



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

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# TxDMV Board Meeting

8:30 a.m.

Thursday, October 24, 2024

**AGENDA**  
**BOARD MEETING**  
**TEXAS DEPARTMENT OF MOTOR VEHICLES**  
**4000 JACKSON AVE., BUILDING 1**  
**AUSTIN, TEXAS 78731**  
**THURSDAY, OCTOBER 24, 2024**  
**8:30 A.M.**

The presiding officer of the Board of the Texas Department of Motor Vehicles (Board) will be physically present at 4000 Jackson Avenue, Austin, Texas 78731. Some Board members may attend via videoconferencing.

Link to October 24, 2024, Board Meeting Documents:  
<https://www.txdmv.gov/about-us/txdmv-board-meetings>

All agenda items are subject to possible discussion, questions, consideration, and action by the Board. Agenda item numbers are assigned for ease of reference only and do not necessarily reflect the order of their consideration by the Board. Presentations may be made by the identified staff, Board member, or other personnel as needed. The Board reserves the right to discuss any items in closed session where authorized by the Open Meetings Act.

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1. **Groundbreaking Ceremony, Building 1** - Daniel Avitia (NO ACTION)
2. **Roll Call and Establishment of Quorum**
3. **Pledges of Allegiance - U.S. and Texas**
4. **Chair's Reports** - Chairman Bacarisse (BRIEFING ONLY)  
Introduction of New Board Member Mark Jones
- 7 5. **Executive Director's Reports** - Daniel Avitia (BRIEFING ONLY)  
[Awards, Recognition of Years of Service, and Announcements](#)

**CONTESTED CASE**

- 8 6. **Consideration and Approval of Proposed Final Order on Enforcement Case**  
**Docket No. 23-0013045.ENF; SOAH Docket No. 608-24-13940.ENF;**  
[Texas Department of Motor Vehicles v. Empire Choice Auto LLC d/b/a Empire Choice Auto](#) - Laura Moriaty (ACTION ITEM)

**RULE ADOPTIONS**

- 35 7. **Chapter 215, Motor Vehicle Distribution** - Monique Johnston (ACTION ITEM)  
**Amendments: Subchapters A, C, D, and E**  
**New: §§215.122, 215.151, 215.154 and 215.162**  
**Repeal: §§215.151, 215.153, 215.154 and 215.159**  
[\(Relating to HB 718 and SB 224 Legislative Implementation, and Cleanup\)](#)
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*(Published 7/12/24 - 49 TexReg 5030)*

- 278      8.      **Chapter 217, Vehicle Titles and Registration** - Annette Quintero  
(ACTION ITEM)  
**Amendments: Subchapters A, B, C, D, E, F, G, H, I, J and L**  
**New: §217.31**  
**Repeal: §217.34 and §217.87**  
[\(Relating to HB 718 and HB 3297 Legislative Implementation, and Cleanup\)](#)  
*(Published 7/12/24 - 49 TexReg 5066)*
- 623      9.      **Chapter 221, Salvage Vehicle Dealers** - Corrie Thompson  
(ACTION ITEM)  
**Amendments: §221.54**  
[\(Relating to HB 718 Legislative Implementation, and Cleanup\)](#)  
*(Published 7/12/24 - 49 TexReg 5137)*
- 628      10.     **Chapter 224, Adjudicative Practice and Procedure** - Corrie Thompson  
(ACTION ITEM)  
**Amendments: §§224.27, 224.54, and 224.58**  
[\(Relating to HB 718 Legislative Implementation\)](#)  
*(224.58 published 7/12/24 - 49 TexReg 5138; §224.27 and §224.54 published 8/23/24 - 49 TexReg 6439)*
- 713      11.     **Chapter 209, Finance** - Glenna Bowman (ACTION ITEM)  
**Amendments: Subchapters A, B, and C**  
**Repeal: §209.34**  
[\(Relating to Cleanup\)](#)  
*(Published 7/12/24 - 49 TexReg 5021)*
- 748      12.     **Rule Review**  
[Rule Review Adoption under Government Code §2001.039: Chapter 209, Finance](#) - Laura Moriaty (ACTION ITEM)  
*(Published 7/12/24 - 49 TexReg 5183)*
- 750      13.     **Rule Review**  
[Rule Review Adoption under Government Code, §2001.039: Chapter 217, Vehicle Titles and Registration](#) - Laura Moriaty (ACTION ITEM)  
**Subchapters A, C, D, E, F, G, H, I, J, K and L; and Subchapter B, §§217.21 -217.26 and 217.28 - 217.64**  
*(Published 7/12/24 - 49 TexReg 5183)*
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**RULE PROPOSALS**

- 752 14. **Rule Review**  
Rule Review Proposal under Government Code, §2001.039: Chapter 210, Contract Management and Chapter 211, Criminal History Offense and Action on License - Laura Moriaty (ACTION ITEM)
- 754 15. **Chapter 210, Contract Management** - Chris Hayden (ACTION ITEM)  
**New: Subchapters A and C**  
**Repeal: Subchapter A**  
(Relating to Cleanup)
- 781 16. **Chapter 211, Criminal History Offense and Action on License** - Monique Johnston (ACTION ITEM)  
**Amendments: §211.1 and §211.2**  
**New: Subchapter B, §§211.10, 211.11, 211.12, and 211.13**  
**Repeals: §§211.3, 211.4, 211.5, and 211.6**  
(Relating to Cleanup)

**BRIEFING AND ACTION ITEMS**

- 812 17. **Specialty Plate Designs** - Annette Quintero (ACTION ITEMS)  
A. Lone Star Badge Black - New Design Proposed under Transportation Code §504.851  
B. Lone Star Flag - New Design Proposed under Transportation Code §504.851  
C. Sand Dollar - New Design Proposed under Transportation Code §504.851
- 817 18. **Finance and Audit**  
831 A. **FY 2024 Financial Report** - John Ralston (BRIEFING ONLY)  
B. **Internal Audit Division Status Update** - Jason Gonzalez (BRIEFING ONLY)  
i. **Inventory Management Audit Report**  
ii. **Quality Assurance and Improvement Program Report**  
iii. **Internal Audit Annual Report**

**CLOSED SESSION**

19. **The Board may enter into closed session under one or more provisions of the Texas Open Meetings Act, Government Code, Chapter 551, including briefing, Board Groundbreaking Ceremony but not limited to:**

**Section 551.071** - Consultation with and advice from legal counsel regarding:  
- pending or contemplated litigation, or a settlement offer;  
- a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code Chapter 551; or

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- any item on this agenda; or
- *Lucid Group USA, Inc. vs. Monique Johnston, in her official capacity as Director of the Motor Vehicle Division of the Texas Department of Motor Vehicles, et al.* Case No. 1:22-cv-01116; in the United States District Court for the Western District of Texas, Austin Division.

**Section 551.074** - Personnel matters.

- Discussion relating to the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of personnel.
- Appointment of Internal Audit Director under Government Code §2102.006(a)

**Section 551.076** - Deliberation Regarding Security Devices or Security Audits.

- the deployment, or specific occasions for implementation, of security personnel or devices; or
- a security audit.

**Section 551.089** - Deliberation Regarding Security Devices or Security Audits.

- security assessments or deployments relating to information resources technology;
- network security information as described by Government Code Section 2059.055(b); or
- the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

**20. Action Items from Closed Session**

Appointment of Internal Audit Director under Government Code §2102.006(a)

**21. Public Comment**

**22. Adjournment**

The Board will allow an open comment period to receive public comment on any agenda item or other matter that is under the jurisdiction of the Board. No action will be taken on matters that are not part of the agenda for the meeting. For subjects that are not otherwise part of the agenda for the meeting, Board members may respond in accordance with Government Code, §551.042 and consider the feasibility of placing the matter on the agenda for a future meeting.

If you would like to comment on any agenda item (including an open comment under the agenda item for Public Comment), you must complete a speaker's form at the registration table prior to the agenda item being taken up by the Board or send an email to [GCO\\_General@txdmv.gov](mailto:GCO_General@txdmv.gov) to register by providing the required information prior to the agenda item being taken up by the Board:

1. a completed [Public Comment Registration Form](#); or
-

2. the following information:
  - a. the agenda item you wish to comment on;
  - b. your name;
  - c. your address (optional), including your city, state, and zip code; and
  - d. who you are representing.

Public comment will only be accepted in person. Each speaker will be limited to three minutes, and time allotted to one speaker may not be reassigned to another speaker

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than two days in advance, so that appropriate arrangements can be made. Contact Carrie Fortner by telephone at (512) 465-3044.

I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements.

CERTIFYING OFFICIAL: Laura Moriaty, General Counsel, (512) 465-5665.

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**Board Meeting Date: 10/24/2024**  
**BRIEFING ITEM**

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**To:** Texas Department of Motor Vehicles Board  
**From:** Daniel Avitia, Executive Director  
**Agenda Item:** 5  
**Subject:** Executive Director’s Report – Awards, Recognition of Years of Service, Announcements

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**RECOMMENDATION**

Briefing Only. Board Chair and members offer congratulations to employees receiving recognition for an award, reaching a state service milestone, or retirement.

**PURPOSE AND EXECUTIVE SUMMARY**

The Executive Director announces the names of individuals who retired from the agency and recognizes employees who have reached a state service milestone of 20 years and every five-year increment thereafter. Recognition at the October 24, 2024, Board Meeting for state service awards and retirements include:

- David George, Jr. – Enforcement Division; achieved 20 years of state service
- Shawn Williams – Enforcement Division; achieved 20 years of state service
- Justin White – Motor Vehicle Crime Prevention Division; achieved 20 years of state service
- Wendy Barron – Information Technology Services Division; achieved 25 years of state service
- Juanita Bustos – Vehicle Titles and Registration Division; achieved 25 years of state service
- Stephanie Rogers – Enforcement Division; achieved 25 years of state service
- Donny L. Ruemke – Finance and Operations Division; achieved 30 years of state service
- Lydia Sahley – Motor Carrier Division; achieved 35 years of state service
- Earl Pearson – Enforcement Division; achieved 45 years of state service
- Rachel Vasquez - Vehicle Titles and Registrations Division; retired with 29 years of state service
- DuWayne Murdock, Jr. - Motor Carrier Division; retired with 36 years of state service
- Pam Minnick – Vehicle Titles and Registrations Division; retired with 38 years of state service

**FINANCIAL IMPACT**

N/A

**BACKGROUND AND DISCUSSION**

No additional background and discussion.



**Board Meeting Date:**  
**ACTION ITEM**

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To: Texas Department of Motor Vehicles Board  
From: Laura Moriarty, General Counsel  
Agenda Item: 6  
Subject: Consideration and Approval of Proposed Final Order on *Texas Department of Motor Vehicles v. Empire Choice Auto LLC d/b/a Empire Choice Auto*; SOAH Docket No. 608-24-13940.ENF; Enforcement Docket 23-0013045.ENF

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### **RECOMMENDATION**

Action Item. For board consideration.

### **PURPOSE AND EXECUTIVE SUMMARY**

The State Office of Administrative Hearings (SOAH) issued a Proposal for Decision (PFD). The Board is required to issue a final order in this case.

Empire Choice Auto LLC d/b/a Empire Choice Auto (Empire) currently holds a general distinguishing number (GDN) issued by the Texas Department of Motor Vehicles (TxDMV). This contested case involves an enforcement action against Empire for alleged violations of the board's rules and statutes.

The issues before the board are whether to adopt the Findings of Fact and Conclusions of Law from the PFD and whether to revoke Empire's GDN.

Both the Enforcement Division (Enforcement) and Empire provided timely notice of their intent to make oral presentations to the board.

### **FINANCIAL IMPACT**

No significant financial impact.

### **BACKGROUND AND DISCUSSION**

On January 9, 2024, Enforcement issued a Notice of Department Decision (NODD) to Empire. After Enforcement received Empire's request for an administrative hearing, the matter was referred to SOAH for a contested-case hearing. On April 10, 2024, Enforcement issued a Notice of Hearing to Empire that incorporated the previously issued NODD, alleging that Empire:

- failed to meet the premises requirements for operating as a motor vehicle dealership by not having a sufficiently sized vehicle display area with barriers, and by not having an enclosed office of sufficient size;
- failed to meet the premises requirements for operating as a motor vehicle dealership by not having posted business hours;
- failed to meet the premises requirements for operating as a motor vehicle dealership by not posting a copy of Empire's GDN in a conspicuous location; and



- failed to be present at the dealership during the posted business hours for the purpose of operating as a motor vehicle dealer.

On May 14, 2024, a SOAH Administrative Law Judge (ALJ) conducted the hearing on the merits. The hearing concluded on May 14, 2024. The ALJ closed the record on June 7, 2024, to allow Empire to file exhibits and Petitioner to file objections to those exhibits. The ALJ issued the PFD on June 28, 2024. The ALJ found that Empire violated statutes and TxDMV rules by:

- not having a sufficient sized display area with barriers and not having an enclosed office of sufficient size;
- not posting business hours;
- not posting a copy of Empire’s GDN; and
- not being present during posted business hours to conduct motor vehicle dealer operations.

The ALJ recommended that the board revoke Empire’s GDN based on the violations and aggravating factors found by the ALJ. On July 26, 2024, Empire filed Exceptions to the PFD. On August 1, 2024, the ALJ issued a letter stating no exceptions were filed by either party by the July 16, 2024 deadline, and that the PFD was being returned to the TxDMV for consideration by its board.

### **Board Authority**

- The board has jurisdiction to consider the contested case and enter a final order in accordance with Texas Occupations Code §2301.709.
- Under Texas Occupations Code §2301.651, the board may revoke a license for a violation of board rules and statutes.
- Texas Government Code §2001.058(e) authorizes the board to change a finding of fact or a conclusion of law made by the ALJ in a PFD only if the ALJ:
  - a. misapplied or misinterpreted applicable law, agency rules, written policies provided to the ALJ by the agency, or prior administrative decisions,
  - b. relied on a prior administrative decision that is incorrect or should be changed, or
  - c. made a technical error in a finding of fact that should be changed.

The Board must state in writing the specific reason and legal basis for any change it makes to a finding of fact or conclusion of law.

### **Attachments**

The following documents are attached to this Executive Summary for consideration by the Board:

1. June 28, 2024 SOAH ALJ’s PFD
2. August 1, 2024 SOAH ALJ’s Exceptions Letter

FILED  
608-24-13940  
7/1/2024 12:59 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Julian Jaramillo, CLERK

October 24, 2024

ACCEPTED  
608-24-13940  
7/1/2024 1:00:43 pm 10  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Julian Jaramillo, CLERK

# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

June 28, 2024

Lorelei Evans  
Attorney for Petitioner

**VIA EFILE TEXAS**

Jamal Ahmad  
Empire Choice Auto  
467 E. State Highway 121  
Lewisville, TX 75057

**VIA EFILE TEXAS**  
**and VIA REGULAR MAIL**

**RE: SOAH Docket Number 608-24-13940.ENF; *Texas Department of Motor Vehicles—Enforcement Division v. Empire Choice Auto***

Dear Parties:

Please find attached a Proposal for Decision in this case.

Exceptions and replies may be filed by any party in accordance with 1 Texas Administrative Code section 155.507(b), a SOAH rule which may be found at [www.soah.texas.gov](http://www.soah.texas.gov).

CC: Service List

**SOAH Docket No. 608-24-13940****Suffix: ENF**

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**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS DEPARTMENT OF MOTOR VEHICLES—  
ENFORCEMENT DIVISION,  
PETITIONER  
v.  
EMPIRE CHOICE AUTO,  
RESPONDENT**

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**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Department of Motor Vehicles—Enforcement Division (Department) seeks to revoke general distinguishing number (GDN) license P158637 held by Empire Choice Auto (Respondent) for violations relating to premise requirements for a dealer. The Administrative Law Judge (ALJ) finds Staff proved all of the alleged violations and Respondent’s GDN license should be revoked.

## I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

There are no contested issues of jurisdiction or notice in this proceeding; therefore, those matters are addressed solely in the Findings of Fact and Conclusions of Law.

The hearing convened on May 14, 2024, via videoconference. Staff was represented by Lorelei Evans, Enforcement Division attorney. Respondent appeared and was represented by its owner, Jamal Ahmad. The hearing concluded that day, but the record remained open to allow Respondent to file Exhibits 1 and 2 and Petitioner to file written objections to those exhibits. The record closed on June 7, 2024, the deadline for Respondent to file a written response to Petitioner's objections.

## II. APPLICABLE LAW

A dealer is a person, including a corporation, who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location.<sup>1</sup> A dealer must hold a GDN issued by the Department under Texas Transportation Code chapter 503.<sup>2</sup> A dealer must comply with the requirements of Texas Transportation Code chapter 503, Texas Occupations Code chapter 2301, and 43 Texas Administrative Code chapter 215.<sup>3</sup>

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<sup>1</sup> Tex. Transp. Code § 503.001(4).

<sup>2</sup> Tex. Occ. Code § 2301.002(7), (17).

<sup>3</sup> See Tex. Transp. Code ch. 503; Tex. Occ. Code § 2301.351.

## A. DEALER PREMISE REQUIREMENTS

A dealer must demonstrate an established and permanent place of business for the location for which the license is sought and comply with several requirements at its location, including maintaining an office that meets certain specifications.<sup>4</sup> If multiple dealers operate out of the same facility, their office must have permanent interior walls on all sides and be separate from any public area used by another business.<sup>5</sup> A dealer's office space must include at least 100 square feet of interior floor space, exclusive of hallways, closets, or restrooms.<sup>6</sup> 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.<sup>7</sup> The dealer's display area and storage lot must also meet certain requirements, including having an exclusive display area for at least five vehicles of the retail dealer's inventory.<sup>8</sup>

The business hours for each day of the week must be posted at the main entrance of the dealer's office.<sup>9</sup> A dealer may not be open by appointment only.<sup>10</sup> 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,

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<sup>4</sup> Tex. Transp. Code § 503.032; 43 Tex. Admin. Code § 215.140.

<sup>5</sup> 43 Tex. Admin. Code § 215.140(a)(10).

<sup>6</sup> 43 Tex. Admin. Code § 215.140(a)(5)(H).

<sup>7</sup> 43 Tex. Admin. Code § 215.140(a)(14).

<sup>8</sup> 43 Tex. Admin. Code § 215.140(a)(11).

<sup>9</sup> 43 Tex. Admin. Code § 215.140(a)(1)(B).

<sup>10</sup> 43 Tex. Admin. Code § 215.140(a)(1), (2).

exchanging, or leasing vehicles.<sup>11</sup> 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.<sup>12</sup>

## **B. SANCTIONS AND DISCIPLINE**

The Department's disciplinary matrix states that the Department will consider the following mitigating factors in determining the amount of civil penalty to assess or whether revocation is appropriate: (1) acknowledgement of wrongdoing, (2) willingness to cooperate with the Department; (3) efforts to correct the violation, and (4) any other matter that justice may require, including rehabilitative potential and present value to the community.<sup>13</sup> The Department's disciplinary matrix includes the following aggravating factors: (1) history of violations of a similar nature, (2) number of violations or number of consumers harmed by violation, (3) attempted concealment of the violation, (4) intentional, premeditated, knowing, or grossly negligent act constituting a violation, and (5) violation of an order issued by the Department.<sup>14</sup> The disciplinary matrix includes suggested "low" and "high" sanction amounts. For a failure to meet location requirements, the disciplinary matrix recommends a "low" sanction amount of \$1,000 or a "high" sanction of revocation.

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<sup>11</sup> 43 Tex. Admin. Code § 215.140(a)(1)(B).

<sup>12</sup> 43 Tex. Admin. Code § 215.140(a)(1)(B).

<sup>13</sup> Department's Disciplinary Matrix at 1, available at <https://www.txdmv.gov/sites/default/files/body-files/Motor-Vehicle-Disciplinary-Matrix.pdf> (last visited Jun. 14, 2024).

<sup>14</sup> Department's Disciplinary Matrix at 1, available at <https://www.txdmv.gov/sites/default/files/body-files/Motor-Vehicle-Disciplinary-Matrix.pdf> (last visited Jun. 14, 2024).

The Department may cancel a GDN if the dealer commits any of several acts, including if the dealer fails to maintain the qualifications for a GDN or otherwise violates a statute or rule adopted under chapter 503 of the Texas Transportation Code.<sup>15</sup> The Department can revoke a GDN if the dealer violates any law relating to the sale and distribution of motor vehicles, chapter 2301 of the Occupations Code, or any rule adopted by the Department.<sup>16</sup> In determining whether revocation is appropriate, the Department's disciplinary matrix states that the Department will consider the following factors:

1. Whether the licensee is unfit under the standards governing the occupation, including the qualifications for a license;
2. Whether the licensee made a material misrepresentation in any information filed according to the Department's statutes or rules;
3. Whether the licensee willfully defrauded a purchaser; and
4. Whether the licensee failed to fulfill a written agreement with a retail purchaser of a motor vehicle.<sup>17</sup>

Staff has the burden of proving, by a preponderance of the evidence, that Respondent committed the alleged violations and the appropriate sanction.<sup>18</sup>

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<sup>15</sup> Tex. Transp. Code § 503.038(a)(7), (14).

<sup>16</sup> Tex. Occ. Code § 2301.651(a)(1), (3), (4).

<sup>17</sup> Department's Disciplinary Matrix at 1, available at <https://www.txdmv.gov/sites/default/files/body-files/Motor-Vehicle-Disciplinary-Matrix.pdf> (last visited Jun. 14, 2024).

<sup>18</sup> 1 Tex. Admin. Code § 155.427; *Granek v. Tex. State Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.) (concluding that preponderance of the evidence standard is appropriate for agency proceedings, which are civil in nature).

### III. EVIDENCE

Staff had 10 exhibits<sup>19</sup> admitted into evidence and presented the testimony of: Walter Schultz, an enforcement investigator for the Department, and Heather Pierce, a managing attorney for the Department.

Mr. Ahmad testified on behalf of Respondent. During the hearing, Respondent moved to admit two exhibits which were not timely filed. The ALJ admitted Respondent's Exhibit 2<sup>20</sup> and conditionally admitted Respondent's Exhibit 1<sup>21</sup> but allowed Staff to file objections to Exhibit 1 after the hearing concluded.<sup>22</sup> Staff's objections to Respondent's Exhibit 1 are **SUSTAINED**, and Respondent's Exhibit 1 is not admitted.<sup>23</sup>

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<sup>19</sup> Staff Ex. 1 (License Verification of GDN license P158637); Staff Ex. 2 (Notice of Hearing (Apr. 10, 2024) and Notice of Department Decision (Jan. 9, 2024)); Staff Ex. 3 (Disciplinary Matrix-2023); Staff Ex. 4 (Heather Pierce's Penalty Affidavit); Staff Ex. 5 (Premise Photos of Respondent's Site location (Jun. 26, 2023)); Staff Ex. 6 (Premise Photos of Respondent's Site location at: 467 E State Highway 121, Lewisville, Texas 75057-4732 (Mar. 6, 2024)); Staff Ex. 7 (TXDMV Update to Premise Requirements Notification); Staff Ex. 8 (Enforcement History Warning Letter, Jan. 24, 2024, with Business Records Affidavit); Staff Ex. 9 (Respondent's Email Correspondence and attachments, Jan. 17-Feb. 23, 2024); Staff Ex. 10 (Proposed Title 43 Texas Administrative Code Sections 215.133 and 215.140 (RCD Rule Review #2022-012)-Governor Abbott's Memo (Dec. 5, 2022)).

<sup>20</sup> Respondent's Exhibit 2 is the email correspondence between Respondent and Staff; Respondent incorrectly e-filed it as his Exhibit 1.

<sup>21</sup> Respondent's Exhibit 1 contained two screenshots of PowerPoint slides and was not e-filed by Respondent. Accordingly, Respondent's Exhibit 1 will not be considered by the ALJ.

<sup>22</sup> See May 14, 2024 Order Extending the Record Close Date (establishing May 24, 2024 as Respondent's deadline to e-file his Exhibits 1 and 2).

<sup>23</sup> Respondent e-filed other exhibits which were not offered during the hearing. Those exhibits will not be considered by the ALJ.



## **A. STAFF'S EVIDENCE**

### **1. Testimony of Mr. Schultz**

Mr. Schultz is an enforcement investigator for the Department. He has been employed with the Department for two years and investigates approximately 400 cases each year. Previously, he worked as an investigator in the private sector for 30 years.

On June 22, 2023, Mr. Schultz conducted a site visit of Respondent's dealership location at 467 East State Highway 121, in Lewisville, Texas. He testified that Respondent's dealership location was a one room office shared with another dealer. Mr. Schultz observed that Respondent was in violation of several premise requirements:

- Respondent failed to have a designated parking display area for at least five vehicles separated by a permanent barrier from other dealer's inventory;
- Respondent failed to have the minimum interior office space for conducting transactions, which is 100 square feet per dealer;
- Respondent failed to have his office separated by permanent walls and a door from the other dealer's office;
- Respondent was not present and failed to have an agent present during normal operating hours; and
- Respondent failed to have posted business hours and a copy of his unexpired GDN license.

Mr. Schultz testified that he took photographs during his site visit on June 22, 2023, including photos of Respondent's interior office space:<sup>24</sup>



Mr. Schultz explained that the closed door visible in the photo was the door to the bathroom.

On June 26, 2023, Mr. Schultz telephoned Respondent and explained that the premise requirements had not been met but that Respondent had an opportunity to cure the observed violations.

Nearly a year later, Mr. Schultz returned to conduct a second site visit of Respondent's dealer location on March 6, 2024. On this visit, Mr. Schultz observed that Respondent was still noncompliant with three of the premise requirements:

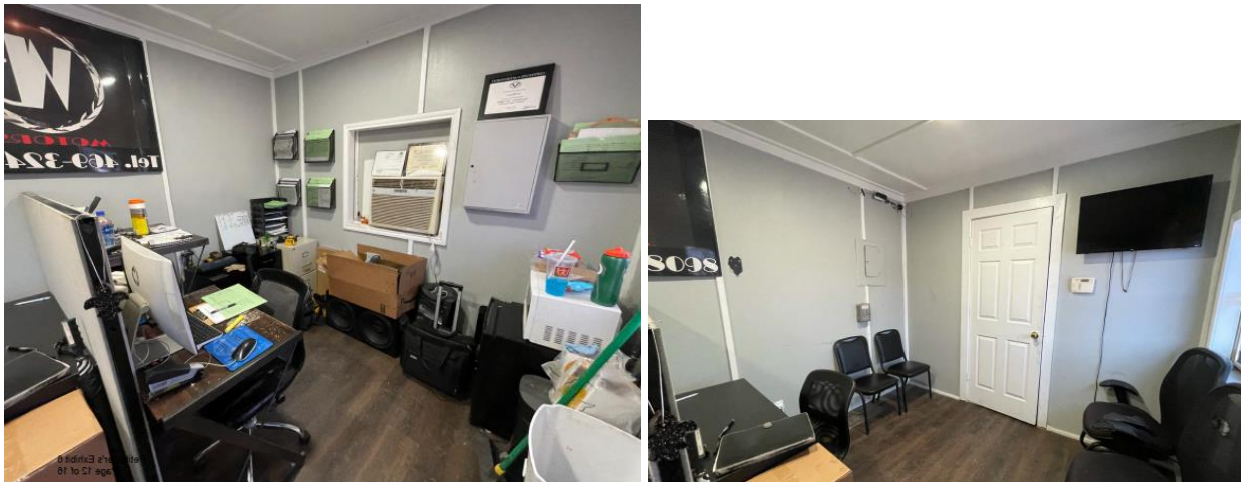
- Respondent failed to have the minimum interior office space for conducting transactions;

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<sup>24</sup> Staff Ex. 5.

- Respondent failed to have his office separated by permanent walls and a door from the other dealer's office; and
- Respondent was not present and failed to have an agent present during normal operating hours.

Mr. Schultz testified that he took photographs during his second site visit on March 6, 2024, including photos of Respondent's interior office space:<sup>25</sup>



Mr. Shultz testified that he used a DeWalt laser measuring device to measure the interior office space. He measured the office space to be 9.27 feet by 14.08 feet for a total of 130.52 square feet. He explained that bathroom spaces are not included in the total square feet measurement since business transactions are not conducted in the bathroom.

## 2. Testimony of Ms. Pierce

Ms. Pierce is the current Managing Attorney of the Enforcement Division. She testified that when someone obtains a GDN license, they are required to

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<sup>25</sup> Staff Ex. 6.

maintain the premise requirements throughout the duration of the license. She explained that, even if the rules regarding premise requirements are amended, a licensee must comply with new rules. She testified that changes were made to the premise requirements rules—new premise requirements were proposed on October 28, 2022, adopted on December 23, 2022, and went into effect on January 1, 2023.<sup>26</sup> Dealers received notification of these new rules through letters, the Department’s website, free monthly training seminars, and in the Texas Register.

In this case, two of the new premise requirements affected Respondent’s dealership: the requirement to have a separate office space enclosed on all sides by permanent walls and a door; and the requirement that a dealer must have at least 100 square feet of interior space with a minimum of 7-foot-high ceilings. Ms. Pierce explained, there is no grandfather clause that excludes existing licensees from complying with the new rules. Ms. Pierce testified that the impetus for the new rules was part of an effort to reduce criminal activity such as identity fraud and business premises fraud. She stated that bad actors have provided false information and false documents to the Department, including fake lease agreements and fake photos of business locations and interiors. Ms. Pierce also noted that Respondent’s other violations were based on rules which have remained unchanged for a number of years.

Ms. Pierce also testified that she was familiar with the statutes and regulations concerning the sanctions that can be ordered by the Department. According to Ms. Pierce, the Department’s primary goal is to ensure compliance from its

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<sup>26</sup> Staff Ex. 7.

licensees. In a situation where a licensee refuses to or is unable to comply with premise requirements, the Department cannot settle with the licensee and instead must resort to revocation of the licensee's license.

## **B. RESPONDENT'S TESTIMONY**

Respondent has held a GDN license since 2020. Mr. Ahmad testified that Mr. Schultz conducted his site visits while he was out to lunch, and he did not think that he needed to post an "out to lunch" sign when an employee of the other dealership was in the office. He stated that it would be "pointless when somebody is present."

Mr. Ahmad did not dispute that Respondent's interior office space is less than 100 square feet. He testified that he has been sharing an office space and splitting about 130 square feet without any issues or complaints from clients. He also testified that he submitted photographs of Respondent's office in January 2024 to the Department and that some of the office was remodeled:<sup>27</sup>

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<sup>27</sup> Staff Ex. 9 at 9.



Mr. Ahmad testified that he spoke with Robert Finney, a project coordinator for Denton County, who informed him that Respondent's dealership would be "grandfathered" under the old rules.

Mr. Ahmad maintained that the new premise requirements that went into effect January 1, 2023, do not apply to Respondent's GDN license. Mr. Ahmad testified that the training presentation he purchased for \$125 and reviewed made no mention of the new premise requirements. He stated that the training indicated that all he needed was a desk, two chairs, a computer, internet, and a business line for the business. He also noted that he never received notice of the new premise requirements rules from the Department.

Mr. Ahmad testified that he has a passion for his business and feels that he offers a valuable and economical service to his community. He also added that at this time it would be impossible for Respondent to enlarge the building his dealership is currently in or relocate to a different building.

## IV. ANALYSIS

It is uncontested that Respondent's dealership was not compliant with certain premise requirements identified in the Notice of Department Decision. The ALJ finds that Staff proved that revocation is appropriate in this case. For the reasons discussed below, the ALJ recommends that Respondent's GDN license be revoked.

### A. VIOLATIONS

#### 1. **Failure to Meet the Requirements of an Established and Permanent Place of Business**

It is undisputed that on June 22, 2023, Respondent did not meet the Department's premise requirements. Mr. Schultz's testimony and photographic evidence establish that Respondent failed to have a designated parking display area for at least five vehicles separated by a permanent barrier from other dealers' inventory; a separate office space enclosed on all sides by permanent walls and a door; and at least 100 square feet of interior floor space.

Mr. Ahmad's primary legal argument is that the dealership is excluded from certain premise requirements because they went into effect on January 1, 2023, after the dealership was already licensed. But his argument fails. The rule amendments to Texas Administrative Code section 215.140 apply to all dealers, and there is no "grandfather clause" or other carve-out applicable to his dealership. Mr. Ahmad also argues that the training he completed did not include any information about the new premise requirements. This argument is not compelling because a training PowerPoint presentation offered by the Department is not an authoritative source of

law. Ultimately, Respondent bears the responsibility as a licensee to ensure it maintains compliance with the Department's rules and any rule amendments.

Finally, Mr. Ahmad had ample time and opportunity to achieve compliance with the new rules—he was first cited for these premise requirements violations on June 22, 2023, nearly 172 days after the rules went into effect.

## **2. Failure to Post Business Hours**

It is undisputed that Respondent failed to have posted business hours on June 22, 2023.

## **3. Failure to Post a Copy of Current GDN**

It is undisputed that Respondent failed to post a copy of the current GDN on June 22, 2023. Respondent had posted an expired GDN.

## **4. Failure to Have the Dealer or a Bona Fide Employee Present at Dealer Location During Posted Business Hours**

It is undisputed that Respondent failed to have a dealer or a bona fide employee present at the dealership during posted business hours on June 22, 2023, and March 6, 2024. Although Respondent believes this rule to be “pointless” when it shares a space with another dealer, his disagreement with the rule does not excuse the violation.



Accordingly, given the facts above, the ALJ finds that Staff proved, by a preponderance of the evidence, all the violations contained in its Notice of Department Decision.

## **B. REVOCATION**

The ALJ finds that Staff met its burden to prove that revocation is appropriate. There is no question as to whether the Department has authority to revoke Respondent's GDN license based on the proven violations in this case. The only matters further to be determined are the pertinent aggravating and mitigating factors.

### **1. Aggravating and Mitigating Factors**

#### **a) Aggravating Factors**

**Number of violations or number of consumers harmed by violation.** The evidence conclusively establishes that Respondent committed at least five violations on June 22, 2023, and at least three violations on March 6, 2024.

**Attempted concealment of the violation.** Staff has established this aggravating factor. Respondent submitted photos purporting to be an altered interior office space; however, the photos depict a different location than the one visited by Mr. Schultz on June 22, 2023, and March 6, 2024. The ALJ reasonably infers that Respondent knowingly submitted these photographs in an effort to conceal the presence of his uncured premise violations at the dealership.

**Intentional, premeditated, knowing, or grossly negligent act constituting a violation.** Respondent appears to have intentionally violated one of the Department's rules. Respondent committed this violation during Mr. Schultz's first and second site visits, despite having been informed of the need for Respondent or its employee to be present at the dealership during business hours. At the hearing, Respondent argued that it is "pointless" to comply with the Department's rule requiring that the dealer or a bona fide employee be present at the dealer location during posted business hours when the dealer shares a space with another dealer. Because Respondent was aware of the rule and chose to disregard it, his violation was intentional. The evidence establishes this aggravating factor.

#### **b) Mitigating Factors**

**Acknowledgement of wrongdoing.** In relation to some, but not all, of the violations, Respondent acknowledged its wrongdoing.

**Willingness to cooperate with the Department.** Mr. Ahmad's testimony indicates that if he disagrees with a Department rule, he chooses not to comply with it. He described certain rules as pointless and claimed that because he had been operating out of shared 130-square-foot office space without issue or customer complaint, he should not have to comply with any rule amendments issued by the Department. Therefore, the evidence does not establish this mitigating factor.

**Efforts to correct the violations.** Respondent corrected only two of the five violations observed by Mr. Schultz on June 22, 2023. Respondent posted its current GDN license and business hours and constructed a permanent barrier to separate its

inventory from the other dealer. However, Respondent did not correct most of the violations despite having ample time to do so.

## **2. Additional Disciplinary Matrix Factors**

Staff presented evidence showing that Staff considered the factors listed in its disciplinary matrix before a license may be revoked:

### **a) Whether Respondent is unfit under the standards governing the occupation of dealer**

Staff proved that, at this time, Respondent is unfit under the standards governing the occupation of dealer. Ms. Pierce explained that the Department is unable to settle cases related to premise requirement violations because the dealer is either in compliance or not. Because the rules at issue in this case are so concrete in what they require, there is no ability for the Department to negotiate Respondent's fitness under the rules. Respondent's office does not comply with the current premise requirements—it is not at least 100 square feet, and it is not separated by permanent walls and a door. Further, Respondent refuses to make the necessary changes to its office in order for its dealership to comply with the rules. Respondent has had a significant amount of time to obtain compliance with the Department's rules and instead continues to assert that the rules do not apply to its dealership despite all evidence to the contrary. For these reasons, Respondent is not currently fit to operate under the Department's dealer standards.

**b) Whether Respondent made a material misrepresentation in any information filed according to the Department's statutes and rules**

Staff proved that Respondent made a material misrepresentation to the Department when it submitted photographs purporting to be the interior space of its office. The photographs, which were taken before Mr. Schultz's second site visit, clearly depict a different interior office because they are inconsistent with the interior office photographed in March 2024 by Mr. Schultz.

**c) Whether Respondent willfully defrauded a purchaser**

This factor is inapplicable to this case—there is no allegation that Respondent willfully defrauded a purchaser.

**d) Whether the licensee failed to fulfill a written agreement with a retail purchaser of a motor vehicle**

This factor is inapplicable to this case—there is no allegation that Respondent failed to fulfill a written agreement with a retail purchaser of a motor vehicle.

## **V. RECOMMENDATION**

Based on the above analysis, the ALJ finds that revocation of Respondent's GDN license is appropriate.

## **VI. FINDINGS OF FACT**

1. Empire Choice Auto (Respondent) holds a general distinguishing number (GDN) license issued by the Texas Department of Motor Vehicles (Department) and is in the business of selling used vehicles.

2. Respondent is owned by Jamal Ahmad.
3. On October 28, 2022, the Department proposed new rules for premise requirements for GDN licensees. The rules were adopted on December 23, 2022, and went into effect on January 1, 2023.
4. On June 22, 2023, a Department investigator performed a site inspection of Respondent's business located at 467 East State Highway 121 in Lewisville, Texas, and observed the following:
  - a. Respondent shared its location with another dealer.
  - b. Respondent failed to have a designated parking display area for at least five vehicles separated by a permanent barrier from other dealers' inventory;
  - c. Respondent failed to have the minimum interior office space for conducting transactions, which is 100 square feet per dealer;
  - d. Respondent failed to have its office separated by permanent walls and a door from the other dealer's office;
  - e. Respondent failed to have the dealer or an agent present during normal operating hours; and
  - f. Respondent failed to have posted business hours and a copy of its unexpired GDN license.
5. On June 26, 2023, the Department investigator telephoned Respondent and explained that the premise requirements had not been met but that Respondent had an opportunity to cure the premise requirements.
6. On March 6, 2024, the Department investigator conducted a second site visit of Respondent's dealer location and observed the following:
  - a. Respondent failed to have the minimum interior office space for conducting transactions;
  - b. Respondent failed to have its office separated by permanent walls and a door from the other dealer's office; and

- c. Respondent failed to have the dealer or an agent present during normal operating hours.
7. During the March 6, 2024 investigation, the Department investigator used a DeWalt laser measuring device to measure the interior office space—the office space was 9.27 feet by 14.08 feet for a total of 130.52 square feet.
8. Respondent did not dispute that the dealership was not in compliance with the Department’s premise requirements at the time of both site inspections.
9. Respondent claimed to have relied on an outdated Department’s training, which did not include the premise requirements that went into effect on January 1, 2023.
10. On January 9, 2024, the Department issued a Notice of Department Decision (Notice). The Notice alleged that Respondent violated statutes and rules relating to a dealer’s permanent place of business on or about June 22, 2023.
11. On May 1, 2024, Department Staff sent a Notice of Hearing to Respondent. Together, the Notice and Notice of Hearing provided the date, time, and place of a hearing on the merits; the legal authority and jurisdiction under which the hearing was to be held; the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
12. On May 14, 2024, Administrative Law Judge Amy Davis with the State Office of Administrative Hearings (SOAH) convened the hearing on the merits via videoconference. Attorney Lorelei Evans represented Staff. Respondent was represented by Mr. Ahmad. The record closed on June 7, 2024, the deadline for Respondent to file a written response to the Department’s objections to Respondent’s exhibits.

## **VII. CONCLUSIONS OF LAW**

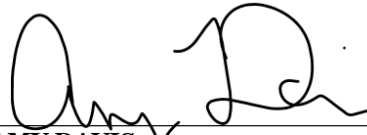
1. The Department has jurisdiction and authority to revoke, probate, or suspend a license to sell a motor vehicle, and to reprimand and/or impose a civil penalty

- against a license holder. Tex. Transp. Code §§ 503.038(a), .095(a); Tex. Occ. Code §§ 2301.651, .801(a).
2. SOAH has jurisdiction over all matters relating to the conduct of a hearing in this case, including the preparation of a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Occ. Code § 2301.704.
  3. Respondent received proper notice of the Department's Decision and of the hearing on the merits. Tex. Occ. Code § 2301.705; Tex. Gov't Code §§ 2001.051-.052.
  4. Staff had the burden to prove by a preponderance of the evidence that Respondent committed the alleged violations and that the sanctions it recommended were appropriate. 1 Tex. Admin. Code § 155.427; *Granek v. Tex. State Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).
  5. In deciding on the amount of civil penalties and whether to revoke a license, the Department must also consider: (1) acknowledgement of wrongdoing, (2) willingness to cooperate with the Department; (3) efforts to correct the violation, and (4) any other matter that justice may require, including rehabilitative potential and present value to the community. Department's Disciplinary Matrix at 1, available at <https://www.txdmv.gov/sites/default/files/body-files/Motor-Vehicle-Disciplinary-Matrix.pdf> (last visited Jun. 14, 2024).
  6. The Department may cancel a GDN if the dealer commits any of several acts, including if the dealer fails to maintain the qualifications for a GDN or otherwise violates a statute or rule adopted under chapter 503 of the Texas Transportation Code. Tex. Transp. Code § 503.038(a)(7), (14).
  7. The Department can revoke a GDN if the dealer is unfit or violates any law relating to the sale and distribution of motor vehicles, chapter 2301 of the Occupations Code, or any rule adopted by the Department. Tex. Occ. Code § 2301.651(a)(1), (3), (4).
  8. In deciding whether revocation is appropriate, the Department must consider the following factors: (1) whether the licensee is unfit under the standards

- governing the occupation, including the qualifications for a license; (2) whether the licensee made a material misrepresentation in any information filed according to the Department's statutes or rules; (3) whether the licensee willfully defrauded a purchaser; and (4) whether the licensee failed to fulfill a written agreement with a retail purchaser of a motor vehicle. Department's Disciplinary Matrix at 1, available at <https://www.txdmv.gov/sites/default/files/body-files/Motor-Vehicle-Disciplinary-Matrix.pdf> (last visited Jun. 14, 2024).
9. The preponderant evidence established that Respondent failed to meet the Department's premise requirements because Respondent failed to have: (1) a designated parking display area for at least five vehicles separated by a permanent barrier from other dealers' inventory; and (2) a separate office space enclosed on all sides by permanent walls and a door with at least 100 square feet of interior floor space. 43 Tex. Admin. Code § 215.140.
  10. The preponderant evidence established that Respondent violated Department rules when it failed to post its business hours and a current GDN license; and have a dealer or agent present at its location during posted business hours. 43 Tex. Admin. Code § 215.140.
  11. The preponderant evidence established the following aggravating factors: number of violations or number of consumers harmed by the violation; attempted concealment of the violation; intentional, premeditated, knowing, or grossly negligent act constituting a violation. Department's Disciplinary Matrix at 1, available at <https://www.txdmv.gov/sites/default/files/body-files/Motor-Vehicle-Disciplinary-Matrix.pdf> (last visited Jun. 14, 2024).
  12. The preponderant evidence established only one mitigating factor: **acknowledgement of wrongdoing**. Department's Disciplinary Matrix at 1, available at <https://www.txdmv.gov/sites/default/files/body-files/Motor-Vehicle-Disciplinary-Matrix.pdf> (last visited Jun. 14, 2024).
  13. Staff met its burden to prove the proposed revocation of Respondent's GDN license is appropriate.
  14. Respondent's GDN license should be revoked. Tex. Occ. Code § 2301.651(a)(1), (3), (4).



