contested case, the ALJ shall issue an interlocutory cease-and-desist order.

(8) An interlocutory cease-and-desist order remains in effect until vacated or incorporated in a final order.

(9) A party may immediately appeal an interlocutory cease-and-desist order issued by an ALJ to the board under §224.192 of this title (relating to Appeal of an Interlocutory Order) while the contested case is at SOAH.

(b) The department may issue a final cease-and-desist order if a person who is not licensed under Occupations Code, Chapter 2302 is found, after notice and opportunity for a hearing, to have violated that chapter or a rule or order adopted under that chapter. The department may also issue a final cease-and-desist order under Occupations Code, Chapter 2301 to a person found, after notice and opportunity for a hearing, to have violated that chapter, a board rule, or an order.

(1) If the department decides to seek a cease-and-desist order under subsection (b) of this section, the department will send a letter notifying the person of the allegations against them to all current addresses for the person in the department's records by both electronic service and certified mail, return receipt requested. The notice letter will contain:

(A) a summary of the factual allegations;

(B) a description of the statutory provision, rule or order the person is alleged to have violated;

(C) a description in reasonable detail of the act or acts to be restrained by the cease-and-desist order;

(D) a statement regarding the person's right to request a hearing;

(E) the procedure to request a hearing, including the deadline for filing; and

(F) notice to the person that the department will issue a cease-and-desist order that will become final on the date specified if the person fails to timely request a hearing.

(2) A person to whom a cease-and-desist notice letter under subsection (b) is sent may file a written request for a hearing before a SOAH ALJ. The person must submit, in writing, a request for a hearing under this section to the department's contact listed in the notice letter provided under subsection (b)(1) of this section. The department must receive the request for a hearing within 26 days of the date the notice letter is mailed.

(3) If the person does not make a timely written request for a hearing within 26 days of the date the cease-and-desist letter is mailed, the allegations are deemed admitted on the 27th day and a final cease-and-desist order including sanctions may be issued by the final order authority.

(c) Once jurisdiction for the conduct of a contested case hearing transfers to SOAH, an ALJ may act on a party's motion regarding an existing cease-and-desist order issued by the department or consider a new motion for a cease-and-desist order by a party.

§224.54. Civil Penalty and Revocation Assessment.

(a) Occupations Code, §2301.801 and §2302.354, and Transportation Code, §503.095 govern the amount of a civil penalty that may be assessed by the department against a license holder.

(b) In determining the amount of civil penalty to assess the department will consider the following aggravating factors:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited act, and the harm or potential harm to the safety of the public;

(2) the economic damage to the public caused by the violation;

(3) any history of previous violations including whether the license holder previously entered into an agreed order with the department or otherwise received a warning or reduced penalty;

(4) the amount necessary to deter a future violation; and

(5) any other matter that justice may require, including:

(A) the number of violations or number of consumers harmed by violation(s);

(B) whether the consumer received a title;

(C) whether the license holder misused license plates or temporary tags;

(D) whether the license holder attempted to conceal a violation;

(E) whether the act constituting the violation was intentional, premeditated, knowing, or grossly negligent; and

(F) whether an order issued by the department was violated.

(c) In determining whether license revocation is appropriate, the department will consider the following factors:

(1) whether the license holder is unfit under standards governing the occupation, including qualifications for a license;

(2) whether the license holder made a material misrepresentation in any written communication or information provided to the department;

(3) whether the license holder willfully defrauded a purchaser;

(4) whether the license holder misused license plates or temporary tags, including whether the license holder attempted to use an internet-down tag to avoid inspection requirements;

(5) whether the license holder failed to fulfill a written agreement with a retail purchaser of a vehicle or motor vehicle; and

(6) whether the license holder failed to attend an approved dealer training seminar as ordered in an agreed final order

(d) The department will consider the following mitigating factors in determining the amount of civil penalty to assess or whether license revocation is appropriate:

(1) acknowledgment by the licensee of any wrongdoing;

(2) willingness to cooperate with the department; and

(3) efforts to correct a violation.