**Signed June 28, 2024**



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**AMY DAVIS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

FILED TxDMV Board Meeting eBook  
608-24-13940  
8/1/2024 1:33 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Amy Robles, CLERK

October 24, 2024

ACCEPTED  
608-24-13940  
8/1/2024 1:36:27 pm  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Amy Robles, CLERK

# State Office of Administrative Hearings

Kristofer S. Monson  
Chief Administrative Law Judge

August 1, 2024

Lorelei Evans  
Attorney for Petitioner

VIA EFILE TEXAS

Jamal Ahmad  
Empire Choice Auto  
467 E. State Highway 121  
Lewisville, TX 75057

VIA EFILE TEXAS  
and VIA REGULAR MAIL

**RE: Docket Number 608-24-13940.ENF; Texas Department of Motor  
Vehicles No. ; TXDMV v. Empire Choice Auto**

Dear Parties:

Please be advised that the time period to file exceptions to the Proposal for Decision (PFD) issued in the above-referenced hearing expired on July 16, 2024, and neither party filed exceptions by that deadline. Therefore, the Administrative Law Judge recommends that the PFD be adopted as written. Because SOAH has concluded its involvement in the matter, the case is being returned to the **Texas Department of Motor Vehicles**.

CC: Service List

**Board Meeting Date: 10/24/2024**  
**ACTION ITEM**

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**To:** Texas Department of Motor Vehicles Board  
**From:** Monique Johnston, Motor Vehicle Division Director  
**Agenda Item:** 7  
**Subject:** Chapter 215, Motor Vehicle Distribution  
Amendments: Subchapters A, C, D, and E  
New: §§215.122, 215.151, 215.154 and 215.162  
Repeal: §§215.151, 215.153, 215.154 and 215.159  
(Relating to HB 718 and SB 224 Legislative Implementation, and Cleanup)

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**RECOMMENDATION**

Action Item. Adopt proposed amendments, repeals, and new sections in 43 Texas Administrative Code (TAC) Chapter 215 with an effective date of July 1, 2025, unless otherwise designated.

**PURPOSE AND EXECUTIVE SUMMARY**

This rule item would adopt amendments, new sections, and repeals to Chapter 215, Motor Vehicle Distribution to implement House Bill (HB) 718 and Senate Bill (SB) 224, 88th Legislature, Regular Session (2023) and clarify language in Chapter 215.

**FINANCIAL IMPACT**

In the first five years, the program will create costs to the department for implementation and ongoing administration, ranging from \$13.5 million to \$21.5 million per year. However, these costs will be offset by an increase in revenue to the department from the new license plate fee of \$10.

**BACKGROUND AND DISCUSSION**

These amendments, repeals, and new sections implement HB 718 and SB 224, both of which were enacted during the 88th Legislature, Regular Session (2023). HB 718 amended Transportation Code, Chapter 503 to eliminate the use of temporary tags when purchasing a motor vehicle and replace these tags with categories of license plates, effective July 1, 2025. HB 718 requires the department to determine new distribution methods, systems, and procedures; to set certain fees; and to adopt related rules by December 1, 2024. Beginning July 1, 2025, if a motor vehicle is sold to a Texas resident, a Texas dealer will assign a license plate to the vehicle unless the buyer has a specialty or other qualifying license plate, and the assigned license plate will stay with the vehicle if the vehicle is later sold to another Texas buyer.

On May 29, 2023, catalytic converter recordkeeping and inspection requirements in SB 224 became effective for certain license holders under Occupations Code, Chapter 2301 and owners of a garage or repair shop. The department is proposing adoption of two new sections, §215.122 and §215.162, in addition to other amendments to implement this statutory change. If the board adopts these proposals, the department recommends an earlier effective date for these sections.

Repeals of §215.153 and §215.159 are proposed to implement HB 718 as §215.153 contains the specifications for all temporary tags, and §215.159 contains the requirements for temporary tags issued and displayed by a converter.

In 2019, the Sunset Commission recommended the board establish advisory committees and adopt rules regarding standard advisory committee structure and operating criteria. The board adopted rules in 2019, and advisory committees have since provided valuable input on rule proposals considered by the board for proposal or adoption. In February and March 2024, the department provided an early draft of rule changes implementing HB 718 to three department advisory committees, the Vehicle Titles and Registration Advisory Committee (VTRAC), the Motor Vehicle Industry Regulation Advisory Committee (MVIRAC), and the Customer Service and Protection Advisory Committee (CSPAC). Committee members voted on formal motions and provided informal comments on other provisions. The department incorporated input from all three committees and the Tax Assessor-Collector Association (TACA) in proposed §§215.2, 215.138, 215.140, 215.150-215.152, 215.155-215.158, and 215.178. Additionally, stakeholder associations provided feedback and input on one or more rule proposals.

### Comments

The proposed amendments, repeals, and new rules were published for comment in the July 12, 2024, issue of the Texas Register. The comment period closed on August 12, 2024.

The department received five written comments (attached). The department received two comments from individuals and three comments from associations: the National Auto Auction Association (NAAA), the Texas Automobile Dealers Association (TADA), and the Texas Independent Auto Dealers Association (TIADA). The department considered all written comments and is recommending changes to the rule text at adoption in response to some of these comments.

### Recommended Changes at Adoption

In response to written comments and department review, staff recommends substantive text changes to the following sections at adoption:

- **§215.120:** In (g), clarified that the department will use the same criteria to evaluate a request for additional standard license plates received from any license holder eligible for standard license plates, including eligible franchised and other GDN holders.
- **§215.133:** A proposed amendment to (c)(2)(J) to require applicants to complete webDEALER training as part of the application process was removed; system access is addressed in §217.74.
- **§215.138:** The text in (i)(1) was removed because a dealer is no longer required to keep a local license plate record as the dealer and will use the department's designated electronic system instead.
- **§215.140:** In (b)(5)(E), a requirement for a wholesale motor vehicle auction GDN holder to have secure license plate storage for license plates removed from vehicles sold to out-of-state buyers or for export was deleted because a rule addressing license plate security at wholesale motor vehicle auctions requires further stakeholder input and department consideration.
- **§215.151:** Amendments to (d) split the first sentence into two sentences to improve readability by separating the dealer's responsibilities upon vehicle purchase from the dealer's responsibilities when the vehicle is sold. The dealer's duties to retail buyers and dealer buyers were also split out and clarified.



## Texas Department of Motor Vehicles

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- **§215.152:** Amendments allow a dealer selling only antique or special interest vehicles to obtain a half-yearly allocation of buyer's license plates instead of a quarterly allocation to accommodate a dealer's existing business model.
- **§215.156 and §215.158:** Amendments clarified that a dealer would issue a license plate receipt to an out-of-state buyer issued a temporary buyer's license plate.

In addition, nonsubstantive changes to the proposed text were made in the following sections to make terminology consistent and improve readability without changing meaning: §§215.141, 215.150, 215.151, 215.152, 215.155, 215.156, 215.157, and 215.158.

If the board adopts the amendments, new section and repeals as presented by staff during its October 24, 2024, open meeting, staff anticipates publication in the November 8, 2024, issue of the *Texas Register*.

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**ADOPTION OF REVISIONS TO**

**SUBCHAPTER A. GENERAL PROVISIONS**

**43 TAC §215.1 and §215.2**

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

**43 TAC §§215.101, 215.102, AND 215.120-122**

**SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES.**

**43 TAC §§215.131-133, 215.138, 215.140, 215.141, 215.143, 215.144, 215.147, 215.148, 215.150-**

**215.160, AND 215.162**

**SUBCHAPTER E. LESSORS AND LEASE FACILITATORS**

**43 TAC §215.178**

**REPEAL OF**

**SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES**

**§§215.151, 215.153, 215.154 and 215.159**

**INTRODUCTION.** The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, §215.1 and §215.2; adopts amendments to Subchapter C. Franchised Dealers, Manufacturers, Distributors, and Converters, 43 TAC §215.101, 215.102, 215.120, and 215.121, and adopts new §215.122; adopts amendments to Subchapter D. General Distinguishing Numbers and In-Transit Licenses, §§215.131–215.133, 215.138, 215.140, 215.141, 215.143, 215.144, 215.147, 215.148, 215.150, 215.152, 215.155-215.158, and 215.160; adopts new §§215.151, 215.154, and 215.162; adopts repeals of §§215.151, 215.153, 215.154 and 215.159; and adopts amendments to Subchapter F, Lessors and Lease Facilitators, §215.178. These amendments, new sections,

## TITLE 43. TRANSPORTATION

Adopted Sections

## Part 10. Texas Department of Motor Vehicles

Page 2 of 40

## Chapter 215 – Motor Vehicle Distribution

1 and repeals are necessary to implement House Bill (HB) 718 and Senate Bill (SB) 224, enacted during the  
2 88<sup>th</sup> Legislature, Regular Session (2023). HB 718 amended Transportation Code, Chapter 503 to eliminate  
3 the use of temporary tags when purchasing a motor vehicle and replaced these tags with categories of  
4 license plates, effective July 1, 2025. HB 718 requires the department to determine new distribution  
5 methods, systems, and procedures, and to set certain fees. Section 34 of HB 718 grants the department  
6 authority to adopt rules necessary to implement or administer these changes in law and requires the  
7 department to adopt related rules by December 1, 2024. Beginning July 1, 2025, if a motor vehicle is sold  
8 to a Texas resident, a Texas dealer shall assign a license plate to the vehicle unless the buyer has a specialty  
9 or other qualifying license plate, and the assigned license plate will stay with the vehicle if the vehicle is  
10 later sold to another Texas buyer. Adopted amendments implementing Occupations Code, Chapters 1956  
11 and 2305, as amended by SB 224, require certain license holders under Occupations Code, Chapter 2301,  
12 and an owner of a garage or repair shop to keep records regarding catalytic converters and make those  
13 records available for inspection by the department.

14 Two new adopted sections, §215.122 and §215.162, implement the catalytic converter  
15 recordkeeping and inspection requirements in SB 224, which became effective on May 29, 2023.

16 Repeals of §215.151 and §215.154 are adopted to implement HB 718 and new replacement rules  
17 are being adopted for each of these two sections. Repeals of §215.153 and §215.159 are also adopted to  
18 implement HB 718 as §215.153 contains the specifications for all temporary tags, and §215.159 contains  
19 the requirements for temporary tags issued and displayed by a converter. Neither of these rules are  
20 necessary beginning July 1, 2025, when temporary tags will no longer exist.

21 In 2019, the Sunset Commission recommended the board establish advisory committees and  
22 adopt rules regarding standard advisory committee structure and operating criteria. The board adopted  
23 rules in 2019, and advisory committees have since provided valuable input on rule proposals considered

## TITLE 43. TRANSPORTATION

Adopted Sections

## Part 10. Texas Department of Motor Vehicles

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## Chapter 215 – Motor Vehicle Distribution

1 by the board for proposal or adoption. In February and March 2024, the department provided an early  
2 draft of rule changes implementing HB 718 to three department advisory committees, the Vehicle Titles  
3 and Registration Advisory Committee (VTRAC), the Motor Vehicle Industry Regulation Advisory  
4 Committee (MVIRAC), and the Customer Service and Protection Advisory Committee (CSPAC). Committee  
5 members voted on formal motions and provided informal comments on other provisions. The department  
6 incorporated input from all three committees and the Tax Assessor-Collector Association (TACA) in  
7 adopted §§215.2, 215.138, 215.140, 215.150-215.152, 215.155-215.158, and 215.178. Additionally,  
8 stakeholders, including the Texas Automobile Dealers Association (TADA), the Texas Independent  
9 Automobile Dealers Association (TIADA), and the Texas Recreational Vehicle Association (TRVA), provided  
10 feedback and input on one or more rule proposals. The department also considered all written comments  
11 received during the public comment period for these rule proposals.

12 Adopted nonsubstantive amendments are necessary to modify language to be consistent with  
13 statutes and other chapters in Title 43 of the Texas Administrative Code; to modify language to be  
14 consistent with current practice including use of records or electronic systems; to improve readability  
15 through the use of consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions,  
16 terms, references or other language; to clarify existing requirements; or to modernize language and  
17 improve readability.

18 The effective date for these rules is July 1, 2025, unless otherwise designated. The following  
19 amended sections are adopted without changes to the proposed text as published in the July 12, 2024,  
20 issue of the *Texas Register* (49 TexReg 5030) and will not be republished: §§215.1, 215.2, 215.101,  
21 215.102, 215.121, 215.122, 215.131, 215.132, 215.143, 215.144, 215.147, 215.148, 215.154, 215.160,  
22 215.162, and 215.178.



## TITLE 43. TRANSPORTATION

Adopted Sections

## Part 10. Texas Department of Motor Vehicles

Page 4 of 40

## Chapter 215 – Motor Vehicle Distribution

1           The following sections are adopted with changes at adoption to the proposed text as published in  
2 the July 12, 2024, issue of the *Texas Register* (49 TexReg 5030) and will be republished: §§215.120,  
3 215.133, 215.138, 215.140, 215.141, 215.150, 215.151, 215.152, 215.155, 215.156, 215.157, and 215.158.  
4 The following sections are adopted with substantive changes to the proposed text: §§215.120, 215.133,  
5 215.138, 215.140, 215.151, 215.152, 215.156, and 215.158. Each substantive change is described in the  
6 Explanation of Adopted Amendments, Repeals, and New Sections below and some of these changes are  
7 also referenced in the department’s response to comments. The following sections are adopted with  
8 nonsubstantive changes to the proposed text: §§215.141, 215.150, 215.151, 215.152, 215.155, 215.156,  
9 215.157, and 215.158. Each nonsubstantive change is described in the Explanation of Adopted  
10 Amendments, Repeals, and New Sections below.

**11 EXPLANATION OF ADOPTED AMENDMENTS, REPEALS, AND NEW SECTIONS.****12 Subchapter A. General Provisions.**

13           Adopted amendments to §215.1 add references to Occupations Code, Chapter 2305, and  
14 Transportation Code, Chapters 504 and 520, as the scope of the rules in this chapter changed to include  
15 these statutes. Occupations Code, Chapter 2305 implements SB 224; Transportation Code, Chapter 504,  
16 which regulates the transfer and removal of license plates, implements HB 718; and Transportation Code,  
17 Chapter 520 contains provisions regarding dealer responsibilities that may be delegated by a county tax  
18 assessor-collector to a dealer deputy including the issuance of a license plate upon the sale of a vehicle as  
19 authorized by HB 718.

20           Adopted amendments to §215.2(a) add statutory references to definitions in Occupations Code,  
21 Chapter 2305, and Transportation Code, Chapter 520 to reflect the change in the scope of the chapter. An  
22 adopted amendment in §215.2(b)(4) adds a definition for “employee” and defines the term as a natural  
23 person employed directly by a license holder for wages or a salary and eliminates contractors from being

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1 considered employees under Chapter 215. Adopted amendments renumber the remaining definitions in  
2 this subsection. The effective date for this section is 20 days after the adoption is filed with the Texas  
3 Secretary of State.

4 Subchapter C. Franchised Dealers, Manufacturers, Distributors, and Converters.

5 Adopted amendments to §215.101 add references to Occupations Code, Chapter 2305, and  
6 Transportation Code, Chapters 504 and 520, as the scope of the rules in this chapter changed to include  
7 these statutes. Occupations Code, Chapter 2305 implements SB 224. Transportation Code, Chapter 504  
8 regulates the transfer and removal of license plates, and Transportation Code, Chapter 520 contains  
9 provisions regarding dealer responsibilities that may be delegated by a county tax assessor-collector to a  
10 dealer deputy including the issuance of a license plate upon the sale of a vehicle as authorized by HB 718.  
11 The effective date for this section is 20 days after the adoption is filed with the Texas Secretary of State.

12 An adopted amendment to §215.102(e)(1)(K)(iv) requires an applicant for a manufacturer's,  
13 distributor's, or converter's license to inform the department whether the applicant repairs a motor  
14 vehicle with a catalytic converter in Texas and, if this type of repair is performed, the physical address at  
15 which the applicant performs this repair. This adopted amendment will allow the department to obtain  
16 the information necessary to identify if a license holder repairs catalytic converters and to carry out its  
17 responsibilities under SB 224 to inspect a license holder's repair records. The effective date for this section  
18 is 20 days after the adoption is filed with the Texas Secretary of State.

19 Adopted amendments to §215.120(d) and (e) require a manufacturer, distributor, or converter to  
20 maintain a record of the license plates assigned for its use in the designated electronic system that the  
21 department will use to manage these industry license plates. Certain data for these license plates are  
22 currently housed in eLICENSING, the department's electronic licensing system. During the next several  
23 months, the department will decide whether license holders will be required to maintain industry license

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1 plate data in the current system or in the new license plate system that is being developed and will be  
2 deployed to implement the broader changes required by HB 718. An adopted amendment to §215.120(f)  
3 encourages license holders to immediately report all stolen license plates to local law enforcement. This  
4 adopted amendment may give local law enforcement earlier notice, which may aid law enforcement in  
5 identifying and stopping related criminal activity more quickly than if a stolen license plate is solely  
6 reported in the department’s electronic database. An adopted amendment to §215.120(g) repeals the  
7 current text as these license holders will no longer be required to keep local records because all records  
8 will be held in the department-designated system, and the remaining subsections are re-lettered  
9 accordingly. In response to a public comment, an amendment was added at adoption to re-lettered  
10 §215.120(g) to clarify that the department will use the same criteria to evaluate a request for additional  
11 standard license plates received from any license holder eligible for standard license plates, including  
12 eligible franchised and other GDN holders, to enable fair and consistent department review and decisions  
13 regarding issuance of additional standard dealer plates.

14 Adopted amendments to §215.121 add sanctions for a license holder who fails to report a lost,  
15 stolen, or damaged license plate to the department and who fails to keep or maintain records related to  
16 catalytic converters. An adopted amendment to §215.121(b)(7) adds the phrase “or fails to report a lost,  
17 stolen, or damaged license plate” to inform a license holder that a sanction may apply for failure to make  
18 such a report within the timeframe required by rule. This sanction is necessary as failure to report such a  
19 plate prevents this information from being promptly transmitted to law enforcement and risks public  
20 harm. An adopted amendment to §215.121(b)(18) adds a sanction for a license holder who fails to  
21 maintain the catalytic converter records required under Occupations Code, Chapter 2305, Subchapter D.  
22 This sanction is important as a license holder’s failure to keep catalytic converter records will impede law

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1 enforcement from investigating related criminal activity, which can harm Texas citizens. The effective date  
2 for this section is 20 days after the adoption is filed with the Texas Secretary of State.

3 Adopted new §215.122 implements SB 224, which is currently in effect. Adopted new §215.122  
4 informs a manufacturer, distributor, or converter that if the license holder repairs a vehicle with a catalytic  
5 converter in Texas, the license holder must comply with the recordkeeping and inspection requirements  
6 under Occupations Code, Chapter 2305, Subchapter D. These recordkeeping and inspection requirements  
7 are required by statute and allow law enforcement to investigate related criminal activity, which can harm  
8 Texas citizens. The effective date for this section is 20 days after the adoption is filed with the Texas  
9 Secretary of State.

10

11 Subchapter D. General Distinguishing Numbers and In-Transit Licenses.

12 Adopted amendments to §215.131 add references to Transportation Code, Chapters 504 and 520,  
13 and Occupations Code, Chapter 2305, as the scope of the rules in this subchapter changed to include these  
14 statutes. SB 224 amended Occupations Code, Chapter 2305 to give the department authority to inspect  
15 license holders' catalytic converter records, and Transportation Code, Chapter 520 contains provisions  
16 regarding dealer responsibilities that may be delegated by a county tax assessor-collector to a dealer  
17 deputy including the issuance of a license plate upon the sale of a vehicle as authorized by HB 718. The  
18 effective date for this section is 20 days after the adoption is filed with the Texas Secretary of State.

19 Adopted amendments to §215.132 define certain terms used in the section: "buyer's license  
20 plate," "buyer's temporary license plate," and "dealer's temporary license plate." Adopted amendments  
21 also delete the definition of temporary tag. "Buyer's license plate" is adopted to be defined as a general  
22 issue plate or set of license plates issued by a dealer to a vehicle buyer under Transportation Code,  
23 §503.063 for a vehicle that will be titled and registered in Texas. This term is also adopted to be defined

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1 to include a buyer’s provisional license plate, which is a short-term use license plate that a dealer may  
2 issue if the dealer does not have the applicable license plate available for the type of vehicle the buyer is  
3 purchasing. A “buyer’s temporary license plate” is adopted to be defined as a temporary license plate to  
4 be issued by a dealer to a non-resident vehicle buyer whose vehicle will be titled and registered out-of-  
5 state in accordance with Transportation Code, §503.063(i). A “dealer’s temporary license plate” is defined  
6 as a license plate that a dealer who holds a general distinguishing number (GDN) may purchase and use  
7 for the purposes allowed under Transportation Code, §502.062. Adopted amendments to these  
8 definitions implement HB 718, which eliminates temporary paper tags and requires the department to  
9 create new categories of license plates that will be affixed to a vehicle upon purchase. Some of the  
10 remaining definitions are adopted to be re-lettered to allow for the addition and deletion of definitions.

11 Adopted amendments to §215.133(c)(1)(I) add a reference to the “license plate system” to  
12 implement HB 718, which eliminates temporary paper tags and becomes effective on July 1, 2025.  
13 Additionally, an adopted amendment to §215.133 adds new §215.133(c)(1)(P) to require GDN applicants  
14 to disclose whether the applicant repairs a motor vehicle with a catalytic converter in Texas, and if so, the  
15 physical address where the repair is performed. This adopted amendment will allow the department to  
16 obtain the information necessary to carry out its responsibilities under SB 224 to identify license holders  
17 that repair motor vehicles with catalytic converters and inspect related records. To allow for the additional  
18 requirement, the following subsection is re-lettered accordingly. In response to public comment, a  
19 proposed amendment to §215.133(c)(2)(J) to require applicants to complete webDEALER training as part  
20 of the application process was deleted at adoption as dealer access requirements for this system are  
21 proposed for adoption in §217.74 of this title. Adopted amendments to §215.133(c)(3)(B) add “dealer”  
22 and “temporary license” before the word “plate” to be consistent with the amended definitions in  
23 §215.132, and to implement HB 718 when it becomes effective on July 1, 2025. The effective date for this

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1 section is the first day of a calendar month following a period of 20 days after the adoption is filed with  
2 the Texas Secretary of State.

3 Adopted amendments to §215.138 add certain dealer's plates to those subject to the  
4 requirements of the chapter, clarify certain exceptions to the license plate requirements, and add record  
5 keeping and reporting requirements to prevent fraud and theft. Adopted amendments to §215.138 add  
6 personalized prestige and temporary license plates to the types of license plates to which the  
7 requirements of the section apply. These types of license plates are adopted to be added in §215.138(a),  
8 (b), (c), (f), and (j) to implement HB 718. This section lists the requirements for dealer's license plates.  
9 Referencing these additional types of plates in each subsection ensures these requirements are inclusive  
10 of all the types of dealer's plates that may be used by a dealer. Adopted amendments to §215.138(c) add  
11 golf carts and off-highway vehicles to §215.138(c)(3) and (4), as described by Transportation Code  
12 Chapters 551 and 551A, respectively, to ensure that §215.138(c) incorporates all the types of vehicles that  
13 dealer's plates may not be displayed on, including those with statutory exceptions, for clarity and ease of  
14 reference. Adopted amendments to §215.138(h) add the requirement that a dealer maintains records of  
15 each dealer's plate in the department's designated electronic license plate system rather than in the  
16 dealer's records. This adopted amendment allows the department to prevent fraud and allows law  
17 enforcement access to these records. Additionally, in §215.138(h)(4), which describes information that  
18 must be entered into the system, adopted language requires a dealer to enter the name of the person in  
19 control of the vehicle or license plate. This adopted change makes it easier for the department and law  
20 enforcement to identify and investigate fraud and other illegal activity, while allowing dealers flexibility  
21 to assign a license plate to a vehicle or a driver. At adoption, amendments to §215.138(i) deleted  
22 paragraph (1) in conformity with the proposed deletion of §215.138(k) because a dealer is no longer  
23 required to keep a local license plate record as the dealer will be required to maintain that information in

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1 the department's designated electronic system instead. The following two subparagraphs of §215.138(i)  
2 are renumbered accordingly. An adopted amendment to §215.138(j) encourages a dealer to immediately  
3 alert law enforcement by reporting a stolen license plate to a local law enforcement agency. This adopted  
4 amendment may give local law enforcement earlier notice, which may aid law enforcement in identifying  
5 and stopping related criminal activity more quickly than if the stolen license plate is solely reported in the  
6 department's electronic database. An adopted amendment strikes §215.138(k), which previously  
7 required a dealer's license plate record to be available for inspection by the department. This adopted  
8 subsection is no longer necessary as dealers will be entering these records into the department's  
9 designated electronic license plate system. An adopted amendment re-letters (l) to (k) for continuity. An  
10 adopted amendment to §215.138(l) clarifies that a wholesale motor vehicle auction GDN holder that also  
11 holds a dealer's GDN may display a dealer's temporary license plate assigned to their dealer GDN on a  
12 vehicle that is being transported to or from the licensed auction location. This adopted language clarifies  
13 that a person who holds both types of GDNs may use a dealer's temporary license plate to legally transport  
14 vehicles between its businesses.

15 Adopted amendments to §215.140 add requirements regarding delivery of buyer's license plates  
16 and storage of those license plates. HB 718 eliminated temporary tags and created a need for buyer's  
17 plates to be delivered to dealers so that dealers may issue license plates to buyers upon vehicle purchase.  
18 This statutory change requires dealers to properly receive, secure, and store license plates to prevent  
19 fraud, plate theft, and related criminal activity. An adopted amendment to §215.140(a)(5)(F) adds buyer's  
20 plates to the types of license plates that will not be mailed to an out-of-state address, but that will only  
21 be delivered or mailed to a dealer's physical location in Texas. These adopted amendments are necessary  
22 to responsibly implement HB 718, which eliminates temporary tags and creates a need for buyer's plates  
23 to be delivered to dealers so that they may issue them to buyers upon vehicle purchase. Another adopted

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1 amendment to §215.140 adds §215.140(a)(6)(E), which requires a dealer to store all license plates in a  
2 dealer's possession in a locked or otherwise secured room or closet or in at least one securely locked and  
3 substantially constructed safe or steel cabinet bolted or affixed to the floor in such a way that it cannot  
4 be readily removed, to deter theft or fraudulent misuse of license plates. A proposed amendment to  
5 §215.140(b)(5) adding subparagraph (E), was intended to create a similar requirement for a wholesale  
6 motor vehicle auction GDN holder to securely store license plates removed from vehicles sold at auction  
7 to out-of-state buyers or for export. However, this proposed amendment was deleted at adoption in  
8 response to a public comment because a rule addressing license plate security at wholesale motor vehicle  
9 auctions requires further stakeholder input and department consideration. Further rulemaking on this  
10 issue will be proposed at a future board meeting.

11 In response to public comment, at adoption, the phrases "or set of plates," "or set of license  
12 plates," "or sets of license plates," and "sets of plates" were deleted in §§215.141, 215.150, 215.151,  
13 215.152, 215.155, 215.156, 215.157, and 215.158, to improve consistency and readability. The definition  
14 of buyer's license plate in §215.132(2) defines the term as including a set of plates so the phrase does not  
15 need to be repeated.

16 Adopted amendments to §215.141 remove references to temporary tags and add sanctions that  
17 the department may assess if a license holder fails to comply with new license plate requirements or  
18 catalytic converter record requirements. These adopted changes are necessary to enforce the provisions  
19 of HB 718 and SB 224. An adopted amendment to §215.141(b)(10) adds references to buyer's "license  
20 plate or buyer's temporary license plate" to reflect the new plate types that the department has  
21 developed to implement HB 718, which will become effective July 1, 2025. Adopted amendments to  
22 §215.141(b)(12) and (13) add an expiration date for temporary tags of July 1, 2025, to implement HB 718.  
23 An adopted amendment to §215.141(b)(25) updates the title of a referenced rule to reflect the adopted



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1 new title for that rule. Adopted new §215.141(b)(26) authorizes sanctions should a license holder fail to  
2 securely store a license plate. Adopted new §215.141(b)(27) authorizes sanctions should a license holder  
3 fail to maintain a record of dealer license plates as required under §215.138. Adopted new  
4 §215.141(b)(28) authorizes sanctions should a license holder fail to file or enter a vehicle transfer notice.  
5 Adopted new §215.141(b)(29) authorizes sanctions should a license holder fail to enter a lost, stolen, or  
6 damaged license plate in the electronic system designated by the department within the time prescribed  
7 by rule. Adopted new §215.141(b)(34) authorizes sanctions should a license holder fail to remove a license  
8 plate or set of license plates from a vehicle sold to an out-of-state buyer or from a vehicle sold for export.  
9 The adopted amendments for §215.141(b)(26)-(29) and (34) make the requirements of HB 718  
10 enforceable by the department when HB 718 becomes effective on July 1, 2025. Adopted new  
11 §215.141(b)(35) authorizes sanctions should a license holder fail to keep or maintain records required  
12 under Occupations Code, Chapter 2305, Subchapter D or to allow an inspection of these records by the  
13 department both of which are required by SB 224. The effective date for this section is 20 days after the  
14 adoption is filed with the Texas Secretary of State.

15 An adopted amendment to §215.143(c) streamlines license plate recordkeeping for in-transit  
16 license plates by requiring a drive-a-way operator to maintain required license plate data in the  
17 department-designated system instead of in a local record. Additionally, in §215.143(c)(4), an adopted  
18 amendment changes the requirement that the record contain the name of the person in control of the  
19 vehicle to the name of the person in control of the license plate. This adopted amendment allows a drive-  
20 a-way operator to designate in the license plate system which employee is currently responsible for an  
21 in-transit plate, which will inform the department or law enforcement in case of a complaint. An adopted  
22 amendment in §215.143(d)(1) strikes “operator’s plate record” and replaces it with “department-  
23 designated system” for consistency. An adopted amendment to §215.143(e) adds language encouraging

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1 a drive-a-way operator to immediately alert law enforcement by reporting a stolen license plate to local  
2 law enforcement. This adopted amendment is intended to result in earlier notice to local law  
3 enforcement, which may aid law enforcement in identifying and stopping related criminal activity more  
4 quickly than if the stolen license plate is solely reported in the department’s electronic database. An  
5 adopted amendment strikes §215.143(f), which required that a drive-a-way operator’s license plate  
6 record be available for inspection, as this is no longer necessary because these license holders will be  
7 required to enter that information into the department’s designated system. The remaining sections are  
8 re-lettered for continuity.

9       Adopted amendments to §215.144 replace references to the electronic title system in subsection  
10 §215.144(e)(8) and (9) with references to webDEALER as defined in §217.71 to clarify the system to be  
11 used. An adopted amendment to §215.144(e)(9) deletes an inadvertent use of “new” to describe a motor  
12 vehicle as the paragraph covers both new and used motor vehicles and adds “properly stamped” which  
13 was inadvertently deleted in the June 1, 2024, amendment to this rule upon publication. Adopted  
14 amendments to §215.144(f)(3) add a reference to title to clarify that the reasonable time periods apply  
15 to both filing of a title and registration, simplify language to improve readability, and add a new  
16 subparagraph (C) regarding timeliness for filing a title or registration for certain military personnel in  
17 compliance with Transportation Code, §501.145(c). An adopted amendment to §215.144(i)(2)(C) changes  
18 the requirement to make title application on public motor vehicle auctions from 20 working days of sale  
19 to a reasonable time as defined in §215.144(f) for consistency. Adopted amendments to §215.144(l) add  
20 punctuation and create two new subsections. The first subsection is retitled “webDEALER” and  
21 incorporates existing language regarding the department’s web-based title application. The adopted new  
22 subsection is titled “License Plate System.” This section requires a license holder to comply with §215.151,

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1 which contains general requirements for the issuance of license plates by dealers and is an important  
2 reference for dealers.

3 Adopted amendments to §215.147(d) add a requirement that a dealer remove, void, and destroy  
4 or recycle any license plate or registration insignia as required under §215.158 before transferring  
5 ownership of a vehicle to be exported, and strike paragraphs (1)-(3) relating to temporary tags. These  
6 amendments are necessary to implement HB 718 and to prevent theft and fraud of these plates which  
7 are no longer assigned to a vehicle registered in Texas.

8 An adopted amendment to §215.148 makes a non-substantive change to delete a repetitive  
9 phrase and parenthetical in §215.148(c). The effective date for this section is 20 days after the adoption  
10 is filed with the Texas Secretary of State.

11 In response to public comment, at adoption, the phrase “general issue” was either deleted or  
12 changed to “buyer’s” throughout §§215.150, 215.151, 215.152, 215.155, 215.157, and 215.158 for  
13 consistency in terminology. The definition of “buyer’s license plate” in §215.132(2) defines the plate as a  
14 general issue plate so that phrase does not need to be repeated.

15 An adopted amendment to §215.150 changes the name of the section to strike “Temporary Tags”  
16 and replace that phrase with “License Plates” to implement HB 718, which eliminated temporary tags. An  
17 adopted amendment to §215.150(a) requires a dealer to issue a buyer’s license plate for a vehicle type  
18 the dealer is authorized to sell to (1) a buyer of a new vehicle, unless the buyer has an authorized plate  
19 which may be assigned to the vehicle, and (2) a buyer of a used vehicle, if a buyer’s license plate did not  
20 come with the vehicle and if the buyer does not have authorized plates that can be assigned to the vehicle.  
21 The adopted amendments to §215.150 recognize that under HB 718, a converter may not issue a  
22 temporary tag or license plate effective July 1, 2025, and that the purpose of the department’s database  
23 will change from the tracking and issuance of temporary tags to the tracking and issuing of license plates

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1 on July 1, 2025. Other adopted amendments throughout this section implement HB 718 by striking all  
2 language referencing temporary tags.

3 Adopted new §215.150(b) adds an exception to the requirements in §215.150(a) for vehicles sold  
4 to commercial fleet buyers authorized by a county tax assessor-collector as a dealer deputy under  
5 §217.166 because these commercial fleet buyers are authorized as dealer deputies to assign license plates  
6 to vehicles purchased from a dealer. Adopted new §215.150(c) requires a dealer to issue a buyer's  
7 temporary license plate to an out-of-state buyer for a vehicle to be registered in another state.

8 Adopted amendments to relettered §215.150(d) replace "license holder" with "dealer" for  
9 consistency in terminology. Another amendment to relettered §215.150(d) removes a list of the types of  
10 temporary tags and substitutes a citation to license plates under Transportation Code, §503.063, which  
11 was amended by HB 718 to replace temporary tags with license plates. Additionally, adopted amendments  
12 to relettered §215.150(d) replace references to the temporary tag database with references to the license  
13 plate system and update associated statutory and rule references to implement HB 718.

14 Adopted amendments to prior §215.150(c) re-letter it to §215.150(e), delete "federal, state, or  
15 local" to describe a governmental agency as this descriptor is unnecessary, clarify that a governmental  
16 agency may issue either a buyer's license plate or a buyer's temporary license plate unless the buyer has  
17 a qualifying license plate to place on the vehicle, remove references to buyer's temporary tags and  
18 internet-down tags, and update Transportation Code and rule citations.

19 Adopted amendments to prior §215.150(d) re-letter it to §215.150(f), strike the term "converter,"  
20 and strike references to the temporary tag database, replacing those references with "license plate  
21 system" to implement HB 718. Additionally, an adopted amendment to re-lettered §215.150(f)(4) deletes  
22 prior language and replaces it with a requirement for a dealer to secure all license plates, including license  
23 plates assigned to vehicles in inventory, dealer's license plates, and unissued buyer's license plates in a

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1 locked and secured room or closet or in one or more securely locked, substantially constructed safes or  
2 steel cabinets bolted or affixed to the floor or wall. An adopted amendment also requires dealers to  
3 properly mark and destroy, recycle, or return all void license plates as required under §215.158. These  
4 amendments are necessary to responsibly implement license plate management required under HB 718  
5 and to deter license plate theft and fraud.

6       Prior §215.151 is adopted for repeal as this section describes how to use and affix temporary tags,  
7 which HB 718 has eliminated. Adopted new §215.151, titled “License Plate General Use Requirements,”  
8 implements HB 718, which requires the department set rules for affixing license plates to vehicles.  
9 Adopted new §215.151 maintains consistency with how plates are currently affixed under §217.27.  
10 Adopted new §215.151(a) sets out the requirements for securing a license plate to a vehicle for a Texas  
11 buyer, in accordance with §217.27. Adopted new §215.151(b) requires a dealer to issue a buyer’s  
12 temporary license plate and secure this license plate to the vehicle for a vehicle purchased by a non-  
13 resident buyer who intends to title and register the vehicle under the laws of the home state. Adopted  
14 new §215.151(c) requires a dealer to remove and destroy a plate on a used vehicle if the buyer has a  
15 specialty, personalized or other qualifying plate to put on the vehicle. Adopted new §215.151(d) specifies  
16 a dealer’s responsibilities to remove and store a buyer’s license plate when the dealer purchases a vehicle  
17 with an assigned license plate, and the dealer’s responsibilities upon vehicle sale to update the license  
18 plate database and provide, securely transfer, or destroy or recycle the assigned license plate depending  
19 on the type of purchaser. In response to a public comment, at adoption, an amendment to §215.151(d)  
20 corrects the citation to §215.150 to reference subsection (f), rather than subsection (d). In response to  
21 public comment, at adoption, amendments to §215.151(d) split the first sentence into two sentences to  
22 improve readability by separating the dealer’s responsibilities upon purchase of a vehicle from the  
23 dealer’s responsibilities when the vehicle is sold. Sentence punctuation was added as was the introductory

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1 phrase: “Upon vehicle sale, the dealer must update the license plate database and:” to clarify that a dealer  
2 is required to update the license plate system for any type of vehicle sale not just sales to out-of-state  
3 dealers or for export. In response to public comment, at adoption, the separate duties of dealers to retail  
4 buyers and dealer buyers were split out and clarified: “Texas buyer” in §215.151(d)(1) was specified to be  
5 a “Texas retail buyer,” and new §215.151(d)(2) was added to address a vehicle sale to a Texas dealer  
6 requiring the selling dealer to securely transfer the license plate to the purchasing dealer. Also at  
7 adoption, proposed §215.151(d)(2) was renumbered to §215.151(d)(3) and the requirement to update  
8 the license plate database was deleted as that language was moved to the second sentence in  
9 §215.151(d). These adopted revisions are necessary to implement HB 718 and further clarify dealer  
10 responsibilities. At adoption, the department also corrected an error in new §215.151(d)(3) by changing  
11 the word “the” to “this” before the word “title.”

12 Adopted amendments to new §215.152 replace all references to temporary tags with references  
13 to dealer-issued buyer’s license plates to implement HB 718, which eliminated temporary tags and the  
14 temporary tag database and requires a dealer to issue or reassign a license plate to most vehicle buyers.  
15 Adopted amendments to §215.152(a) strike the terms “converter” and “temporary tag database” and  
16 replace those terms with “webDEALER” and “the license plate system,” and add language requiring a  
17 dealer to be responsible for verifying receipt of license plates in the license plate system. These adopted  
18 amendments recognize that under HB 718, a converter may not issue a temporary tag or license plate  
19 effective July 1, 2025, and that the purpose of the database will change from the tracking and issuance of  
20 temporary tags to the tracking and issuing of license plates on July 1, 2025.

21 At adoption, the department amends §215.152(b) to update the cross-reference with the adopted  
22 new title of §215.157, “Issuing Buyer’s License Plates and License Plate Receipts When Internet Not  
23 Available.” Adopted amendments to §215.152(b) also replace prior language by substituting requirements

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1 for a dealer to enter information in the license plate system, including information about the vehicle, the  
2 buyer, and the license plate number assigned.

3 Adopted amendments to §215.152(c) require the department to inform each dealer of the annual  
4 maximum number of buyer's license plates the dealer is authorized to obtain, substitute "obtain" for  
5 "issue," and add a reference to Transportation Code, §503.063. Additional adopted amendments to  
6 §215.152(c) add language to describe the two types of buyer's license plate allotments that a dealer is  
7 eligible to obtain from the department, which are: (1) an allotment of unassigned buyer's license plates  
8 for vehicles to be titled and registered in Texas, and (2) a separate allotment of buyer's temporary license  
9 plates for non-resident buyers. This distinction reflects the new license plate types the department has  
10 developed to implement HB 718.

11 Adopted amendments to §215.152(d)(1) provide that a dealer's allotment will be based on vehicle  
12 title transfers, sales, or license plate issuance data as determined from the department's systems from  
13 the previous fiscal year, as well as previously used multipliers based on time in operation or actual in-state  
14 and out-of-state sales transactions. Adopted amendments to these previously existing factors in  
15 §215.152(d)(3)(A) and (B) replace the "number of dealer's temporary tags issued" with the "number of  
16 transactions processed through the department." Adopted amendments to §215.152(d)(4) strike  
17 temporary tags and add the word "annual" to be clear that the allotment of license plates is on an annual  
18 basis.

19 An adopted amendment strikes as unnecessary current §215.152(e), which relates to allocating  
20 temporary tags for converters because a converter may not issue a temporary tag or license plate effective  
21 July 1, 2025, under Transportation Code, Chapter 503, as amended by HB 718. The remaining subsections  
22 of §215.152 are adopted to be re-lettered accordingly.

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1           Adopted amendments to current §215.152(f), adopted to be re-lettered as §215.152(e), strike  
2 references to “converter,” and replace references to temporary tags with references to general issue and  
3 buyer’s temporary license plates. Additionally, adopted amendments to relettered §215.152(e)(1) provide  
4 that a new franchised dealer may be issued 200 general issue license plates and 100 buyer’s temporary  
5 plates annually, and provide that the franchised dealer may request more license plates based on credible  
6 information indicating a higher quantity is warranted. These adopted plate allocations are based on  
7 historical data for newly licensed franchised dealers. Adopted amendments strike relettered  
8 §215.152(e)(1)(A) and (B) because they relate only to temporary tags. Adopted amendments to relettered  
9 §215.152(e)(2) provide the annual allocation of license plates for new non-franchised dealers as 100  
10 general issue license plates and 48 buyer’s temporary license plates. These adopted plate allocations are  
11 based on historical data for newly licensed non-franchised dealers. Another adopted amendment to  
12 relettered §215.152(e) strikes §215.152(e)(3), because it relates only to the converter’s temporary tag  
13 allocation. Under Transportation Code, Chapter 503 as amended by HB 718, a converter may not issue a  
14 temporary tag or license plate effective July 1, 2025.

15           Adopted amendments to relettered §215.152(f) and (g) replace references to temporary tags with  
16 references to license plates throughout, changes “license” to “GDN” and “dealership” to “dealer” for  
17 consistency in terminology, and update subsection designations based on adopted amendments.

18           New adopted §215.152(h) states that the plates will be distributed on a quarterly basis, so that  
19 dealers will have enough inventory on hand to conduct business but will not have to store the entirety of  
20 the annual plate allotment at once, and clarifies that a dealer’s remaining unissued plates at the end of  
21 the allocation period will count towards the dealer’s next allocation. At adoption, a clause was added to  
22 the end of the first sentence of new §215.152(h) to allow for a twice-yearly allocation to a dealer that sells  
23 only special interest vehicles or antique vehicles as defined in Transportation Code, §683.077(b). For



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1 consistency with this new language, the term “quarterly” was deleted at adoption from the second  
2 sentence of new §215.152(h) describing allocations and allocation periods. A dealer who sells only these  
3 types of vehicles requested this change at adoption because a quarterly allocation would not work with  
4 that dealer’s business model, which is to sell large quantities of these vehicles through auctions held only  
5 twice per year.

6       New adopted §215.152(i) explains when a dealer may submit a request for additional plates to  
7 ensure that dealers are able to order more plates well in advance of needing them and paralleling the  
8 current requirements for temporary tag requests in prior §215.152(i). The adopted amendments delete  
9 prior language that is no longer applicable under HB 718. New adopted §215.152(j) requires a dealer to  
10 submit a request in the license plate system. New adopted §215.152(k) explains the process by which a  
11 dealer must submit the request for additional plates and the information that is required from the dealer,  
12 modifying language currently in §215.152(i) with the terms and statutory citations changed for  
13 consistency with HB 718 implementation. Adopted amendments to the language in §215.152(i),  
14 incorporated into new §215.152(k)(3), change the division within the department where appeals will be  
15 reviewed from the Motor Vehicle Division to the Vehicle Titles and Registration Division to be consistent  
16 with current agency operations. Other adopted amendments re-letter prior §215.152(j) and (k), delete  
17 references to converters and temporary tags because a converter may not issue a temporary tag or license  
18 plate effective July 1, 2025, under Transportation Code, Chapter 503, as amended by HB 718, add  
19 references to license plate system activity, and update statutory references. An adopted amendment  
20 strikes §215.152(l), as this subsection, prohibiting rollover of temporary tag allotments from one calendar  
21 year to the next, is no longer necessary. Each of these adopted amendments is necessary to implement  
22 HB 718.

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1 Section 215.153 is adopted for repeal as part of HB 718 implementation because it only sets out  
2 the specifications for the design of temporary tags and is therefore no longer necessary. Similarly,  
3 §215.154 is adopted for repeal because it only describes how dealer's temporary tags are to be used, and  
4 these temporary tags will no longer exist following the implementation of HB 718.

5 Adopted new §215.154 implements HB 718 by addressing the allocation of a new license plate  
6 type created by HB 718, a dealer's temporary license plate. Adopted new §215.154(a) bases the number  
7 of dealer's temporary license plates a dealer may order on the type of license for which the dealer applied  
8 and the number of vehicles the dealer sold during the previous year, to deter theft and fraudulent misuse  
9 of temporary plates by limiting supply. Adopted new §215.154(b) gives the maximum number of dealer's  
10 temporary license plates issued to new license applicants during the applicants' first license term in a  
11 graphic table. Adopted new §215.154(c) provides all dealers licensed on July 1, 2025, with the opportunity  
12 to obtain the number of dealer's temporary plates that a new dealer of the same license type is eligible  
13 for on that date as defined in §215.154(b), and an additional number based on dealer sales in the previous  
14 year as defined in §215.154(e). This new adopted subsection helps to ensure that existing dealers have  
15 access to enough dealer's temporary plates during the transition from using agent and vehicle temporary  
16 tags to using dealer's temporary plates. Adopted new §215.154(d) lists the exceptions for which a dealer  
17 will not be subject to the initial allotment so that certain dealers who previously qualified for more license  
18 plates may continue using their current allocation. Adopted new §215.154(e) allows a dealer to obtain  
19 more than the maximum initial allotment limits for dealer's temporary plates by providing sales numbers  
20 from the prior year that justify an increased allocation, to allow for flexibility and business continuity for  
21 those dealers who have a documented need for additional plates. Similarly, adopted new §215.154(f)  
22 allows wholesale motor vehicle dealers to obtain more than the maximum initial allotment of dealer's  
23 temporary plates by providing the department with the numbers of vehicles purchased over the past 12

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1 months to predict a dealer's need for additional license plates, to ensure that a wholesaler has sufficient  
2 temporary plates to meet documented demand. Adopted new §215.154(g) allows the department to  
3 waive maximum issuance restrictions if the waiver is essential for the continuity of business if the dealer  
4 provides the department with sales data and reason for the waiver request to allow the department  
5 flexibility to meet the demonstrated business needs of its license holders with appropriate allocations on  
6 a case-by-case basis. Adopted new §215.154 will thus implement HB 718 with an allocation system for  
7 dealer temporary license plates that balances the need to limit allocations to avoid excess inventory  
8 creating an increased risk of license plate fraud or theft with the need to provide license holders with  
9 enough dealer temporary license plates to meet business needs.

10       Adopted amendments to §215.155 replace all references to buyer's temporary tags with  
11 references to buyer's license plates or buyer's temporary license plates to implement HB 718, which  
12 eliminated temporary tags in favor of license plates. An adopted amendment to §215.155(c) requires that  
13 a dealer may not issue a buyer's license plate for a wholesale transaction; rather, the purchaser must use  
14 its own dealer's plate to display on a purchased vehicle. If a general issue plate or set of plates is already  
15 assigned to the vehicle, the selling dealer must provide the general issue plates to the purchasing dealer.  
16 This adopted amendment is to ensure that an assigned license plate stays with the vehicle to which the  
17 license plate was originally assigned, consistent with the requirement in Transportation Code,  
18 §504.901(b). The adopted amendments to §215.155 include striking §215.155(e) as unnecessary because  
19 it only addresses requirements for temporary tags, which HB 718 has eliminated. The remaining  
20 subsections of §215.155 are re-lettered accordingly. Adopted amendments to prior §215.155(f) strike the  
21 current temporary tag fee and prescribe a new \$10 fee for buyer's plates. Adopted amendments to prior  
22 §215.155(f) similarly strike the prior temporary tag fee that governmental agencies may charge and  
23 prescribe a new \$10 fee that governmental agencies may charge for buyer's plates. HB 718 amended

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1 Transportation Code, §503.063(g) to eliminate the temporary tag fee and to require the department to  
2 prescribe a fee to be charged by the dealer to the buyer for license plates that are issued or assigned to  
3 the buyer upon vehicle purchase. The department has determined that a \$10 fee will be sufficient to cover  
4 the expected costs associated with registering and processing the new license plates required by HB 718.  
5 Additionally, an adopted amendment to prior §215.155(f)(1) replaces “electronic title system” with  
6 “designated electronic system” to better reflect current department procedure.

7       Adopted amendments to §215.156 replace all references to temporary tags with references to  
8 buyer’s license plates to implement HB 718, which eliminated temporary tags in favor of license plates.  
9 The purpose of §215.156 is to describe the requirements for a dealer to provide a vehicle buyer with a  
10 buyer’s receipt. Adopted amendments requiring a dealer to print a receipt from the department’s  
11 designated electronic system reflect that HB 718 will require dealers to print a buyer’s receipt from a  
12 different electronic system. The adopted amendments to §215.156 delete unnecessary language  
13 describing the process for printing temporary tag receipts, since HB 718 abolished temporary tags.  
14 Adopted amendments also remove references to metal plates in favor of “vehicle registration insignia” to  
15 reflect new processes and standardize terminology across the department’s rule chapters. Additionally,  
16 adopted new §215.156(7) requires the receipt to include the procedure by which the vehicle registration  
17 insignia will be provided to the buyer, as is required under Transportation Code, §503.0631(d-1), as  
18 amended by HB 718. The adopted amendments to §215.156 also delete unnecessary language and  
19 punctuation. In response to public comment, at adoption, clarifying amendments to §215.156 added the  
20 phrase “or buyer’s temporary license plate” to clarify that a dealer must issue a buyer’s license plate  
21 receipt to every purchaser of a vehicle in Texas even if the vehicle is to be registered out-of-state, and  
22 added the phrase “if the vehicle is to be registered in Texas” to clarify that the requirement to include the  
23 procedure by which the vehicle’s registration insignia will be provided only applies to vehicles to be

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1 registered in Texas. These amendments help clarify which buyer's license plate receipt requirements apply  
2 to a particular type of vehicle sale.

3 Adopted amendments to §215.157 implement HB 718 by describing the process for a dealer to  
4 issue a license plate and a license plate receipt when internet access is not available by replacing the prior  
5 requirement for a dealer to print out an internet-down tag with a requirement for a dealer to document  
6 the issuance of a buyer's general issue license plate and then enter that information in the license plate  
7 system not later than the close of the next business day. These adopted amendments are necessary to  
8 implement HB 718 and maintain the integrity of the data in the license plate database.

9 Adopted amendments to §215.158 describe the general requirements for buyer's license plates  
10 necessary to implement HB 718. Adopted amendments to the title of §215.158 add "for Buyer's License  
11 Plates" and delete an unnecessary reference to "Preprinted Internet-down Temporary Tag Numbers."  
12 Adopted amendments to §215.158 delete language related to internet-down temporary tags, which are  
13 obsolete since HB 718 eliminated temporary tags, and replace it with language about license plates.  
14 Adopted amendments to §215.158(a) also make nonsubstantive wording and punctuation changes and  
15 delete an unnecessary descriptive phrase for a governmental agency to improve readability and retain the  
16 dealer and governmental agency's responsibility for safekeeping of license plates and for prompt  
17 reporting of license plates that are lost, stolen, or destroyed. An adopted amendment to §215.158(a)  
18 encourages a dealer or governmental agency to immediately report all stolen license plates to local law  
19 enforcement. This adopted amendment is intended to result in earlier notice to local law enforcement,  
20 which may aid law enforcement in identifying and stopping related criminal activity more quickly than if  
21 the stolen license plate is solely reported in the department's electronic database. In response to public  
22 comment, an amendment added at adoption to §215.158(a) adds the phrase "or buyer's temporary  
23 license plate" to clarify that a dealer's responsibility to report any loss, theft, or destruction of license

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1 plates includes a buyer’s temporary license plate. Adopted amendments to §215.158(b) require a dealer  
2 to remove and void any previously assigned plates that cannot stay with the motor vehicle. Under the  
3 adopted amendment, the dealer must mark these license plates as void and destroy, recycle the void  
4 license plates with a metal recycler registered under Occupations Code, Chapter 1956, or return the void  
5 license plates to the department or a county tax assessor-collector. These steps are intended to prevent  
6 potential theft or fraud relating to plates that have been removed from a vehicle. These amendments are  
7 necessary to responsibly implement HB 718. Adopted amendments to §215.158(c) require a dealer to  
8 return all license plates in their possession to the department within 10 days of closing the associated  
9 license or within 10 days of the department revoking, canceling, or closing the associated license, to  
10 reduce the risk of theft or fraudulent misuse of the plates. At adoption, an amendment to §215.158(c)  
11 deleted the word “buyer’s” in describing license plates to clarify that all license plates in the dealer’s  
12 possession must be returned to the department within 10 days if the dealer’s license is revoked, cancelled,  
13 or closed. The remaining subsections of §215.158 are adopted for deletion as these subsections refer only  
14 to internet-down tags and are no longer necessary with the implementation of HB 718.

15 Adopted for repeal, §215.159 describes the requirements for converter’s temporary tags, which  
16 will not exist when HB 718 is implemented, making §215.159 unnecessary.

17 Adopted amendments to §215.160(a) and §215.160(b) replace the references to titles under  
18 Transportation Code, §501.100 with the words “issued a title” to clarify that if dealers know a motor  
19 vehicle has formerly been a salvage vehicle, they must disclose this fact, regardless of whether the motor  
20 vehicle is currently titled under Transportation Code, §501.100. The effective date for the amendments  
21 to this section is 20 days after the adoption is filed with the Texas Secretary of State.

22 Adopted new §215.162 implements SB 224 by requiring dealers that repair a motor vehicle with  
23 a catalytic converter to comply with the statutory recordkeeping requirements in Occupations Code,

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1 Chapter 2305, Subchapter D, and to allow the department to inspect those records during business hours.

2 The effective date for this section is 20 days after the adoption is filed with the Texas Secretary of State.

3

4 Subchapter F. Lessors and Lease Facilitators

5 An adopted amendment to §215.178(a)(2) simplifies language for improved readability by

6 changing “a request from a representative of the department” to “a department records request.”

7 Adopted amendments to §§215.178(c)(7)(C) and (D) and §215.178(c)(8) replace references to the

8 electronic title system with references to webDEALER, as defined in 43 TAC §217.71, relating to

9 Automated and Web-Based Vehicle Registration and Title Systems, to provide additional context to the

10 specific part of the electronic title system to which the section applies. An adopted amendment in

11 §215.178(c)(8) adds an “a” before motor vehicle to correct sentence grammar. An adopted amendment

12 to §215.178(g) adds an exception to those records that may be kept electronically for documents listed in

13 subsection (c)(8) of this section, which are records that dealers are required to keep in webDEALER. The

14 effective date for the amendments to this section is 20 days after the adoption is filed with the Texas

15 Secretary of State.

16 **SUMMARY OF COMMENTS.**

17 The department received five written comments on the proposal from two individuals, the National Auto

18 Auction Association (NAAA), the Texas Automobile Dealers Association (TADA), and the Texas

19 Independent Automobile Dealers Association (TIADA).

20 **Comment:** An individual commenter requests that the department prevent unnecessary recordkeeping

21 because the new application requirements in §215.102 are not required by SB 224.

22 **Response:** The department disagrees with this comment. SB 224 added Occupations Code, §2305.155,

23 which authorizes the department to enter the business premises of a license holder at a reasonable time

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1 and inspect catalytic converter records as defined in Occupations Code, §2305.153. The department must  
2 be able to identify which license holders repair catalytic converters and where these repairs are being  
3 performed to efficiently and effectively fulfill its enforcement responsibilities. While SB 224 requirements  
4 apply to all manufacturers, distributors, converters, and dealers licensed under Chapter 2301, the  
5 department expects that a significant number of license holders or license holder locations will not be  
6 affected by SB 224 recordkeeping requirements (e.g., license holders who do not perform catalytic  
7 converter repairs, who do not perform repairs on vehicles with internal combustion engines, who have a  
8 centralized repair depot, or who do not have repair facilities in Texas). Only two questions will be added  
9 to the application. The first question asks if the applicant repairs catalytic converters, and the second  
10 question asks for the physical address where repairs are being performed. An answer to the second  
11 question is only required if the applicant's answer to the first question is yes. Both the department and  
12 license holders will benefit from the answers to these questions as the department will not contact license  
13 holders or visit license-holder locations that do not perform catalytic converter repairs.

14 **Comment:** TADA comments that where a manufacturer or distributor performs a repair is not a part of  
15 the records requirement added by SB 224 and is therefore outside the statutory recordkeeping  
16 requirements. TADA requests that §215.102(e)(K)(iv) be amended to: "the name of the person to whom  
17 the catalytic converter was sold or transferred and the date of the transaction."

18 **Response:** The department disagrees with this comment. The application information requirement is not  
19 a recordkeeping requirement. The department must be able to identify which license holders repair  
20 catalytic converters and where these repairs are being performed to efficiently and effectively fulfill its  
21 enforcement responsibilities under Occupations Code, §2305.155, as discussed in the response to the  
22 prior comment.



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1 **Comment:** TADA comments that in §215.120 (g) and (h), the term "license holder" is used rather than  
2 manufacturer, distributor, or converter, and requests that the department change the rule language  
3 accordingly.

4 **Response:** The department disagrees with this comment. At adoption, the department clarified that the  
5 criteria for evaluating applications for additional standard license plates is the same for all eligible license  
6 holders, including franchised and GDN dealers.

7 **Comment:** An individual commenter requests the department define "repair of a catalytic converter."

8 **Response:** The department disagrees with this comment because these terms are defined in statute. The  
9 term "repair" is defined in Occupations Code, §2305.001(2) and "catalytic converter" is defined in  
10 Occupations Code, §2305.151. The amendments and new rules adopted by the department do not  
11 change, expand, or diminish these statutory definitions.

12 **Comment:** An individual commenter requests the department add a requirement in §215.122 for the  
13 department to provide reasonable notice before inspecting catalytic converter records maintained by a  
14 manufacturer or distributor.

15 **Response:** The department disagrees with this comment. The rule language limits department inspections  
16 to business hours and is consistent with Occupations Code, §2305.007(d).

17 **Comment:** TADA requests an amendment to §215.122 to add the specific catalytic converter  
18 recordkeeping language in Occupations Code, §2305.153.

19 **Response:** The department disagrees with this comment. The rule text references Occupations Code,  
20 Chapter 2305, Subchapter D. Repeating statutory language in rule is unnecessary and doing so would  
21 require the department to amend the rule if the statutory language in that subchapter changes in the  
22 future.

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1 **Comment:** TIADA requests a streamlined process be added to §215.133 for a dealer who has been licensed  
2 for 10 years to renew a license.

3 **Response:** The department disagrees that streamlining the dealer license renewal process is a change that  
4 can be made within the scope of this rule package but welcomes suggestions for streamlining the process  
5 that may be considered in a future rule proposal.

6 **Comment:** TADA requests that the webDEALER training requirement in §215.133 not be added to the  
7 current licensing requirements.

8 **Response:** The department agrees with this comment. At adoption, the department deleted the licensing  
9 requirement, and webDEALER access requirements are addressed in §217.74.

10 **Comment:** An individual commenter and TADA note a typographical error in a referenced citation to  
11 §217.74(g).

12 **Response:** The department agrees with this comment. Correcting the citation was unnecessary because  
13 the language was struck at adoption as noted in the response to the previous public comment.

14 **Comment:** TADA and TIADA request that in §215.138, the department not require the vehicle information  
15 to be entered into the license plate system for a test drive.

16 **Response:** The department disagrees with this comment. Law enforcement requires vehicle information  
17 to determine whether a vehicle or license plate is stolen or being misused, or a potential threat to public  
18 safety. The department is requesting a mobile application as part of the specifications for the new license  
19 plate system, to make the required data entry as easy and efficient as possible for all dealers.

20 **Comment:** An individual commenter suggests replacing the words “dealer’s license plate record” with  
21 “electronic license plate system designed by the department” in §215.138(i)(1).

22 **Response:** The department agrees that the reference to dealer’s license plate record is unnecessary. At  
23 adoption, the department struck all text in proposed §215.138(i)(1) and renumbered the remaining

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1 paragraphs. Substituting language in proposed §215.138(i)(1) is not necessary because the requirement  
2 to report the dealer's license plate in the electronic system designated by the department was included  
3 in proposed §215.138(i)(2), renumbered at adoption as §215.138(i)(1).

4 **Comment:** An individual commenter recommends including the option of returning voided dealer license  
5 plates to a county tax assessor-collector's office for consistency with other sections in §215.138(j).

6 **Response:** The department disagrees with this comment. Currently, dealers must return void dealer's  
7 standard license plates to the department and this requirement has allowed the department to track  
8 these plates, confirm dealer compliance with Transportation Code, §503.038, and properly dispose of  
9 these plates to prevent related fraud. Requiring dealers also to return void dealer's temporary license  
10 plates to the department is consistent with the current requirement for standard plates and will allow the  
11 department to more efficiently manage these plates and prevent related fraud.

12 **Comment:** NAAA and an individual commenter request that language be added in §215.140 or §215.150,  
13 to define Texas license plates as securely stored if the license plates are: (1) physically stored inside a  
14 motor vehicle while the vehicle is stored on an auction's property; or (2) remain physically attached to the  
15 vehicle while it is stored on an auction's property.

16 **Response:** The department disagrees with this comment because it is unclear how effective either of  
17 these methods would be in preventing bad actors from stealing license plates from vehicles at auction.  
18 The department recognizes that motor vehicles sold at auction require coordination between the seller,  
19 the auction, and the buyer, and will solicit further input from stakeholders before proposing a future rule  
20 regarding the handling of these vehicle license plates.

21 **Comment:** NAAA and an individual commenter request that auctions should be exempt from any Texas  
22 license plate removal, reporting and storage requirements because of the wholesale (non-retail) nature  
23 of the transactions and the substantial cost outweighing any potential benefits.

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1 **Response:** The department disagrees with this comment. NAAA estimates that based on 2023 data,  
2 approximately 100,000 vehicles in Texas are sold annually to out-of-state dealers. Not recovering these  
3 100,000 Texas license plates per year represents a significant risk of fraud. The department also recognizes  
4 that transferring and securing license plates may have operational and cost impacts on both dealers and  
5 auctions and will solicit additional input from stakeholders on how these license plates could be efficiently  
6 and effectively secured and managed before proposing a rule regarding the handling of license plates for  
7 vehicles at auction. In the proposed rules, the only requirement for a wholesale motor vehicle auction  
8 was to have secure storage for license plates. At adoption, the department struck this requirement in  
9 anticipation of future rulemaking.

10 **Comment:** TADA thanks the department for allowing a dealer multiple options with respect to the location  
11 and means to store the license plates in the dealer's possession in §215.140.

12 **Response:** The department agrees with this comment. The department seeks to provide flexibility when  
13 possible.

14 **Comment:** TADA requests that if the department's electronic plate system is not available for use by the  
15 dealer at the time of the test drive, that sanctions not be available for assessment in §215.141.

16 **Response:** The department disagrees that a change to §215.141 is required. The department's  
17 enforcement team investigates and considers relevant facts and circumstances surrounding a potential  
18 violation before issuing a violation notice and assessing a penalty. These facts and circumstances would  
19 include any downtime of associated systems.

20 **Comment:** TADA requests that §215.150 include language allowing a buyer to request new general issue  
21 license plates regardless of whether the used vehicle did or did not come with a set of plates and suggests  
22 a reference be added to Transportation Code, §504.007.

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1 **Response:** The department disagrees with this comment as this request is outside the scope of this  
2 rulemaking. This request may be considered in a future rulemaking consistent with the department's  
3 statutory authority.

4 **Comment:** An individual commenter recommends in §215.151(b) changing "titled and registered in  
5 another state" as a qualification for issuance of a temporary license plate as titling or registering may not  
6 be required under the applicable state law.

7 **Response:** The department agrees with this comment. At adoption, the department substituted the  
8 phrase "titled and registered in accordance with the laws of the buyer's state of residence."

9 **Comment:** An individual commenter requested that a reference in §215.151(d) be corrected to  
10 §215.150(f).

11 **Response:** The department agrees and corrected the citation at adoption.

12 **Comment:** NAAA requests that the department resolve any inconsistency between proposed §215.151(d)  
13 and §217.53(a) and (b).

14 **Response:** The department agrees with this comment, and at adoption has revised both sections for  
15 consistency as described in the explanation section of each rule adoption.

16 **Comment:** TADA suggests that §215.151(d)(1) state that a dealer who removes and stores the general  
17 issue license plates shall offer the assigned license plates to a Texas buyer that purchases the vehicle;  
18 otherwise, the buyer and seller may believe he or she is required to accept the previous owner's plates.

19 **Response:** The department disagrees with this comment as this request is outside the scope of this  
20 rulemaking. This request may be considered in a future rulemaking consistent with the department's  
21 statutory authority.

22 **Comment:** TIADA recommends allowing dealers to request additional license plates at any time by  
23 eliminating the 50 percent requirement in §215.152(i)(1) and (i)(2).

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1 **Response:** The department disagrees with this comment. Based on the department's experience in  
2 managing temporary tags allocations, requiring a dealer to use 50% of an allocation before requesting  
3 additional license plates is an effective and practical way for both the dealer and the department to  
4 manage license plate requests and license plate inventory.

5 **Comment:** TADA expresses a concern that the initial allotment in §215.152 may be too narrow and  
6 requests TxDMV to continue to be receptive to a dealer's request for a greater number of buyer's license  
7 plates.

8 **Response:** The department agrees that the department must continue to be receptive to dealers' requests  
9 for a greater number of license plates based on business need and has adopted language to facilitate  
10 these requests. The adopted allotments are based on data currently available in department systems and  
11 the department will review usage and propose adjustments to these allocations in future rule proposals  
12 as required.

13 **Comment:** TADA requests that the department repeat the approved uses in Transportation Code,  
14 §503.062 in §215.154 and add a new provision that a dealer's temporary license plate may be used on a  
15 vehicle that is driven under a conditional delivery agreement as provided for in the Finance Code,  
16 §348.013 to provide a clearer understanding of the allowed uses.

17 **Response:** The department disagrees with this comment. A reference to Transportation Code, §503.062  
18 is included in the definition of a dealer's temporary license plate in §215.132(2). Repeating statutory  
19 language in rule is unnecessary and doing so would require the department to amend the rule if the  
20 statutory language changes in the future.

21 **Comment:** An individual commenter requests clarification in §215.156 regarding whether a dealer will be  
22 required to print a receipt for a buyer's temporary license plate, and recommended that if so, including

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1 the expiration date on the receipt to coincide with the expiration date affixed on the plate to help mitigate  
2 malpractice or fraud.

3 **Response:** The department agrees that clarifying whether a receipt will be issued for a buyer's temporary  
4 license plate would be helpful. At adoption, the department clarified that §215.156 and §215.158 apply  
5 to a buyer's license plate and a buyer's temporary license plate. The department agrees with the  
6 recommendation to add language regarding the expiration to the temporary license plate receipt but  
7 chose not to add "expiration date" to the rule text at adoption because the department has not finalized  
8 the receipt text and the department has a choice whether to refer to the statutory 60-day period from  
9 the date of issuance or include a specific expiration date.

10 **Comment:** TADA requests that §215.157 be amended to allow the required information to be entered  
11 into the license plate system when the dealer or governmental agency has access to the internet, but no  
12 later than the close of the next business day after internet access is permanently secured.

13 **Response:** The department disagrees with this comment. Transportation Code, §503.0631(d) requires a  
14 dealer to submit the required information not later than the next business day after the time of sale. The  
15 department's enforcement team investigates and considers relevant facts and circumstances surrounding  
16 a violation before issuing a violation notice and assessing a penalty, including extenuating circumstances  
17 that may cause a prolonged outage, such as a natural disaster or extreme weather event.

18 **Comment:** An individual commenter requests removal of the references to "non-resident" and "out-of-  
19 state resident" from sections impacting the issuance of buyer's temporary license plates.

20 **Response:** The department disagrees because Transportation Code, §503.063(i) limits the applicability of  
21 these temporary license plates to non-resident buyers.

22 **Comment:** An individual commenter requests that the defined term "buyer's license plate" be used in all  
23 related rules for consistency in terminology.

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1 **Response:** The department agrees with this comment and made multiple edits in the adopted text to  
2 make terminology more consistent. These nonsubstantive changes are described in the Explanation of  
3 Adopted Amendments, Repeals, and New Sections of the preamble.

4 **Comment:** NAAA recommends clarifying which license plate status updates must be completed by the  
5 selling Texas dealer or by the buying Texas dealer, as applicable.

6 **Response:** The department agrees that clarifying responsibilities is important and at adoption made  
7 changes to §215.151(d) to clarify certain dealer responsibilities when a dealer buys or sells a vehicle with  
8 an assigned license plate. Once the design for the new license plate system is finalized, the department  
9 anticipates that additional helpful clarification can be provided to dealers in rule and in system training  
10 and documentation.

11 **Comment:** TIADA requests that the adopted rules not include a suggestion to report stolen license plates  
12 to law enforcement.

13 **Response:** The department disagrees with this comment. By promptly reporting stolen license plates to  
14 local law enforcement, dealers can make these incidents more visible to local law enforcement and may  
15 aid law enforcement in identifying and stopping these bad actors more quickly than would otherwise be  
16 the case – benefiting both the dealers and the dealers' communities.

17 **Comment:** An individual commenter requests multiple advanced system capabilities be included in the  
18 new license plate system and related webDEALER tools for the allocation, storage, and reporting of license  
19 plates and issuance of registration insignia.

20 **Response:** The department disagrees that this comment is within the scope of this rule proposal.  
21 However, the department will consider these requests as the department works with a vendor to design  
22 and implement the new system.



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1 **Comment:** TADA requests that the department consider allowing the information in the electronic license  
2 plate system to be maintained as a secure confidential record.

3 **Response:** The department disagrees with this comment. The department understands dealers and the  
4 public may have confidentiality concerns. However, the department must comply with state law regarding  
5 the classification of information as public or confidential under Government Code, Chapter 552. The  
6 department anticipates that the information in the license plate system will be a mix of confidential and  
7 public/non-confidential information.

8

9

10

11

**SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES.**12 **43 TAC §§215.131-133, 215.138, 215.140, 215.141, 215.143, 215.144, 215.147, 215.148, 215.150-**

13

**215.160, AND 215.162**

14

15 **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
16 department adopts amendments and new sections to Chapter 215 under Occupations Code, §2301.151,  
17 which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the  
18 authority to take any action that is necessary or convenient to exercise that authority; Occupations Code,  
19 §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the  
20 distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to  
21 prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the  
22 distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301  
23 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to

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1 adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern  
2 practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority  
3 to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a  
4 licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law  
5 relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or  
6 fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code;  
7 Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of  
8 dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to  
9 implement and manage the department's database of dealer-issued buyer's license plates; §503.0633  
10 which allows the department to establish the maximum number of license plates or sets of license plates  
11 a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code,  
12 §504.0011 which allows the board to adopt rules to implement and administer Chapter 504;  
13 Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing  
14 titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds  
15 that may be required by a county tax assessor-collector for a deputy performing titling and registration  
16 duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which  
17 allows the department to adopt rules and policies for the maintenance and use of the department's  
18 automated registration and titling system; and Transportation Code, §1002.001, which authorizes the  
19 board to adopt rules that are necessary and appropriate to implement the powers and the duties of the  
20 department, as well as the statutes referenced throughout this preamble.

21 The department also adopts amendments under the authority of Transportation Code,  
22 §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and  
23 §2001.054, in addition to the statutory authority referenced throughout this preamble.

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1 Transportation Code, §501.0041 authorizes the department to adopt rules to administer  
2 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt  
3 rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the  
4 board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code,  
5 §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation  
6 Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

7 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature  
8 and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies  
9 the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal  
10 of a license.

11 **CROSS REFERENCE TO STATUTE.** These adopted new sections and amendments implement Government  
12 Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501  
13 - 504, 520, and 1001–1005.

14

**SUBCHAPTER E. LESSORS AND LEASE FACILITATORS****43 TAC §215.178**

17

18 **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
19 department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the  
20 board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take  
21 any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which  
22 authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale,  
23 and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair

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1 practices, discrimination, impositions, and other abuses in connection with the distribution and sale of  
2 motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code,  
3 Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or  
4 convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before  
5 the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a  
6 license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license  
7 holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution,  
8 financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement  
9 with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to  
10 adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631  
11 which requires the department to adopt rules to implement and manage the department's database of  
12 dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum  
13 number of license plates or sets of license plates a dealer may obtain annually under Transportation Code,  
14 §503.063 and §503.065; Transportation Code, §520.0071 which requires the board to adopt rules  
15 classifying deputies performing titling and registration duties, the duties and obligations of these deputies,  
16 the type and amount of bonds that may be required by a county tax assessor-collector for a deputy  
17 performing titling and registration duties, and the fees that may be charged or retained by deputies;  
18 Transportation Code, §520.021 which allows the department to adopt rules and policies for the  
19 maintenance and use of the department's automated registration and titling system; and Transportation  
20 Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to  
21 implement the powers and the duties of the department, as well as the statutes referenced throughout  
22 this preamble.

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1                   The department also adopts amendments under the authority of Transportation Code,  
2   §§501.0041, 502.0021, 503.002, and 520.003; and Government Code, §2001.004 and §2001.054, in  
3   addition to the statutory authority referenced throughout this preamble.

4                   Transportation Code, §501.0041 authorizes the department to adopt rules to administer  
5   Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt  
6   rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the  
7   board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code,  
8   §520.003 authorizes the department to adopt rules to administer Chapter 520.

9                   Government Code, §2001.004 requires state agencies to adopt rules of practice stating  
10   the nature and requirements of all available formal and informal procedures. Government Code,  
11   §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension,  
12   annulment, or withdrawal of a license.

13   **CROSS REFERENCE TO STATUTE.** These adopted amendments implement Government Code, Chapter  
14   2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-503, 520, and  
15   1001–1005.

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**1 SUBCHAPTER A. GENERAL PROVISIONS****2 43 TAC §215.1 and §215.2**

**3 STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
**4** department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the  
**5** board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take  
**6** any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152,  
**7** which authorizes the board to establish the qualifications of license holders, ensure that the  
**8** distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to  
**9** prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the  
**10** distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301  
**11** and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to  
**12** adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern  
**13** practice and procedure before the board; Occupations Code, §2301.651, which gives the board  
**14** authority to deny an application for a license, revoke or suspend a license, place on probation, or  
**15** reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation,  
**16** violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully  
**17** defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle;  
**18** Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of  
**19** dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to  
**20** implement and manage the department's database of dealer-issued buyer's license plates; §503.0633  
**21** which allows the department to establish the maximum number of license plates or sets of license  
**22** plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation  
**23** Code, §520.0071 which requires the board to adopt rules classifying deputies performing titling and

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1 registration duties, the duties and obligations of these deputies, the type and amount of bonds that may  
2 be required by a county tax assessor-collector for a deputy performing titling and registration duties,  
3 and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which allows  
4 the department to adopt rules and policies for the maintenance and use of the department's automated  
5 registration and titling system; and Transportation Code, §1002.001, which authorizes the board to  
6 adopt rules that are necessary and appropriate to implement the powers and the duties of the  
7 department, as well as the statutes referenced throughout this preamble.

8 The department also adopts amendments under the authority of Transportation Code, §§501.0041,  
9 502.0021, 503.002, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the  
10 statutory authority referenced throughout this preamble.

11 Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation  
12 Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to  
13 administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to  
14 adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §520.003  
15 authorizes the department to adopt rules to administer Chapter 520.

16 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and  
17 requirements of all available formal and informal procedures. Government Code, §2001.054 specifies  
18 the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or  
19 withdrawal of a license.

20 **CROSS REFERENCE TO STATUTE.** These adopted amendments implement Government Code, Chapter  
21 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-503, 520,  
22 and 1001–1005.

23

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1 Text.

2 §215.1. Purpose and Scope.

3 Occupations Code, Chapters [Chapter] 2301 and 2305, and Transportation Code, Chapters 503,  
4 504, 520, and 1001 -1005 require the Texas Department of Motor Vehicles to license and regulate the  
5 vehicle industry to ensure a sound system of distributing and selling vehicles; provide for compliance  
6 with manufacturers' warranties; and to prevent fraud, unfair practices, discrimination, impositions, and  
7 other abuses of the people of this state in connection with the distribution and sale of vehicles. This  
8 chapter describes licensing requirements and the rules governing the vehicle industry.

9

10 §215.2. Definitions; Conformity with Statutory Requirements.

11 (a) The definitions contained in Occupations Code, Chapters [Chapter] 2301 and 2305, and  
12 Transportation Code, Chapters 503, 520, and 1001-1005 govern this chapter. In the event of a conflict,  
13 the definition or procedure referenced in Occupations Code, Chapter 2301 controls.

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

16 (1) Board--The Board of the Texas Department of Motor Vehicles, including department  
17 staff to whom the board delegates a duty.

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

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

22 (4) Employee--A natural person employed directly by the license holder for wages or a  
23 salary.



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1                   (5) [(4)] GDN--General distinguishing number, a license issued under Transportation  
2                   Code, Chapter 503.

3                   (6) [(5)] Governmental agency--A state agency other than the department, all local  
4 governmental agencies, and all agencies of the United States government, whether executive,  
5 legislative, or judicial.

6                   (7) [(6)] Standard license plate--A motor vehicle license plate issued by the department  
7 to a license holder for use by the license holder that is not a personalized prestige dealer's license plate  
8 issued under Transportation Code §503.0615.

9

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

11   **43 TAC §§215.101, 215.102, AND 215.120-124**

12                   **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
13 department adopts amendments and new sections to Chapter 215 under Occupations Code, §2301.151,  
14 which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the  
15 authority to take any action that is necessary or convenient to exercise that authority; Occupations Code,  
16 §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the  
17 distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to  
18 prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the  
19 distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301  
20 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to  
21 adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern  
22 practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority  
23 to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a

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1 licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law  
2 relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or  
3 fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code,  
4 §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates;  
5 Transportation Code, §503.0631 which requires the department to adopt rules to implement and manage  
6 the department's database of dealer-issued buyer's license plates; §503.0633 which allows the  
7 department to establish the maximum number of license plates or sets of license plates a dealer may  
8 obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §520.0071  
9 which requires the board to adopt rules classifying deputies performing titling and registration duties, the  
10 duties and obligations of these deputies, the type and amount of bonds that may be required by a county  
11 tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be  
12 charged or retained by deputies; Transportation Code, §520.021 which allows the department to adopt  
13 rules and policies for the maintenance and use of the department's automated registration and titling  
14 system; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are  
15 necessary and appropriate to implement the powers and the duties of the department, as well as the  
16 statutes referenced throughout this preamble.

17 The department also adopts amendments under the authority of Transportation Code,  
18 §§501.0041, 502.0021, and 503.002; and Government Code, §2001.004 and 2001.054, in addition to the  
19 statutory authority referenced throughout this preamble.

20 Transportation Code, §501.0041 authorizes the department to adopt rules to administer  
21 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt  
22 rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the  
23 board to adopt rules for the administration of Transportation Code, Chapter 503.

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1 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature  
2 and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies  
3 the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal  
4 of a license.

5 **CROSS REFERENCE TO STATUTE.** These adopted new sections and amendments implement Government  
6 Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-  
7 503, 520, and 1001–1005.

8  
9 Text.

10 §215.101. Purpose and Scope.

11 This subchapter implements Occupations Code, Chapters [Chapter] 2301 and 2305, and  
12 Transportation Code, Chapters 503, 504, 520, and 1001 - 1005, and applies to franchised dealers,  
13 manufacturers, distributors, and converters.

14

15 §215.102. Application Requirements.

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

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

22 (c) A license holder renewing or amending its license must verify current license  
23 information, provide related information and documents for any new license requirements or

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1 changes to the license, and pay required fees including any outstanding civil penalties owed the  
2 department under a final order.

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

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

11 (1) Required information:

12 (A) type of license requested;

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

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

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

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

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

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

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

9 (I) military service status;

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

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

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

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

18 (iii) number of standard license plates requested; and[-]

19 (iv) whether the applicant repairs a motor vehicle with a catalytic  
20 converter in Texas, and if so, the physical address where the repair is performed.

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

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

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

6 (iii) if a franchise agreement for each line-make being applied for  
7 exists which states the obligations of a Texas franchised dealer to the applicant and the obligations  
8 of the applicant to the Texas franchised dealer.

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

12 (N) if applying for a distributor's license:

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

14 (ii) whether the manufacturer is licensed in Texas;

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

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

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

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

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

23 (P) if applying for a franchised dealer's license:

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- 1 (i) reason for the new application;
- 2 (ii) dealership location on a system-generated map;
- 3 (iii) whether the dealership is under construction and expected  
4 completion date;
- 5 (iv) information about the performance of sales or warranty services  
6 at the location; and
- 7 (v) information necessary to obtain a franchised dealer GDN under  
8 §215.133 of this title (relating to GDN Application Requirements for a Dealer or a Wholesale Motor  
9 Vehicle Auction).
- 10 (Q) signed Certificate of Responsibility, which is a form provided by the  
11 department; and
- 12 (R) any other information required by the department to evaluate the  
13 application under current law and board rules.
- 14 (2) A legible and accurate electronic image of each applicable required document:
- 15 (A) the certificate of filing, certificate of incorporation, or certificate of  
16 registration on file with the Secretary of State, as applicable;
- 17 (B) each assumed name certificate on file with the Secretary of State or  
18 county clerk;
- 19 (C) one of the following unexpired identity documents for each natural  
20 person listed in the application:
- 21 (i) driver license;
- 22 (ii) Texas Identification Card issued by the Texas Department of  
23 Public Safety under Transportation Code, Chapter 521, Subchapter E;

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- 1 (iii) license to carry a handgun issued by the Texas Department of  
2 Public Safety under Government Code, Chapter 411, Subchapter H;
- 3 (iv) passport; or  
4 (v) United States armed forces identification.
- 5 (D) if applying for a manufacturer's, distributor's, or converter's license, a  
6 written description of the business model or business process and brochures, photos, or other  
7 documents describing products and services sufficient to allow the department to identify a motor  
8 vehicle product type and the appropriate license required under Texas law;
- 9 (E) if applying for a manufacturer's or distributor's license:  
10 (i) a list of each franchised dealer in Texas including the dealer's  
11 name and physical address, or if motor vehicle sales or offers to sell to Texas residents will solely  
12 be over the internet, a list of each out-of-state dealer or person authorized by the manufacturer or  
13 distributor to sell a new motor vehicle online to a Texas resident including the dealer's or person's  
14 name, physical address, and license number issued by the state in which the dealer or person is  
15 located; and  
16 (ii) a list of motor vehicle product line-makes manufactured or  
17 distributed for sale.
- 18 (F) if applying for a manufacturer's license:  
19 (i) a list of authorized distributors or representatives; and  
20 (ii) a franchised dealer's preparation and delivery obligations before  
21 delivery of a new vehicle to a retail purchaser and the schedule of compensation to be paid to the  
22 franchised dealer;
- 23 (G) if applying for a distributor's license, either:



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

3 (I) the legal business name of each party;  
4 (II) authorized signature of each party;  
5 (III) distribution territory;  
6 (IV) distribution agreement effective date and end date,  
7 or written confirmation from the distributor and manufacturer that the distribution agreement is  
8 expected to be in effect for the entire license period;

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

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

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

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

20 (ii) a completed department-provided questionnaire containing the  
21 information required in clause (i) signed by the applicant and the manufacturer as true and  
22 complete. An authorized representative for the manufacturer may sign the questionnaire,

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

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

5 (i) the legal business name of each party;

6 (ii) authorized signature of each party;

7 (iii) authorized dealership location;

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

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

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

14 (3) Required fees:

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

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

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

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

7

8 §215.120. Standard License Plates.

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

12 (1) when applying for a new or renewal license, or

13 (2) by submitting a standard license plate request application electronically in the system  
14 designated by the department.

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

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

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1 (d) A manufacturer, distributor, or converter shall maintain a record of each standard license  
2 plate issued to the manufacturer, distributor, or converter by the department in the department-  
3 designated system. The license plate record must contain:

4 (1) the license plate number;

5 (2) the year and make of the vehicle to which the license plate is affixed;

6 (3) the VIN of the vehicle, if one has been assigned; and

7 (4) the name of the person in control of the license plate.

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

10 (1) document the license plate as "void" in the department-designated system [~~license~~  
11 ~~plate record in subsection (d)~~]; and

12 (2) within three days of discovering that the license plate is missing or damaged, report  
13 the license plate as lost, stolen, or damaged electronically in the system designated by the department;

14 and

15 (3) if found after reported missing, cease use of the license plate.

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

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1 or return the license plate to the department within 10 days. A license holder is also encouraged to  
2 immediately alert law enforcement by reporting a stolen license plate to a local law enforcement agency.

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

6 ~~[(h)]~~ (g) In evaluating requests for additional standard license plates from any eligible license  
7 holder, including a franchised or other GDN dealer, the department shall consider the business  
8 justification provided by a license holder including the following:

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

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

11 (3) the size and type of business;

12 (4) how the license holder typically uses standard licenses plates;

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

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

17 ~~[(i)]~~ (h) a license holder shall return a department-issued license plate to the department within  
18 10 days of the license holder closing the associated license or the associated license being revoked,  
19 canceled, or closed by the department.

20

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1 §215.121. Sanctions.

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

4 (1) deny an application;

5 (2) revoke a license;

6 (3) suspend a license;

7 (4) assess a civil penalty;

8 (5) issue a cease and desist order; or

9 (6) take other authorized action.

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

12 (1) fails to maintain records required under this chapter;

13 (2) refuses or fails within 15 days to comply with a request for records made by a  
14 representative of the department;

15 (3) sells or offers to sell a motor vehicle to a retail purchaser other than through a  
16 licensed or authorized dealer;

17 (4) fails to submit a license amendment application in the electronic licensing system  
18 designated by the department to notify the department of a change of the license holder's physical  
19 address, mailing address, telephone number, or email address within 10 days of the change;

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1 (5) fails to timely submit a license amendment application in the electronic licensing  
2 system designated by the department to notify the department of a license holder's business or  
3 assumed name change, deletion of a line-make, or management or ownership change;

4 (6) fails to notify the department or pay or reimburse a franchised dealer as required by  
5 law;

6 (7) misuses or fails to display a license plate as required by law, or fails to report a lost,  
7 stolen, or damaged license plate within the time designated by rule;

8 (8) is a manufacturer or distributor and fails to provide a manufacturer's certificate for a  
9 new vehicle;

10 (9) fails to remain regularly and actively engaged in the business of manufacturing,  
11 assembling, or modifying a new motor vehicle of the type and line make for which a license has been  
12 issued by the department;

13 (10) violates a provision of Occupations Code, Chapter 2301; Transportation Code  
14 Chapters 501–503 or 1001–1005; a board order or rule; or a regulation of the department relating to the  
15 manufacture, assembly, sale, lease, distribution, financing, or insuring of vehicles, including advertising  
16 rules under Subchapter F of this chapter (relating to Advertising);

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

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

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

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

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

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

9 (17) fails to participate in statutorily required mediation without good cause; or[-]

10 (18) fails to keep or maintain records required under Occupations Code, Chapter 2305,  
11 Subchapter D.