(e) The department will publish a disciplinary matrix on the department website to provide guidance to license holders on the administrative penalties and other sanctions that may be assessed for the most common violations. The department will consider the disciplinary matrix published at the time of the violation; however, the disciplinary matrix does not prevent the department from seeking administrative penalties and other sanctions above or below the recommended ranges listed in the disciplinary matrix. Also, the disciplinary matrix does not prevent the board or the board's delegate from ordering administrative penalties and other sanctions above or below the recommended ranges listed in the disciplinary matrix.

§224.58. Denial of Dealer or Converter Access to Temporary Tag System.

(a) In this section "fraudulently obtained temporary tags from the temporary tag database" means misuse by a dealer or converter account user of the temporary tag database authorized under Transportation Code, §503.0626 or §503.0631 to obtain:

(1) an excessive number of temporary tags relative to dealer sales;

(2) temporary tags for a vehicle or vehicles not in the dealer's or converter's inventory (a vehicle is presumed not to be in the dealer's or converter's inventory if the vehicle is not listed in the relevant monthly Vehicle Inventory Tax Statement);

(3) access to the temporary tag database for a fictitious user or person using a false identity;

(4) temporary tags for a vehicle or a motor vehicle when a dealer is no longer operating at a licensed location; or

(5) temporary tags issued for a vehicle or a motor vehicle not located at a licensed location or a storage lot.

(b) The department shall deny a dealer or converter access to the temporary tag database effective on the date the department sends notice electronically and by certified mail to the dealer or converter that the department has determined, directly or through an account user, that the dealer or converter has fraudulently obtained temporary tags from the temporary tag database. A dealer or converter may seek a negotiated resolution with the department by demonstrating the dealer or converter took corrective action or that the department's determination was incorrect.

(c) Notice shall be sent to the dealer's or converter's last known mailing address and last known email in the department-designated licensing system.

(d) A dealer or converter may request a hearing on the denial of access to the temporary tag database, as provided by Subchapter O, Chapter 2301, Occupations Code. The request must be in writing and the dealer or converter must request a hearing under this section. The department must receive the written request for a hearing within 26 days of the date of the notice denying access to the database. The request for a hearing does not stay the denial of access under subsection (b) of this section. A dealer or converter may continue to seek a negotiated resolution with the department after a request for hearing has been submitted under this subsection by demonstrating the dealer or converter took corrective action or that the department's determination was incorrect.

(e) The department may also issue a Notice of Department Decision stating administrative violations as provided in §224.56 of this title (relating to Notice of Department Decision) concurrently with the notice of denial of access under this section. A Notice of Department Decision may include notice of any violation, including a violation listed under subsection (a) of this section.

(f) A department determination and action denying access to the temporary tag database becomes final if the dealer or converter does not request a hearing or enter into a settlement agreement with the department within 26 days of the date of the notice denying access to a database.

§224.64. Notice of Hearing.

Once SOAH provides the department with the initial hearing date, time, and place, the department shall notify the parties. The contested case proceeds according to Subchapter E of this chapter (relating to Contested Cases Referred to SOAH).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401532

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



**SUBCHAPTER C. CONTESTED CASES
BETWEEN MOTOR VEHICLE INDUSTRY
LICENSE HOLDERS OR APPLICANTS**

**43 TAC §§224.80, 224.82, 224.84, 224.86, 224.88, 224.90,
224.92, 224.94**

STATUTORY AUTHORITY.

The department adopts new Chapter 224 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; 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 authorizes the board 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 licensee; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; 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; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to one or more board members or certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. These new rules implement Government Code, Chapter 2001; Occupations Code, Chapter 2301; and Transportation Code, Chapters 502, 503, 1002, and 1003.

§224.90. Mediation.

(a) Except as provided by subsection (b), parties to a contested case filed under this subchapter are required to participate in mediation before the department will refer a contested case to SOAH for a hearing.

(b) This section does not limit the parties' ability to settle a case without mediation.

(c) The department will provide mediation services by a staff member qualified to serve as an impartial third party in accordance with Civil Practice and Remedies Code, Chapter 154.