12

13 §215.122. Catalytic Converter Record Requirements.

14 A manufacturer, distributor, or converter that repairs a motor vehicle with a catalytic converter  
15 shall:

16 (1) comply with the recordkeeping requirements in Occupations Code, Chapter 2305, Subchapter  
17 D; and

18 (2) allow the department to inspect these records during business hours.

19



1                   **SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES.**

2                   **43 TAC §§215.131-133, 215.138, 215.140, 215.141, 215.143, 215.144, 215.147, 215.148, 215.150-**

3   **215.160, AND 215.162**

4                   **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
5 department adopts amendments and new sections to Chapter 215 under Occupations Code, §2301.151,  
6 which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the  
7 authority to take any action that is necessary or convenient to exercise that authority; Occupations Code,  
8 §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the  
9 distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to  
10 prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the  
11 distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301  
12 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to  
13 adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern  
14 practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority  
15 to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a  
16 licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law  
17 relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or  
18 fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code;  
19 Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of  
20 dealer's license plates; Transportation Code, §503.0631 which requires the department to adopt rules to  
21 implement and manage the department's database of dealer-issued buyer's license plates; §503.0633  
22 which allows the department to establish the maximum number of license plates or sets of license plates  
23 a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code,

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1 §504.0011 which allows the board to adopt rules to implement and administer Chapter 504;  
2 Transportation Code, §520.0071 which requires the board to adopt rules classifying deputies performing  
3 titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds  
4 that may be required by a county tax assessor-collector for a deputy performing titling and registration  
5 duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021 which  
6 allows the department to adopt rules and policies for the maintenance and use of the department's  
7 automated registration and titling system; and Transportation Code, §1002.001, which authorizes the  
8 board to adopt rules that are necessary and appropriate to implement the powers and the duties of the  
9 department, as well as the statutes referenced throughout this preamble.

10 The department also adopts amendments under the authority of Transportation Code,  
11 §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and  
12 §2001.054, in addition to the statutory authority referenced throughout this preamble.

13 Transportation Code, §501.0041 authorizes the department to adopt rules to administer  
14 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt  
15 rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the  
16 board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code,  
17 §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation  
18 Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

19 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature  
20 and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies  
21 the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal  
22 of a license.

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1 **CROSS REFERENCE TO STATUTE.** These adopted new sections and amendments implement Government  
2 Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters  
3 501 - 504, 520, and 1001–1005.

4  
5 Text.

6 §215.131. Purpose and Scope.

7 This subchapter implements Transportation Code, Chapters 503, 504, 520, and 1001–1005,  
8 and Occupations Code, Chapters [Chapter] 2301 and 2305, and applies to general distinguishing  
9 numbers and drive-a-way operator in-transit licenses issued by the department.

10  
11 §215.132. Definitions.

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

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

15 (2) Buyer's license plate--A general issue license plate or set of license plates issued  
16 by a dealer to a vehicle buyer under Transportation Code, §503.063 for a vehicle that will be titled  
17 and registered in Texas. This term also includes a buyer's provisional license plate that a dealer  
18 issues when the general issue license plate or set of license plates for that vehicle or motor vehicle  
19 type is not in a dealer's license plate inventory at the time of retail sale.

20 (3) Buyer's temporary license plate--A temporary license plate issued by a dealer to  
21 a non-resident vehicle buyer for a vehicle that will be titled and registered out-of-state in  
22 accordance with Transportation Code, §503.063(i).

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1                    (4) ~~[(2)]~~ Consignment sale--The owner-authorized sale of a motor vehicle by a  
2 person other than the owner.

3                    (5) ~~Dealer's temporary license plate~~--A license plate that a dealer may purchase and  
4 use for the purposes allowed under Transportation Code, §503.062.

5                    (6) ~~[(3)]~~ House trailer--A nonmotorized vehicle designed for human habitation and  
6 for carrying persons and property on its own structure and for being drawn by a motor vehicle. A  
7 house trailer does not include manufactured housing. A towable recreational vehicle, as defined by  
8 Occupations Code, §2301.002, is included in the terms "house trailer" or "travel trailer."

9                    (7) ~~[(4)]~~ Municipality--As defined according to the Local Government Code, Chapter  
10 1.

11                    (8) ~~[(5)]~~ Person--Has the meaning assigned by Occupations Code, §2301.002.

12                    (9) ~~[(6)]~~ Sale--With regard to a specific vehicle, the transfer of possession of that  
13 vehicle to a purchaser for consideration.

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

16                    (10) ~~[(8)]~~ Towable recreational vehicle--Has the same meaning as "house trailer"  
17 defined by this section.

18                    (11) ~~[(9)]~~ Travel Trailer--Has the same meaning as "house trailer" defined by this  
19 section.

20                    (12) ~~[(10)]~~ Vehicle--Has the meaning assigned by Transportation Code, §503.001.

21                    (13) ~~[(11)]~~ VIN--Vehicle identification number.

22

23 §215.133. GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction.

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

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

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

18 (1) Required information:

19 (A) type of GDN requested;

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

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

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

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

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

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

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

18 (I) if a dealer, the name, telephone number, and business email address of  
19 the ~~[temporary tag database]~~ account administrator for the temporary tag database prior to July 1,  
20 2025, or for the license plate system on or after July 1, 2025, designated by the applicant who  
21 must be an owner or representative listed in the application;

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

4 (K) military service status;

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

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

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

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

14 (P) if a dealer, whether the applicant repairs a motor vehicle with a catalytic  
15 converter in Texas, and if so, the physical address where the repair is performed; and

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

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

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

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

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

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

5 (i) driver license;

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

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

10 (iv) passport; or

11 (v) United States military identification card.

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

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

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

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

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



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

3 (3) Required fees:

4 (A) the fee for each type of license requested as prescribed by law; and

5 (B) the fee, including applicable taxes, for each dealer's standard [~~dealer~~  
6 plate, and dealer's temporary license plate on or after July 1, 2025, requested by the applicant as  
7 prescribed by law.

8 (d) An applicant for a dealer or wholesale auction GDN must also comply with fingerprint  
9 requirements in §211.6 of this title (relating to Fingerprint Requirements for Designated License  
10 Types), as applicable.

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

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

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

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

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

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

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

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

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

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

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

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

4

5 §215.138. Use of Dealer's License Plates.

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

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

12 (c) A dealer's standard, personalized prestige, or temporary [~~or personalized prestige~~] license  
13 plate may not be displayed on:

14 (1) a laden commercial vehicle being operated or moved on the public streets or  
15 highways; [~~or~~]

16 (2) the dealer's service or work vehicle, except as provided by Transportation Code,  
17 §503.068(b-1); [~~or~~]

18 (3) a golf cart as defined under Transportation Code Chapter 551; or

19 (4) an off-highway vehicle as defined under Transportation Code Chapter 551A.

20 (d) For purposes of this section, a dealer's service or work vehicle includes:

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- 1 (1) a vehicle used for towing or transporting another vehicle;
- 2 (2) a vehicle, including a light truck, used in connection with the operation of the
- 3 dealer's shops or parts department;
- 4 (3) a courtesy car on which a courtesy car sign is displayed;
- 5 (4) a rental or lease vehicle; and
- 6 (5) a boat trailer owned by a dealer or manufacturer that is used to transport more than
- 7 one boat.

8 (e) For purposes of this section, a light truck as defined by Transportation Code, §541.201, is not

9 considered a laden commercial vehicle when it is:

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

12 (f) A dealer's standard, personalized prestige, or temporary [~~or personalized prestige~~] license

13 plate may be displayed only on the type of vehicle for which the GDN is issued and for which a dealer is

14 licensed to sell. A nonfranchised dealer may not display a dealer's standard or personalized prestige

15 license plate on a new motor vehicle.

16 (g) A dealer's standard or personalized prestige license plate may be displayed only on a vehicle

17 that has a valid inspection in accordance with Transportation Code, Chapter 548.

18 (h) A dealer shall maintain in an electronic license plate system designated by the department a

19 record of each dealer's standard, ~~[or]~~ personalized prestige, or temporary license plate issued by the

20 department to that dealer. The license plate record must contain:

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- 1 (1) the license plate number;
- 2 (2) the year and make of the vehicle to which the dealer's license plate is affixed;
- 3 (3) the VIN of the vehicle; and
- 4 (4) the name of the person in control of the vehicle or license plate.
- 5 (i) If a dealer cannot account for a dealer's standard or personalized prestige license plate that
- 6 the department issued to that dealer, the dealer shall:
- 7 ~~[(1) document the dealer's license plate as "void" in the dealer's license plate record;]~~
- 8 (1) ~~[(2)]~~ within three days of discovering that the dealer's license plate is missing or
- 9 damaged, report the dealer's license plate as lost, stolen, or damaged in the electronic system
- 10 designated by the department; and
- 11 (2) ~~[(3)]~~ if found, cease use of the dealer's license plate.
- 12 (j) A dealer's standard, personalized prestige, or temporary ~~[or personalized prestige]~~ license
- 13 plate is no longer valid for use after the dealer reports to the department that the dealer's license plate
- 14 is lost, stolen, or damaged. A dealer is also encouraged to immediately alert law enforcement by
- 15 reporting a stolen license plate to a local law enforcement agency. A dealer shall:
- 16 (1) render a void plate unusable by permanently marking the front of the plate with the
- 17 word "VOID" or a large "X"; and
- 18 (2) destroy or recycle the license plate or return the license plate to the department
- 19 within 10 days.

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

4           (k)[(4)] A dealer shall return a department-issued license plate, sticker, or receipt to the  
5 department within 10 days of the dealer closing the associated license or the department revoking or  
6 canceling the license.

7           (l) A wholesale motor vehicle auction GDN holder that also holds a dealer GDN may display a  
8 dealer's temporary license plate assigned to that dealer GDN on a vehicle that is being transported to or  
9 from the licensed auction location.

10

11 §215.140. Established and Permanent Place of Business Premises Requirements.

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

15                   (1) Business hours for retail dealers.

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

18                           (B) The retail dealer's business hours for each day of the week must be posted at  
19 the main entrance of the retail dealer's office in a manner and location that is accessible to the public.  
20 The owner or a bona fide employee of the retail dealer shall be at the retail dealer's licensed location

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1 during the posted business hours for the purposes of buying, selling, exchanging, or leasing vehicles. If  
2 the owner or a bona fide employee is not available to conduct business during the retail dealer's posted  
3 business hours due to special circumstances or emergencies, a separate sign must be posted indicating  
4 the date and time the retail dealer will resume operations. Regardless of the retail dealer's business  
5 hours, the retail dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona  
6 fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able  
7 to speak to a natural person or leave a message during these hours.

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

18 (3) Business sign requirements for retail dealers.

19 (A) A retail dealer must display a conspicuous, permanent sign with letters at  
20 least six inches in height showing the retail dealer's business name or assumed name substantially  
21 similar to the name reflected on the retail dealer's GDN under which the retail dealer conducts business.  
22 A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main

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1 entrance of the business office. A business sign is considered permanent only if it is made of durable,  
2 weather-resistant material.

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

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

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

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

14 (A) Exterior Sign

15 (i) A wholesale motor vehicle dealer must display a conspicuous,  
16 permanent sign with letters at least six inches in height showing the wholesale motor vehicle dealer's  
17 business name or assumed name substantially similar to the name reflected on the wholesale motor  
18 vehicle dealer's GDN under which the wholesale motor vehicle dealer conducts business. Effective  
19 September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers"  
20 in letters at least three inches in height. A business sign is considered conspicuous if it is easily visible to



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1 the public within 100 feet of the main entrance of the business office. A business sign is considered  
2 permanent only if it is made of durable, weather-resistant material.

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

10 (B) Interior Sign

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

17 (ii) An interior business sign is considered conspicuous if it is easily  
18 visible to the public within 10 feet of the main entrance of the wholesale motor vehicle dealer's office.  
19 An interior sign is considered permanent if made from durable material and has lettering that cannot be  
20 changed. An interior sign is considered permanently mounted if bolted or otherwise permanently affixed  
21 to the main door or nearby wall. A wholesale motor vehicle dealer may use a temporary interior sign or  
22 banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of

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1 this paragraph has been ordered and provides a written statement that the sign will be promptly and  
2 permanently mounted upon delivery.

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

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

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

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

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

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

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

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1 (F) The physical address of the dealer's office must be in Texas and recognized by  
2 the U.S. Postal Service, be capable of receiving U.S. mail, and have an assigned emergency services  
3 property address. The department will not mail a dealer's or buyer's license plate to an out-of-state  
4 address and will only mail or deliver a license plate to a dealer's physical location.

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

7 (H) The dealer's office space must:

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

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

11 (iii) accommodate required office equipment; and

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

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

16 (A) a desk;

17 (B) two chairs;

18 (C) internet access; [~~and~~]

19 (D) a working telephone number listed in the business name or assumed name  
20 under which the dealer conducts business; and [-]

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1                                    (E) a locked and secured room or closet or at least one securely locked,  
2                                    substantially constructed safe or steel cabinet bolted or affixed to the floor or wall in such a way that the  
3                                    safe or steel cabinet cannot be readily removed and of sufficient size to store all dealer's and buyer's  
4                                    license plates in a dealer's possession including both assigned plates for vehicles in inventory and  
5                                    unissued buyer's license plates.

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

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

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

15                                    (10) Dealer housed with other business.

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

20                                    (B) A person may conduct business as a dealer in conjunction with another  
21                                    business not owned by that person only if the dealer owns the property on which business is conducted

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1 or has a separate lease agreement from the owner of that property that meets the requirements of this  
2 section. The same telephone number may not be used by both businesses. The dealer must have  
3 separate business signs, telephone listings, and office equipment required under this section.

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

6 (11) Display area and storage lot requirements.

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

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

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

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

20 (iii) The display area may not be on a public easement, right-of-way, or  
21 driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway

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1 expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part  
2 of the state highway system, use as a display area may only be authorized by a lease agreement.

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

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

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

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

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1 (C) A GDN holder may maintain a storage lot only if the storage lot is not accessible to  
2 the public and no sales activity occurs at the storage lot. A sign stating the license holder's name, contact  
3 information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in  
4 an access-controlled location to be considered not accessible to the public. A GDN holder or applicant  
5 must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the  
6 department.

7 (12) Dealers authorized to sell salvage motor vehicles. If an independent motor vehicle  
8 dealer offers a salvage motor vehicle for sale on the dealer's premises, the vehicle must be clearly and  
9 conspicuously marked with a sign informing a potential buyer that the vehicle is a salvage motor vehicle.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (A) a desk;

12 (B) a chair;

13 (C) internet access; and

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

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

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

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1 (B) The display area must be of sufficient size to display at least five vehicles.

2 Those spaces must be reserved exclusively for inventory and may not be used for customer parking,  
3 employee parking, general storage, or shared or intermingled with another business or a public parking  
4 area, or a driveway to the office.

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

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

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

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

16 (G) A wholesale motor vehicle auction may maintain a storage lot only if the  
17 storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the  
18 business name, contact information, and the fact the property is a storage lot is permissible. A storage  
19 lot must be fenced or in an access-controlled location to be considered not accessible to the public. A  
20 GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in  
21 inventory upon request by the department.

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

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

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

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

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

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

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

17 (C) if the lease agreement is a sublease in which the property owner is not the  
18 lessor, the wholesale motor vehicle auction must also obtain a signed and notarized statement from the  
19 property owner including the following information:

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

3 (ii) property owner's statement confirming that the wholesale motor  
4 vehicle auction is authorized to sublease the location and may operate a wholesale motor vehicle  
5 auction business from the location.

6

7 §215.141. Sanctions.

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

10 (1) deny an application;

11 (2) revoke a license;

12 (3) suspend a license;

13 (4) assess a civil penalty;

14 (5) issue a cease and desist order; or

15 (6) or take other authorized action.

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

18 (1) fails to maintain a good and sufficient bond or post the required bond notice if  
19 required under Transportation Code §503.033 (relating to Security Requirement);

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- 1 (2) fails to meet or maintain the requirements of §215.140 (relating to Established and  
2 Permanent Place of Business Premises Requirements);
- 3 (3) fails to maintain records required under this chapter;
- 4 (4) refuses or fails to comply with a request by the department for electronic records or  
5 to examine and copy electronic or physical records during the license holder's business hours at the  
6 licensed business location:
- 7 (A) sales records required to be maintained by §215.144 of this title (relating to  
8 Vehicle Records);
- 9 (B) ownership papers for a vehicle owned by that dealer or under that dealer's  
10 control;
- 11 (C) evidence of ownership or a current lease agreement for the property on  
12 which the business is located; or
- 13 (D) the Certificate of Occupancy, Certificate of Compliance, business license or  
14 permit, or other official documentation confirming compliance with county and municipal laws or  
15 ordinances for a vehicle business at the licensed physical location.
- 16 (5) refuses or fails to timely comply with a request for records made by a representative  
17 of the department;
- 18 (6) holds a wholesale motor vehicle dealer's license and  
19 sells or offers to sell a motor vehicle to a person other than a licensed or authorized dealer;
- 20 (7) sells or offers to sell a type of vehicle that the person is not licensed to sell;

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1 (8) fails to submit a license amendment application in the electronic licensing system  
2 designated by the department to notify the department of a change of the license holder's physical  
3 address, mailing address, telephone number, or email address within 10 days of the change;

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

7 (10) [~~except as provided by law,~~] issues more than one buyer's license plate or buyer's  
8 temporary license plate for a vehicle sold on or after July 1, 2025, or more than one temporary tag for a  
9 vehicle sold before July 1, 2025, for the purpose of extending the purchaser's operating privileges for  
10 more than 60 days;

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

13 (12) misuses a dealer's license plate, or a temporary tag before July 1, 2025;

14 (13) fails to display a dealer's license plate, or temporary tag before July 1, 2025, as  
15 required by law;

16 (14) holds open a title or fails to take assignment of a certificate of title, manufacturer's  
17 certificate, or other basic evidence of ownership for a vehicle acquired by the dealer, or fails to assign  
18 the certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle sold;

19 (15) fails to remain regularly and actively engaged in the business of buying, selling, or  
20 exchanging vehicles of the type for which the GDN is issued by the department;



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1 (16) violates a provision of Occupations Code, Chapter 2301; Transportation Code  
2 Chapters 503 and 1001–1005; a board order or rule; or a regulation of the department relating to the  
3 sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F  
4 of this chapter (relating to Advertising);

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

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

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

11 (20) files or provides a false or forged:

12 (A) title document, including an affidavit making application for a certified copy  
13 of a title; or

14 (B) tax document, including a sales tax statement or affidavit;

15 (21) uses or allows use of that dealer's license or location for the purpose of avoiding a  
16 provision of Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1001 - 1005; or  
17 other laws;

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

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

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

5 (25) fails to comply with a dealer responsibility under §215.150 of this title (relating to  
6 Dealer Authorization to Issue License Plates [~~Authorization to Issue Temporary Tags~~]);

7 (26) on or after July 1, 2025, fails to securely store a license plate; [~~utilizes a temporary~~  
8 ~~tag that fails to meet the requirements of §215.153 of this title (relating to Specifications for All~~  
9 ~~Temporary Tags);]~~

10 (27) fails to maintain a record of dealer license plates as required under §215.138 of this  
11 title (relating to Use of Dealer's License Plates);

12 (28) on or after July 1, 2025, fails to file or enter a vehicle transfer notice;

13 (29) fails to enter a lost, stolen, or damaged license plate in the electronic system  
14 designated by the department within the time limit prescribed by rule;

15 (30) [~~(27)~~] violates any state or federal law or regulation relating to the sale of a motor  
16 vehicle;

17 (31) [~~(28)~~] knowingly fails to disclose that a motor vehicle has been repaired, rebuilt, or  
18 reconstructed and issued a title under Transportation Code, §501.100 (relating to Application for Regular  
19 Certificate of Title for Salvage Vehicle);

20 (32) [~~(29)~~] fails to issue a refund as ordered by the board or department; or

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1                   (33) ~~(30)~~ fails to acquire or maintain a required certificate of occupancy, certificate of  
2 compliance, business license or permit, or other official documentation for the licensed location  
3 confirming compliance with county or municipal laws or ordinances or other local requirements for a  
4 vehicle business;[-]

5                   (34) on or after July 1, 2025, fails to remove a license plate from a vehicle sold to an out-  
6 of-state buyer or from a vehicle sold for export; or

7                   (35) fails to keep or maintain records required under Occupations Code, Chapter 2305,  
8 Subchapter D or to allow an inspection of these records by the department.

9  
10 §215.143. Drive-a-way Operator In-Transit License Plates.

11           (a) A drive-a-way operator may apply for a drive-a-way in-transit standard license plate:

12                   (1) when applying for a new or renewal in-transit license, or

13                   (2) by submitting a plate request application electronically in the system designated by  
14 the department.

15           (b) A drive-a-way operator must display an in-transit license plate in the rear of each transported  
16 motor vehicle from the vehicle's point of origin to its point of destination in Texas in accordance with  
17 §217.27 of this title (relating to Vehicle Registration Insignia).

18           (c) A drive-a-way operator shall maintain a record of each license plate issued to the operator by  
19 the department in the department-designated system. The record of each license plate issued must  
20 contain:

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- 1 (1) the license plate number;
- 2 (2) the year and make of the vehicle to which the license plate is affixed;
- 3 (3) the VIN of the vehicle; and
- 4 (4) the name of the person in control of the license plate ~~[vehicle]~~.
- 5 (d) If a drive-a-way operator cannot account for a license plate or a license plate is damaged, the
- 6 operator must:
- 7 (1) document the license plate as "void" in the department-designated system
- 8 ~~[operator's plate record]~~;
- 9 (2) within three days of discovering that the license plate is missing or damaged, report
- 10 the license plate as lost, stolen, or damaged in the electronic system designated by the department; and
- 11 (3) if found once reported, cease use of the license plate.
- 12 (e) A license plate is no longer valid for use after the drive-a-way operator reports to the
- 13 department that the plate is lost, stolen, or damaged. A drive-a-way operator must render a void plate
- 14 unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once
- 15 marked, may destroy or recycle the license plate, or return the license plate to the department for
- 16 recycling within 10 days. A drive-a-way operator is also encouraged to immediately alert law
- 17 enforcement by reporting a stolen license plate to a local law enforcement agency.
- 18 ~~[(f) The drive-a-way operator's license plate record must be available for inspection and copying~~
- 19 ~~by the department during normal business hours or be available to submit electronically to the~~
- 20 ~~department upon request.]~~

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1            ~~(f)~~~~(g)~~ In evaluating requests for additional license plates, the department will consider the  
2 business justification provided by a drive-a-way operator including the following:

3                    (1) the number of vehicles currently being transported to a location in Texas;

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

5                    (3) the size and type of business; and

6                    (4) the operator's record of tracking and reporting missing or damaged plates to the  
7 department.

8            ~~(g)~~~~(h)~~ If a drive-a-way operator closes the associated license or the associated license is  
9 revoked or canceled by the department, the operator must return a license plate to the department  
10 within 10 days.

11  
12 §215.144. Vehicle Records.

13            (a) Purchases and sales records. A dealer and wholesale motor vehicle auction shall maintain a  
14 complete record of all vehicle purchases and sales for a minimum period of 48 months and make the  
15 record available for inspection and copying by the department during business hours.

16            (b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer  
17 shall keep a complete written record of each vehicle purchase, vehicle sale, and any adaptive work  
18 performed on each vehicle for a minimum period of 36 months after the date the adaptive work is  
19 performed on the vehicle. An independent mobility motor vehicle dealer shall also retain and produce

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1 for inspection all records relating to license requirements under Occupations Code, §2301.002(17-b) and  
2 all information and records required under Transportation Code §503.0295.

3 (c) Location of records. A dealer's record reflecting purchases and sales for the preceding 13  
4 months must be maintained at the dealer's licensed location. Original titles are not required to be kept  
5 at the licensed location but must be made available to the agency upon reasonable request. A dealer's  
6 record for prior time periods may be kept off-site.

7 (d) Request for records. Within 15 days of receiving a request from a representative of the  
8 department, a dealer shall deliver a copy of the specified records to the address listed in the request. If a  
9 dealer has a concern about the origin of a records request, the dealer may verify that request with the  
10 department prior to submitting its records.

11 (e) Content of records. A dealer's complete record for each vehicle purchase or vehicle sale must  
12 contain:

13 (1) the date of the purchase;

14 (2) the date of the sale;

15 (3) the VIN;

16 (4) the name and address of the person selling the vehicle to the dealer;

17 (5) the name and address of the person purchasing the vehicle from the dealer;

18 (6) the name and address of the consignor if the vehicle is offered for sale by

19 consignment;

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1 (7) except for a purchase or sale where the Tax Code does not require payment of motor  
2 vehicle sales tax, a county tax assessor-collector receipt marked paid;

3 (8) a copy of all documents, forms, and agreements applicable to a particular sale,  
4 including a copy of:

5 (A) the title application;

6 (B) the work-up sheet;

7 (C) the front and back of the manufacturer's certificate of origin or  
8 manufacturer's statement of origin, unless the dealer obtains the title through webDEALER as defined in  
9 §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems) [the  
10 electronic title system];

11 (D) the front and back of the title for the purchase and the sale, unless the  
12 dealer enters or obtains the title through webDEALER as defined in §217.71 of this title [the electronic  
13 title system];

14 (E) the factory invoice, if applicable;

15 (F) the sales contract;

16 (G) the retail installment agreement;

17 (H) the buyer's order;

18 (I) the bill of sale;

19 (J) any waiver;

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- 1 (K) any other agreement between the seller and purchaser;
- 2 (L) the purchaser's photo identification;
- 3 (M) the odometer disclosure statement signed by the buyer, unless the vehicle is
- 4 exempt; and
- 5 (N) the rebuilt salvage disclosure, if applicable.
- 6 (9) the original manufacturer's certificate of origin, original manufacturer's statement of
- 7 origin, or original title for a [new] motor vehicle offered for sale by a dealer which must be properly
- 8 stamped if the title transaction is entered into webDEALER as defined in §217.71 of this title [the
- 9 electronic titling system] by the dealer;
- 10 (10) the dealer's monthly Motor Vehicle Seller Financed Sales Returns, if any; and
- 11 (11) if the vehicle sold is a motor home or a towable recreational vehicle subject to
- 12 inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at
- 13 the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.
- 14 (f) Title assignments.
- 15 (1) For each vehicle a dealer acquires or offers for sale, the dealer must properly take
- 16 assignment in the dealer's name of any:
- 17 (A) title;
- 18 (B) manufacturer's statement of origin;
- 19 (C) manufacturer's certificate of origin; or



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1 (D) other evidence of ownership.

2 (2) Unless not required by Transportation Code, §501.0234(b), a dealer must apply in the  
3 name of the purchaser of a vehicle for the title and registration, as applicable, of the vehicle with a  
4 county tax assessor-collector.

5 (3) To comply with Transportation Code, §501.0234(f), a title or registration is considered  
6 filed within a reasonable time if ~~[the registration is]~~ filed within:

7 (A) 30 days of the vehicle sale date ~~[date of sale of the vehicle for a vehicle titled~~  
8 ~~or registered in Texas];~~ or

9 (B) 45 days of the vehicle sale date ~~[date of sale of the vehicle]~~ for a dealer-  
10 financed transaction ; or ~~[involving a vehicle that is titled or registered in Texas.]~~

11 (C) 60 days of the vehicle sale date for a vehicle purchased by a member or  
12 reserve member of the United States armed forces, Texas National Guard, or National Guard of another  
13 state serving on active duty.

14 (4) The dealer is required to provide to the purchaser the receipt for the title and  
15 registration application.

16 (5) The dealer is required to maintain a copy of the receipt for the title and registration  
17 application in the dealer's sales file.

18 (g) Out-of-state sales. For a sale involving a vehicle to be transferred out of state, the dealer  
19 must:

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1 (1) within 30 days of the date of sale, either file the application for certificate of title on  
2 behalf of the purchaser or deliver the properly assigned evidence of ownership to the purchaser; and

3 (2) maintain in the dealer's record at the dealer's licensed location a photocopy of the  
4 completed sales tax exemption form for out of state sales approved by the Texas Comptroller of Public  
5 Accounts.

6 (h) Consignment sales. A dealer offering a vehicle for sale by consignment must have a written  
7 consignment agreement or a power of attorney for the vehicle, and shall, after the sale of the vehicle,  
8 take assignment of the vehicle in the dealer's name and, pursuant to subsection (f), apply in the name of  
9 the purchaser for transfer of title and registration, if the vehicle is to be registered, with a county tax  
10 assessor-collector. The dealer must, for a minimum of 48 months, maintain a record of each vehicle  
11 offered for sale by consignment, including the VIN and the name of the owner of the vehicle offered for  
12 sale by consignment.

13 (i) Public motor vehicle auctions.

14 (1) A GDN holder that acts as a public motor vehicle auction must comply with  
15 subsection (h) of this section.

16 (2) A public motor vehicle auction:

17 (A) is not required to take assignment of title of a vehicle it offers for sale;

18 (B) must take assignment of title of a vehicle from a consignor prior to making  
19 application for title on behalf of the buyer; and

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1 (C) must make application for title on behalf of the purchaser and remit motor  
2 vehicle sales tax within a reasonable time as defined in subsection (f) of this section. [~~20 working days of~~  
3 ~~the sale of the vehicle.~~]

4 (3) A GDN holder may not sell another GDN holder's vehicle at a public motor vehicle  
5 auction.

6 (j) Wholesale motor vehicle auction records. A wholesale motor vehicle auction license holder  
7 shall maintain, for a minimum of 48 months, a complete record of each vehicle purchase and sale  
8 occurring through the wholesale motor vehicle auction. The wholesale motor vehicle auction license  
9 holder shall make the record available for inspection and copying by the department during business  
10 hours.

11 (1) A wholesale motor vehicle auction license holder shall maintain at the licensed  
12 location a record reflecting each purchase and sale for at least the preceding 24 months. Records for  
13 prior time periods may be kept off-site.

14 (2) Within 15 days of receiving a department request, a wholesale motor vehicle auction  
15 license holder shall deliver a copy of the specified records to the address listed in the request.

16 (3) A wholesale motor vehicle auction license holder's complete record of each vehicle  
17 purchase and sale must, at a minimum, contain:

18 (A) the date of sale;

19 (B) the VIN;

20 (C) the name and address of the person selling the vehicle;

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- 1 (D) the name and address of the person purchasing the vehicle;
- 2 (E) the dealer's license number of both the selling dealer and the purchasing  
3 dealer, unless either is exempt from holding a license;
- 4 (F) all information necessary to comply with the federal odometer disclosure  
5 requirements in 49 CFR Part 580;
- 6 (G) auction access documents, including the written authorization and  
7 revocation of authorization for an agent or employee, in accordance with §215.148 of this title (relating  
8 to Dealer Agents);
- 9 (H) invoices, bills of sale, checks, drafts, or other documents that identify the  
10 vehicle, the parties, or the purchase price;
- 11 (I) any information regarding the prior status of the vehicle such as the  
12 Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and
- 13 (J) a copy of any written authorization allowing an agent of a dealer to enter the  
14 auction.
- 15 (k) Electronic records. A license holder may maintain a record in an electronic format if the  
16 license holder can print the record at the licensed location upon request by the department, except as  
17 provided by subsection (l) of this section.
- 18 (l) Use of department electronic titling and registration systems: [-]
- 19 (1) webDEALER. A license holder utilizing the department's web-based title application  
20 known as webDEALER, as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle

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1 Registration and Title Systems), shall comply with §217.74 of this title (relating to Access to and Use of  
2 webDEALER). Original hard copy titles are not required to be kept at the licensed location but must be  
3 made available to the department upon request.

4 (2) License Plate System. A license holder must comply with §215.151 of this title  
5 (relating to Buyer's License Plates General Use Requirements) regarding requirements to enter  
6 information into the department-designated electronic system for license plates.

7

8 §215.147. Export Sales.

9 (a) Before selling a motor vehicle for export from the United States to another country, a dealer  
10 must obtain a legible photocopy of the buyer's government-issued photo identification document. The  
11 photo identification document must be issued by the jurisdiction where the buyer resides and be:

12 (1) a passport;

13 (2) a driver license;

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

16 (4) a national identification certificate or identity document; or

17 (5) other identification document containing the:

18 (A) name of the issuing jurisdiction;

19 (B) buyer's full name;

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1 (C) buyer's foreign address;

2 (D) buyer's date of birth;

3 (E) buyer's photograph; and

4 (F) buyer's signature.

5 (b) A dealer that sells a vehicle for export from the United States shall place a stamp on the title  
6 that includes the words "For Export Only" and includes the dealer's GDN. The stamp must be legible, in  
7 black ink, at least two inches wide, and placed on the:

8 (1) back of the title in all unused dealer reassignment spaces; and

9 (2) front of the title in a manner that does not obscure any names, dates, mileage  
10 statements, or other information printed on the title.

11 (c) In addition to the records required to be maintained by §215.144 of this title (relating to  
12 Vehicle Records), a dealer shall maintain, for each motor vehicle sold for export, a sales file record. The  
13 sales file record shall be made available for inspection and copying upon request by the department. The  
14 sales file record of each vehicle sold for export must contain:

15 (1) a completed copy of the Texas Motor Vehicle Sales Tax Exemption Certificate for  
16 Vehicles Taken Out of State, indicating that the vehicle has been purchased for export to a foreign  
17 country;

18 (2) a copy of the front and back of the title of the vehicle, showing the "For Export Only"  
19 stamp and the GDN of the dealer; and

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1 (3) if applicable, an Export-only Sales Record Form, listing each motor vehicle sold for  
2 export only.

3 (d) A dealer, at the time of sale of a vehicle for export, shall remove, void, and destroy or recycle  
4 any license plate or registration insignia as required under §215.158 (relating to General Requirements  
5 for Buyer's License Plates) before transferring the vehicle. [;]

6 [~~(1) enter the information required by Transportation Code, §503.061 in the temporary~~  
7 ~~tag database;]~~

8 [~~(2) designate the sale as "For Export Only"; and]~~

9 [~~(3) issue a buyer's temporary tag, in accordance with Transportation Code, §503.063.]~~

10

11 §215.148. Dealer Agents.

12 (a) A dealer shall provide written authorization to each person with whom the dealer's agent or  
13 employee will conduct business on behalf of the dealer, including to a person that:

14 (1) buys and sells motor vehicles for resale; or

15 (2) operates a licensed auction.

16 (b) If a dealer's agent or employee that conducts business on behalf of the dealer commits an  
17 act or omission that would be cause for denial, revocation, or suspension of a license in accordance with  
18 Occupations Code, Chapter 2301 or Transportation Code, Chapter 503, the board may:

19 (1) deny an application for a license; or

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1 (2) revoke or suspend a license.

2 (c) The board may take action described in subsection (b) of this section after notice and an  
3 opportunity for hearing, in accordance with Occupations Code, Chapter 2301 and Chapter 224 of this  
4 title [~~(relating to)~~(relating to Adjudicative Practice and Procedure)].

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

6 (1) be in writing;

7 (2) be signed by the dealer principal or person in charge of daily activities of the  
8 dealership;

9 (3) include the agent's or employee's name, current mailing address, and telephone  
10 number;

11 (4) include the dealer's business name, address, and dealer license number or numbers;

12 (5) expressly authorize buying or selling by the specified agent or employee;

13 (6) state that the dealer is liable for any act or omission regarding a duty or obligation of  
14 the dealer that is caused by that agent or employee, including any financial considerations to be paid for  
15 the vehicle;

16 (7) state that the dealer's authorization remains in effect until the recipient of the  
17 written authorization is notified in writing of the revocation of the authority; and

18 (8) be maintained as a required dealer's record and made available upon request by a  
19 representative of the department, in accordance with the requirements of §215.144 of this title (relating  
20 to Vehicle Records).



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1 (e) A license holder, including a wholesale motor vehicle auction that buys and sells vehicles on a  
2 wholesale basis, including by sealed bid, is required to verify the authority of any person claiming to be  
3 an agent or employee of a licensed dealer who purports to be buying or selling a motor vehicle:

4 (1) on behalf of a licensed dealer; or

5 (2) under the written authority of a licensed dealer.

6 (f) A title to a vehicle bought by an agent or employee of a dealer shall be:

7 (1) reassigned to the dealer by the seller or by the auction; and

8 (2) shall not be delivered to the agent or employee but delivered only to the dealer or  
9 the dealer's financial institution.

10 (g) Notwithstanding the prohibitions in this section, an authorized agent or employee may sign a  
11 required odometer statement.

12 (h) In a wholesale transaction for the purchase of a motor vehicle, the seller may accept as  
13 consideration only:

14 (1) a check or a draft drawn on the purchasing dealer's account;

15 (2) a cashier's check in the name of the purchasing dealer; or

16 (3) a wire transfer from the purchasing dealer's bank account.

17

18 §215.150. Dealer Authorization to Issue License Plates [~~Temporary Tags~~].

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1 (a) A dealer that holds a GDN ~~must~~ ~~[may]~~ issue a buyer's license plate for a vehicle type the  
2 dealer is authorized to sell to: [a dealer's temporary tag, buyer's temporary tag, or a preprinted Internet-  
3 down temporary tag for authorized purposes only for each type of vehicle the dealer is licensed to sell or  
4 lease. A converter that holds a converter's license under Occupations Code, Chapter 2301 may issue a  
5 converter's temporary tag for authorized purposes only.]

6 (1) a buyer of a new vehicle to be titled and registered in Texas, unless the buyer has a  
7 specialty, personalized, or other qualifying license plate eligible to be assigned to the vehicle with  
8 approval of the department; or

9 (2) a buyer of a used vehicle to be titled and registered in Texas if a buyer's license plate  
10 did not come with the vehicle and the buyer does not have a specialty, personalized, or other qualifying  
11 license plate eligible to be assigned to the vehicle with approval of the department.

12 (b) Notwithstanding subsection (a), a dealer that holds a GDN is not required to issue a buyer's  
13 license plate to a vehicle sold to a commercial fleet buyer authorized as a Dealer Deputy under §217.166  
14 of the title (relating to Dealer Deputies).

15 (c) A dealer that holds a GDN must issue a buyer's temporary license plate to an out-of-state  
16 buyer for a vehicle that is to be registered in accordance with the laws of the buyer's state of residence.

17 (d) ~~[(b)]~~ A dealer [license holder] may issue a license plate under Transportation Code §503.063  
18 [an applicable dealer's temporary tag, buyer's temporary tag, or converter's temporary tag] until:

19 (1) the department denies access to the license plate system ~~[temporary tag database]~~  
20 under Transportation Code §503.0633(f) ~~[§503.0632(f)]~~ and §224.58 of this title (relating to Denial of  
21 Dealer ~~[or Converter]~~ Access to License Plate System ~~[Temporary Tag System]);~~

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1 (2) the dealer [~~license holder~~] issues the maximum number of license plates [~~temporary~~  
2 ~~tags~~] authorized under Transportation Code, §503.0633(a) - (d)[~~§503.0632(a) - (d)~~]; or

3 (3) the GDN [~~license~~] is canceled, revoked, or suspended.

4 (e) [(c)] A [~~federal, state, or local~~] governmental agency that is exempt under Transportation  
5 Code, § [Section]503.024 from the requirement to obtain a dealer general distinguishing number may  
6 issue a buyer's license plate or a buyer's temporary license plate to the buyer of a vehicle owned by the  
7 governmental agency unless the buyer has a specialty, personalized, or other qualifying license plate that  
8 is eligible to be assigned to the vehicle with approval of the department. [~~one buyer's temporary tag, or~~  
9 ~~one preprinted Internet-down temporary tag, in accordance with Transportation Code §503.063.~~] A  
10 governmental agency that issues a buyer's license plate or buyer's temporary license plate [~~buyer's~~  
11 ~~temporary tag, or preprinted Internet-down temporary tag,~~] under this subsection:

12 (1) is subject to the provisions of Transportation Code §503.0631 and §503.0671  
13 [~~§503.067~~] applicable to a dealer; and

14 (2) is not required to charge the registration fee authorized under Transportation Code  
15 §503.063(g) and specified in §215.155(g) of this title (relating to Buyer's License Plates).

16 (f) [(d)] A dealer [~~or converter~~] is responsible for all use of and access to all license plates in the  
17 dealer's possession and the license plate system [~~the applicable temporary tag database~~] under the  
18 dealer's [~~or converter's~~] account, including access by any user or unauthorized person. Dealer [~~and~~  
19 ~~converter~~] duties include monitoring license plate storage and issuance [~~temporary tag usage~~], managing  
20 account access, and taking timely and appropriate actions to maintain license plate and system security,  
21 including:

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1 (1) establishing and following reasonable password policies, including preventing the  
2 sharing of passwords;

3 (2) limiting authorized users to owners and bona fide employees with a business need to  
4 access license plates and the license plate system [database];

5 (3) removing users who no longer have a legitimate business need to access the system;

6 (4) securing all license plates, including license plates assigned to vehicles in inventory,  
7 dealer's license plates, and unissued buyer's license plates, by storing license plates in a locked and  
8 secured room or closet or one or more securely locked, substantially constructed safes or steel cabinets  
9 bolted or affixed to the floor or wall of sufficient size to store all dealer and buyer's license plates in a  
10 dealer's possession, and by promptly marking and destroying, recycling, or returning void license plates  
11 as required under §215.158 of this title (relating to General Requirements for Buyer's License Plates; and  
12 [securing printed tags and destroying expired tags, by means such as storing printed tags  
13 in locked areas and shredding or defacing expired tags; and]

14 (5) securing equipment used to access the license plate system. ~~[temporary tag database~~  
15 ~~and print temporary tags.]~~

16

17 §215.151. License Plate General Use Requirements.

18 (a) If a buyer purchases a vehicle to be registered in Texas, a dealer must secure, or a  
19 government agency may secure, a license plate to the vehicle in accordance with §217.27 of this title  
20 (relating to Vehicle Registration Insignia) and update the license plate system accordingly.

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1                   (1) A dealer must secure, or a governmental agency may secure, a buyer-provided  
2 license plate on the purchased vehicle if a buyer provides a specialty, personalized, or other qualifying  
3 license plate that is eligible to be assigned to the vehicle with approval of the department and update  
4 the license plate system accordingly.

5                   (2) A dealer must issue a buyer's license plate to the buyer if a buyer purchases a new  
6 vehicle from a dealer and the buyer does not have a specialty, personalized, or other qualifying license  
7 plate to transfer to the vehicle.

8                   (3) A dealer must issue, or a governmental agency may issue, a buyer's license plate to a  
9 buyer purchasing a used vehicle if the vehicle does not have an assigned license plate in the license plate  
10 system or the assigned license plate is missing or damaged and the buyer does not have a specialty,  
11 personalized, or other qualifying license plate to transfer to the vehicle.

12                   (b) If a non-resident buyer purchases a vehicle to be titled and registered in accordance with the  
13 laws of the buyer's state of residence, a dealer must issue, or a governmental agency may issue, a  
14 buyer's temporary license plate and secure the temporary license plate to the rear of a vehicle in  
15 accordance with §217.27 of this title and update the license plate system accordingly.

16                   (c) If a vehicle has an assigned license plate and the buyer provides a specialty, personalized, or  
17 other qualifying license plate to transfer to the vehicle, a dealer must update the license plate status in  
18 the license plate system, mark the license plate as void and destroy, recycle, or return the license plate  
19 as required in §215.158 of the title (relating to General Requirements for Buyer's License Plates).

20                   (d) A dealer, including a wholesale dealer, must remove a buyer's license plate from a purchased  
21 vehicle and store the license plate in a secure location in accordance with §215.150(f) of this title

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1 (relating to Dealer Authorization to Issue License Plates). Upon vehicle sale, the dealer must update the  
2 license plate database and:

3 (1) provide the assigned license plate to a Texas retail buyer that purchases the vehicle;

4 or

5 (2) if the vehicle is sold to a Texas dealer, securely transfer the assigned license plate to  
6 the purchasing dealer; or

7 (3) if the vehicle is sold to an out-of-state buyer or for export, mark the license plate as  
8 void and destroy, recycle, or return the license plate as required in §215.158 of this title.

9

10 §215.152. Obtaining Dealer-Issued Buyer's License Plates. [~~Numbers for Issuance of Temporary Tags.~~]

11 (a) A dealer or [~~a~~] governmental agency [~~, or a converter~~] is required to have internet access to  
12 connect to webDEALER and the license plate system [~~the temporary tag databases~~] maintained by the  
13 department and is responsible for verifying receipt of license plates in the license plate system.

14 (b) Except as provided by §215.157 of this title (relating to Issuing Buyer's License Plates and  
15 License Plate Receipts When Internet Not Available) before a license plate may be issued or secured on a  
16 vehicle, a dealer or governmental agency must enter in the license plate system true and accurate  
17 information about:

18 (1) the vehicle;

19 (2) the buyer; and

20 (3) the license plate number issued or assigned to the vehicle.

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

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

6                     ~~[(2) obtain a specific number for the temporary tag.]~~

7           (c) The department will inform each dealer annually of the maximum number of buyer's license  
8 plates ~~[temporary tags]~~ the dealer is authorized to obtain ~~[issue]~~ during the calendar year under  
9 Transportation Code, §503.063, including: [§503.0632. The number of buyer's temporary tags allocated  
10 to each dealer by the department will be determined based on the following formula:]

11                     (1) an allotment of unassigned buyer's license plates to be issued to a buyer of a vehicle  
12 that is to be titled and registered in Texas, and

13                     (2) a separate allotment of buyer's temporary license plates to be issued to a non-  
14 resident buyer for a vehicle that will be registered and titled in another state.

15                     ~~[(1) Sales data determined from the department's systems from the previous three fiscal~~  
16 ~~years. A dealer's base number will contain the sum of:]~~

17                     ~~[(A) the greater number of:]~~

18                                     ~~[(i) in-state buyer's temporary tags issued in one fiscal year during the~~  
19 ~~previous three fiscal years; or]~~

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1 ~~[(ii) title transactions processed through the Registration and Title~~  
2 ~~System in one fiscal year during the previous three fiscal years; but]~~

3 ~~[(iii) the amount will be limited to an amount that is not more than two~~  
4 ~~times the number of title transactions identified in subparagraph (ii) of this paragraph; and]~~

5 ~~[(B) the addition of the greatest number of out-of-state buyer's temporary tags~~  
6 ~~issued in one fiscal year during the previous three fiscal years;]~~

7 ~~[(2) the total value of paragraph (1) of this subsection will be increased by a multiplier~~  
8 ~~based on the dealer's time in operation giving a 10 percent increase in tags for each year the dealer has~~  
9 ~~been in operation up to 10 years;]~~

10 ~~[(3) the total value of paragraph (2) of this subsection will be increased by a multiplier~~  
11 ~~that is the greater of:]~~

12 ~~[(A) the dealer's actual growth rate percentage identified from the preceding~~  
13 ~~two fiscal years, calculated by the growth of the number of title transactions processed through the~~  
14 ~~Registration and Title System plus the growth of the number of out-of-state buyer's temporary tags~~  
15 ~~issued, except that it may not exceed 200 percent; or]~~

16 ~~[(B) the statewide actual growth rate percentage identified from the preceding~~  
17 ~~two fiscal years, calculated by the growth of the number of title transactions processed through the~~  
18 ~~Registration and Title System plus the growth of the number of out-of-state buyer's temporary tags~~  
19 ~~issued, not less than zero, to determine the buyer's temporary tag allotment; and]~~

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



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1                           ~~[(A) changes in the market;]~~

2                           ~~[(B) temporary conditions that may affect sales; and]~~

3                           ~~[(C) any other information the department considers relevant.]~~

4                   (d) The department will calculate a dealer's maximum annual allotment of unassigned buyer's  
5 license plates and buyer's temporary license plates based on the following formula:

6                   ~~[inform each dealer annually of the maximum number of agent temporary tags and vehicle~~  
7 ~~specific temporary tags the dealer is authorized to issue during the calendar year under Transportation~~  
8 ~~Code §503.0632. The number of agent temporary tags and vehicle-specific temporary tags allocated to~~  
9 ~~each dealer by the department, for each tag type, will be determined based on the following formula:]~~

10                   (1) Vehicle title transfers, sales, or license plate issuance data determined from the  
11 department's systems from the previous fiscal year;

12                   ~~[dealer temporary tag data for agent temporary tags and vehicle-specific temporary tags~~  
13 ~~determined from the department's systems from the previous three fiscal years. A dealer's base number~~  
14 ~~will contain the maximum number of dealer temporary tags issued during the previous three fiscal~~  
15 ~~years;]~~

16                   (2) the total value of paragraph (1) of this subsection will be increased by a multiplier  
17 based on the dealer's time in operation giving a 10 percent increase ~~[in tags]~~ for each year the dealer has  
18 been in operation up to 10 years; and

19                   (3) the total value of paragraph (2) of this subsection will be increased by a multiplier  
20 that is the greater of:

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1 (A) the dealer's actual growth rate percentage identified from the preceding two  
2 fiscal years, calculated by the growth of the number of in-state or out-of-state sales transactions  
3 processed through the department-designated registration and title system or license plate system  
4 [dealer's temporary tags issued], except that it may not exceed 200 percent; or

5 (B) the statewide actual growth rate percentage identified from the preceding  
6 two fiscal years, calculated by the growth of the number of relevant transactions processed through the  
7 department-designated registration and title system or license plate system [dealer's temporary tags  
8 issued], not less than zero, to determine the dealer's annual [temporary tag] allotment; and

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

12 (A) changes in the market;

13 (B) temporary conditions that may affect sales; and

14 (C) any other information the department considers relevant.

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

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

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1                   ~~[(2) the total value of paragraph (1) of this subsection will be increased by a multiplier~~  
2 ~~based on the converter's time in operation giving a 10 percent increase in tags for each year the dealer~~  
3 ~~has been in operation up to 10 years; and]~~

4                   ~~[(3) the total value of paragraph (2) of this subsection will be increased by a multiplier~~  
5 ~~that is the greater of:]~~

6                   ~~[(A) the converter's actual growth rate percentage identified from the preceding~~  
7 ~~two fiscal years, calculated by the growth of the number of converter's temporary tags issued, except~~  
8 ~~that it may not exceed 200 percent; or]~~

9                   ~~[(B) the statewide actual growth rate percentage identified from the preceding~~  
10 ~~two fiscal years, calculated by the growth of the number of converter's temporary tags issued, not less~~  
11 ~~than zero, to determine the converter's temporary tag allotment;]~~

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

14                   ~~[(A) changes in the market;]~~

15                   ~~[(B) temporary conditions that may affect sales; and]~~

16                   ~~[(C) any other information the department considers relevant.]~~

17                   ~~(e) [(f)] A dealer~~~~[or converter that is]~~ licensed after the commencement of a calendar year shall  
18 be allocated ~~[authorized to issue]~~ the number of buyer's license plates and buyer's temporary plates  
19 allocated ~~[temporary tags allotted]~~ in this subsection prorated on all or part of the remaining months  
20 until the commencement of the calendar year after the dealer's ~~[or converter's]~~ initial license expires.

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1 The initial allocations shall be as determined by the department in granting the license, but not more  
2 than:

3 (1) 200 buyer's license plates and 100 buyer's temporary license plates [~~1,000 temporary~~  
4 ~~tags~~] for a franchised dealer [~~per each tag type, buyer's temporary tags, agent temporary tags, and~~  
5 ~~vehicle specific tags,~~] unless the dealer provides credible information indicating that a greater number of  
6 buyer's license plates is warranted based on anticipated sales, and growth, to include new and used  
7 vehicle sales, including information from the manufacturer or distributor, or as otherwise provided in  
8 this section. [∴]

9 [~~(A) the dealer provides credible information indicating that a greater number of~~  
10 ~~tags is warranted based on anticipated sales, and growth, to include new and used vehicle sales,~~  
11 ~~including information from the manufacturer or distributor, or as otherwise provided in this section; and]~~

12 [~~(B) if more than 1,000 temporary tags are determined to be needed based on~~  
13 ~~anticipated sales and growth, the total number of temporary tags needed, including the 1,000, will be~~  
14 ~~doubled;~~]

15 (2) 100 buyer's license plates and 48 buyer's temporary license plates [~~300 temporary~~  
16 ~~tags~~] for a nonfranchised dealer [~~per each tag type, buyer's temporary tags, agent temporary tags, and~~  
17 ~~vehicle specific tags,~~] unless the dealer provides credible information indicating that a greater number of  
18 license plates [~~tags~~] is warranted based on anticipated sales as otherwise provided in this section. [~~∴ and]~~

19 [~~(3) A converter will be allocated 600 temporary tags, unless the converter provides~~  
20 ~~credible information indicating that a greater number of tags is warranted based on anticipated sales,~~  
21 ~~including information from the manufacturer or distributor, or as otherwise provided in this section.~~]

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1            (f) [(g)] An existing dealer [~~or converter~~] that is:

2                    (1) moving its operations from one location to a different location will continue with its  
3 allotment of buyer's license plates and buyer's temporary license plates [~~temporary tags~~] and not be  
4 allocated license plates [~~temporary tags~~] under subsection (e) [(f)] of this section;

5                    (2) opening an additional location will receive a maximum allotment of buyer's license  
6 plates and buyer's temporary license plates [~~temporary tags~~] based on the greater of the allotment  
7 provided to existing locations, including franchised dealers opening additional locations for different line  
8 makes, or the amount under subsection (e) [(f)] of this section;

9                    (3) purchased as a buy-sell ownership agreement will receive the maximum allotment of  
10 buyer's license plates and buyer's temporary license plates [~~temporary tags~~] provided to the location  
11 being purchased and not be allocated license plates [~~temporary tags~~] under subsection (e) [(f)] of this  
12 section; and

13                    (4) inherited by will or laws of descent will receive the maximum allotment of buyer's  
14 license plates and buyer's temporary license plates [~~temporary tags~~] provided to the location being  
15 inherited and not be allocated license plates [~~temporary tags~~] under subsection (e) [(f)] of this section.

16            (g) [(h)] A new dealer [~~or converter~~] may also provide credible information supporting a request  
17 for additional buyer's license plates and buyer's temporary license plates [~~temporary tags~~] to the  
18 amount allocated under subsection (e) [(f)] of this section based on:

19                    (1) franchised dealer, manufacturer, or distributor sales expectations;

20                    (2) a change in GDN [~~license~~] required by death or retirement, except as provided in  
21 subsection (f) [(g)] of this section;

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1 (3) prior year's sales by a dealer [~~dealership~~] moving into the state; or

2 (4) other similar change of location or ownership that indicates some continuity in  
3 existing operations.

4 (h) The annual allotment of buyer's issue license plates and buyer's temporary license plates will  
5 each be divided by four and allocated to a dealer on a quarterly basis, unless a dealer sells only antique  
6 or special interest vehicles as defined by Transportation Code, §683.077(b), in which case each allocation  
7 may be divided by two and allocated on a half-yearly basis. A dealer's remaining unissued license plates  
8 at the end of the allocation period will count towards the dealer's next allotment.

9 (i) A dealer may request more buyer's license plates or buyer's temporary license plates:  
10 ~~[After using 50 percent of the allotted maximum number of temporary tags, a dealer or converter may~~  
11 ~~request an increase in the number of temporary tags by submitting a request in the department's~~  
12 ~~eLICENSING system.]~~

13 (1) after using 50 percent of the quarterly allocation of general issue plates or buyer  
14 temporary plates, a dealer may request an advance on the next quarter's allotment; or

15 (2) after using 50 percent of the allotted annual maximum number of general issue  
16 plates or buyer temporary plates a dealer may request an increase in the annual allotted number of  
17 license plates.

18 (j) To receive more buyer's license plates or buyer's temporary license plates under subsection  
19 (i), a dealer must submit a request in the department's designated license plate system.

20 (k) A dealer requesting an increase in the maximum annual allotment of buyer's license plates or  
21 buyer's temporary license plates

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1                   ~~[(1) The dealer or converter]~~ must provide information demonstrating the need for  
2 additional license plates ~~[temporary tags]~~ results from business operations, including anticipated needs,  
3 as required by Transportation Code, §503.0633(c). ~~[\$503.0632(c).]~~ Information may include  
4 documentation of sales and tax reports filed as required by law, information of anticipated need, or  
5 other information of the factors listed in Transportation Code, §503.0633(b). ~~[\$503.0632(b).]~~

6                   (1) ~~[(2)]~~ The department shall consider the information presented and may consider  
7 information not presented that may weigh for or against granting the request that the department in its  
8 sole discretion determines to be relevant in making its determination. Other relevant information may  
9 include information of the factors listed in Transportation Code, §503.0633(b) ~~[\$503.0632(b)]~~, the timing  
10 of the request, and the requestor's ~~[applicant's]~~ license plate ~~[temporary tag]~~ activity.

11                   (2) ~~[(3)]~~ The department may allocate a lesser or greater number of additional license  
12 plates ~~[temporary tags]~~ than the amount requested. Allocation of a lesser or greater number of  
13 additional license plates ~~[temporary tags]~~ is not a denial of the request. Allocation of additional license  
14 plates ~~[temporary tags]~~ under this paragraph does not limit the dealer's ~~[or converter's]~~ ability to submit  
15 additional requests for more license plates ~~[temporary tags]~~.

16                   (3) ~~[(4)]~~ If a request is denied, the denial will be sent to the dealer ~~[or converter]~~ by  
17 email to the requestor's email address.

18                   (A) A dealer ~~[or converter]~~ may appeal the denial to the designated director in  
19 the Vehicle Titles and Registration Division. ~~[Motor Vehicle Division Director.]~~

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1 (B) The appeal must be requested through the designated license plate system  
2 [~~eLICENSING system~~] within 15 days of the date the department emailed the denial to the dealer [~~or~~  
3 ~~converter~~].

4 (C) The appeal may discuss information provided in the request but may not  
5 include additional information.

6 (D) The designated director in the Vehicle Titles and Registration Division [~~Motor~~  
7 ~~Vehicle Division Director~~] will review the appeal [~~submission~~] and any additional statements concerning  
8 the information submitted in the original request and render an opinion within 15 days of receiving the  
9 appeal. The designated director in the Vehicle Titles and Registration Division [~~Motor Vehicle Division~~  
10 ~~Director~~] may decide to deny the appeal [~~request~~] and issue no additional license plates [~~tags~~] or award  
11 an amount of additional license plates [~~temporary tags~~] that is lesser, equal to, or greater than the  
12 request.

13 (E) The requesting dealer [~~or converter~~] will be notified as follows:

14 (i) If the designated director in the Vehicle Titles and Registration  
15 Division [~~Motor Vehicle Division Director~~] decides to deny the appeal, the department will contact the  
16 requesting dealer [~~license holder~~] by email regarding the decision and options to submit a new request  
17 with additional relevant credible supporting documentation or to pursue a claim in district court; or

18 (ii) If the designated director in the Vehicle Titles and Registration  
19 Division [~~Motor Vehicle Division Director~~] awards an amount of additional license plates [~~temporary~~  
20 ~~tags~~] that is lesser, equal to, or greater than the request, the additional license plates [~~temporary tags~~]  
21 will be added to the dealer's allocation [~~or converter's account~~] and the dealer [~~license holder~~] will be



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1 contacted by email regarding the decision, informed that the request has not been denied, and options  
2 to submit a new request.

3 (5) The designated director in the Vehicle Titles and Registration Division's [~~Motor~~  
4 ~~Vehicle Division Director's~~] decision on appeal is final.

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

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

10 (m) [(k)] The department may at any time initiate an enforcement action against a dealer [~~or~~  
11 ~~converter~~] if license plate system activity [~~temporary tag usage~~] suggests that misuse or fraud has  
12 occurred as described in Transportation Code §503.0633(f) or §503.0671. [~~§§503.038, 503.0632(f), or~~  
13 ~~503.067.~~]

14 [(l) Unused temporary tag allotments from a calendar year do not roll over to subsequent years.]

15

16 §215.154. Dealer's Temporary License Plate Allocation.

17 (a) The number of dealer's temporary license plates a dealer may order for business use is based  
18 on the type of license for which the dealer applied and the number of vehicles the dealer sold during the  
19 previous year.

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1           (b) Unless otherwise qualified under this section, the maximum number of dealer’s temporary  
2 license plates the department will issue to a new license applicant during the applicant’s first license  
3 term is indicated in the following table.

4 Attached Graphic

5           (c) A person holding a dealer license on July 1, 2025, is eligible to receive the following maximum  
6 number of dealer’s temporary plates:

7                   (1) the number designated for that license type in subsection (b) of this section; and

8                   (2) the number designated in subsection (e) of this section based on vehicle sales in the  
9 last 12-month period.

10           (d) A dealer that applies for a license is not subject to the initial allotment limits described in this  
11 section and may rely on that dealer’s existing allocation of dealer’s temporary license plates if that  
12 dealer is:

13                   (1) a franchised dealership subject to a buy-sell agreement, regardless of a change in the  
14 entity of ownership;

15                   (2) any type of dealer that is relocating and has been licensed by the department for a  
16 period of one year or longer; or

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

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1           (e) A dealer may obtain more than the maximum number of dealer’s temporary license plates  
2 provided by this section by submitting to the department proof of sales for the previous 12-month  
3 period that justifies additional license plates.

4           (1) The number of additional dealer’s temporary license plates the department will issue  
5 to a dealer that demonstrates need through proof of sales is indicated in the following table.

6 Attached Graphic

7           (2) For purposes of this section, proof of sales for the previous 12-month period may  
8 consist of a copy of the most recent vehicle inventory tax declaration or monthly statements filed with  
9 the taxing authority in the county of the dealer's licensed location. Each copy must be stamped as  
10 received by the taxing authority.

11           (f) A wholesale motor vehicle dealer may obtain more than the maximum number of dealer’s  
12 temporary license plates provided by this section by submitting to the department proof of the number  
13 of vehicles the dealer has purchased in the previous 12-month period that justifies additional license  
14 plates.

15           (1) Evidence of the wholesale motor vehicle dealer’s vehicle purchases for the previous  
16 12-month period must include the date of purchase, VIN of the vehicle purchased, and the selling  
17 dealer’s name, and any other information the department in its discretion deems necessary to  
18 determine the need for additional dealer’s temporary license plates for the wholesale motor vehicle  
19 dealer.

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1                   (2) Upon review and approval of a wholesale motor vehicle dealer’s proof of vehicle  
2 purchases documentation, the department shall issue up to 5 additional dealer’s temporary license  
3 plates to the dealer.

4                   (g) The Director of the Motor Vehicle Division may waive the dealer’s temporary license plate  
5 issuance restrictions if the waiver is essential for the continuation of the business. The director will  
6 determine the number of dealer’s temporary license plates the department will issue based on the  
7 dealer’s past sales, dealer’s inventory, and any other factor the Director determines pertinent.

8                   (1) A request for a waiver must be submitted to the director in writing and specifically  
9 state why the additional dealer’s temporary license plates are necessary for the continuation of the  
10 dealer’s business.

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

13 \*Figures for §215.154(b) and (d) are printed on pgs. [currently 186-187] of this item.

14 §215.155. Buyer’s License Plates [~~Temporary Tags~~].

15                   (a) A dealer may issue and secure a buyer's license plate or a buyer’s temporary license plate  
16 [temporary tag may be displayed] only on a vehicle:

17                   (1) from the selling dealer's inventory; and

18                   (2) that can be legally operated on the public streets and highways; and

19                   (3) for which a sale or lease has been consummated; and

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1 (4) that has a valid inspection in accordance with Transportation Code Chapter 548,

2 unless:

3 (A) an inspection is not required under Transportation Code §503.063(i) or (j); or

4 (B) the vehicle is exempt from inspection under Chapter 548.

5 (b) A dealer may not issue a buyer's general issue or temporary license plate ~~temporary tag~~  
6 ~~must be issued and provided~~ to the buyer of a vehicle that is to be titled but not registered ~~[but the~~  
7 ~~temporary tag must not be displayed on the vehicle]~~.

8 (c) For a wholesale transaction: ~~[,]~~

9 (1) a dealer may not issue a buyer's license plate; rather the purchasing dealer places on  
10 the motor vehicle its own:

11 (A) ~~[(1)]~~ dealer's temporary license plate ~~[tag]~~; or

12 (B) ~~[(2)]~~ dealer's standard or personalized prestige license plate.

13 (2) if a general issue plate is assigned to a vehicle, the selling dealer must provide the  
14 license plate to the purchasing dealer for placement on the vehicle at time of retail sale.

15 (d) A buyer's temporary license plate ~~[tag]~~ is valid until the earlier of:

16 (1) the date on which the vehicle is registered; or

17 (2) the 60th day after the date of purchase.

18 ~~[(e) The dealer or governmental agency, must ensure that the following information is placed on~~  
19 ~~a buyer's temporary tag:]~~

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1                   [(1) the vehicle-specific number obtained from the temporary tag database;]

2                   [(2) the year and make of the vehicle;]

3                   [(3) the VIN of the vehicle;]

4                   [(4) the month, day, and year of the expiration of the buyer's temporary tag; and]

5                   [(5) the name of the dealer or governmental agency.]

6                   (e) [(f)] A dealer shall charge a buyer a fee of \$10 [~~\$5 for the buyer's temporary tag or Internet-~~  
7 ~~down buyer's temporary tag issued~~], unless the vehicle is exempt from payment of registration fees  
8 under Transportation Code, §502.453 or §502.456. A dealer shall remit the fee to the county with the  
9 title transfer application for deposit to the credit of the Texas Department of Motor Vehicles fund. If the  
10 vehicle is sold by a dealer to an out-of-state resident:

11                   (1) the dealer shall remit the entire fee to the department for deposit to the credit of the  
12 Texas Department of Motor Vehicles fund if payment is made through the department's designated  
13 electronic system [~~electronic title system~~]; or

14                   (2) the dealer shall remit the fee to the county for deposit to the credit of the Texas  
15 Department of Motor Vehicles fund.

16                   (f) [(g)] A governmental agency may charge a buyer a fee of \$10 [~~\$5 for the buyer's temporary~~  
17 ~~tag or Internet down buyer's temporary tag issued~~], unless the vehicle is exempt from payment of  
18 registration fees under Transportation Code, §502.453 or §502.456. If collected by a governmental  
19 agency, the fee must be sent to the county for deposit to the credit of the Texas Department of Motor  
20 Vehicles fund.

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1

2 §215.156. Buyer's License Plate ~~[Temporary Tag]~~ Receipt.

3 A dealer[,], or ~~[federal, state, or local]~~ governmental agency[,], must print a buyer's license plate  
4 receipt from the department's designated electronic system and provide the ~~[a buyer's temporary tag]~~  
5 receipt to the buyer of each vehicle for which a buyer's license plate or buyer's temporary license plate is  
6 issued. ~~[temporary tag is issued, regardless of whether the buyer's temporary tag is issued using the~~  
7 ~~temporary tag database or if the tag is a preprinted Internet-down temporary tag. The dealer, or federal,~~  
8 ~~state, or local governmental agency, may print the image of the buyer's temporary tag receipt issued~~  
9 ~~from the temporary tag database or create the form using the same information.]~~ The dealer[,], or  
10 ~~[federal, state, or local]~~ governmental agency, shall instruct the buyer to keep a copy of the buyer's  
11 license plate ~~[temporary tag]~~ receipt in the vehicle until the vehicle is registered in the buyer's name and  
12 the vehicle registration insignia is affixed to the motor vehicle windshield or plate, as applicable ~~[and~~  
13 ~~until metal plates are affixed to the vehicle]~~. The buyer's license plate ~~[temporary tag]~~ receipt must  
14 include the following information:

15 (1) the issue date of the buyer's license plate or buyer's temporary license plate  
16 ~~[temporary tag]~~;

17 (2) the year, make, model, body style, color, and VIN of the vehicle sold;

18 (3) the license plate ~~[vehicle-specific temporary tag]~~ number;

19 (4) ~~[the expiration date of the temporary tag;]~~

20 ~~[(5)]~~ the date of the sale;

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1                    (5) [(6)] the name of the issuing dealer and the dealer's license number or the name of  
2 the issuing federal, state, or local governmental agency; ~~and]~~

3                    (6) [(7)] the buyer's name and mailing address; and[-]

4                    (7) if the vehicle is to be registered in Texas, the procedure by which the vehicle's  
5 registration insignia will be provided to the buyer as required under Transportation Code, §503.0631.

6  
7 §215.157. Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available.

8 ~~[Advance Numbers, Preprinted Internet down Temporary Tags].~~

9                    ~~[(a)] In accordance with Transportation Code, §503.0631(d), [a dealer, or a federal, state, or local~~  
10 ~~governmental agency, may obtain an advance supply of preprinted Internet down temporary tags with~~  
11 ~~specific numbers and buyer's temporary tag receipts to issue in lieu of buyer's temporary tags if the~~  
12 ~~dealer is unable to access the internet.]~~

13                    ~~[(b)] if [(f)] a dealer[,]~~ or ~~[a federal, state, or local]~~ governmental agency[,] is unable to access the  
14 internet at the time of a sale, the dealer[,] or ~~[a federal, state, or local]~~ governmental agency ~~[-, must~~  
15 ~~complete the preprinted Internet down temporary buyer's tag and buyer's temporary tag receipt by~~  
16 ~~providing details of the sale, signing the buyer's temporary tag receipt, and retaining a copy. The dealer,~~  
17 ~~or a federal, state, or local governmental agency,]~~ must document the issuance of a buyer's license plate  
18 or a buyer's temporary license plate on a receipt form prescribed by the department and enter the  
19 required information regarding the sale in the license plate system [temporary tag database] not later  
20 than the close of the next business day ~~[that the dealer has access to the internet].~~ The buyer's  
21 ~~[temporary tag]~~ receipt must include a statement that the dealer ~~[-, or a federal, state, or local]~~ or



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1 governmental agency, has internet access but, at the time of the sale, the dealer ~~or [or a federal, state,~~  
2 ~~or local]~~ governmental agency, was unable to access the internet or the license plate system and meet  
3 the requirements in §215.156 of this title (relating to Buyer's License Plate Receipt) [temporary tag  
4 database].

5

6 §215.158. General Requirements for Buyer's License Plates ~~[and Allocation of Preprinted Internet down~~  
7 ~~Temporary Tag Numbers].~~

8 (a) A [The] dealer[,] or ~~[a federal, state, or local]~~ governmental agency[,]

9 is responsible for the safekeeping of all license plates in the dealer's or governmental agency's possession consistent with the  
10 requirements in §215.150 (relating to Dealer Authorization to Issue License Plates). [preprinted Internet  
11 down temporary tags and shall store them in a secure place, and promptly destroy any expired tags.] A  
12 [The] dealer[,] or ~~[a federal, state, or local]~~ governmental agency shall report any loss, theft, or  
13 destruction of a buyer's license plate or buyer's temporary license plate [preprinted Internet down  
14 temporary tags] to the department in the system designated by the department within 24 hours of  
15 discovering the loss, theft, or destruction. A dealer or governmental agency is also encouraged to  
16 immediately alert law enforcement by reporting a stolen license plate to a local law enforcement agency.

17 (b) When a dealer is required to remove and void a previously assigned buyer's license plate or  
18 other type of license plate from a vehicle sold to an out-of-state buyer or for another reason allowed by  
19 rule, the dealer shall render a void plate unusable by permanently marking the front of the plate with  
20 the word "VOID" or a large "X"; and within 10 days:

21 (1) destroy the license plate; or

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1                    (2) recycle the license plate using a metal recycler registered under Occupations Code,

2 Chapter 1956; or

3                    (3) return the license plate to the department or county tax assessor-collector.

4                    (c) A dealer or governmental agency must return all license plates in the dealer's possession to

5 the department within 10 days of closing the associated license or within 10 days of the associated

6 license being revoked, canceled, or closed by the department.

7                    [~~(b) A dealer, or a federal, state, or local governmental agency, may use a preprinted Internet-~~

8 ~~down temporary tag up to 12 months after the date the preprinted Internet-down temporary tag is~~

9 ~~created. A dealer, or a federal, state, or local governmental agency, may create replacement preprinted~~

10 ~~Internet-down temporary tags up to the maximum allowed, when:]~~

11                    [~~(1) a dealer, or a federal, state, or local governmental agency, uses one or more~~

12 ~~preprinted Internet-down temporary tags and then enters the required information in the temporary tag~~

13 ~~database after access to the temporary tag database is again available; or]~~

14                    [~~(2) a preprinted Internet-down temporary tag expires.]~~

15                    [~~(c) The number of preprinted Internet-down temporary tags that a dealer, or federal, state, or~~

16 ~~local governmental agency, may create is equal to the greater of:]~~

17                    [~~(1) the number of preprinted Internet-down temporary tags previously allotted by the~~

18 ~~department to the dealer or a federal, state, or local governmental agency;]~~

19                    [~~(2) 30; or]~~

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

3                   ~~[(d) For good cause shown, a dealer, or a federal, state, or local governmental agency, may~~  
4     ~~obtain more than the number of preprinted Internet-down temporary tags described in subsection (c) of~~  
5     ~~this section. The director of the Motor Vehicle Division of the department or that director's delegate may~~  
6     ~~approve, in accordance with this subsection, an additional allotment of preprinted Internet-down~~  
7     ~~temporary tags for a dealer, or a federal, state, or local governmental agency, if the additional allotment~~  
8     ~~is essential for the continuation of the dealer's, or a federal, state, or local governmental agency's,~~  
9     ~~business. The director of the Motor Vehicle Division of the department, or a federal, state, or local~~  
10    ~~governmental agency, or that director's delegate will base the determination of the additional allotment~~  
11    ~~of preprinted Internet-down temporary tags on the dealer's, or a federal, state, or local governmental~~  
12    ~~agency's, past sales, inventory, and any other factors that the director of the Motor Vehicle Division of~~  
13    ~~the department or that director's delegate determines pertinent, such as an emergency. A request for~~  
14    ~~additional preprinted Internet-down temporary tags must specifically state why the additional~~  
15    ~~preprinted Internet-down temporary tags are necessary for the continuation of the applicant's~~  
16    ~~business.]~~

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

21

22     §215.160. Duty to Identify Motor Vehicles Offered for Sale as Rebuilt.

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1 (a) For each motor vehicle a dealer displays or offers for retail sale and which the dealer knows  
2 has been a salvage motor vehicle as defined by Transportation Code, §501.091(15) and has subsequently  
3 been issued a title [~~titled under Transportation Code, §501.100~~], a dealer shall disclose in writing that  
4 the motor vehicle has been repaired, rebuilt, or reconstructed. The written disclosure must:

5 (1) be visible from outside of the motor vehicle; and

6 (2) contain lettering that is reasonable in size, stating as follows: *"This motor vehicle has  
7 been repaired, rebuilt or, reconstructed after formerly being titled as a salvage motor vehicle."*

8 (b) Upon the sale of a motor vehicle which has been a salvage motor vehicle as defined by  
9 Transportation Code, §501.091(15) and subsequently issued a title [~~titled under Transportation Code,  
10 §501.100~~], a dealer shall obtain the purchaser's signature on the vehicle disclosure form or on an  
11 acknowledgement written in fourteen point or larger font that states as follows: *"I, (name of purchaser),  
12 acknowledge that at the time of purchase, I am aware that this vehicle has been repaired, rebuilt, or  
13 reconstructed and was formerly titled as a salvage motor vehicle."*

14 (c) The purchaser's acknowledgement as required in subsection (b) of this section may be  
15 incorporated in a Buyer's Order, a Purchase Order, or other disclosure document. This  
16 disclosure requires a separate signature.

17 (d) An original signed acknowledgement or vehicle disclosure form required by subsection (b) of  
18 this section must be given to the purchaser and a copy of the signed acknowledgement or vehicle  
19 disclosure form shall be retained by the dealer in the records of motor vehicles sales required by  
20 §215.144 of this title (relating to Vehicle Records). If the acknowledgement is incorporated in a Buyer's

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1 Order, a Purchase Order, or other disclosure document, a copy of that document must be given to the  
2 purchaser and a copy retained in the dealer's records in accordance with §215.144.

3 (e) This section does not apply to a wholesale motor vehicle auction.

4

5 §215.162. Catalytic Converter Record Requirements.

6 A dealer that repairs a motor vehicle with a catalytic converter shall:

7 (1) comply with the recordkeeping requirements in Occupations Code, Chapter 2305,

8 Subchapter D; and

9 (2) allow the department to inspect these records during business hours.

10

11 **SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES.**

12 **§§215.151, 215.153, 215.154 and 215.159**

13 **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
14 department adopts repeals to Chapter 215 under Occupations Code, §2301.151, which gives the board  
15 authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any  
16 action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which  
17 authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale,  
18 and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair  
19 practices, discrimination, impositions, and other abuses in connection with the distribution and sale of  
20 motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code,  
21 Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or  
22 convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before

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1 the board; Occupations Code, Transportation Code; Transportation Code, §503.061, which allows the  
2 board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code,  
3 §503.0631 which requires the department to adopt rules to implement and manage the department's  
4 database of dealer-issued buyer's license plates; §503.0633 which allows the department to establish the  
5 maximum number of license plates or sets of license plates a dealer may obtain annually under  
6 Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011 which allows the board to  
7 adopt rules to implement and administer Chapter 504; Transportation Code, §520.021 which allows the  
8 department to adopt rules and policies for the maintenance and use of the department's automated  
9 registration and titling system; and Transportation Code, §1002.001, which authorizes the board to adopt  
10 rules that are necessary and appropriate to implement the powers and the duties of the department, as  
11 well as the statutes referenced throughout this preamble.

12 The department also adopts repeals under the authority of Transportation Code, §§501.0041,  
13 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and §2001.054, in addition  
14 to the statutory authority referenced throughout this preamble.

15 Transportation Code, §501.0041 authorizes the department to adopt rules to administer  
16 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt  
17 rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the  
18 board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code,  
19 §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504.

20 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature  
21 and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies  
22 the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal  
23 of a license.

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1 **CROSS REFERENCE TO STATUTE.** These repeals implement Government Code, Chapter 2001;  
2 Occupations Code, Chapter 2301; and Transportation Code, Chapters 501 - 504, and 1001–1005.

3

4 [~~§215.151. Temporary Tags, General Use Requirements, and Prohibitions.~~]

5 [(a) A dealer, governmental agency, or converter shall secure a temporary tag to a vehicle in the  
6 license plate display area located at the rear of the vehicle, so that the entire temporary tag is visible and  
7 legible at all times, including when the vehicle is being operated.]

8 [(b) All printed information on a temporary tag must be visible and may not be covered or  
9 obstructed by any plate holder or other device or material.]

10 [(c) A motor vehicle that is being transported in accordance with Transportation Code,  
11 §503.068(d) or §503.0625, must have a dealer's temporary tag, a converter's temporary tag, or a buyer's  
12 temporary tag, whichever is applicable, affixed to the motor vehicle being transported.]

13

14 [~~§215.153. Specifications for All Temporary Tags~~]

15 [(a) Information printed or completed on a temporary tag must be in black ink on a white  
16 background. Other than for a motorcycle, a completed buyer's, dealer's, converter's, or preprinted  
17 Internet-down temporary tag shall be six inches high and at least eleven inches wide. For a motorcycle,  
18 the completed buyer's, dealer's, converter's, or preprinted Internet-down temporary tag shall be four  
19 inches high and at least seven inches wide.]

20 [(b) A temporary tag must be:]

21 [(1) composed of plastic or other durable, weather-resistant material; or]

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1                   ~~[(2) sealed in a two-mil clear poly bag that encloses the entire temporary tag.]~~

2                   ~~[(c) A temporary tag may only be issued and printed from the department's temporary tag~~  
3 ~~database as described in §215.152 of this title (relating to Obtaining Numbers for Issuance of Temporary~~  
4 ~~Tags) and §215.157 of this title (relating to Advance Numbers, Preprinted Internet-down Temporary~~  
5 ~~Tags).]~~

6

7 ~~[\$215.154. Dealer's Temporary Tags.]~~

8                   ~~[(a) A dealer's temporary tag may be displayed only on the type of vehicle for which the GDN is~~  
9 ~~issued and for which the dealer is licensed by the department to sell or lease.]~~

10                   ~~[(b) A wholesale motor vehicle auction license holder that also holds a dealer GDN may display a~~  
11 ~~dealer's temporary tag on a vehicle that is being transported to or from the licensed auction location.]~~

12                   ~~[(c) When an unregistered vehicle is sold to another dealer, the selling dealer shall remove the~~  
13 ~~selling dealer's temporary tag. The purchasing dealer may display its dealer's temporary tag or its~~  
14 ~~dealer's standard or personalized prestige license plate on the vehicle.]~~

15                   ~~[(d) A dealer's temporary tag:]~~

16                   ~~[(1) may be displayed on a vehicle only as authorized in Transportation Code, §503.062;~~  
17 ~~and]~~

18                   ~~[(2) may not be displayed on:]~~

19                   ~~[(A) a laden commercial vehicle being operated or moved on the public streets~~  
20 ~~or highways;]~~



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1                   ~~[(B) on the dealer's service or work vehicles as described in §215.138(d) of this~~  
2 ~~chapter (relating to Use of Dealer's License Plates);]~~

3                   ~~[(C) a golf cart as defined under Transportation Code, Chapter 551; or]~~

4                   ~~[(D) an off-highway vehicle as defined under Transportation Code, Chapter~~  
5 ~~551A.]~~

6           ~~[(e) For purposes of subsection (d) of this section, a vehicle bearing a dealer's temporary tag is~~  
7 ~~not considered a laden commercial vehicle when the vehicle is:]~~

8                   ~~[(1) towing another vehicle bearing the same dealer's temporary tags; and]~~

9                   ~~[(2) both vehicles are being conveyed from the dealer's place of business to a licensed~~  
10 ~~wholesale motor vehicle auction or from a licensed wholesale motor vehicle auction to the dealer's~~  
11 ~~place of business.]~~

12           ~~[(f) A dealer's temporary tag may not be used to operate a vehicle for the personal use of a~~  
13 ~~dealer or a dealer's employee.]~~

14           ~~[(g) A dealer's temporary tag must show its expiration date, which must not exceed 60 days after~~  
15 ~~the date the temporary tag was issued.]~~

16           ~~[(h) A dealer's temporary tag may be issued by a dealer to a specific motor vehicle in the dealer's~~  
17 ~~inventory or to a dealer's agent who is authorized to operate a motor vehicle owned by the dealer.]~~

18           ~~[(i) A dealer that issues a dealer's temporary tag to a specific vehicle must ensure that the~~  
19 ~~following information is placed on the temporary tag:]~~

20                   ~~[(1) the vehicle-specific number from the temporary tag database;]~~

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1                   ~~[(2) the year and make of the vehicle;]~~

2                   ~~[(3) the VIN of the vehicle;]~~

3                   ~~[(4) the month, day, and year of the temporary tag's expiration; and]~~

4                   ~~[(5) the name of the dealer.]~~

5                   ~~[(j) A dealer that issues a dealer's temporary tag to an agent must ensure that the following~~

6 ~~information is placed on the temporary tag:]~~

7                   ~~[(1) the specific number from the temporary tag database;]~~

8                   ~~[(2) the month, day, and year of the temporary tag's expiration; and]~~

9                   ~~[(3) the name of the dealer.]~~

10

11 ~~[215.159. Converter's Temporary Tags:]~~

12                   ~~[(a) A converter's temporary tag may be displayed only on the type of vehicle that the converter~~

13 ~~is engaged in the business of assembling or modifying.]~~

14                   ~~[(b) A converter's temporary tag must show its expiration date, which may not be more than 60~~

15 ~~days after the date of its issuance.]~~

16                   ~~[(c) A converter that issues a converter's temporary tag to a specific vehicle shall ensure that the~~

17 ~~following information is placed on the converter's temporary tag:]~~

18                   ~~[(1) the vehicle-specific number from the temporary tag database;]~~

19                   ~~[(2) the year and make of the vehicle;]~~

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1                   ~~[(3) the VIN of the vehicle;]~~

2                   ~~[(4) the month, day, and year of expiration of the converter's temporary tag; and]~~

3                   ~~[(5) the name of the converter.]~~

4

5                   **SUBCHAPTER E. LESSORS AND LEASE FACILITATORS**

6                   **43 TAC §215.178**

7     **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
8     department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the  
9     board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take  
10    any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which  
11    authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale,  
12    and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair  
13    practices, discrimination, impositions, and other abuses in connection with the distribution and sale of  
14    motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code,  
15    Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or  
16    convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before  
17    the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a  
18    license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license  
19    holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution,  
20    financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement  
21    with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to  
22    adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631

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1 which requires the department to adopt rules to implement and manage the department's database of  
2 dealer-issued buyer's license plates; §503.0633 which allows the department to establish the maximum  
3 number of license plates or sets of license plates a dealer may obtain annually under Transportation Code,  
4 §503.063 and §503.065; Transportation Code, §520.0071 which requires the board to adopt rules  
5 classifying deputies performing titling and registration duties, the duties and obligations of these deputies,  
6 the type and amount of bonds that may be required by a county tax assessor-collector for a deputy  
7 performing titling and registration duties, and the fees that may be charged or retained by deputies;  
8 Transportation Code, §520.021 which allows the department to adopt rules and policies for the  
9 maintenance and use of the department's automated registration and titling system; and Transportation  
10 Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to  
11 implement the powers and the duties of the department, as well as the statutes referenced throughout  
12 this preamble.

13           The department also adopts amendments under the authority of Transportation Code,  
14 §§501.0041, 502.0021, 503.002, and 520.003; and Government Code, §2001.004 and §2001.054, in  
15 addition to the statutory authority referenced throughout this preamble.

16           Transportation Code, §501.0041 authorizes the department to adopt rules to administer  
17 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt  
18 rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the  
19 board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code,  
20 §520.003 authorizes the department to adopt rules to administer Chapter 520.

21           Government Code, §2001.004 requires state agencies to adopt rules of practice stating  
22 the nature and requirements of all available formal and informal procedures. Government Code,

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1 §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension,  
2 annulment, or withdrawal of a license.

3 **CROSS REFERENCE TO STATUTE.** These adopted amendments implement Government Code, Chapter  
4 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-503, 520, and  
5 1001–1005.

6  
7 Text.

8 §215.178. Records Required for Vehicle Lessors and Vehicle Lease Facilitators.

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

12 (1) Complete records reflecting vehicle lease transactions that occurred within the  
13 preceding 24 months must be maintained at the licensed location. Records for prior time periods  
14 may be kept off-site.

15 (2) Within 15 days of receipt of a department records request [~~from a~~  
16 ~~representative of the department~~], a vehicle lessor or vehicle lease facilitator shall deliver a copy  
17 of the specified records to the address listed in the request.