(d) The mediation will conclude within 60 days of the date a contested case is assigned to a department mediator, unless the mediation deadline is extended. The department mediator may extend the mediation deadline based on a written request by a party or at the department mediator's discretion.

(e) If the parties do not agree on a mediation date within 30 days, the department mediator may set a date for mediation by notifying the parties in writing at least 10 days before the mediation date.

(f) At the discretion of the department mediator, a party may participate in scheduled mediation either in person or remotely using telephonic or videoconferencing technology.

(g) A party that declines to use the assigned department mediator shall:

- (1) confer with each contested case party; and

(2) within 30 days of receiving notice from the department under §224.88 of this title (relating to Docketing and Notice of a Protest or Complaint), file with the department a joint notice of intent to retain a private mediator.

(h) The joint notice of intent to retain a private mediator must include:

(1) the name, address, email address, and telephone number of the private mediator agreed upon by the parties;

(2) a statement that the parties have entered into an agreement with the private mediator regarding the mediator's rate, method of compensation, and party responsibility for fee payment;

(3) an affirmation that the private mediator qualifies for appointment as an impartial third party in accordance with Civil Practice and Remedies Code, Chapter 154;

(4) a statement that the mediation will conclude within 60 days of the department's notice under §224.88 of this title, unless the mediation deadline is extended at the department's discretion; and

(5) the signature of each party or authorized representative.

(i) All communication and documents provided by a contested case party or invited person in a mediation are confidential and subject to the Governmental Dispute Resolution Act, Government Code, §2009.054.

(j) An agreement reached by the contested case parties in mediation shall be reduced to writing and signed by the parties.

(k) Within 10 days of the conclusion of a mediation, a mediator shall provide to the department and to the parties a written report stating:

(1) whether the parties attended and participated in the mediation;

(2) whether the matter settled in part or in whole;

(3) any unresolved issues remaining in the contested case; and

(4) any other stipulations or matters the parties agree to report.

(l) Upon receipt of the mediator's report required under this section, the department shall:

(1) enter an order disposing of resolved issues;

(2) refer unresolved issues to SOAH for a hearing on the merits; and

(3) inform SOAH whether a party refused to attend or participate in a mediation.

(m) If a party refused to attend or participate in a mediation, an ALJ may recommend a sanction in the proposal for decision.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401533

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER D. MOTOR CARRIER AND OVERSIZE OR OVERWEIGHT VEHICLE OR LOAD ENFORCEMENT

43 TAC §§224.110, 224.112, 224.114 - 224.116, 224.118, 224.120, 224.122, 224.124, 224.126, 224.128, 224.130

STATUTORY AUTHORITY.

The department adopts new Chapter 224 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; Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §502.091(b), which authorizes the department to adopt and enforce rules to carry out IRP; 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; 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 §623.272, and states that the notice and hearing requirements under Transportation Code, §643.2525 apply to the imposition of an administrative penalty under §623.272; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.102, which authorizes a motor carrier to comply with the requirements under Transportation Code, §643.101 through self-insurance if it complies with the requirements; Transportation Code, §643.251, which authorizes the department to impose an administrative penalty against a motor carrier required to register under Subchapter B of Transportation Code, Chapter 643 that violates Chapter 643 or a rule or order adopted under Chapter 643; Transportation Code, §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended; Transportation Code, §643.2525, which provides the process for an administrative hearing under Transportation Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to appeal the denial

of an application for registration, renewal of registration, or reregistration under Transportation Code, Chapter 643; Transportation Code, §645.003, which authorizes the department to adopt rules providing for administrative penalties for a failure to register or submit information and documents under the unified carrier registration plan and agreement or for a violation of the unified carrier registration plan and agreement; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. These new rules implement Government Code, Chapter 2001; and Transportation Code, Chapters 502, 621-623, 643, 645, 1002 and 1003.

§224.115. *Administrative Penalty and Sanction Assessment; Probation of Suspension*

(a) Amount of administrative penalty under Transportation Code, §623.271.