18 (b) Content of records for lease transaction. A complete record for a vehicle lease  
19 transaction must contain:

20 (1) the name, address, and telephone number of the vehicle lessor;

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

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- 1 (3) the name, address, telephone number, and license number of the lease  
2 facilitator;
- 3 (4) the name, work address, and telephone number of each employee of the vehicle  
4 lease facilitator that handled the transaction;
- 5 (5) a complete description of the vehicle involved in the transaction, including the  
6 VIN;
- 7 (6) the name, address, telephone number, and GDN of the dealer selling the  
8 vehicle, as well as the franchised dealer's license number if the vehicle is a new motor vehicle;
- 9 (7) the amount of fee paid to the vehicle lease facilitator or a statement that no fee  
10 was paid;
- 11 (8) a copy of the buyer's order and sales contract for the vehicle;
- 12 (9) a copy of the vehicle lease contract;
- 13 (10) a copy of all other contracts, agreements, or disclosures between the vehicle  
14 lease facilitator and the consumer lessee; and
- 15 (11) a copy of the front and back of the manufacturer's statement of origin,  
16 manufacturer's certificate of origin, or the title of the vehicle, as applicable.
- 17 (c) Content of records for sale of leased vehicle. A vehicle lessor's complete record for each  
18 vehicle sold at the end of a lease to a lessee, a dealer, or at a wholesale motor vehicle auction must  
19 contain:
- 20 (1) the date of the purchase;
- 21 (2) the date of the sale;
- 22 (3) the VIN;

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- 1 (4) the name and address of the person selling the vehicle to the vehicle lessor;
- 2 (5) the name and address of the person purchasing the vehicle from the vehicle lessor;
- 3 (6) except for a purchase or sale where the Tax Code does not require payment of motor
- 4 vehicle sales tax, a tax assessor-collector receipt marked paid;
- 5 (7) a copy of all documents, forms, and agreements applicable to a particular sale,
- 6 including a copy of:
- 7 (A) the title application;
- 8 (B) the work-up sheet;
- 9 (C) the front and back of manufacturer's certificate of origin or manufacturer's
- 10 statement of origin, unless the title is obtained through webDEALER as defined in §217.71 of this title
- 11 (relating to Automated and Web-Based Vehicle Registration and Title Systems) [~~the electronic title~~
- 12 ~~system~~];
- 13 (D) the front and back of the title, unless the title is obtained through
- 14 webDEALER as defined in §217.71 of this title [~~the electronic title system~~];
- 15 (E) the factory invoice;
- 16 (F) the sales contract;
- 17 (G) the retail installment agreement;
- 18 (H) the buyer's order;
- 19 (I) the bill of sale;

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- 1 (J) any waiver;
- 2 (K) any other agreement between the seller and purchaser; and
- 3 (L) the purchaser's photo identification if sold to a lessee;
- 4 (8) a copy of the original manufacturer's certificate of origin, original manufacturer's
- 5 statement of origin, or title for a motor vehicle offered for sale, or a properly stamped original
- 6 manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for a title
- 7 transaction entered by a dealer into webDEALER as defined in §217.71 of this title [~~the electronic titling~~
- 8 ~~system by a dealer~~];
- 9 (9) the monthly Motor Vehicle Seller Financed Sales Returns, if any; and
- 10 (10) if the vehicle sold is a motor home or a towable recreational vehicle subject to
- 11 inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at
- 12 the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.
- 13 (d) Records of advertising. A vehicle lessor or vehicle lease facilitator shall maintain a copy
- 14 of all advertisements, brochures, scripts, or an electronically reproduced copy in whatever medium
- 15 appropriate, of promotional materials for a period of at least 18 months. Each copy is subject to
- 16 inspection upon request by the department at the business location during posted business hours.
- 17 (1) A vehicle lessor and a vehicle lease facilitator shall comply with all federal and
- 18 state advertising laws and regulations, including Subchapter F of this chapter (relating to
- 19 Advertising).



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

4                   (e) Title assignments. Each certificate of title, manufacturer's certificate of origin, or other  
5 evidence of ownership for a vehicle that has been acquired by a vehicle lessor for lease must be  
6 properly assigned from the seller in the vehicle lessor's name.

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

10                  (g) Electronic records. Any record required to be maintained by a vehicle lessor or vehicle  
11 lease facilitator may be maintained in an electronic format, provided the electronic record can be  
12 printed at the licensed location or sent electronically upon department request except as provided  
13 by subsection (c)(8) of this section.

Figure: 43 TAC §215.154(b)

<u>If a new license applicant is:</u>	<u>Maximum number of dealer's temporary license plates issued during the first license term is:</u>
<u>1. a franchised motor vehicle dealer</u>	<u>200</u>
<u>2. a franchised motorcycle dealer</u>	<u>50</u>
<u>3. an independent motor vehicle dealer</u>	<u>25</u>
<u>4. an independent motorcycle dealer</u>	<u>10</u>
<u>5. a franchised or independent travel trailer dealer</u>	<u>10</u>
<u>6. a trailer or semitrailer dealer</u>	<u>5</u>
<u>7. an independent mobility motor vehicle dealer</u>	<u>5</u>
<u>8. a wholesale motor vehicle dealer</u>	<u>10</u>

Figure: 43 TAC §215.154(d)

<u>If a vehicle dealer is:</u>	<u>Maximum number of additional dealer's temporary license plates issued with a demonstrated need through proof of sales is:</u>
1. <u>A dealer selling 26 to 50 during the previous 12-month period</u>	<u>5</u>
2. <u>A dealer selling 51 to 100 during the previous 12-month period</u>	<u>10</u>
3. <u>A dealer selling 101 to 150 during the previous 12-month period</u>	<u>15</u>
4. <u>A dealer selling 151 to 199 during the previous 12-month period</u>	<u>20</u>
5. <u>A dealer selling 200-299 during the previous 12-month period</u>	<u>25</u>
6. <u>A dealer selling more than 300 vehicles during the previous 12-month period</u>	<u>30</u>



August 12, 2024

Laura Moriaty  
General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Re: Texas Register July 12, 2024

Dear Ms. Moriaty:

The Texas Independent Automobile Dealers Association (TIADA) respectfully submits the following comments in response to the Texas Department of Motor Vehicles (TxDMV) proposed changes to the Texas Administrative Code. TIADA represents over 1,000 independent automobile dealers throughout the state of Texas which range in size from large publicly traded companies to small and micro-businesses.

TIADA after reviewing the purposed rules has the following suggestions:

**The rule should not include a suggestion to report stolen license plates to law enforcement.** The proposed rule states in various places that “A license holder is also encouraged to immediately alert law enforcement by reporting a stolen license plate to a local law enforcement agency.” This statement appears to be merely a suggestion and not a requirement as such TIADA believes it would be best to strike this statement from the proposed rule and instead include it in other guidance issued by the department as it may cause confusion to licensees.

**§215.133 should provide a streamlined process for a dealer renewing a license after being licensed for 10 years.** Dealers currently must provide documents that were previously provided to the TxDMV during prior applications when renewing their applications. TxDMV must then rereview those documents resulting in more time for staff to process applications. TIADA believes eliminating the reevaluation of previously submitted information would allow TxDMV staff to scrutinize new applications more closely without hiring more staff while also ensuring timelier processing of all applications. Therefore, TIADA believes a streamlined process for a dealer renewing their license would benefit both dealers and the public.

**§215.138(h) should be modified to allow a dealer to quickly offer test drives to customers.** Section 215.138 requires a dealer to enter the year, make and VIN number of every vehicle a dealer affixes a dealer license plate to. TIADA believes a dealer reporting who is in control of a plate should provide the department and law enforcement with adequate information to investigate fraud and other illegal activity while still allowing flexibility to a dealer, therefore TIADA recommends eliminating the requirement to identify the vehicle.

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**§215.152. Obtaining Dealer-Issued Buyer's License Plates should allow a dealer to request plates at any time.** Section 215.152 (i) requires dealers to use 50 percent of either a quarter or annual allotment before requesting additional plates. While this would work for most dealers, there are circumstances that some dealers may encounter that will require them to make a request prior to using 50 percent. For example, a few dealers have an annual auction that accounts for most of their sales in just three or four days. Therefore, TIADA recommends eliminating the 50 percent requirement by striking (i)(1) and (i)(2) and changing (i) to read as “A dealer may request more general issue license plates or sets of plates or buyer's temporary license plates” as misuse is still able to be prevented as the dealer need to “provide information demonstrating the need for additional license plates.”

**§217.40 should provide a method for a dealer to apply for a 30-day extension of a dealer-issued buyer's license plate in lieu of obtaining a new 30-day tag.** Currently, dealers who are unable to obtain the permanent registration for a customer may apply for a 30-day plate. In lieu of applying for a new plate, TIADA believes it would be easier for the customer to continue to use the same plate while waiting for their permanent registration, therefore TIADA recommends incorporating a 30-day registration by adding a new section 217.40(e) that reads as follows: “a dealer may request a 30-day registration for a buyer's license plate on behalf of the buyer through the department's system”.

**Section 217.74(g) should be stricken.** 217.74(g) requires dealers to complete webDEALER training conducted by the department, but numerous dealers have already completed other training provided by state trade associations, fellow dealers, and their tax offices. Those dealers that did not wait until the last minute would be unfairly penalized for seeking assistance with webDEALER as soon as possible by having to retake training that is provided by the department. Therefore, TIADA recommends striking the webDEALER training requirement.

Respectfully,



Earl Cooke  
Director of Compliance and Business Development  
[earl.cooke@txiada.org](mailto:earl.cooke@txiada.org)



**Laird Doran**  
Vice President, Government Relations  
& Senior Counsel

August 11, 2024

VIA EMAIL: [Laura.Moriaty@txdmv.gov](mailto:Laura.Moriaty@txdmv.gov)  
[rules@txdmv.gov](mailto:rules@txdmv.gov)

Ms. Laura Moriaty  
General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

**RE: Proposed TxDMV Rules 49 *TexReg* 5030 – 5140 (July 12, 2024)**

Dear Ms. Moriaty:

The following comments are submitted on behalf of Gulf States Toyota, Inc. (“GST”) with respect to the proposed rules as published in the July 12, 2024 Texas Register, 49 *TexReg* 5030 – 5140.

We are very appreciative of the Texas Department of Motor Vehicles (“TxDMV” or “the Department”) staff that have worked diligently on preparing this proposed rule package and for their coordination with industry stakeholders regarding the potential adoption and future implementation of this proposed set of rules.

We offer the following comments and suggestions for clarification, understanding, and consideration:

**1. 43 TAC Chapter 215.124 (Mobile Warranty Repair Services)**

**A. The Proposed Rule Is Inconsistent With Chapter 2301 of the Texas Occupations Code**

What constitutes “warranty work,” who is authorized to perform it, where it can take place, and how dealers are reimbursed for this work are all governed by Texas Occupations Code Chapter 2301.<sup>1</sup> In accordance with Chapter 2301, and to ensure a fair and sound system of distributing and selling motor vehicles in this state, warranty repair services are required to be performed only at a licensed dealer location. GST is not aware of any mention or suggestion by the Texas Legislature that warranty work need only be “managed” from a licensed location—even though this explanation was offered during the April 11, 2024 TxDMV Board Meeting, as to how mobile warranty service would operate. Rather, it is GST’s understanding that the performance of warranty repair services must

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<sup>1</sup> See Tex. Occupations Code 2301.002(8) (Definition of “Dealership”); 2301.002(16) (Definition of “Franchised Dealer”); 2301.002(37) (Definition of “Warranty work”); 2301.251(a) (appropriate license required under this chapter to perform warranty work); 2301.264(a)(2)(G) (Requiring a \$100 licensing fee for each location separate from the dealership that performs warranty service work on vehicles the dealer is franchised and licensed to sell); 2301.353 (a franchised dealer may not fail to perform warranty obligations placed on the dealer by the manufacturer’s warranty agreements); 2301.401 (warranty obligations placed on a dealer must be reasonable and a copy of such obligations provided to the Department); 2301.402 (setting forth the rate of compensation to dealers for warranty work); 2301.403 (setting forth the process for adjusting a dealer’s warranty labor rate); and 2301.404 (setting forth the time period that a manufacturer or distributor has to reimburse the dealer for warranty work performed).

take place at a dealer's established and permanent location licensed by the Department. Allowing mobile warranty repairs is a very significant departure from existing law and longstanding Department policy.

The adoption of administrative rules should not be taken lightly. Rules promulgated by an administrative agency acting within its statutory authority have the force and effect of legislation.<sup>2</sup> Yet the Texas Legislature has not directed the Department to undertake such a significant policy change in terms of how warranty work is regulated in this state. GST is concerned that this proposed rule would create a remarkable inconsistency with the applicable statutory provisions of Texas Occupation Code Chapter 2301 pertaining to warranty work. For that reason, GST believes that such a significant policy change that impacts the entire motor vehicle industry regarding how and by whom warranty work is performed in this state should be left to the purview of the Texas Legislature.

### **B. Subcontractors Performing Mobile Warranty Repairs Would Be Problematic For Manufacturers, Distributors, Dealers, and Texas Consumers**

GST has serious concerns about sanctioning the practice of utilizing unlicensed subcontractors to perform offsite (in this case mobile) warranty repair services. First, GST believes that there are significant quality control challenges with mobile repair services operated by subcontractors. Mobile repair services, even when managed from a dealer location, inherently lack the controlled setting of a dedicated dealer service department. The tools and technical support available at the dealership ensure a much higher standard of repair quality than what exists in a compromised mobile repair setup. This could result in inconsistent service standards and potentially undermine the long-term reliability of repairs, adversely affecting customers, dealers, and the Toyota brand.

Even more troubling is the fact that subcontractors acting as mobile service technicians are unlikely to be trained and certified by the manufacturer or distributor. A technician employed at a franchised new motor vehicle dealership is likely to have undergone hours of specialized training and earned numerous certifications from their respective manufacturer or distributor. Yet under this proposed rule, a subcontractor with little or no OEM training could be attempting to diagnose a complicated issue or perform a significant warranty repair for their very first time in a customer's driveway. Today's new motor vehicles come equipped with a plethora of advanced and complex safety features and technology. Performing warranty repairs on these safety features and technology requires highly specialized equipment and training. Enabling subcontractors to perform these repairs without the appropriate training and equipment has the potential to place the public at risk.<sup>3</sup>

Second, GST believes that there are serious documentation and oversight concerns with mobile warranty repairs being performed by subcontractors. While it is proposed that mobile service providers would be required to maintain repair records, the tracking and managing of these important records are apt to be more challenging than at a licensed location. Relying upon subcontractors to perform offsite warranty repair work will likely result in the creation of multiple repair orders—one by the subcontractor and another by the dealer. This will almost assuredly increase the risks of discrepancies in repair order compliance, complicating dealer warranty reimbursements, dealer audits, and ensuring overall compliance with a manufacturer or distributor's warranty standards and policies.

Third, subcontracting warranty work adds a layer of variability to the quality of the repair services performed. Unlike dealers, subcontractors are neither directly regulated nor do they have a direct contractual relationship with the OEM that provides the warranty. As a result, subcontractors are less likely to share the same commitment to dealership and/or OEM standards or have access to specialized service tools (SST) and information that is

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<sup>2</sup> *Texarkana and Ft. S. Ry. Co. v. Houston Gas & Fuel Co.*, 121 Tex. 594, 51 S.W.2d 284 (1932); *Northeast Tarrant County Water Authority v. Board of Water Engineers*, 367 S.W.2d 720 (Tex.Civ.App., 1963, no writ).

<sup>3</sup> For example, Light Detection And Ranging technology (LIDAR) requires measuring a vehicle's target range using reflected light. LIDAR includes many intricate devices that determine target range and speed from the time-of-flight of laser pulses. Repairing such technologies and safety equipment requires carefully calibrated measuring equipment and additional vehicle calibration in a highly controlled test environment.

critical to properly perform warranty repairs – many of which relate to vehicle safety. This could result in sub-standard services that fail to meet OEM specifications or quality expectations.

Fourth, allowing a subcontractor to perform mobile warranty repair services outside of the contracting dealer's primary market area or area of responsibility could create customer confusion and cause customers to seek additional repairs at different dealerships where the initial mobile repair failed to properly fix their vehicle. This scenario could lead to chargeback issues among dealers and could negatively impact customer service.

### **C. Subcontracting Warranty Repairs Undermines the Dealer Franchise System in Texas**

Toyota and Gulf States Toyota support the dealer franchise model in the State of Texas. We believe working with our Toyota dealers and their employees provides the best experience for our customers. Why other manufacturers and distributors would willingly choose to open up that customer relationship to unlicensed and unregulated third-party subcontractors for warranty work is puzzling.

Similarly, GST understands that TxDMV was created by the Texas Legislature in 2009 “to enhance customer service, consumer protection and the success of motor vehicle-related industries.”<sup>4</sup> It is also the charge of the Department to further the public interest and protect the welfare of the citizens of this state by working to ensure a sound system of distributing and selling motor vehicles through the proper licensing and regulating of manufacturers, distributors, and dealers.<sup>5</sup> At a time when the legislature and the Department have worked in tandem on important initiatives to protect consumers and the public through measures like fingerprinting licensees, increasing bond requirements for GDN license holders, and eliminating paper license plate tags, it is surprising that the Department would want to open up the realm of warranty repair work to unregulated, unchecked, and unlicensed individuals and entities that will be interfacing directly with customers at their homes and/or places of business. This would seem inconsistent with the Department's mandate given that there is no current plan that GST is aware of to qualify and license these subcontractors to ensure that they meet any criteria much less the Department's Criminal Offense Guidelines, qualifications, or other fitness requirements typically applicable to licensees.<sup>6</sup>

Unfortunately, this proposed rule would appear to deliberately dismantle the statutory framework that underlies the dealer franchise system in Texas – starting with undermining the legal standing that a dealer currently must have to bring a protest against another dealer for performing warranty service at an unlicensed location.

First, the proposed language does not define “mobile warranty or recall service” nor limit the performance of off-site service to true “mobile” repair work. Instead, the proposal broadly permits the performance of mobile warranty repairs and recall work in any circumstance so long as a franchised dealer either (1) authorizes the repair, (2) dispatches personnel to complete the repair, or (3) maintains repair records. This provision would allow subcontractors to perform warranty and recall work—purportedly on behalf of the dealer and the OEM—that are not authorized by a dealer, not dispatched by a dealer, and not initiated by a customer request, so long as records of the repair are maintained at a licensed premises.

Second, the proposed language does not define what constitutes “mobile” service or place any geographical limitations on where mobile repairs may be completed. This will likely create an environment akin to the “wild west” as some dealers embark on a race to the bottom. More specifically, some dealers could opt to deploy mobile service teams that basically maraud around looking for warranty work. Additionally, or alternatively, there could be other dealers that could deploy subcontractors that simply rotate around locations within another dealer's primary market area or area of responsibility. These dealers will simply station subcontractor mobile repair units

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<sup>4</sup> <https://www.txdmv.gov/about-us>.

<sup>5</sup> See TEX. OCCUPATIONS CODE 2301.001.

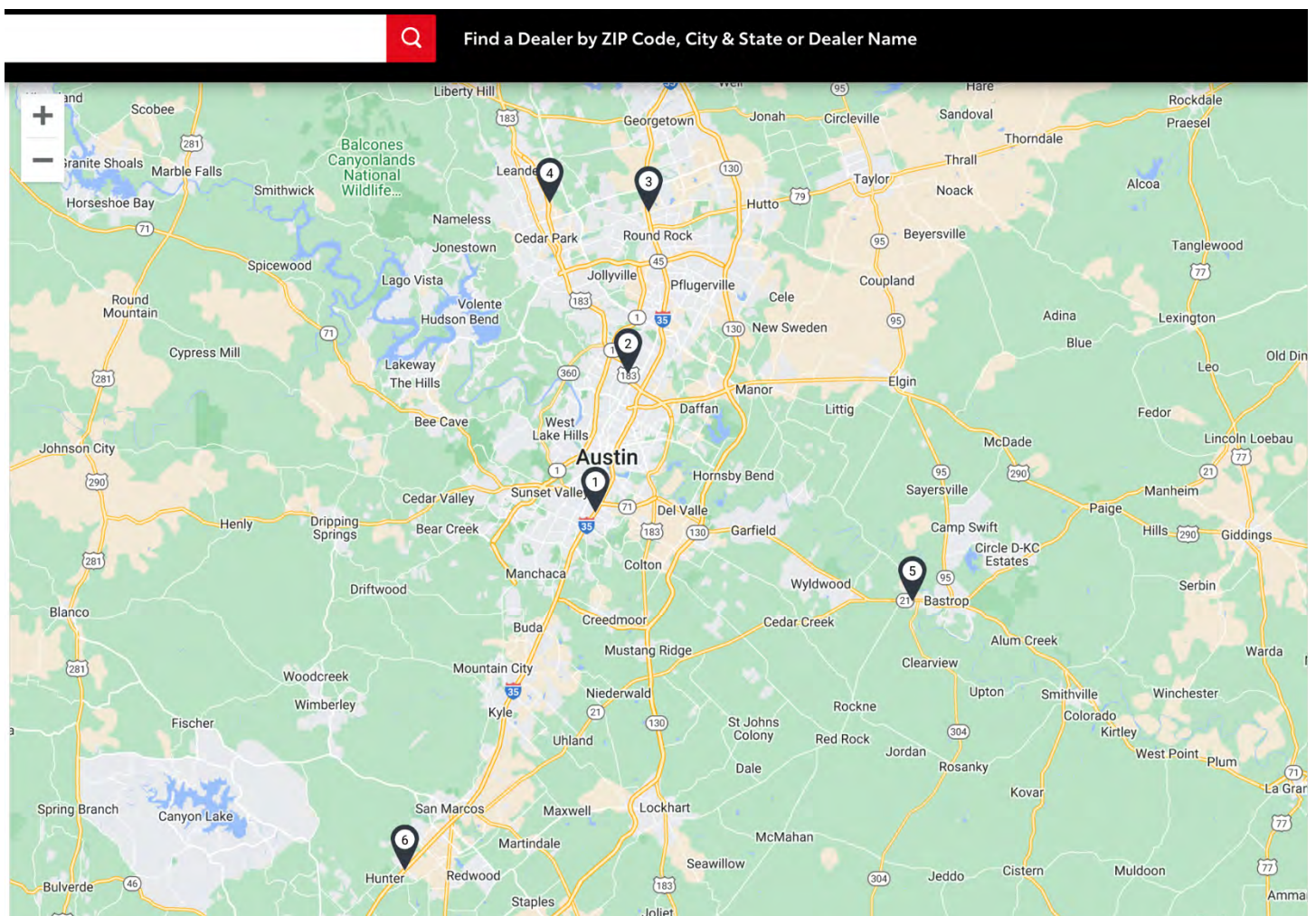
<sup>6</sup> See generally 43 TAC § 215.89 (Fitness).



at specific locations on a regular basis and set up other types of semi-permanent “mobile” operations—similar to the way food trucks rotate among jobsites or area businesses in town currently. Not only is this prejudicial to other dealers, but it could render meaningless the protest rights applicable to service-only facilities under 43 TAC § 215.103 and the Department’s corresponding licensing responsibility for these facilities.

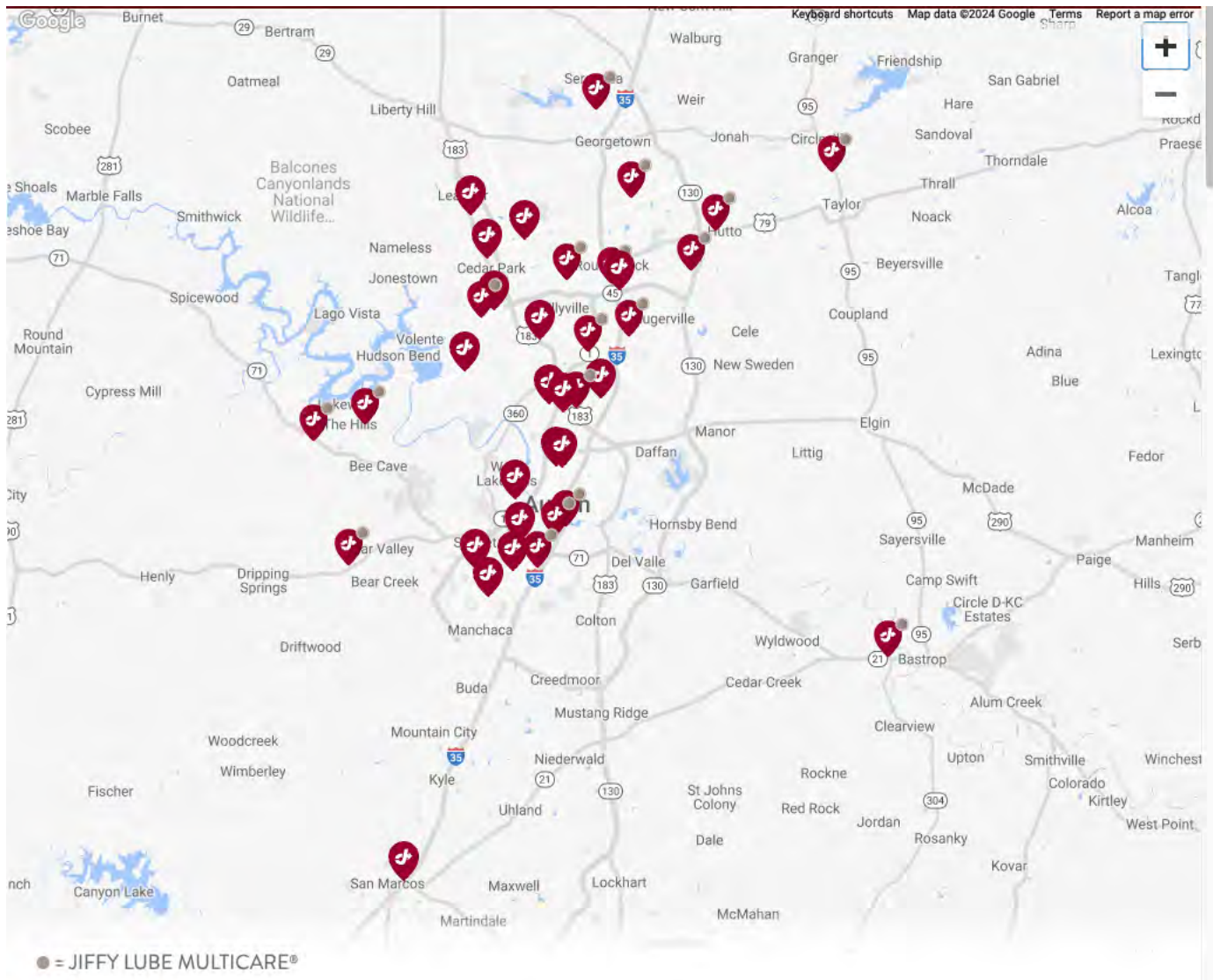
It warrants a closer look at how this could actually play out. Let’s say for example that a Toyota dealership in Austin, Texas entered into an agreement with Jiffy Lube to serve as a subcontractor for performing “mobile” warranty repairs and recalls. While the establishment of a service-only location under 43 TAC § 215.103 by that Austin Toyota dealer could have potentially triggered a protest by other Austin-area Toyota dealers (depending upon the location), the arrangement with Jiffy Lube carries no such risk and exponentially increases the dealer’s reach and overall footprint in the Austin-area well beyond that of a traditional licensed service-only facility. (See Map of Austin-area Toyota dealerships vs. Jiffy Lube).<sup>7</sup>

## **AUSTIN AREA TOYOTA DEALERSHIPS**



<sup>7</sup> <https://www.toyota.com/dealers/> and <https://www.jiffylube.com/austin-tx> (visited on August 7, 2024).

## AUSTIN AREA JIFFY LUBE LOCATIONS



As you can see from the maps above, Jiffy Lube and the Toyota dealer that opted to subcontract their warranty and recall work to them, would have the benefit of blanketing the Austin-area market with 36 Jiffy Lube service centers. While this arrangement by the dealer to utilize the footprint of independent repair shops to establish secondary unlicensed service locations under the guise of mobile service vans may increase customer convenience, it would be inherently unfair to the other Austin-area Toyota dealers. Yet the language of the proposed rule not only allows for this outcome, but it actually lends support for it. Specifically, § 215.124 states that “a franchised dealer of the manufacturer or distributor may contract with **another person** as a subcontractor to perform mobile warranty or recall repair services that the dealer is authorized to perform under a franchise agreement with a manufacturer or distributor.” (emphasis added) The term “person” is very broadly defined in Texas Occupations Code § 2301.002(27) to mean “a natural person, partnership, corporation, association, trust, estate, or any other legal entity.” In other words, Jiffy Lube as an entity and independent motor vehicle repair shop with nearly 180 locations across Texas, should qualify as a “person.”

Third, Gulf States Toyota takes little solace in the fact that a subcontractor would be prohibited from advertising to the public that the subcontractor performs warranty repairs and recall service under § 215.124(d). The public is going to see a mobile van or other vehicle used to perform these types of repairs, and Gulf States Toyota does not read the proposed rule to prohibit the “person” with whom the dealer contracts to perform such work as having

to utilize an unmarked vehicle completely devoid of the subcontractor's business name, telephone number, or the message "MOBILE REPAIR SERVICE." Moreover, a close read of § 215.124(d) reveals that the prohibition on advertising the performance of warranty repairs and recall work is only limited to the subcontractor—leaving the dealer and any other entity (other than the actual subcontractor) free to advertise, promote, and market this new service at their discretion.<sup>8</sup> Dealers that do not partake in such tactics described above may expect their manufacturers and distributors to police these activities. However, § 215.124(c) places a manufacturer or distributor at significant risk of costly and protracted litigation before SOAH and the TxDMV for withholding consent to such contractual arrangements between dealers and subcontractors. It is the charge of the Department to prevent unfair practices and other abuses to the people of this state in governing the motor vehicle industry, yet this proposed rule (as written) unfortunately encourages such conduct.<sup>9</sup>

It should be noted that the term "subcontractor" is not found in Texas Occupations Code Chapter 2301. As such, Gulf States Toyota is troubled by the Department sanctioning the use of unregulated subcontractors to perform warranty work on a long-term basis. It has always been the understanding of Gulf States Toyota that the Department allowed the limited practice of a dealer subcontracting warranty work to another dealer where that subcontracting dealer's own service facility had become inaccessible due to construction or damaged resulting from a storm, fire, or other disaster which rendered the subcontracting dealer unable to take care of their own service customers for some point of time.<sup>10</sup> Subcontracting warranty work in that context was permitted to provide the dealer with a way to continue to take care of their customers while the dealer was temporarily unable to perform that warranty work due to a facility issue. Over the years this stopgap measure designed to minimize customer inconvenience seems to have morphed into something much broader. This proposed rule further expands the subcontracting concept which was never a construct of the Texas Legislature and by doing so, it further weakens the dealer franchise system in Texas. Allowing any "person" with whom a dealer chooses to subcontract, an ability to perform warranty work anywhere and at any time simply diminishes the role of, and the significant investments made by, Texas franchised new motor vehicle dealers.

#### **D. The Proposed Rule Places Law Enforcement and the Public at Risk**

The Texas Department of Motor Vehicles has been actively engaged with supporting law enforcement and the implementation of Senate Bill 224, also known as the Deputy Darren Almendarez Act. Intended to address the very serious and dangerous issues around the theft of catalytic converters, the bill established new criminal offenses targeting the theft of catalytic converters, enhanced penalties for the crime, introduced administrative penalties for regulatory violations related to metal recycling entities, and implemented further regulatory provisions aimed at controlling the sale and purchase of stolen catalytic converters.

Darren Almendarez was a Harris County Sheriff Deputy who had served the community for 23 years. He was brutally shot and killed while off duty when he was confronting three thieves from stealing his truck's catalytic converter in a grocery store parking lot. As law enforcement has explained repeatedly to the public, one of the significant issues with catalytic converter theft is the danger it poses to individuals who approach thieves in the act. There have been instances where people have been injured or even killed when confronting these criminals.

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<sup>8</sup> The full text of proposed § 215.124(d) reads as follows:

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

<sup>9</sup> See Title 43 Texas Administrative Code § 215.1.

<sup>10</sup> An example of the scenario historically contemplated by Gulf States Toyota would be where a dealership like Classic Toyota in Galveston, Texas had their service facility impacted by a storm and Gulf States Toyota then approved of the Classic Toyota dealership subcontracting their Toyota warranty work to an affiliated dealership within the Classic dealership group – like the neighboring Classic Ford dealership. This subcontracting arrangement would be only for a reasonable period of time necessary for the Classic Toyota store to rebuild or repair their original service facility. Such arrangements could allow Toyota customers with warranty work to be conveniently taken care of until the Toyota dealer's service facility was back up and running.

Unfortunately, the Department's proposed language in § 215.124 will likely make it harder for law enforcement to discern whether a crime is being committed. Under this proposed rule, law enforcement will have to evaluate whether activity that might have otherwise been considered clearly suspicious now instead falls within the realm of mobile warranty repairs or recall work by some unlicensed subcontractor in an unmarked or even marked/branded van.

There have been reports of catalytic converter thieves posing as mobile mechanics operating out of cargo vans.<sup>11</sup> These individuals often mimic the appearance and actions of legitimate mechanics to avoid suspicion while stealing catalytic converters from parked vehicles. This tactic has been noted in various locations and has become part of the broader rise in catalytic converter thefts due to the high value of the metals contained in these components.

The Department's rule could have the propensity to cause law enforcement to doubt whether a van parked in someone's driveway with an individual removing exhaust components (including a catalytic converter) is a theft in progress or a legitimate mobile warranty repair. The public may also become less likely to report what would have otherwise been seen as potentially suspicious activity following the adoption of this rule. This proposed rule cuts against the very ethos of "see something, say something."

If anything, this proposed rule could lead to a further rise in catalytic converter thieves posing as mobile mechanics operating out of cargo vans. Most troubling about that scenario is that it could also lead to more interactions by members of the public with these thieves as individuals unknowingly approach these thieves under the false impression that there is a legitimate repair being performed. In other words, while law enforcement has for years been warning people not to approach catalytic converter thieves during the act, this proposed rule could actually end up inviting more of these interactions.

Concerns around this proposed rule were recently brought up at the Motor Vehicle Crime Prevention Authority (MVCPA) Senate Bill 224 Advisory Committee Meeting in July. It was suggested that the Department consider including language in its proposed rule that makes it explicitly clear that catalytic converter replacements and repair work should be specifically carved out from this rule so that law enforcement and the public have no reason to ever question whether they are witnessing suspicious activity when seeing the removal of a catalytic converter in someone's driveway or in a shopping center parking lot. Because of the inherent confusion that this rule could cause both law enforcement and the general public in determining whether they are witnessing the theft of a catalytic converter or the legitimate removal of exhaust components still under warranty, Gulf States Toyota believes that if the Board adopts this proposed rule and fails to consider this law enforcement concern, eventually law enforcement groups and certain state agencies may have to resort to spending resources on a public awareness campaign to address this confusion. Stated another way, failing to address the issue of thieves posing as mobile service mechanics right now under this proposed rule will only further set back efforts to reduce the dangerous and rampant crime of catalytic converter theft.

### **E. Manufacturers and Distributors Should Not Be forced by State Law to Permit Offsite Warranty Repair Work By Subcontractors**

GST firmly believes that adopting a proposed rule to allow mobile warranty services is inappropriate and that such a significant policy change to warranty repair service in the motor vehicle industry in the State of Texas should be before the Texas Legislature. However, if it is the prerogative of the Department and the Board to adopt such a rule, then at a minimum GST believes that any requirement placed upon the manufacturer or distributor that they must accept subcontractors performing this work must be stricken. The proposed rule states

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<sup>11</sup> See e.g. [https://www.pennlive.com/news/2018/02/catalytic\\_converter\\_thieves\\_ar.html](https://www.pennlive.com/news/2018/02/catalytic_converter_thieves_ar.html) (police reporting catalytic converter thieves are posing as mechanics).

that a franchised dealer “may” offer mobile warranty repair services. However, unlike a franchised dealer that has a choice about whether to engage in mobile warranty repair work, subsection (c) of the proposed rule would more or less require a manufacturer or distributor to permit the dealer to subcontract their warranty repair services.

Specifically, subsection (c) states that a manufacturer or distributor cannot unreasonably withhold their written approval to a dealer desiring to subcontract mobile warranty repair work. Nowhere in Chapter 2301 did the legislature mention the concept of subcontracting warranty work – much less require that a manufacturer or distributor consent to it. If individual manufacturers and distributors do not believe that it is in the best interest of their customers, their dealers, and their business to offer mobile warranty work, then that decision should be respected.

Similarly, if individual manufacturers and distributors want to require very specific parameters and eligibility criteria around the performance of offsite (mobile) warranty work in order to protect their customers, protect their dealers from unfairly competing against one another, and protect their brand—then it should be their unequivocal right to do so. Therefore, to the extent that the TxDMV remains inclined to adopt § 215.124 despite the concerns expressed herein, GST believes that at a minimum it should be modified as follows:

- (a) A franchised dealer may only offer mobile warranty repair services under a manufacturer’s or distributor’s warranty if the dealer has obtained the manufacturer’s or distributor’s written approval and if these services are managed from a licensed location which may be either a licensed sales and service location or a licensed service-only facility as described in § 215.103 of this title (relating to Service-only Facility).

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- ~~(c) Upon the manufacturer's or distributor's prior written approval, which cannot be unreasonably withheld, a franchised dealer of the manufacturer or distributor may contract with another person as a subcontractor to perform mobile warranty repair services that the dealer is authorized to perform under a franchise agreement with a manufacturer or distributor. A franchised dealer must obtain the manufacturer's or distributor's prior written approval before contracting with any person as a subcontractor to perform mobile warranty repair services that the dealer is authorized to perform under a franchise agreement with a manufacturer or distributor.~~ Payment shall be made by the franchised dealer to the subcontractor and not by the manufacturer or distributor to the subcontractor.

It should be entirely up to the manufacturer or distributor as to whether to allow a dealer to subcontract warranty work. Therefore, in addition to the above change to proposed § 215.124, GST would also request the following change to recently amended 43 TAC 215.103(d) to ensure consistency:

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

If these changes cannot be made by the Department, then Gulf States Toyota strongly believes that both 43 TAC § 215.124 and 43 TAC § 215.103 should be withdrawn in their entirety.

## 2. New Rule Requirements Pertaining to Catalytic Converters and SB 224

### A. § 215.102 Application Requirements

The new change proposed in 43 TAC § 215.102(K)(iv) would add a requirement that a manufacturer, distributor, or converter indicate whether the applicant repairs motor vehicles with catalytic converters in Texas and the physical location of where such repairs are performed when applying for their respective license from the Department. Gulf States Toyota is hopeful that the Department will provide additional guidance around this new requirement.

As a licensed motor vehicle distributor in Texas, Gulf States Toyota does not currently “repair” catalytic converters in the traditional sense, or in the way in which perhaps the Department contemplates that an independent muffler and exhaust shop would. Gulf States Toyota still subscribes to the belief that a motor vehicle manufacturer or distributor is not permitted under Texas law to perform their own warranty work, nor act in the capacity of a motor vehicle dealer by engaging in the business of physically performing Toyota customer vehicle repairs for compensation in direct competition with our Toyota dealers. Therefore, GST believes that it would be helpful if the Department could provide further clarification around how a manufacturer or distributor should respond to a license application question inquiring about licensees “repairing” catalytic converters.

Additionally, it is GST’s experience that catalytic converters as a component of the vehicle’s exhaust system are not typically repaired, but rather are completely replaced. Although GST has been involved in the past in assisting Toyota dealers to ensure that the damage caused to a customer’s vehicle resulting from a catalytic converter theft is properly assessed and repaired, it is not actually GST performing those customer repairs and/or the replacement of the customer’s catalytic converter—it is the Toyota dealer. Therefore, GST believes that this license application question should be clarified. Admittedly, when a criminal hastily saws off a vehicle’s catalytic converter it can result in significant damage to numerous other components and systems and can be quite extensive and costly to repair. In some instances, GST has worked with Toyota dealers at their dealerships to ensure that customers have had their vehicles properly repaired.

However, as SB 224 made its way through the Texas Legislature, GST is unaware of any concerns raised by law enforcement, the bill author, or any other legislators regarding the way in which new motor vehicle manufacturers and distributors supply their dealers with replacement catalytic converters or how manufacturers and distributors dispose of catalytic converters removed and replaced by their dealers. In fact, the terms “manufacturer” and “distributor” as licensed entities under Chapter 2301 of the Texas Occupations Code are only mentioned one time in the entire bill. That single reference pertains to metal recycling entities obtaining catalytic converters from manufacturers and distributors in the ordinary course of their respective businesses and does not speak to either type of licensee actually “repairing” motor vehicles. Gulf States Toyota is concerned about unnecessary recordkeeping requirements that were not explicitly set out in SB 224 and might come across as solutions in search of problems.

### B. 43 TAC Chapter § 215.122 Catalytic Converter Record Requirements

Similar to the proposed language of 43 TAC § 215.102(K)(iv), the new language found in proposed 43 TAC § 215.122 requires that a manufacturer, distributor, or converter that repairs a motor vehicle with a catalytic converter to comply with the recordkeeping requirements found in Chapter 2305, Subchapter D of the Texas Occupations Code. This provision further requires that manufacturers and distributors allow the Department to inspect these records during business hours.

First, as explained above, GST believes that the industry would benefit from further clarification around what the Department considers to be the repair of a catalytic converter by a manufacturer or distributor.<sup>12</sup> Second, the Department should apply the same principles of reasonableness found in Texas Occupations Code § 2305.155 when calling for the inspection of any catalytic converter records maintained by a manufacturer or distributor. Section 2305.155(b) requires the occupational licensing authority (which in this case would be the TxDMV) to enter the licensee's premises at a reasonable time. The Department should provide a manufacturer or distributor with reasonable notice prior to coming onsite to perform an inspection of the records kept and maintained by the manufacturer or distributor. This type of advanced notice would be consistent with entering a licensee's premises at a reasonable time.

Both manufacturers and distributors want to be helpful and responsive to the Department as well as law enforcement. However, showing up unannounced at the corporate office of either a licensed motor vehicle manufacturer or distributor to perform an inspection might be frustrating for both the inspectors as well as the licensees who may have to work to determine the exact location status of records sought by the inspectors and then work diligently to locate those exact records. This is particularly true where records may be kept at multiple locations or facilities belonging to the manufacturer or distributor.

Providing reasonable notice to the manufacturer or distributor would enable these licensees to ensure that the proper resources are directed at quickly compiling the requested records to avoid delays associated with TxDMV personnel showing up unannounced and attempting to inspect records at one location when the requested records are in fact maintained at another manufacturer or distributor facility based upon how such records are kept in the ordinary course of the manufacturer's or distributor's business.

We very much appreciate the opportunity to comment on the above proposed rule changes. If you have any questions, please do not hesitate to contact me.

Sincerely,



Laird M. Doran

Vice President, Government Relations & Senior Counsel for The Friedkin Group  
Submitted on behalf of Gulf States Toyota, Inc.

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<sup>12</sup> Texas Occupations Code § 2305.001(2) defines "Repair" to include "the rebuilding of a motor vehicle, the installation of a new or used part or accessory on a motor vehicle, and the performance of electrical work in connection with the repair of a motor vehicle." However, this definition does not align with the manufacturer's or distributor's role in the context of replacing a customer's catalytic converter.



August 6, 2024

Laura Moriaty, General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

RE: Proposed Amendments to Administrative Code, Title 43, Part 10, Chapters 215 and 217

Ms. Moriaty:

Founded in 2012, Carvana is a Fortune 500 e-commerce platform that provides our customers alternatives to the traditional purchasing process. By providing customers with the option of purchasing a vehicle online from the comfort of their home, Carvana allows customers to select, purchase, and have their vehicle delivered directly to their door. To date, Carvana has sold nearly 225,000 used vehicles to Texans who have chosen to take advantage of the Carvana experience.

For context, it is important to understand how Carvana operates, which is distinctly different from the traditional dealer model. Carvana's retail activities, whether a consumer is purchasing or selling (including trading) a motor vehicle, are conducted completely online. A purchaser's first face-to-face interaction with a Carvana employee is on the day they take possession of the motor vehicle, whether it is delivered to their home or picked up at one of Carvana's iconic vending machines.

Over the years, Carvana has worked with the department to ensure compliance with Texas licensing requirements. Carvana uses logistical way-point locations (hubs) to complete fulfillment (delivery) of vehicles, which the department has determined do not constitute retail sales activities requiring licensure. For example, a resident in Tyler, Texas may have their sale contractually completed under the license issued to Carvana's location in Blue Mound, Texas, while the hub (delivery departure location) is in Shreveport, Louisiana. This approach works well for Carvana in operationalizing sales contracting activities, vehicle fulfillment, and title and registration.