(1) Transportation Code, §623.271 governs the amount of an administrative penalty that the department may assess against a person or the holder of an oversize or overweight permit, as applicable.

(2) In an action brought by the department, the aggregate amount of administrative penalty shall not exceed \$5,000 unless it is found that the person or the holder of the permit knowingly committed a violation.

(3) In an action brought by the department, if it is found that the person or the holder of the permit knowingly committed a violation, the aggregate amount of administrative penalty shall not exceed \$15,000. "Knowingly" means actual awareness of the act or practice that is the alleged violation, or acting with deliberate ignorance or or reckless disregard for the violation involved. Actual awareness may be inferred from the conduct of the alleged violator or from the history of previous violations by the alleged violator.

(4) In an action brought by the department, if it is found that the person or the holder of the permit knowingly committed multiple violations, the aggregate amount of administrative penalty for the multiple violations shall not exceed \$30,000.

(5) Each day a violation continues or occurs is a separate violation for purposes of imposing an administrative penalty.

(b) Amount of administrative penalty under Transportation Code, §623.272.

(1) Transportation Code, §623.272 governs the amount of an administrative penalty that the department may assess against a shipper.

(2) The amount of an administrative penalty imposed under this subsection is calculated in the same manner as the amount of an administrative penalty imposed under subsection (a) of this section.

(c) Amount of administrative penalty under Transportation Code, §643.251.

(1) Transportation Code, §643.251 governs the amount of an administrative penalty that the department may assess against a motor carrier that is required to register under Subchapter B of Chapter 643 of the Transportation Code and violates Transportation Code, Chapter 643 or a rule or order adopted under Chapter 643.

(2) In an action brought by the department, the aggregate amount of administrative penalty shall not exceed \$5,000 unless it is found that the motor carrier knowingly committed a violation.

(3) In an action brought by the department, if it is found that the motor carrier knowingly committed a violation, the aggregate amount of administrative penalty shall not exceed \$15,000. "Knowingly" means actual awareness of the act or practice that is the alleged violation, or acting with deliberate ignorance of or reckless disregard for the violation involved. Actual awareness may be inferred from the conduct of the alleged violator or from the history of previous violations by the alleged violator.

(4) In an action brought by the department, if it is found that the motor carrier knowingly committed multiple violations, the aggregate amount of administrative penalty for the multiple violations shall not exceed \$30,000.

(5) Each day a violation continues or occurs is a separate violation for purposes of imposing an administrative penalty.

(d) Probation of suspension under Transportation Code, §643.252.

(1) Transportation Code, §643.252 authorizes the department to place on probation a motor carrier whose registration is suspended.

(2) In determining whether to probate a suspension of a motor carrier's registration, the department will consider the factors listed in Transportation Code, §643.251 regarding the amount of an administrative penalty.

(3) The department shall set the length of the probation based on the seriousness of the violation and previous violations by the motor carrier.

(4) The department will require that the motor carrier report monthly to the department any information necessary to determine compliance with the terms of the probation.

(e) The department will publish a disciplinary matrix on the department website to provide guidance to motor carriers on the penalties and sanctions that may be assessed for the most common violations. The department will consider the disciplinary matrix published at the time of the violation; however, the disciplinary matrix does not prevent the department from seeking administrative penalties and sanctions above or below the recommended ranges listed in the disciplinary matrix. Also, the disciplinary matrix does not prevent the director from ordering administrative penalties and sanctions above or below the recommended ranges listed in the disciplinary matrix.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401535

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER E. CONTESTED CASES REFERRED TO SOAH

**43 TAC §§224.150, 224.152, 224.154, 224.156, 224.158,
224.162, 224.164, 224.166**

STATUTORY AUTHORITY.

The department adopts new Chapter 224 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; 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 authorizes the board 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 licensee; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §502.091(b), which authorizes the department to adopt and enforce rules to carry out IRP; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; 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; 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 §623.272, and states that the notice and hearing requirements under Transportation Code, §643.2525 apply to the imposition of an administrative penalty under §623.272; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.102, which authorizes a motor carrier to comply with the requirements under Transportation Code, §643.101 through self-insurance if it complies with the requirements; Transportation Code, §643.251, which authorizes the department to impose an administrative penalty against a motor carrier required to register under Subchapter B of Transportation Code, Chapter 643 that violates Chapter 643 or a rule or order adopted under Chapter 643; Transportation Code, §643.252, which

authorizes the department to suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended; Transportation Code, §643.2525, which provides the process for an administrative hearing under Transportation Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to appeal the denial of an application for registration, renewal of registration, or reregistration under Transportation Code, Chapter 643; Transportation Code, §645.003, which authorizes the department to adopt rules providing for administrative penalties for a failure to register or submit information and documents under the unified carrier registration plan and agreement or for a violation of the unified carrier registration plan and agreement; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. These new rules implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 502, 503, 621-623, 643, 645, and 1002-1005.

§224.156. *Reply to Notice of Hearing and Default Proceedings.*

(a) A party may file a written reply or pleading to respond to all allegations. The written reply or responsive pleading must be filed with SOAH in accordance with SOAH rules and must identify the SOAH and department docket numbers, as reflected in the notice of hearing.

(b) Any party filing a reply or responsive pleading shall serve a copy of the reply or responsive pleading on each party or party's authorized representative in compliance with SOAH rules.

(c) A party may file an amended or supplemental reply or responsive pleading in accordance with SOAH rules.

(d) If a party properly noticed under this chapter does not appear at the hearing, a party appearing at the hearing may request that the ALJ dismiss the contested case from the SOAH docket. If the contested case is dismissed from the SOAH docket, the case may be presented to the final order authority for disposition pursuant to SOAH rules and §224.29 of this title (relating to Delegation of Final Order Authority).

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401536

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER F. BOARD PROCEDURES IN CONTESTED CASES

43 TAC §§224.190, 224.192, 224.194, 224.196, 224.198, 224.200, 224.202, 224.204, 224.206

STATUTORY AUTHORITY.

The department adopts new Chapter 224 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; 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 authorizes the board 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 licensee; Occupations Code, §2301.709, which requires the board to adopt rules that establish standards for reviewing a case under Subchapter O of Chapter 2301 of the Occupations Code; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §502.091(b), which authorizes the department to adopt and enforce rules to carry out IRP; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; 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; 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 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 §623.272, and states that the notice and hearing requirements under Transportation Code, §643.2525 apply to the imposition of an administrative penalty under §623.272; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.251, which authorizes the department to impose an administrative penalty against a motor carrier required to register under Subchapter B of Transportation Code, Chapter 643 that violates Chapter 643 or a rule or order adopted under Chapter 643; Transportation Code, §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643 or place on probation

a motor carrier whose registration is suspended; Transportation Code, §643.2525, which provides the process for an administrative hearing under Transportation Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to appeal the denial of an application for registration, renewal of registration, or reregistration under Transportation Code, Chapter 643; Transportation Code, §645.003, which authorizes the department to adopt rules providing for administrative penalties for a failure to register or submit information and documents under the unified carrier registration plan and agreement or for a violation of the unified carrier registration plan and agreement; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; Transportation Code, §1003.005, which authorizes the board by rule to delegate any power relating to a contested case, including the power to issue a final order, to one or more board members or certain department staff; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. These new rules implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 502, 503, 621-623, 643, 645, and 1002-1005.

§224.190. Purpose and Scope.

This subchapter describes procedures for the board to review and issue a final order in a contested case in which:

- (1) a SOAH ALJ has submitted a final proposal for decision for consideration by the board or board delegate with final order authority,
- (2) a party has appealed an interlocutory cease-and-desist order issued by an ALJ, or
- (3) a party affected by a statutory stay order issued by an ALJ requested a hearing to modify, vacate, or clarify the extent and application of the statutory stay order.

§224.196. Request for Oral Presentation.

(a) At least 30 days prior to the scheduled date of a board meeting, the department shall notify the parties regarding the opportunity to attend and provide an oral presentation concerning a proposal for decision before the board. The department will deliver notice electronically to the last known email address provided to the department by the party or party's authorized representative in accordance with §224.11 of this title (relating to Filing and Service of Documents).