Currently, with online-based issuance of buyer's tags, any person can be granted access to the appropriate license's eTAG account to process the buyer's tag regardless of physical location, and buyer's tags can be printed on regular printer paper, meaning there is virtually no friction in the process of issuing a buyer's tag making the process very friendly and easy to use. Carvana only issues Texas buyers tags to Texas purchasers titling and registering their vehicle in Texas. As a result of House Bill 718, the regular printer paper is being replaced by a physical, inventoried asset (metal license plates), which impose new considerations for Carvana.



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Based on the calculation in the proposed rules, a reasonable calculation results in Carvana, across its licenses, receiving an annual allotment of at least 80,000 to 100,000 license plates. On a quarterly basis, Carvana would be required to store at least 20,000 license plates and handle a quarterly replenishment of 10,000-20,000 license plates. Many of Carvana's locations are small and do not have the type of physical storage space to accommodate the thousands of transactions facilitated through the location, even on a quarterly basis.

Additionally, Carvana has an in-house, purpose-built license plate management system, which it intends to utilize to the maximum extent possible to manage Texas license plates. Carvana strongly encourages the department to include as much connectivity as possible (i.e., through APIs and similar integrations) in its new license plate management system to allow dealers of all sizes to integrate their dealer management systems or other systems with the department's license plate system. Carvana welcomes the opportunity to partner with the department's vendor to develop and/or test these types of solutions.

With this context in mind, it is critical to Carvana's operations, and its ability to effectively manage this new program, continue to provide the level of service Texans have come to expect from Carvana, and ensure compliance with state law and rules that the department include additional flexibility and allowances in the final rule and/or license plate system.

### **Important Requests for Consideration**

Item #1: In order to effectively manage tens of thousands of plates quarterly and annually, Carvana must be able to centralize plate storage and allow its staff to distribute plates across its numerous licensed and unlicensed locations at a frequency conducive to Carvana's operations and storage constraints.

To facilitate centralized plate storage, reduce shipping costs, and provide flexibility, Carvana requests the rules allow:

- the department to allocate license plates generically to a dealer with multiple licenses or to one of the dealer's licenses,
- the department to ship plate allocations to a central dealer-specified location, and
- a dealer to allocate/reallocate their allocation amongst its licenses as needed.

Currently, Carvana has dealer licenses that are not utilized for sales and title and registration activities; however, the proposed rules would result in plates being issued to those licenses, resulting in needless storage and unused allocation. The volume of sales on Carvana's licenses fluctuates, so it is quite possible that one license could use its allocation, requiring a new order of plates, while another license could still have thousands of available plates. Clearly, this would be inefficient for both the department and Carvana.

The ability to centralize the storage of license plates and allocate/reallocate them to the Carvana license that needs them will ensure optimal plate allocation utilization, reduce shipping, enhance storage compliance, and mitigate risk. Carvana strongly suggests that the license plate system be designed to allow for dealer licenses to be linked by the

department to facilitate centralization and/or re-allocation of inventory amongst the linked licenses. While the overall need for this by dealers may be low (i.e., likely less than a dozen dealers organizations), it will be extremely beneficial to those with multiple locations who elect to use such allowance and represent a disproportionately large sales volume.

Item #2: As previously stated, Carvana uses logistical way-points (hubs) as departure locations for at-home delivery fulfillment. Retail activities do not occur at these locations, so the department has determined they do not require a license. However, the ability for those locations to issue and affix metal license plates as Carvana does paper temporary tags today is critical.

Carvana requests the rules authorize dealers to store license plates at unlicensed locations operated by the dealer so long as plates are stored according to the storage requirements and is able to provide plate locations at all times. This will ensure Carvana can continue using its final point of delivery locations as it does today. Carvana is receptive to limitations to this allowance, such as by request to and subject to approval by the department.

Item #3: Carvana encourages the department to consider centralized fulfillment of the registration insignia (registration stickers) upon county tax assessor-collector approval of the title and registration application. Centralized fulfillment could eliminate or mitigate county tax assessor-collector staff time for printing and processing, dealer time for travel to retrieve and process, dealer time and/or costs for mailing or contacting purchasers, and purchaser retrieval time, if applicable.

Additionally, if centralized fulfillment is utilized, consideration should be given to not processing the registration insignia until all department checks are satisfied (e.g., NMVTIS). This should eliminate situations where an issue is discovered after the registration insignia has been issued, requiring the registration to be invalidated (e.g., NMVTIS inquiry determines the vehicle is salvage or junk).

However, with this recommendation, it is imperative the department provide enhanced data access via an API or web service integration that facilitates knowledge of the title and registration status, such as through webDEALER. A simple API to allow a VIN-based inquiry for the status is sufficient.

Today, at Carvana's volume, there is no practical mechanism to know a transaction's status. At any given moment, Carvana may have hundreds or even thousands of transactions in various statuses and ultimately cannot determine completion until registration insignia is received. Often, dealers are reliant on customers to alert them to a potential issue. This is often driven by an impending temporary tag expiration visible on their buyer's tag. Once this transition occurs, there will be little incentive for customers to inquire about their sticker status since they will have a metal license plate with no visible expiration date. Additionally, if registration is never issued, an owner may not receive the registration renewal notice that prompts them to renew registration, which is also often a point where issues surface. API inquiry functionality would facilitate Carvana's ability to monitor transactions for issues and ensure title and registration is ultimately finalized for our customers.

Item #4: Carvana acquires tens of thousands of Texas-registered vehicles annually. It is imperative that a more efficient, API-based reporting of the vehicle transfer notification (VTN) is provided by the department than is available today. It is not practical or cost effective for Carvana, or any dealer, to employ staff to manually enter VTN information via webDEALER. Carvana estimates processing a VTN via webDEALER takes about two minutes per VTN, requiring Carvana to allocate the equivalent of one to 1.5 full-time employees to process. Unfortunately, the absence of a human-free solution (e.g., API) would push Carvana to automate the production of paper-based VTNs, requiring the department or its contractor to manually process tens of thousands of Carvana VTNs annually.

Item #5: As a standard part of Carvana's business process, Carvana retitles (title only) all vehicles it acquires into its name outside of the state of Texas. For Texas-registered vehicles, this re-titling process would require voiding associated license plates and reporting their disposition. It is imperative the license plate system include API functionality that facilitates disposition reporting. As with VTNs, it is impractical for Carvana staff to manually take into inventory every Texas license plate and then immediately report it as voided. While the license plate system has not yet been developed for an accurate understanding of time requirements, Carvana estimates that reporting plate disposition manually could take three to five minutes per plate, requiring Carvana to allocate the equivalent of 1.5 to three full-time employees to process. Carvana understands it may be unique in this; however, Carvana's volume is significant, and it wants to ensure good faith compliance with department expectations.

Manual processing, as described by items four and five, would collectively cost Carvana an estimated **\$100,000 to \$170,000** annually in labor at current volume and economics. This estimate is exclusive of ancillary needs, functions, and requirements.

### **For General Consideration**

1. As suggested during the Advisory Committee process, Carvana recommends removing the references to "non-resident" and "out-of-state resident" from sections impacting the issuance of buyer's temporary license plates (§§ 215.132, 215.150(c), 215.151(b), 215.152(c)(2), and 215.155(e)).

As proposed, including these terms may produce unintended consequences. The determination should be based on the vehicle's domicile location, not the buyer's residence. Texas residents, who elect to purchase their vehicle in Texas but register the vehicle in another state, should be allowed to obtain the buyer's temporary license plate no differently than a non-resident. In both scenarios, the vehicle is not being operated or registered in Texas. The inability to issue a buyer's temporary license plate to a Texas resident would subject the Texas resident to Texas title and registration fees despite immediately removing the vehicle from the state. The vehicle owner would then be required to pay title and/or registration fees in the state where the vehicle is ultimately registered. There may also be sales tax implications, as not all

states credit sales tax paid in other jurisdictions or may not assess sales tax in their jurisdiction. Seasonal residents, military personnel, and students could all be impacted if this clarification is not made.

Carvana suggests using language consistent with §215.151(a) by stating “If a buyer purchases a vehicle to be taken out of Texas...” or similar phrasing, and including specificity that the removal must occur before the temporary license plate’s expiration.

Additionally, §215.151(b) includes the term “titled” as a qualification for issuance of a temporary plate. There are situations where a vehicle eligible for registration may not be required to be titled for reasons of age or vehicle type (e.g., trailers). A similar risk may apply when including the term “registered.” For example, a trailer may require registration in Texas but not require registration (or title) in the state the vehicle is being taken to.

2. Various terms describing the same plate type are used throughout the proposed rules for these chapters. Such terminology interchange is confusing for the untrained eye. These terms include “standard license plate,” “license plate or set of license plates,” “general issue license plate or set of license plates,” “buyer’s license plate or set of license plates,” and “buyer’s general issue license plate or set of plates” and other similar variations. Terminology should be reconciled for consistency to avoid confusion. Carvana recommends the term “buyer’s license plate” as that term is defined in §215.132. The “or set of license plates” is superfluous because “set of license plates” is already included in the definition of “buyer’s license plate.”
3. It appears that many or most sections of the proposed rule, such as §215.156, should apply to both buyer’s license plates and buyer’s temporary license plates; however, only the former is specifically addressed in most cases. For example, in §215.156, a dealer would not be required to print a receipt for a temporary license plate that is issued. Carvana is not sure if this is intentional or an oversight. Carvana suggests a review of terminology to ensure consistent use and encourages uniform rule applicability across the varying plate types.
4. If §215.156 is applicable to buyer’s temporary license plates, it may be prudent to include the expiration date on the receipt to coincide with the expiration date affixed on the plate to mitigate malpractice or fraud.
5. §215.132(J) includes a reference to §215.174(g). It appears the correct reference should be to § 215.74(g).
6. In §215.138(i), replace the words “dealer’s license plate record” with “electronic license plate system designed by the department.”
7. In §215.138(j), include the option of returning voided plates to a county tax assessor-collector’s office for consistency with other sections.
8. §215.151(d) includes a reference to §215.150(d). It appears the correct reference should be to §215.150(f).

9. In §§ 217.2 and 217.22, the definition of current identification with respect to identification expiration is confusing. Carvana suggests rewording to “or is expired not more than 12 months”.
10. In §217.4(d)(4), it is assumed that if a vehicle is subject to Transportation Code, Chapter 548, no physical documentation is required, including the Vehicle Inspection Report (VIR). If that is accurate, Carvana requests the department program webDEALER to allow a dealer to electronically self-certify the VIN as one of the “forms.” This would eliminate another physical document from being printed, signed, and imaged for submission through webDEALER. Currently, the certificate of title and VIR are the only two physical documents scanned and uploaded when using webDEALER’s electronic buyer acknowledgment process. Eliminating a document, rather than merely replacing it (i.e., VIR is replaced with a new/existing self-certification form) would be the ideal implementation.
11. In §217.27(a)(2), consider replacing “the symbol, tab, or other device prescribed by and issued by the department” with “vehicle registration insignia” for consistency with other such changes in the proposed rule amendments since that term is defined in §217.22 and for consistency with §217.27(a)(1).
12. There may be a conflict between §§ 215.151(d) and 217.53(a). §215.151(d) requires a dealer to provide plates to a buyer or destroy plates if the vehicle is sold to an out-of-state buyer or for export, whereas the 217.53(a) specifies that a dealer shall transfer plates with the motor vehicle without any specified exception. Wholesale auction sales or direct dealer-to-dealer transactions where the buyer is out-of-state would be subject to both of these provisions because they are not retail sales.
13. §217.71(b)(7) references a system, webLIEN, which does not exist.

Carvana acquired ADESA, a wholesale motor vehicle auction, in 2022. ADESA is a member of the National Auto Auction Association (NAAA). Carvana is aware of and has worked closely with the NAAA on concerns and recommendations that impact all wholesale motor vehicle auctions, including ADESA. Carvana wishes to register its support and concurrence with the NAAA’s comments and recommendations to the proposed rules.

We thank the department for allowing Carvana to contribute its perspective. Additionally, we commend the department for its commitment to collaboration and its ongoing dialogue with impacted stakeholders.

Sincerely,



Carling Dinkler  
Head of Government Affairs,  
West Region and Federal



Tony Hall  
Head of Policy, Title and  
Registration Modernization



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*Executive Director*

August 7, 2024

### VIA EMAIL

Ms. Laura Moriarty, General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Ms. Moriarty:

The National Auto Auction Association (NAAA) is providing comments on the department's proposed amendments to Texas Administrative Code, Title 43, Part 10, Chapter 215 ("the proposed rules").

Headquartered in suburban Washington D.C., NAAA is a trade association for wholesale motor vehicle auctions (henceforth "auctions"). NAAA comprises over 340 domestic and international auctions, with an additional 100 associate members, including 36 member auctions and 11 associate members in Texas. NAAA's mission is to protect and promote the interests of both its members and the auction industry. NAAA member auctions provide the marketplace for sellers/consignors (OEMs, rental car companies, corporate fleets, lenders, lessors and dealers) to sell vehicles to licensed dealers, who, in turn, sell the vehicles to retail consumers. In 2023, NAAA member auctions facilitated the sale of 7.3 million vehicles across North America, including approximately 900,000 in Texas.

NAAA has had productive conversations with department staff about the proposed rules as they relate to license plate storage; however, we believe the proposed rules could be clearer in some areas and need revision to mitigate substantial and costly impacts to auctions in other areas.

The primary issue we raise with respect to the proposed rules is in §215.151(d) requiring wholesale dealers, which presumably includes auctions, to remove and store license plates from vehicles that flow through the auctions. Such a requirement would be extremely burdensome to implement with current auction operations. Auctions merely facilitate the transaction by providing a wholesale marketplace and related services, without taking ownership of the vehicle, which remains in the name of the seller/consignor until transferred to the buying dealer.

Approximately 675,000 of the 900,000 sales facilitated in Texas were Texas registered vehicles. If secure storage of Texas license plates for all these vehicles were to be required, NAAA estimates annually (based on 2023 data) that 675,000 vehicles will require:

- a review of information taking 5-minutes per vehicle. Assuming an hourly rate, including benefits, of \$22.50, we estimate a \$1.88 cost per vehicle for an annual cost of \$1.692 million.
- an additional, cumulative per vehicle processing and handling time of 20-minutes for plate retrieval and storage. Assuming the same hourly rate, we estimate an additional \$7.50 cost per impacted vehicle for an annual total of \$5.062 million.

This amounts to 25-minutes processing time at a cost of \$9.38 per vehicle, amounting to approximately **\$6.33 million**.

The second issue we raise with respect to the proposed rules is the requirement to retain Texas license plates belonging to vehicles sold to out-of-state dealers. NAAA is unaware of a single instance in which an out-of-state dealer (who acquired a Texas registered vehicle) misused a Texas license plate, particularly one which may have passed through an NAAA member auction. Additionally, an untold volume of interstate private party transactions and registrant relocations occur every year where a final plate disposition is not accounted for in the proposed rules.

NAAA estimates at least 225,000 vehicles (based on 2023 data) will be impacted by this requirement. This includes approximately 125,000 Texas registered vehicles sold by commercial sellers to out-of-state dealers and 100,000 Texas registered vehicles sold by Texas dealers to out-of-state dealers. NAAA estimates annually:

- 900,000 vehicles sold in Texas in 2023 will require a review of buyer information to ascertain if the auction must retrieve plates. Reviewing buyer information will take 5-minutes per vehicle. Assuming an hourly rate, including benefits, of \$22.50, we estimate a \$1.88 cost per vehicle for an annual cost of \$1.692 million.
- Additionally, each of the 225,000 vehicles subject to plate retrieval and disposal will require an additional, cumulative per vehicle processing and handling time of 20-minutes. Assuming the same hourly rate, we estimate an additional \$7.50 cost per impacted vehicle for an annual total of \$1.687 million.

This amounts to an annual impact of **\$3.38 million** or \$3.76/vehicle spread across the 900,000 annual sales volume.

The total cost for the first two issues we raise amounts to approximately **\$9.71 million** or \$13.14/vehicle. Please see the attached Calculation of Financial Impact for more information. While NAAA respects the department's attempt to mitigate fraud potential by imposing storage, retention and reporting requirements, doing so for NAAA members is cost-prohibitive and impractical, arguably without evidence of value, and inequitable when viewed more broadly.

The third issue we raise with respect to the proposed rules is that any requirement that auctions perform plate status or disposition reporting will be impractical to implement and result in additional costs. Since a license plate system does not exist today, providing a valid time estimate as to the time commitments to such an activity is difficult. Conservatively, (1) estimating that the system reporting for a single plate will take 5-minutes per vehicle to complete; and, (2) that each of the 675,000 Texas registered vehicles in 2023 would have been impacted by this requirement, we estimate a \$1.88 cost per vehicle for system reporting resulting in an annual cost of **\$1.27 million**.

Additionally, we offer the following technical observation. Proposed §215.151(d) appears to be inconsistent or in conflict with proposed §217.53(a) and (b). Proposed §217.53(a) stipulates that license plates are to stay with the motor vehicle when a transfer involves a dealer in a non-retail transaction (which occurs when a vehicle is sold at an auction); however, §215.151(d) stipulates that an auction is to remove/retrieve these license plates despite the sale being a non-retail transaction. Further, proposed §217.53(a) stipulates that in any transaction in which neither party is a dealer (e.g., seller is a lender with an out-of-state buyer), the license plates are to stay with the motor vehicle. Again, this conflicts with §215.151(d) for the same reason.

### **NAAA Recommendations**

We offer the following recommendations to address the aforementioned issues and observations:

1. Exempt auctions from any requirement to remove, report, store, or dispose of any license plates.
2. Texas license plates are considered securely stored if they are either: (1) physically stored inside a motor vehicle while the vehicle is stored on an auction's property; or (2) remain
3. physically attached to the vehicle while it is stored on an auction's property. This additional allowance may be best suited for §215.140(b)(5)(E) and/or §215.150(f).
4. Ensure rule language is clear that license plate status updates must be completed by the selling Texas dealer or by the buying Texas dealer, as applicable.
5. Exempt auctions from any plate reporting requirements, regardless of whether the seller or buyer is an out of state dealer that is not licensed in Texas.
6. Resolve the inconsistency between §215.151(d) and §217.53(a)-(b) so that it's clear that the plates stay with the vehicle for all non-retail transactions.

To conclude, NAAA would like to reiterate its strong belief that auctions should be exempt from any Texas license plate removal, reporting and storage requirements because of the wholesale (non-retail) nature of the transactions and the substantial cost outweighing any potential benefits. Additionally, we would like to commend department staff for the time and consideration to previously provided feedback, many of which have been addressed in this proposed rulemaking.

Sincerely,



Paul Lips  
Executive Director





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Phone: 512-476-2686  
www.tada.org

August 12, 2024

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Sent via email to: [rules@txdmv.gov](mailto:rules@txdmv.gov)

Re: TxDMV Proposed Rules, Published July 12, 2024, *Texas Register*

Dear Ms. Moriarty:

On behalf of the franchised Texas motor vehicle dealers, the Texas Automobile Dealers Association (TADA) submits these comments regarding the proposed rules as published in the July 12, 2024, *Texas Register*, 49 *TexReg* 5030, et seq., and recognizes and thanks the time and effort employed by the many employees at the department in drafting the proposals.

**CHAPTER 215. MOTOR VEHICLE DISTRIBUTION**  
**SUBCHAPTER C.**  
**FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND**  
**CONVERTERS**

**43 TAC §215.102. Application Requirements.**

The proposed amendment for a manufacturer's or distributor's license seeks information as to where a manufacturer or distributor performs a repair.<sup>1</sup> As this is information that is not a part of the records requirement added by SB 224, 88<sup>th</sup> Leg., R.S., to

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<sup>1</sup>"If applying for a manufacturer's, distributor's, or converter's license: . . . (iv) whether the applicant repairs a motor vehicle with a catalytic converter in Texas, and if so, the physical address where the repair is performed." *Proposed 43 TAC §215.102 (e)(1)(K)(iv) (49 TexReg 5041).*

Chapter 2305, Occupations Code, it is therefore outside the statutory recordkeeping requirements to request a physical address where a repair is performed by a manufacturer or distributor as well as contrary to the warranty repair provisions in Chapter 2301.

TADA requests that 43 TAC §215.102(e)(K)(iv) be amended to comport with Chapter 2305, Subchapter D to state: “the name of the person to whom the catalytic converter was sold or transferred and the date of the transaction.”

The department’s explanation for the new licensing provision for a manufacturer, distributor, or converter is that it will allow the department to obtain the information that is necessary for the department to carry out its responsibilities to inspect a license holder’s records of catalytic converters under SB 224, 88<sup>th</sup> Leg., R.S. (49 *TexReg* 5031, July 12, 2024). However, SB 224 requires information for each transaction in which a manufacturer or distributor sells or transfers to another person, a catalytic converter that is removed from a motor vehicle.

Chapter 2305, Subchapter A records, which is not applicable to a manufacturer or distributor, discusses repair records for an owner of a garage or repair shop.<sup>2</sup>

SB 224 added Subchapter D, Records of Certain Sales or Transfers of Catalytic Converters Removed From Motor Vehicles, specifically §2305.153. This new section requires records for each transaction in which a **sale or transfer** to another person is made of a catalytic converter by a person listed in §1956.123(1)(A) - (G), Occupations Code. A manufacturer, distributor, converter, and dealer are listed in §1956.123(1)(C): “a manufacturer, distributor, converter, or dealer licensed under Chapter 2301, including any department of a dealer or converter that repairs or services motor vehicles.”

A manufacturer’s or distributor’s catalytic converter recordkeeping requirement is identified through their Chapter 2301 license, not as a person repairing or servicing a motor vehicle.

The required record under Subchapter D for each transaction in which the person sells or transfers to another person a catalytic converter that is removed from a motor vehicle contains:

1. A description made in accordance with the custom of the trade for the volume of

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<sup>2</sup>Chapter 2305, Subchapter A applies to those persons who operate a shop or garage that is engaged in the business of repairing a motor vehicle or a person who engages in the business of purchasing or selling used motor vehicles in this state.  
(TEX. OCC. CODE ANN. §2305.002 (Vernon 2022))

catalytic converters **sold or transferred**;

2. The name of the person to whom the catalytic converter was **sold or transferred**;  
and,

3. The date of the transaction.<sup>3</sup>

A record maintained in accordance with a routine business practice or other law that contains this same information, satisfies Subchapter D's recordkeeping requirements.<sup>4</sup>

As the recordkeeping requirements for a manufacturer or distributor in §2305.153 apply only to a sale or a transfer to another of a catalytic converter that is removed from a motor vehicle, the proposed new licensing rule should also be limited to those same records.

TADA again requests that proposed 43 TAC §215.102(e)(K)(iv) be amended to read: the name of the person to whom a catalytic converter was sold or transferred and the date of the transaction.

#### **43 TAC §215.120. Standard License Plates.**

The rule discusses a manufacturer, distributor, or converter in subsections (a) - (f); however, in subsections (g) and (h), the term "license holder" is used when discussing additional standard license plates and returning license plates.

If §215.150 (g) and (h) do not apply to all license holders and apply only to a manufacturer, distributor, or converter, TADA requests that the rules so state for clarification for all license holders.

#### **43 TAC §215.122. Catalytic Converter Record Requirements.**

The requirement proposed in 43 TAC §215.122 discussing the necessary records for a manufacturer, distributor, or converter that "repairs" a motor vehicle, is outside the scope of Chapter 2305, Subchapter D, Occupations Code as added by SB 224 and should be deleted from the proposal.<sup>5</sup>

The Subchapter D record requirements which are applicable to a manufacturer or distributor, require records regarding a sale or transfer transaction to another person.

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<sup>3</sup>*Id.* at §2305.153(a), (b).

<sup>4</sup>*Id.* at §2305.153(c).

<sup>5</sup>Repairs under warranty are limited to a franchised dealer as discussed throughout Chapter 2301, Occupations Code.

TADA requests that §215.122 be amended to track the catalytic converter recordkeeping requirement for a manufacturer or distributor as provided in §2305.153 so that it reads:

A manufacturer, distributor, or converter that sells or transfers to another person a catalytic converter that is removed from a motor vehicle shall maintain a record of the person to whom the catalytic converter was sold or transferred; a description of the catalytic converter; and, the date of the transaction, as required by Occupations Code, Chapter 2305, Subchapter D, and allow the department to inspect these records during business hours.

Also, see the discussion under proposed 43 TAC §215.102, above.

### 43 TAC §215.124. Mobile Warranty and Recall Repair Services.

The recently adopted rule, 43 TAC §215.103, and the July 12<sup>th</sup> proposed rule regarding performing mobile warranty work, are both contrary to Chapter 2301, Occupations Code, and specifically to the statutory definition of “dealership.”<sup>6</sup>

A “dealership” is the physical premises and business facilities on which a franchised dealer operates the dealer's business, including the sale and repair of motor vehicles and also includes the premises or facilities at which a dealer engages in warranty repairs and not new motor vehicle sales. The definition of “franchised dealer”<sup>7</sup> provides where the service or repair of a motor vehicle under warranty is to occur— at a dealer’s established and permanent place of business.

If the Texas Legislature intended for franchised dealers to perform warranty service and repair via a dealership on wheels, it would have so provided in the statute. As written,

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<sup>6</sup>TEX. OCC. CODE ANN. §2301.002(8) (Vernon 2022): “Dealership means the **physical premises and business facilities** on which a franchised dealer operates the dealer’s business, **including** the sale and **repair** of motor vehicles. The term includes premises or facilities at which a person engages only in the repair of a motor vehicle if the repair is performed under a franchise and a motor vehicle manufacturer’s warranty.”(Emphasis added.)

<sup>7</sup>*Id.* at §2301.002(16): “Franchised dealer means a person who: (A) holds a franchised motor vehicle dealer’s license issued by the board under this chapter and Chapter 503, Transportation Code; and (B) is **engaged** in the business of buying, selling, or exchanging new motor vehicles **and servicing or repairing** motor vehicles under a manufacturer’s warranty at an **established and permanent place of business** under a franchise in effect with a manufacturer or distributor.” (Emphasis added.)

the “dealership” and “franchised dealer” requirements do not provide for a mobile warranty service, either to be “managed” from a licensed location or otherwise.

Allowing mobile warranty services to be shoehorned into the required physical premises by arguing they are “managed” from a licensed location ignores the statutory language and usurps the legislature’s domain.

Because there is no ambiguity in the statutory text, the board cannot add a mobile service for warranty work where the statute does not so allow.<sup>8</sup>

The rule as adopted and proposed disregards not only the unambiguous statutory language adopted by the legislature, but ignores the right to protest a “dealership” where warranty work is performed and thus allows a warranty service “dealership on wheels” to move around the state at-will or park beside an established dealership without regard to the statutory protest provisions adopted by the legislature in Subchapter N., Chapter 2301, Occupations Code.

While the board’s objective may be well-intentioned, the unintended consequences of warranty service performed other than at a physical and established place of business and whether such a change should occur, is a topic for the legislature as it should be thoroughly reviewed as to what is in the best interests of the State of Texas.

For example, as dealers have explained some of their concerns in letters regarding mobile service to the department:

- There is a lack of management oversight and quality control with respect to a mobile repair by the franchised dealer.
- A mobile technician does not have access to necessary tools, equipment, and diagnostic information to properly diagnose and repair complex vehicle issues.
- The amount of computer communication needed for new vehicle repairs makes a remote service extremely challenging, especially when on-line service is intermittent in many areas of the state.
- The proposal allows a subcontractor or other franchised dealer to park their mobile dealership service on wheels beside a dealer’s established physical service facility or across the street from the dealership—which is contrary to the protest statutes.
- A simple recall usually leads to additional repairs that most likely cannot be performed except at the dealership.
- Safety, financial, and logistical concerns have not been fully addressed in the proposal.

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<sup>8</sup>Combs v. Health Care Servs. Corp. (401 S.W.3d 623) (Tex. 2013).

- Safety concerns for the public, customers, and technicians are at issue in a mobile service.
  - Quality repairs are a concern.
  - The dearth of quality technicians is a struggle for franchised dealers and recruitment and training and safety as well as costs and insurance need to be thoroughly considered for such a statutory change.
  - It is questionable that a technician will want to perform warranty work via a mobile van, especially if the repair cannot be completed because of a lack of parts or other needed repairs.
  - The ability to obtain adequate insurance and at what cost must be accounted for when mobile service is discussed.
  - A warranty repair that cannot be completed in a mobile manner creates customer discontent and the quality and thoroughness of a mobile repair is questionable.
- (See Attachment 1)

The department's January 5, 2024, Rule Submission Memorandum sent to the Office of the Governor Regulatory Compliance Division states that the department's proposed amendment of §215.103(a) was prompted by stakeholder inquiries regarding whether a franchised dealer could perform warranty repair work through a mobile repair service based at the dealer's licensed location. The department subsequently determined that Chapter 2301, Occupations Code does not require warranty repairs to be performed only at a licensed dealer location so long as the licensee is engaged in the business of buying, selling or exchanging new motor vehicles and servicing or repairing motor vehicles at an established and permanent place of business as the dealer can send out repair trucks from that location to conduct actual repairs.

The department's position is a U-turn from the July 24, 2023, letter from Mr. Daniel Avitia, TxDMV Executive Director as well as the November 20, 2020, letter from Mr. Roland Luna, Sr., Director, Motor Vehicle Division.

(See Attachment 2)

The explanation for the department's changed position is because: "state agencies can change their interpretation of a statute, if they do so through the notice-and-comment rulemaking process in accordance with the Texas Government Code. While the 2020 letter interpreted the statute differently, this proposed rule is based on a new interpretation and was created through the full rulemaking process. As such, this rule will supersede that letter and allow franchised dealers more flexibility and business opportunity."

(See Attachment 3)

A stakeholder inquiry from General Motors (GM) as to mobile service was sent to the

department on March 23, 2023.  
(See Attachment 4)

General Motors later sent a form letter to its Texas dealers in February, 2024, along with a request for the GM dealers to fill out and forward to the department, of which 6 form letters were submitted. (See Attachment 5)

Another concern is the issue of current litigation.<sup>9</sup> The rush by the department to go forward with a rule that discusses warranty work when current litigation places warranty service at issue through a filed complaint alleging that a manufacturer can perform warranty work just as a franchised dealer by arguing that: “Texas law, however, allows motor-vehicle manufacturers like Lucid to undertake many activities commonly performed by new motor-vehicle dealerships. Specifically, such a manufacturer or manufacturer affiliate can: . . .(g) Provide repairs and service, including warranty service, for the manufacturer’s vehicles from an established physical location within Texas.”<sup>10</sup>

The plaintiff’s litigation argues for warranty service and a manufacturer’s ability to perform repairs and service as a franchised dealer. As warranty work is an issue in the litigation, the status quo should be maintained—the first response when any litigation involves an issue, even peripherally, as to an agency’s rule or policy.

The mobile service rule, both adopted and proposed, should be withdrawn. The statute is not ambiguous as it plainly states that repairs are to be performed at a franchised dealer’s licensed dealership and does not allow for a mobile dealership on wheels.

The legislature’s authority as to an unambiguous statute is also discussed in Chairman Terry Canales’s August 8, 2024, letter to Board Chairman Charles Bacarisse.  
(See Attachment 6)

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<sup>9</sup>The status quo should be the first response in a discussion of a rule or policy change when litigation is pending on an issue. The Attorney General of Texas has a policy not to answer a question that is pending in a court. Tex. Att’y Gen. Op. No. GA-0399 (2006) at 3 n. 5; No. GA-0457 at 4 (2006).

<sup>10</sup>Complaint: *Lucid Group USA, Inc. v. Johnston, et al.*, at 10, No. 1:22-cv-1116 (W.D. Tex, filed 11/01/22).

**SUBCHAPTER D.**  
**GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES**

**43 TAC §215.133. GDN Application Requirements for Dealer or a Wholesale Motor Vehicle Auction.**

With respect to the multitude of information required for a dealer's license by the department, including office and site requirements set out in §215.140, the proposal adds a requirement for proof of completion of webDEALER training conducted by the department under §217.174(g) (*sic*) (§217.74(g)).

New §217.74(g) requires webDEALER training for a GDN license and each holder and user accessing webDEALER under the holder's account, must complete the department's training by April 30, 2025. A new user on or after April 30, 2025, must complete the training before being given permission to use webDEALER. A holder who had access to webDEALER for more than 6 months and who submitted more than 100 transactions within the system as of October 1, 2024, is not required to take the webDEALER training.

The department's recent training schedule, according to the TxDMV's online calendar, shows the following webDEALER training schedule:

- February and March—offered once;
- April, May and June—offered twice;
- July—101 once and 102 twice;
- August—101 once and 102 twice.

As the department's licensing process is not only complicated and time-consuming, it is also labor intensive for the department and licensees.

TADA requests that the webDEALER training requirement not be added to the current licensing requirements.

Many dealership employees have been utilizing webDEALER for more than a decade. It is user-friendly for dealership title and registration employees. The department also has two videos currently available, "Getting Started with webDEALER," which is a 12 minute video that provides a general overview and getting started using webDEALER. The department has a second video available, "Using webDEALER," which is an 11:30 minute video that discusses starting, completing, and submitting a title application, a retraction of a title application, and the return of a title application.

The use of webDEALER has been set up in a convenient and understandable format. The available information from the department appears adequate without the need to require



a license applicant to complete training.

If additional training is necessary, the requirement is requested to be satisfied through an online recorded webinar available 24/7 by a user.

Finally, a “holder,” defined as a motor vehicle dealer who holds a general distinguishing number,<sup>11</sup> should not be required to complete webDEALER training when a holder’s user will perform the title and registration of vehicles.

**§215.138. Use of Dealer’s License Plates.**

The proposal requires a dealer to maintain in the department’s designated electronic license plate system,<sup>12</sup> a record of each dealer’s standard, personalized prestige, or temporary license plate issued by the department to the 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 or license plate.

(43 TAC §215.138(h))

The proposal requires a dealer to maintain a record of each dealer’s plate in the department’s designated electronic license plate system rather than in the dealer’s records. The explanation for the requirement that a dealer enter the name of the person in control of the vehicle or license plate, is in order to make it easier for the department and law enforcement to identify and investigate fraud and other illegal activity while allowing a dealer the flexibility to assign a license plate to a vehicle or a driver (49 *TexReg* 5032-5033).

A balance regarding the demands and needs of dealership customers and licensees is requested to be factored in when proposing the information that is required to be recorded into the department’s license plate system.

Customers will not understand the need for such time-consuming electronic entries as the test-drives of vehicles will be encumbered by the additional entering of information

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<sup>11</sup>A “holder” is a motor vehicle dealer who holds a general distinguishing number. (43 TAC §217.74(c)).

<sup>12</sup>License Plate System. A license holder must comply with §215.151 of this title (relating to Buyer’s License Plates General Use Requirements) regarding requirements to enter information into the department-designated electronic system for license plates (*proposed* 43 TAC §215.144(l)(2)).

into the department's license plate system.

TADA requests that the department not require the above information to be entered for a test drive if a dealership employee is in the vehicle that is being test-driven. At most, the license plate number and the name of the dealership employee for a test drive should satisfy law enforcement's and the department's fraud concern.

Another issue is if the department's electronic license plate system is not available for use, such as because of a weather event, by either the department or the dealer, what allowance is given to the dealer?

As an example, proposed 43 TAC §215.157 provides that when the internet is not available to issue a buyer's license plate and receipt, the dealer is to enter the required information the next business day. TADA requests that the rule provide that the information be entered into the license plate system the next business day when the internet is available.

A new sanction added in the proposal allows the board or the department to take an action against a license holder for failure to maintain a record of each dealer license plate as required under §215.138 (43 TAC §215.141(b)(27)). The board's or department's allowable actions under 43 TAC §215.141, Sanctions, include:

1. Denying an application;
2. Revoking a license;
3. Suspending a license;
4. Assessing a civil penalty;
5. Issuing a cease and desist order; or,
6. Taking other authorized action.

If a licensee does not submit a license plate in the department's license plate system, the penalty can be severe, especially if it is compounded. For example, if a customer test drives multiple vehicles, for each vehicle test driven, the salesperson or employee, must enter in the department's electronic license plate system:

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 or license plate.

(43 TAC §215.138(h))

TADA again requests that when a dealership employee is on a test drive that the required information for the license plate system not be required or in the alternative that the required information be satisfied by entering the name of the person in control of the vehicle

and the plate number.

TADA also requests that the department consider allowing that the information in the electronic license plate system be maintained as a secure confidential record. In addition, TADA asks that if the department's electronic plate system is not available for use by the dealer at the time of the test drive, that sanctions not be available for assessment.

**§215.140. Established and Permanent Place of Business.**

TADA thanks the department for allowing a dealer multiple options with respect to the location and means to store the dealer's and buyer's license plates in the dealer's possession in §215.140(6)(E), by allowing a locked and secure room or closet or multiple safes or steel cabinets bolted or affixed to the floor or wall.

**§215.150. Dealer Authorization to Issue License Plates.**

A dealer issues a general issue license plate for a vehicle type the dealer is authorized to sell. According to the proposal, for a used vehicle Texas buyer, if a general issue license plate or set of plates did not come with the vehicle and the buyer does not have a specialty, personalized or other qualifying license plate eligible to be assigned, then the dealer issues a general issue license plate/set of plates (§215.150(a)(2)).

Section 504.901, Transportation Code, effective July 1, 2025, provides in (b-1) that the purchaser may request replacement license plates under §504.007.

Since a used vehicle buyer may obtain a new set of license plates and is not required to accept the plates that were removed from the vehicle when it was traded in or purchased by the dealer, TADA suggests that §215.150 include language whereby a buyer may request new general issue license plates regardless of whether the used vehicle did or did not come with a set of plates when the dealer purchased the vehicle.

If the general issue plates did not come with the vehicle, the buyer is subject to paying a fee for replacement license plates as set forth in Transportation Code §504.007. A buyer is also subject to paying a fee for replacement license plates under §504.007 if the vehicle was traded in with a set of plates but the buyer elects to have a new set of general issue license plates installed on their vehicle.

TADA therefore requests that a reference to §504.007, Replacement License Plates, be included in 43 TAC §215.150 as the statute discusses when an owner may obtain replacement plates as well as the fee.

**§215.151. License Plate General Use Requirements.**

Whereas a buyer of a used vehicle may request replacement license plates under Transportation Code §504.901(b-1), TADA suggests that 43 TAC §215.151(d)(1) state that a dealer who removes and stores the general issue license plates shall offer [provide] the assigned license plates to a Texas buyer that purchases the vehicle; otherwise, the buyer and seller may believe he or she is required to accept the previous owner's plates.

As a buyer is not required to use the previous owner's general issue plates; therefore, the dealer needs the flexibility in the rule to satisfy the buyer's request regarding new plates or the previous owner's license plates.

**§215.152. Obtaining Dealer-Issued Buyer's License Plates.**

A newly licensed dealer is initially allocated 200 general issue license plates and 100 buyer's temporary license plates, unless the dealer provides credible information that a greater number is warranted. (43 TAC §215.152(e)(1) and (g))

Although 200 general issue plates may be adequate for the average dealer for a 3 month period and the number may be more than an annual amount of plates for others; however, dealers in the metropolitan areas may run out of plates quickly, perhaps in two weeks or less if so limited.

TADA is concerned that a "one size fits all" initial allotment may be too narrow in its application and encourages the department to continue to be receptive to a dealer's request for a greater number of buyer's license plates.

**§215.154. Dealer's Temporary License Plate Allocation.**

The maximum number of dealer's temporary license plates issued during the first license term is 200 for a franchised motor vehicle dealer, according to Figure: 43 TAC §215.154(b).

The use of such a plate, primarily outlined in Transportation Code §503.062, includes:

1. For a wholesale transaction, the purchasing dealer uses its own dealer's temporary license plate or the dealer's standard or personalized prestige license plate.

(43 TAC §215.155(c))

2. To demonstrate or cause to be demonstrated to a prospective buyer or to operate a vehicle temporarily while the customer's vehicle is being repaired. (§503.062(b)(2))

3. To convey or cause to be conveyed, a vehicle from one of the dealer's places of business in Texas to another of the dealer's places of business in

Texas. (§503.062(a)(2)(A))

4. To convey a vehicle from the dealer's place of business to a place the vehicle is to be repaired, reconditioned, or serviced. (§503.062(a)(2)(B))

5. For use from the state line or a location in Texas where the vehicle is unloaded to the dealer's place of business. (§503.062(a)(2)(C))

6. For use from the dealer's place of business to a place of business of another dealer. (§503.062(a)(2)(D))

7. For use from the point of purchase by the dealer to the dealer's place of business. (§503.062(a)(2)(E))

8. To road test the vehicle. (§503.062(a)(2)(F))

9. For a vehicle to be used by a charitable organization. (§503.062(a)(3))

Although §503.062(b)(1) allows the use of a dealer's temporary license plate on a vehicle that a prospective buyer is operating while the vehicle is being demonstrated, TADA requests that the above uses be included in the rule and also add a provision for clarification: that a dealer's temporary license plate may be used on a vehicle that is driven under a conditional delivery agreement as provided for in the Finance Code, §348.013.

Even though the Definitions in Subchapter D, 43 TAC §215.132(5), Dealer's Temporary License Plate, reference Transportation Code §503.062, incorporating those uses into the proposed 43 TAC §215.154 and also adding that such plates are used when a conditional delivery agreement is signed, will give everyone a clearer understanding of the allowed uses of a dealer's temporary metal license plate when referencing the rule.

#### **§215.157. Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available.**

If a dealer or governmental agency is not able to access the internet at the time of a sale, the plate issuance is then to be documented on a departmental prescribed receipt form. The required information is subsequently required to be incorporated into the license plate system no later than the close of the next business day.

Unfortunately, internet access may not be available at the close of the next business day for a dealer or for a governmental agency. Weather events, cybersecurity events, as well as government shut downs may foreclose access the "next business day."

TADA requests that the rule be amended by inserting language allowing the required information to be entered into the license plate system when the dealer or governmental agency has access to the internet, but no later than the close of the next business day after internet access is permanently secured.

As internet access may not be available at the close of the next business day, the required information for the license plate system should be required to be entered only when internet access is restored.

## **CHAPTER 217. MOTOR VEHICLE TITLES AND REGISTRATION**

### **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

#### **§217.36. Refusal to Register by Local Government and Record Notation.**

As the rules track much of the language in Transportation Code §702.003 and to prevent a misunderstanding, TADA requests that the rule also include a reference to subsection (f) which provides that a county assessor-collector's or the department's refusal to register a motor vehicle for an outstanding warrant for a failure to appear or failure to pay a fine, does not apply to the registration of a motor vehicle under §501.0234.

### **SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS**

#### **§217.74. WebDEALER Access, Use, and Training.**

The department's webDEALER system is a web-based titling and registration system that dealers use to submit title applications to a county tax assessor-collector and the department. The term also includes webSALVAGE, eTITLE, and webLIEN and any other web-based system to facilitate electronic submissions of title applications. (43 TAC §217.71(b)(7))

The importance of webDEALER throughout the years has shown that it is vital in the titling and registering of a vehicle by a licensed dealer and its significance has been demonstrated when tax offices have been unavailable because of (1.) a lack of personnel, (2.) during COVID, and, (3.) through weather-related events.

TADA applauds the department on its foresight and for being on the forefront for all states in its web-based system.

A proposed new requirement mandates webDEALER training for each holder who is a vehicle dealer and who holds a general distinguishing number.<sup>13</sup> Each user accessing webDEALER under the holder's account must also complete webDEALER training conducted by the department by April 30, 2025. A new user created on or after April 30, 2025, must complete webDEALER training before being given webDEALER permission.

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<sup>13</sup> A "holder" is a motor vehicle dealer who holds a general distinguishing number (holder). (43 TAC §217.74(c)).