(b) If a party wants to make an oral presentation at the board meeting, a party must submit a written request for an oral presentation to the department's contact listed in the notice provided under subsection (a) of this section and copy all other parties in accordance with §224.11 at least 14 days prior to the date of the board meeting at which the party's contested case will be reviewed.

(c) If more than one party was not adversely affected by the proposal for decision, such parties may agree on the order of their presentations in lieu of the order prescribed under §224.202 of this title (relating to Order of Oral Presentations to the Board). The order of presentations will be determined under §224.202 of this title if the parties who were not adversely affected by the proposal for decision do not timely provide the department and the other parties with notice under subsection (b) of this section regarding their agreed order of presentation.

(d) If a party timely submits a written request for an oral presentation, that party may make an oral presentation at the board meet-

ing. If a party fails to timely submit a written request for an oral presentation, that party shall not make an oral presentation at the board meeting.

(e) Section 206.22 of this title (relating to Public Access to Board Meetings) authorizes a party to speak as a public commenter regarding the party's contested case during the posted agenda item for the contested case; however, a party is not authorized to make a public comment regarding the party's contested case under §206.22 in addition to making an oral presentation regarding the party's contested case under this subchapter.

§224.198. *Written Materials and Evidence.*

(a) If a party wants to provide written materials at the board meeting, the party must provide the written materials to the department and all other parties in accordance with §224.11 of this title (relating to Filing and Service of Documents) at least 21 days prior to the date of the board meeting. If a party fails to timely provide written materials to the department or any other party, the department shall not provide the written materials to the board and the party shall not provide the written materials to the board at the board meeting. Non-parties are not authorized to provide written materials to the board.

(b) For the purposes of this section, written materials are defined as language or images including photographs or diagrams, that are contained in the SOAH administrative record and recorded in paper form except as stated otherwise in this subsection. The language or images in the written materials must be taken without changes from the SOAH administrative record; however, proposed final orders and draft motions for possible board action are allowed to be included in a party's written materials even if they contain arguments or requests that are not contained in the SOAH administrative record. Written materials shall be limited to evidence contained in the SOAH administrative record and consistent with the scope of the board's authority to act under Government Code, §2001.058(e) and Occupations Code, Chapters 2301 and 2302, and Transportation Code, Chapters 502, 503, 621-623, 643, 645, or 1001-1005, as applicable.

(c) All information in the written materials shall include a citation to the SOAH administrative record on all points to specifically identify where the information is located. The citations may be provided in an addendum to the written materials that is not counted against the 15-page limit under subsection (d) of this section; however, the addendum must not include any information other than a heading that lists the name of the party, the caption for the contested case, and text that lists the citations and page numbers.

(d) Written materials shall be 8.5 inches by 11 inches and single-sided. Written materials must be double-spaced and at least 12-point type if in text form. Written materials are limited to 15 pages per party. If a party provides the department with written materials that contain more pages than the maximum allowed, the department shall not provide the written materials to the board and a party shall not provide the written materials to the board at the board meeting.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401537

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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



SUBCHAPTER G. LEMON LAW AND WARRANTY PERFORMANCE CLAIMS

43 TAC §§224.230, 224.232, 224.234, 224.236, 224.238, 224.240, 224.242, 224.244, 224.246, 224.248, 224.250, 224.252, 224.254, 224.256, 224.258, 224.260, 224.262, 224.264, 224.266, 224.268

STATUTORY AUTHORITY.

The department adopts new Chapter 224 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; Occupations Code, §2301.152, which authorizes the board to provide for compliance with warranties; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301; Occupations Code, §2301.602, which requires the board to adopt rules for the enforcement and implementation of Subchapter M of Occupations Code, Chapter 2301; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. These new rules implement Government Code, Chapter 2001; Occupations Code, Chapter 2301; and Transportation Code, Chapters 1002 and 1003.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on April 12, 2024.

TRD-202401538

Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

Effective date: June 1, 2024

Proposal publication date: December 29, 2023

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