(43 TAC §217.74(g))

A holder who has had access to webDEALER for more than 6 months and submitted more than 100 transactions within the system as of October 1, 2024, is not required to take the webDEALER training under this section. (43 TAC §217.74(g)(2))

A holder or user will be denied access to webDEALER if the holder and user “under the holder’s account” fail to complete the required training “as outlined in this section.” (43 TAC §217.74(g)(3))

TADA again requests that webDEALER training not be required of either a dealer or a user as holders/licensees have been accessing webDEALER for many years, upwards to ten years and more; thus, the training requirement to access webDEALER does not appear to be necessary.

Going forward, TADA requests that training not be a condition to obtaining a license or to the use of the webDEALER system as dealers have been utilizing it for many years without the mandated training; thus, the subsections 43 TAC §217.74(g)(1) - (3) should be deleted from the proposal.

Currently, two videos are available regarding webDEALER, “Getting Started With webDEALER” and “Using webDEALER.” If additional training is determined to be a necessity, TADA requests that the department provide an additional webinar course or expand the ones that are currently available to satisfy the training need so that it may be accessed 24/7.

## **SUBCHAPTER H. DEPUTIES**

### **§217.166. Dealer Deputies.**

As has been necessary during COVID and when the tax assessor-collector’s offices are challenged because of staffing, the use of webDEALER has been of utmost importance to the dealers in order to timely title and register a vehicle and not be penalized. Although dealers have had to increase their bond with a county at times because of the number of transactions a dealer has in the webDEALER system, the use of webDEALER has become essential to the franchised dealer.

The new proposed language in (h) allows a county tax assessor-collector to set a maximum number of webDEALER transactions for a dealer deputy, and the maximum

number must be based on the bond amount.<sup>14</sup>

As emergencies arise and continue for an unforeseen amount of time, a dealer's use of the webDEALER system is imperative. An accommodation for a dealer who uses the webDEALER system is requested as the dealer should not be penalized by either being cut-off from webDEALER use or having continually to increase their bond if the tax assessor-collector is not able to process the applications submitted through webDEALER in a timely manner because of unforeseen circumstances, such as occurred during COVID and during various weather events.

TADA requests that a tax assessor-collector not limit the number of webDEALER transactions nor require a bond increase if a dealer's transaction have been in the system for 72 hours or more without processing by the tax assessor-collector.

Section 501.023(b), Transportation Code, provides that the tax assessor-collector **shall** send the application to the department or enter it into the department's titling system within 72 hours after receipt of the application.

If the 72 hours is not met, the dealer should not be punished by having the number of transactions submitted into webDEALER limited by the number of transactions that have not been processed over the 72-hour time period nor should a bond increase be required for an increase in transactions that have not been processed over the 72-hour period.

If a cybersecurity event or a weather event prevents a tax assessor-collector from meeting the 72-hour requirement, TADA also requests that the length of time to process the dealer's webDEALER transactions without a penalty assessed on the dealer for failure to obtain title within the statutory time period be extended by the same amount of time that a tax assessor-collector's system is down.

## **CHAPTER 224. ADJUDICATIVE PRACTICE AND PROCEDURE**

### **SUBCHAPTER B. MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRY ENFORCEMENT**

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<sup>14</sup>Proposed new 43 TAC §217.161(h): "To be eligible to serve as a dealer deputy, a person must post a bond payable to the county tax assessor-collector consistent with §217.167 of this title (relating to Bonding Requirements) with the bond conditioned on the persons proper accounting and remittance of the fees the person collects. The county tax assessor-collector may set a maximum number of webDEALER transactions for a dealer deputy, and the maximum number must be based on the bond amount."



**§224.58. Denial of Dealer Access to License Plate System.**

As the state mandates the use of metal license plates, this proposal allows for the department to deny access to the state's license plate system if a plate has been obtained or issued fraudulently.

Included within the department's determination of a fraudulently issued plate is an account user who issues:

1. An excessive number of license plates relative to the dealer's sales.
2. A license plate for a vehicle/vehicles not in the dealer's inventory. A vehicle is presumed not to be in the dealer's inventory if the vehicle is not listed in the dealer's monthly Vehicle Inventory Tax Statement.
3. Access to the license plate system for a fictitious user or person using a false identity.
4. A license plate for a motor vehicle when a dealer is no longer operating at a licensed location.
5. A license plate for a motor vehicle not located at the dealer's licensed location or storage lot.
6. A license plate for a vehicle that is not titled or permitted by law to be operated on a public highway.

With respect to Numbers 1. and 2., there are multiple reasons why a dealership may issue more plates than the number of vehicles a dealer sells or that are listed on the dealer's monthly Vehicle Inventory Tax Statement and which do not rise to a "fraud" occurrence.

Buyer's do bring back vehicles after their purchase and a dealer will make an effort to accommodate the needs or desires of the buyer. Examples of such "come-backs" include:

- A spouse who does not like the vehicle model or the color chosen by the other spouse.
- The vehicle does not fit in the garage.
- The vehicle's driver's or passenger's seat is now uncomfortable after driving for "X" miles.
- Not enough leg room in the back seat.
- The baby seat is too difficult to get in and out of the car.
- The monthly payment is too high.
- The insurance is too costly.
- A buyer elects to add a co-buyer.
- A buyer decides to change lienholder.

For a dealer to satisfy a buyer's request may require the use of multiple plates, paper (currently) or metal, to be issued when there is no fraud involved in the tag or plate issuance.

When a dealer accommodates a buyer because of buyer's remorse or otherwise, what will be the protocol regarding the return of the metal plate on the vehicle that was delivered to the customer? Is it to be destroyed or re-issued?

TADA requests the department to adopt a rule in the "come-back" scenario or issue guidance such as allowing the dealer to void the transaction and permit the use of the same plates from the voided transaction to be placed on the replacement vehicle, or some other stated protocol to be provided for in the rule.

### CONCLUSION

TADA again thanks the many employees who engaged in the drafting of the proposed rules as published in the July 12, 2024, *Texas Register*.

Although difficult because of the magnitude of the proposals, TADA requests, if possible, a consistent usage of terms in order to avoid confusion. An example is the use of multiple terms for the same type of plate: "general issue license plate" in 43 TAC §215.150; a "buyer's general issue license plate" in §215.155; and, a "buyer's license plate" also used in §215.155.

If there are any questions regarding the requests and comments, please let me know.

Sincerely,



Karen Phillips  
GC/EVP

#### Enclosures:

- Attachment 1–Letters from dealers in response to the Mobile Service Repair proposed rule.
- Attachment 2–July 24, 2023, letter from Mr. Daniel Avitia to General Motors personnel, Mr. Andrew Hager and Ms. Jean Hoglund, and November 24, 2020, letter to Karen Phillips.
- Attachment 3–March 28, 2024, Email from Ms. Laura Moriarty to Karen Phillips.
- Attachment 4–March 21, 2023, letter from GM personnel, Mr. Andrew Hager and Ms. Jean Hoglund, to Mr. Daniel Avitia.
- Attachment 5–General Motors form letter for dealers to send to TxDMV and 6 signed form letters.
- Attachment 6–August 8, 2024, letter from Chairman Terry Canales, House District 40, to Mr. Charles Bacarisse, Chairman, TxDMV Board.

# **ATTACHMENT 1**

**Seguin Chevrolet**  
509 W. IH 10  
Seguin, Texas 78155

July 30, 2024  
Seguin / Metro  
(830) 303-4381

FAX (830) 303-0811

Outside / SA Metro  
1-800-925-3980

Office of General Counsel

Texas Department of Motor Vehicles

4000 Jackson Avenue

Austin, Texas 78731

Re: Vehicle Mobile Warranty Service

Dear Office of General Counsel and Director Avitia:

I am writing to express my concern over the proposed rule being considered that would allow for mobile warranty and recall repair services to be offered by a franchised auto dealer. It is even more concerning that the proposed new rule would allow for the mobile work to be performed by a subcontractor. The proposed rule change is clearly counter to the legislative intent of the original statute, as written, that explicitly states that warranty and recall work is to be performed at the physical location of the dealership. It was not contemplated in the legislative intent as permitting for the mobile service "if these services are managed from a licensed location." That verbiage is not included in the original legislation or in the final rule, and it therefore should not be interpreted otherwise by this agency.

There are several reasons why I am opposed to this proposed rule:

1. Mobile service presents many safety, financial, and logistic concerns that need to be addressed for all affected by this: the customer, dealer, and technician.
2. A simple recall repair usually leads to additional repairs that in most cases will not be able to be performed off-site and away from the dealership facility. This situation would not be good for the customer nor the dealer.
3. This proposed new rule would allow for any other franchised dealer, subcontracted or otherwise, to come into my backyard and work on my customer's vehicles. This scenario is contrary to the intent of the existing rule, which states intentionally that warranty and recall work is to be performed at the physical location of the dealership.

This proposed rule will clearly only benefit a few dealers at the expense of the vast majority of the dealers, being detrimental to the public and to the industry as well as anti-competitive. Accordingly, I respectfully request the board to reconsider their proposed and adopted mobile service rules and defer to the Texas Legislature for its consideration, which is where the issue appropriately belongs so that the many concerns encompassing mobile warranty service may be addressed.

Respectfully submitted,

  
Thomas "T" Harper

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August 1<sup>st</sup>, 2014

To Whom It May Concern:

This letter is in regards to franchised dealer mobile warranty service. We are against this practice as it violates current state statutes. The statutes governing the franchised dealers have been carefully drafted and the plain language adopted by the Legislature states that the repair of a motor vehicle under warranty is to be conducted at a licensed, established, physical premises and business facility subject to protest—not via a mobile unit. Under the Code, the performance of warranty work is required to be performed by a franchised dealer and carried out at an established, permanent, and licensed physical facility. The Legislature makes this clear in the adopted language of the statutes by defining “dealership,” “franchised dealer,” and “warranty work.” It cannot be argued that there is any ambiguity in the Texas Occupations Code as to where warranty work is required to be performed.

The proposed rule goes far beyond the plain text of the statute, and creates a myriad of concerns regarding enforcement of the current statute. Any revisions allowing for mobile service in Texas should be review and discussed by the Texas Legislature only after careful consideration of the proposal and appropriate safeguards implemented to ensure Texas consumers and dealers are not harmed. Further, there is significant liability not assumed by a property owner, business owner or city etc. where these services would be taking place along with the environmental impact these services could cause to the environment in regards to spills and disposal of hazardous waste with policies and procedures set forth by the Texas Commission on Environmental Quality.

I am formally requesting the board to withdraw the changes made by the Texas Department of Motor Vehicles regarding where warranty work is to be performed

Sincerely,



David Zwiacher

Vice President/General Manager

Scoggin-Dickey Chevrolet Buick Subaru Chrysler Dodge Jeep Ram Isuzu

Texas Automobile Dealers Association-Board Member

davidz@scoggin-dickey.com

806-798-4000

**Karen Phillips**

---

**From:** Charlie Gilchrist <cgilchrist@gilchristautomotive.com>  
**Sent:** Friday, July 19, 2024 3:34 PM  
**To:** rules@txdmv.gov  
**Subject:** Mobile Service for Warranty and Recall Work

My family and I own 16 dealerships in North Texas and I am writing to request the board to withdraw the changes made by the DMV regarding where and how warranty work and recalls can be performed. This rule creates many problematic areas of concerns regarding enforcement and the current statute is very plain, understandable and enforceable. Any revisions allowing for mobile service should be promulgated by the Texas Legislature. Changing the statute should be done only after careful consideration to ensure proper safeguards are implemented to protect Texas consumers and dealers.

We dealers are participating in mobile service not because it is a profitable business model and it ensures consumer satisfaction with the dealer, but because the OEM's have tied significant financial incentives to these programs. In many cases, the incentives mask the quality issues our customers are faced with. Without the incentives, most dealers would not invest significant resources in this business. We are also concerned with safety concerns for both our technicians and our customer. We are concerned with the quality of the repair when performed at a customers home or business. We are concerned about the technical and social skills that are required for the technician that will be visiting someones home to complete the repairs. Frankly, we are struggling to find qualified technicians. Insurance is another issue. I am not so sure our insurance company understands or covers.

The current statute is clear and understandable. Warranty work is to be performed at a licensed physical facility. This protects both the consumer and the dealer who has invested in facilities, tools, technician recruitment and training so that our customers have the most efficient and effective repairs when warranty or recall issues arise.

Thank you

*Charlie Gilchrist*  
Gilchrist Automotive

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[www.gilchristautomotive.com](http://www.gilchristautomotive.com)

  
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## Karen Phillips

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**From:** Tim Capps <timc@gabrieljordan.com>  
**Sent:** Friday, July 26, 2024 1:46 PM  
**To:** rules@txdmv.gov  
**Subject:** Texas Department of Motor Vehicles: Mobile Service

Daniel Avitia

Executive Director

Texas Department of Motor Vehicles

Respected Mr. Avitia,

I am writing to formally request the withdrawal of the recent changes proposed by the Texas Department of Motor Vehicles (TxDMV) concerning the location where warranty work is to be performed.

The Texas Occupations Code clearly stipulates that warranty work must be conducted at an established, permanent, and licensed physical facility, not via mobile units. This requirement is unambiguous as outlined in the statutes:

- **Dealership:** Defined as the physical premises where a franchised dealer operates, including facilities where repairs are made under a manufacturer's warranty. (Occupations Code §2301.002(8))
- **Franchised Dealer:** An individual holding a franchised motor vehicle dealer's license, engaged in selling and servicing vehicles at a permanent location. (Occupations Code §2301.002(16))
- **Warranty Work:** Includes all expenses incurred by a franchised dealer under a manufacturer's warranty. (Occupations Code §2301.002(37))

The language of the Texas Occupations Code leaves no room for interpretation regarding the location of warranty work. As such, any rule changes permitting mobile warranty services would contradict the statutory requirements and potentially lead to widespread violations.

Several key concerns regarding mobile service include:

- **Safety:** Risks to both vehicle owners and technicians performing repairs in non-standard environments.
- **Quality of Service:** Potential issues with the thoroughness and effectiveness of repairs made in mobile settings.
- **Technician Willingness:** Uncertainties about technicians' willingness to perform warranty repairs using mobile units.
- **Insurance:** Questions about the availability and adequacy of insurance coverage for mobile service operations.
- **Statutory Protections:** Impact on existing statutes that safeguard dealership operations and the implications of removing these protections for consumer and dealer interests.

Given these concerns, it is evident that the proposed rule changes extend beyond the scope of the current statutory framework. Addressing the feasibility and implications of mobile warranty services requires legislative



action. The Texas Legislature should thoroughly examine this issue, considering potential exceptions and implementing necessary safeguards to protect consumers and dealers.

I urge the board to withdraw the proposed rule changes and defer any decisions on mobile warranty services until the Texas Legislature has had the opportunity to review and address these issues comprehensively.

Thank you for your attention to this matter.

Sincerely,

Tim Capps



**Tim Capps**  
Managing Partner

Gabriel/Jordan Buick GMC  
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**Community Toyota**  
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**Community Honda**  
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**Community Honda Lafayette**  
1407 Surrey Street  
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337-235-9086

**Holmes Honda**  
1331 E Bert Kouns Industrial Loop  
Shreveport, LA 71105  
318-408-2420

**Holmes Honda Bossier City**  
1040 Innovation Drive  
Bossier City, LA 71111  
318-408-2410

**Community Cartopia**  
4221 I-10 East Freeway  
Baytown, TX 77521  
281-849-8959

July 31, 2024

via email:rules@txdmv.gov

Texas Department of Motor Vehicles  
4000 Jackson Ave  
Austin Tx 78731

Re: TxDMV Proposed Rule on Mobile Service

The TxDMV has proposed rule §215.124 Mobile Warranty and Recall Repair Services and the agency has certified that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

In my review of the proposed rule, I would strongly disagree with that assessment. The Texas Legislature has specifically defined within §2301.002 under (8)(16) and (37) the statutes defining "dealership," "franchised dealer," and "warranty work." It is clear in the Texas Occupations Code as to where warranty work is to be performed. Any deviation from this language which the proposed rule suggests would be against the current code and beyond the authority of this agency. There are many concerns why this rule should not be adopted regarding safety, quality concerns, insurance coverage and specifically whose customer and who is performing the repair on that customer. All these concerns should only be addressed by the Texas Legislature. Any change related to this rule must be addressed, as it is contrary to existing state law.

As you are probably aware, at the Federal level the Supreme Court, in the "Chevron" case, the Court ruled that agencies must act within their statutory authority in issuing rules and regulations and the agency cannot defer to their interpretation of the law. In this instance, the plain text of the current law is clear, and the agency has no authority to issue this proposed rule. I would urge the agency to not publish this rule and to let all the concerns that this rule could impose to be addressed by the Texas Legislature.

Sincerely,



Roger A Elswick  
President

**Karen Phillips**

---

**From:** mark stevenson <bighammernb@yahoo.com>  
**Sent:** Friday, August 2, 2024 11:15 AM  
**To:** rules@txdmv.gov  
**Subject:** Opposition to Mobile Service



**To:** Texas DMV

**From:** Mark V. Stevenson V.P.  
ValMark Chevrolet  
New Braunfels, TX 78130

**RE:** Opposition to Mobile Service

I am concerned and opposed, as a medium size Franchise Chevrolet Dealer, that mobile service will hurt our business and essentially affect customers. Having any dealer from any location come into local areas will create additional confusion for the customer. Per warranty agreements, repairs not completed or unable to be completed, will create a sense of discontent with retail customers concerning where and with whom their vehicle will be serviced. The mobile dealer would be responsible for completing repairs per OEM standards. Any

additional repairs, if not completed satisfactorily, would be the responsibility of the mobile dealer.

The statutes governing the franchised dealers have been carefully drafted and the plain language adopted by the Legislature states that the repair of a motor vehicle under warranty is to be conducted at a licensed, established, physical premises and business facility subject to protest—not via a mobile unit.

Under the Code, the performance of warranty work is required to be performed by a franchised dealer and carried out at an established, permanent, and licenced physical facility. The Legislature makes this clear in the adopted language of the statutes by defining “dealership,” “franchised dealer,” and “warranty work.” It cannot be argued that there is any ambiguity in the Texas Occupations Code as to where warranty work is required to be performed.

Dealership means the physical premises and business facilities on which a franchised dealer operates the dealer’s business, including the sale and repair of motor vehicles. The term includes premises or facilities at which a person engages only in the repair of a motor vehicle if the repair is performed under a franchise and a motor vehicle manufacturer’s warranty. (Occupations Code §2301.002(8); Emphasis added.)

Franchised dealer means a person who: (A) holds a franchised motor vehicle dealer’s license issued by the board under this chapter and Chapter 503, Transportation Code; and (B) is engaged in the business of buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a manufacturer’s warranty at an established and permanent place of business under a franchise in effect with a manufacturer or distributor. (Occupations Code §2301.002(16); Emphasis added.)

Warranty work means parts, labor, and any other expenses incurred by a franchised dealer in complying with the terms of a manufacturer's or distributor's warranty.

(Occupations Code §2301.002(37))

The fact that the Texas Occupations Code is not ambiguous means that the Texas Legislature needs to change the statute to allow for mobile service to occur.

As you know, current law sets out mileage requirements under which intra-brand dealers can challenge other dealers that violate those standards. These challenges are then subject to review and a final determination. This proposed change has the very real likelihood of wholesale violations of this protected area and could potentially result in wholesale violations of these requirements in clear violation of the statute.

The Texas Department of Motor Vehicles has adopted these rules, but can see no forethought regarding numerous concerns including:

- Safety concerns for both the vehicle owner and the technician;
- The quality and thoroughness of a repair that may be performed at a remote location;
- The willingness of a technician to be perform a repair utilizing a mobile unit;
- Whether insurance can be obtained to cover such mobile service; and
- The implications on the current statute which provides a level of protection for dealership operations (including warrant and recall services) and how eliminating this protection ultimately impacts services to customers.

The Texas Legislature is charged with making statutory revisions to allow for the expansion of providing mobile service. There may be circumstances in which mobile service is warranted, but these

exceptions need to be explored and ultimately decided by the Texas Legislature.

I am formally requesting the board to withdraw the changes made by the Texas Department of Motor Vehicles regarding where warranty work is to be performed. The proposed rule goes far beyond the plain text of the statute, and creates a myriad of concerns regarding enforcement of the current statute. Any revisions allowing for mobile service in Texas should be reviewed and discussed by the Texas Legislature only after careful consideration of the proposal and appropriate safeguards implemented to ensure Texas consumers and dealers are not harmed.

Warmest Regards,  
Mark V. Stevenson V.P.  
ValMark Chevrolet New Braunfels  
(830) 606-3451

**Karen Phillips**

---

**From:** Rick Wallace <rrw@missionchevrolet.com>  
**Sent:** Tuesday, August 6, 2024 1:46 PM  
**To:** rules@txdmv.gov  
**Cc:** Karen Phillips; Darren Whitehurst  
**Subject:** Letter to DMV - El Paso

To whom it may concern,

As a representative of the automotive dealer body I have observed a growing interest of mobile technicians performing warranty work on vehicles outside of our traditional dealership settings. While the convenience of mobile services may seem appealing to consumers, it poses significant challenges for dealers and the automotive industry as a whole.

One of the main issues with mobile warranty work is the lack of oversight and quality control. Mobile technicians may not have access to the necessary tools, equipment, and training to properly diagnose and repair complex vehicle issues. The amount of computer communication needed for new vehicle repairs makes remote servicing extremely challenging. The struggle of customer data security in a mobile setting is very complex and costly. Service repairs inherently come with safety risk, that must be mitigated by insurance coverage both for the dealer and consumer. Putting vehicle repairs in mobile settings with tools and lifts needed to perform those tasks leads to greater exposure for accidents and injuries to occur. These types of repairs in the field will result in subpar workmanship, incomplete repairs, and potential safety hazards for consumers. Additionally, mobile technicians may not be held to the same standards and regulations as authorized dealerships, leading to inconsistencies in service quality and warranty compliance.

The rise of mobile warranty repairs threatens the livelihood of authorized dealerships and their employees. By diverting warranty work away from on site dealership service centers, mobile technicians will undermine the business model of traditional automotive service providers. This not only impacts dealership revenue and profitability but also jeopardizes the jobs of skilled technicians who do not feel comfortable working off-site and support staff who rely on dealership operations for employment.

Thank you for your attention to this important issue. I look forward to discussing this matter further and exploring potential solutions to safeguard the interests of automotive dealers and consumers alike.

Rick Wallace  
El Paso, TX



5802 N Navarro St., Suite 100  
Victoria, TX 77904  
(361) 485-0569

August 6, 2024

VIA EMAIL: rules@txdmv.gov

Daniel Avitia  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Re: TxDMV Proposed Rule on Mobile Service

Dear Mr. Avitia,

I own and am actively involved in the operation of 30 different retail automotive dealerships in Texas. All of my operations are in Texas where we employ over 2300 Texans. We represent 16 different manufacturers.

I am only in Texas, because it is a great place to do business. This is for many reasons, but one big one is the strong franchise laws the state has developed and refined over the years.

My goal in this business is to take care of the customer and if mobile service is what the customer wants, then it is something I want to provide. However, I am incredibly concerned about protecting the franchise laws we have in Texas and how we move forward to both take care of customers and protect such laws.

There are many issues that arise from the expansion of mobile service and I would request that the TxDMV commit to working with the legislature as it evolves over time. The code cannot be ambiguous where it can allow a manufacturer to skirt around the retail dealer for warranty work. Additionally, I don't think anyone wants a "fly-by-night" vendor to be able to go knocking door to door looking for mobile service clients without proper training, proper equipment, and proper facilities.

I could go on and on with all the little concerns that may arise if we lose focus on maintaining the legislature's intent regarding the state's franchise laws, but I think you get the point. I am all for some rules and code concerning mobile service; however, I just ask that any such changes or exceptions to the current rules be explored and ultimately decided by the Texas legislature to ensure they align with the protections afforded by our franchise laws.

Sincerely,

  
Benjamin Keating





# **ATTACHMENT 2**



July 24, 2023

Andrew Hager, Regional Manager Business Operations  
Jean Hoglund, Director – EV Service and Parts  
General Motors LLC  
GM South Central Region  
3501 Olympus Blvd, Suite 280  
Dallas, Texas 75019

Dear Mr. Hager and Ms. Hoglund,

Thank you for your letter requesting clarification regarding 43 Texas Administrative Code (TAC) §215.103 and whether it allows franchised dealers in Texas to do mobile warranty repair work at customers' homes.

The current rule does not allow franchised dealers to perform mobile repair work. It stipulates in 43 TAC §215.103(a) that "warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility."

However, the Texas Department of Motor Vehicles (Department) is aware of the increased demand for mobile repair services that you note in your letter. In the coming year, the Department plans to undertake a review of its rules in 43 TAC Chapter 215 and will consider whether a change to 43 TAC §215.103(a) to allow franchised dealers the ability to conduct mobile repair is necessary or appropriate. As part of the rule review process, the Department will take into consideration General Motors' expressed desire to offer mobile warranty repair services that are deployed from the licensed dealership or licensed service-only facility but conducted at the customer's location. General Motors will be able to offer further comment and input both during the rule review process and before adoption of any rule amendments that result from the rule review.

Thank you for helping us understand the perspective of the field. I look forward to working with you as we undertake the rule review of 43 TAC Chapter 215.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Avitia".

Daniel Avitia  
Executive Director

November 24, 2020

Karen Phillips  
General Counsel, Executive Vice-President  
Texas Automobile Dealers Association  
1108 Lavaca, Suite 800  
Austin, Texas 78701

RE: Rulemaking and Protests

Dear Ms. Phillips:

Please allow this correspondence to serve as the Texas Department of Motor Vehicles' (the department) response to the inquires raised during our recent discussions on rulemaking and protests. This response is intended just as guidance related to those discussions, and does not establish any requirement, provide legal advice, or determine any law or fact.

**1. Question: Can TxDMV define "all costs incurred by the dealer as required by the manufacturer" by rule?**

No. The scope is clear from the plain language of Occupations Code §2301.469 and anything more than restating the statute could amend the requirement.

Specifically, reimbursement is required:

- for all costs;
- incurred by the dealer;
- as required by the manufacture.

The statute does not state that those requirements are subject to further department determination by rule. Compare to Occupations Code §2301.604(c).

The example provided in your June 29, 2020 letter states this fact question: A dealer may provide a loaner vehicle in a recall situation. The manufacturer may require the dealer to provide a loaner vehicle. Reimbursement under §2301.469 would be based on the determination of those facts. Questions of fact are best determined through protests, contested cases, or the courts.

**2. Question: Can TxDMV require, by rule, the rate for warranty work reimbursement in Occupations Code Section 2301.402 to include a dealer's retail parts markup?**

No. The plain language of Occupations Code §2301.402(b) sets both:

- the minimum amount that dealer must be reimbursed by the manufacturer or distributor;  
and
- the maximum amount that the manufacturer or distributor must reimburse the dealer.

The legislature did not authorize the department to, by rule:

- define or alter the statutory requirement; or
- interfere with or set franchise contractual terms and relationships on reimbursements.

Further, a rule could not result in requiring an amount more or less than the statutory required amount.

However, being that a rule is a one-size-fits-all requirement of statewide application, a rule would almost certainly alter the requirement (maybe higher or lower depending of the facts).

Again, these are questions of fact to be determined through protests, contested case hearings, or the courts. Changes to the statutory requirements would need to come from the legislature.

### 3. Can TxDMV just use their general rulemaking authority?

The Texas Automobile Dealers Association (TADA) has suggested that the department's general rule authority in Occupations Code §2301.155 and Transportation Code §1002.001 is sufficient to adopt rules defining terms and creating a parts-markup scheme under Occupations Code §2301.402 and §2301.469. The department agrees that the board's authorization in those two statutes is broad, but as addressed in the department's August 20, 2020, letter, the department must also consider guidance from the courts.

For an agency's administrative rule to survive a challenge to its validity it (1) must not be contrary to specific statutory language, (2) nor impose additional burdens or conditions in excess of or inconsistent with the relevant statutory language. *Tex. State Board of Examiners of Marriage and Family Therapists v. Tex. Med. Assn.*, 511 S.W. 3d 28 (Tex. 2017) In other words, through its rulemaking process an administrative agency may not impose or create requirements or conditions in *excess* of the authority given to the agency by the legislature in its enabling statute. *Id.*

The department must follow the plain language of each statute. Administrative rules may not impose additional burdens, conditions, or restrictions in excess of the statutory provisions. See. OAG Op GA-0008 (2003) (citing *Hollywood Calling v. Public Utility Comm'n of Tex.*, 805 S.W. 2d 618, 620 (Tex. App.—Austin 1991, no writ); KP-0193 (2018) (citing *Tex. State Bd. Of Exam'rs of Marriage and Family Therapists v. Tex. Med. Ass'n*, 511 S.W. 3d 28,33 (Tex. 2017); and KP-0198 (2018) (citing *Harlingen Family Dentistry, P.C. v. Tex. Health & Human Servs. Comm'n*, 452 S.W. 3d 479,486 (Tex. App.—Austin 2014, pet. disp'd).

It is suggested by TADA that the department also consider SB 1250 (76R1999) and three Texas Attorney general opinions that address general authority: KP-0080 (5/3/16); JM-561 (10/15/86); and KP-0202 (5/16/18). The department is aware of the opinions and notes that each refers to licensing persons that are performing regulated acts. In each case the agency is granted the authority to issue and terminate license.

The authority sought here differs from licensing because the department is not authorized to determine how or what amount a dealer can claim for warranty work reimbursements. Statute prescribes it. If a dealer believes that they are not being reimbursed as required under §2301.402 or §2301.469, the dealer can initiate a protest and present evidence to prove the deficiency of the payment under the statute.

The department is also aware of SB 1250. The introduced version of the bill and its house companion HB 3092 included language related to a price for warranty parts. The house companion ultimately passed

with language similar to the current statute. As the current statute is not ambiguous, neither bill has any effect on the plain language analysis of the current statute. In reviewing statutes, the courts have been clear:

If the "language is unambiguous, we interpret the statute according to its plain meaning," and "[w]e presume the Legislature included each word in the statute for a purpose and that words not included were purposefully omitted."

Jenkins v. Crosby Indep. Sch. Dist., 537 S.W.3d 142, 150–51 (Tex. App. 2017) (internal citations omitted)

Or in other words as described in Attorney General opinion KP-0198

Like the courts, when construing a statute our "chief objective is effectuating the Legislature's intent, and ordinarily, the truest manifestation of what lawmakers intended is what they enacted. This voted-on language is what constitutes the law, and when a statute's words are unambiguous and yield but one interpretation, the judge's inquiry is at an end." Combs v. Roark Amusement & Vending, L.P., 422 S.W.3d 632,635 (Tex. 2013) (quotation marks omitted).

Occupations Code §2301.402(a) states that "A manufacturer or distributor shall fairly and adequately compensate its dealers for warranty work." Occupations Code §2301.402(b) goes on to define the reimbursement amount as "[A] manufacturer or distributor may not pay or reimburse a dealer an amount of money for warranty work that is less than the amount the dealer charges a retail customer for similar non-warranty work." As such, subsection (b) appears to set both the reimbursement amount the dealer is entitled to, but also the amount that the manufacturer is required to pay. The legislature did not authorize the department to adjust that calculation. Defining terms such as "similar" or establishing a parts markup would not be consistent with the statutory language; and further could have an unforeseen effect in some cases of reducing the dealer's reimbursement or imposing additional burdens on the manufacturer.

Occupations Code §2301.469 provides

Notwithstanding the terms of any franchise, a manufacturer, distributor, or representative shall compensate a franchised dealer for all costs incurred by the dealer as required by the manufacturer in complying with a product recall by the manufacturer or distributor, including any costs incurred by the dealer in notifying vehicle owners of the existence of the recall.

In considering the plain language of this statute, the legislature appears to have established the costs that can be reimbursed and when the cost can be reversed. These are, notwithstanding any terms in the franchise agreement

- (1) all costs;
- (2) incurred by the dealer; and
- (3) as required by the manufacturer.

Government Code §311.005(13) (Code Construction Act) definition of "including" indicates that the final statement concerning notices does not limit the proceeding requirements. Occupations Code §2301.469 does not authorize the department to further define what "all costs incurred by the dealer as required by the manufacturer in complying with a product recall by the manufacturer or distributor." As with Occupations Code §2301.402, defining reimbursable costs in this section would not be consistent

with the statutory language; and further could have an unforeseen effect in some cases of reducing the dealer's reimbursement or imposing additional burdens on the manufacturer.

Further, the department also notes that courts have determined that a legislative authority to adopt rules granted in one section, does not convey the same authority in a separate section. For example, Occupations Code §2301.604(c) authorizes the department to define costs reimbursements payable to owners, but does not necessarily indicate an authority to define reimbursable warranty and recall costs in other sections. You might consider different application across statutes as discussed by the Texas Supreme Court:

First, chapter 35 lacks the clear language the Legislature used in chapter 36—nowhere does chapter 35 give the Commission the explicit power to “establish and regulate rates.” Nor does chapter 35 contain any detail comparable to chapter 36's provisions regarding the factors to be considered in setting wholesale transmission rates. The Commission asserts that the Legislature did not need to repeat such language in chapter 35, because it need not restate in each new statutory section all powers already bestowed on the Commission. While this may be true, the powers bestowed in chapter 36 do not extend to municipally owned utilities. And section 35.001 says that “electric utility” includes municipally owned utilities for Subchapter A of chapter 35 only. Consequently, chapter 35 does not sweep municipally owned utilities into chapter 36's scheme.

Pub. Util. Comm'n of Texas v. City Pub. Serv. Bd. of San Antonio, 53 S.W.3d 310, 318–19 (Tex. 2001)

Finally, TADA suggests that an example of the department's authority to promulgate rules relying on its general rulemaking authority in Occupations Code §2301.155 can be found in the department's advertising rules. TADA suggests that Occupations Code §2301.456 does not provide the department with specific rulemaking authority, yet the board adopted advertising rules. See. 43 TAC §215.241 et seq. §2301. 456 provides:

A manufacturer, distributor, or representative may not:

- (1) Use any false, deceptive, or misleading advertising; or
- (2) Notwithstanding the terms of any franchise, require that a franchise dealer join, contribute to, or affiliate with, directly or indirectly, any advertising association.

While the department agrees that no rulemaking authority is provided in §2301.456, the board relied upon the language found in §2301.155 in promulgating advertising rules as the board determined that such rules were “necessary” to administer the chapter. The board found it necessary to establish rules that govern advertising to avoid unfair and deceptive practices by dealers and manufacturers alike. This is because in contrast to Occupations Code §2301.402 and §2301.469, the plain language of the statute prohibiting “any false, deceptive, or misleading advertising” does establish a means for the manufacturers and dealers to determine what constitutes false, deceptive, or misleading advertising that will be acted upon by the department. Such an exercise of general rulemaking authority was necessary and appropriate to ensure the sound system of distributing and selling motor vehicles.

**4. Question: Why could TxDMV define by rule the rates for reimbursement in lemon law cases, but not in warranty work reimbursement under Occupations Code Section 2301.402?**

The legislature authorized the department to establish “incidental” costs by rule in Occupations Code §2301.603(c)(1). These are identified in rule 43 TAC §215.209.

Authorization in one statute does not bestow the same authorization in a different statute or for a different purpose. Pub. Util. Comm'n of Texas v. City Pub. Serv. Bd. of San Antonio, 53 S.W.3d 310, 318–19 (Tex. 2001)

- Subchapter M and §2301.604 apply to owner recoveries; and
- Subchapter I and §2301.402 apply to dealer reimbursement.

**5. Question: Can TxDMV give an advisory opinion to the public regarding whether the matters identified in the redacted receipts received from TADA constitutes a violation of the Occupations Code, or initiate a protest case based on the redacted receipts?**

No, the department cannot issue an advisory opinion and the submission is not a proper protest.

Information concerning advisory opinions:

- An agency is limited to the authority that it has been granted by the legislature; and must follow the plain language of the statute.
- The board and department are not expressly authorized to issue advisory opinions.
- Transportation Code §1003.001 states that the department is subject to the Administrative Procedures Act, Government Code Chapter 2001, which defines and regulates the adoption of rules and contested case processes.
- Courts have determined that an illegal ad hoc rule may result from a department statement of general applicability beyond verbatim restatement of the law, that:
  - (i) implements, interprets, or prescribes law or policy; or
  - (ii) describes the procedure or practice requirements of a state agency; and
  - (iii) indicates the intent to enforce that statement.Teladoc, Inc. v. Texas Med. Bd., 453 S.W.3d 606, 616 (Tex. App. 2014)  
. 2014)

**6. Can TADA initiate a protest on behalf of a dealer?**

Yes, Title 43 TAC §206.63, *Filing a Petition*, provides TADA with a legal mechanism to file a protest on behalf of a franchised dealer:

An individual, representative, partnership, corporation, association, governmental subdivision, or public or private organization, the department, or any other entity may seek to initiate a contested case by filing an original, and one copy of a petition, with the executive director at the department's headquarters building in Austin.

Additionally, 43 TAC §206.65(a) provides that the Executive Director will examine a petition and make a preliminary determination whether the petition states a claim that entitles the petitioner to initiate a contested case and whether the petition meets the procedural requirements of this subchapter and Government Code, Chapter 2001.

A protest is a means to initiate a contested case and must comply with statutes and rules necessary for that purpose, which includes determining the rights and obligations of the true interested parties.

Thank you for your inquiry. The department hopes that you find this correspondence responsive to your questions. Should you have further questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Roland D. Luna, Sr.", written in a cursive style.

Roland D. Luna, Sr., Director  
Motor Vehicle Division



# **ATTACHMENT 3**

## Karen Phillips

---

**From:** Moriaty, Laura <Laura.Moriaty@txdmv.gov>  
**Sent:** Thursday, March 28, 2024 1:49 PM  
**To:** Karen Phillips  
**Cc:** Avitia, Daniel  
**Subject:** TxDMV Staff Recommendations in Response to TADA's Public Comments

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Karen—

Thank you for TADA's comments on the recent rule amendment proposals for 43 Texas Administrative Code Chapters 206, 215 and 221 and new Chapter 224. I wanted to respond to your comments ahead of the board meeting, to give us an opportunity to discuss further if necessary. Here is a summary of TADA's comments and TxDMV's responses:

- Chapter 215
  - §215.102
    - TADA comment: It is unclear what the term "authorized" means in §215.102(e)(2)(E)(i).
    - TxDMV response: Proposing modified language.
      - The goal of §215.102(e)(2)(E)(i) is to allow TxDMV to identify and consider denying licensure to manufacturers and distributors who use a sales model that involves out-of-state sales through dealers who are not in good standing in the state in which they are licensed.
      - This is an AAMVA-recommended best practice, and reflects the department's current practice—TxDMV has requested and received this information from recent manufacturer and distributor licensure applicants.
      - In response to this comment and to concerns raised by advisory committees, TxDMV added clarifying language: "(i) a list of each franchised dealer in Texas including the dealer's name and physical address, or if motor vehicle sales offers and sales to Texas residents will solely be over the internet, a list of each out-of-state person authorized by the manufacturer or distributor to sell a new motor vehicle online to a Texas resident including the person's dealer's name, physical address, and dealer's license number issued by the state in which the person dealer is located;"
  - §215.103
    - TADA comment: Recommends striking the proposed amendments to §215.103(a) and (d).
    - TxDMV response: Disagree.
      - Texas Occupations Code §2301.002(16)(B) defines a franchised dealer as "engaged in the business of buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a manufacturer's warranty at an established and permanent place of business under a franchise in effect with a manufacturer or distributor."
      - In a 2020 letter to TADA, the department focused entirely on the "at an established and permanent place of business" clause, and said that any repair made offsite would not be at an established and permanent place of business. In doing so, the department disregarded the fact that the root of the clause in (16)(B) is "engaged in the business," and the examples that come after ("buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a

- manufacturer's warranty") are all modifying and describing "engaged in the business."
- The department's new interpretation of §2301.002(16)(B) is that as long as the franchised dealer is engaged in business at an established and permanent licensed location and the mobile repair fleets are managed from that location, the franchised dealer can deliver the warranty repairs at a customer's location, just as a dealer could deliver a purchased car to a customer's location.
  - State agencies can change their interpretation of statute, if they do so through the notice-and-comment rulemaking process in accordance with the Texas Government Code. While the 2020 letter interpreted the statute differently, this proposed rule is based on a new interpretation and was created through the full rulemaking process. As such, this rule will supersede that letter and allow franchised dealers more flexibility and business opportunity.
  - All the individual franchised dealers who commented on this proposed rule supported it and are interested in offering mobile warranty services.
- §215.111
    - TADA comment: Require the franchise termination notice from the manufacturer or distributor to state that a dealer has at least 60 days to protest a termination.
    - TxDMV response: Agree. Language added to the end of §215.111(b): "which must not be less than 60 days after the franchised dealer receives the notice of termination or discontinuance"
  - §215.112
    - TADA comment: Do not repeal rule until a broader replacement rule is proposed.
    - TxDMV response: Disagree.
      - The Legislature removed the statutory authority for §215.112 in 2019, and the rule has been unenforceable and unenforced since then. The department cannot put off completing a rule review of Chapter 215 any longer—it has been overdue for rule review since 2021. This provision must be repealed to prepare for proposing a new and much broader replacement rule. Its repeal will have no impact on the status quo because it is unenforceable and has not been enforced for five years.
      - The department has engaged with TADA and TRVA to understand your concerns and to draft new rule language. TxDMV has drafted language for a new rule that is currently being circulated and reviewed internally. I plan to send over that new draft rule language to you in a separate email hopefully next week, and definitely before the April board meeting. If there is support for the draft language, the board could propose the new rule language as soon as the June 2024 board meeting.
  - §215.140
    - TADA comment: Dealers should not be required to report and update temporary storage lots as an application requirement.
    - TxDMV response: Agree. Removed the proposed requirement to disclose all storage lots as an application requirement and replaced it with "must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department."
  - §215.160:
    - TADA comment: Required changes to forms necessitate that license holders be allowed adequate time to reprint forms and reprogram systems to minimize financial impact.
    - TxDMV response: Agree. Changed the effective date for the rules to June 1, 2024, which is as far out as it can go while still allowing the board to propose the rules necessary to implement HB 718 and HB 3297 at the June board meeting. To adopt rules by the December 1, 2024, statutory deadline for HB 718, the department must propose those rules in June 2024.
  - §§215.102, 215.103, 215.171 and §§215.173-215.180:

- TADA comment: The proposed amendments to these rules should be withdrawn because of litigation.
- TxDMV response: Disagree. The proposed rules do not impact what a manufacturer can do in Texas, or change the balance of power between manufacturers and dealers. After conferring with our attorneys at the AG's office, TxDMV has determined that none of the rules proposed for amendment are implicated in any ongoing litigation, aside from routine enforcement matters.

TxDMV appreciates TADA's input on the proposed rules, and is committed to continuing to work with you to address the concerns of franchised dealers. Please let me know if you have any questions or would like to discuss further.

Thanks,  
Laura

Laura Moriaty || General Counsel  
**Texas Department of Motor Vehicles**  
**Office of General Counsel**  
Email: [laura.moriaty@TxDMV.gov](mailto:laura.moriaty@TxDMV.gov) Phone: 512-465-4160

# **ATTACHMENT 4**



---

General Motors Company  
3501 Olympus Blvd  
Suite 280  
Coppell, TX 75019

**Date:** March 21, 2023

**To:** Daniel Avitia, Executive Director  
Texas Department of Motor Vehicles  
4000 Jackson Ave, Austin, TX 78731

**Fm:** Andrew Hager, Regional Manager Business Operations  
Jean Hoglund, Director – EV Service and Parts  
General Motors LLC, GM South Central Region  
3501 Olympus Blvd, Suite 280, Dallas, Texas 75019

**Re:** Request for Clarification – 43 TAC §215.103

General Motors (GM) is requesting clarification from the Texas Department of Motor Vehicles (Department) regarding the application of 43 TAC §215.103 to mobile repair services offered to customers by Texas motor vehicle dealers.

The past several years have seen a dramatic and rapid increase in the popularity of vehicle shopping, purchasing, and servicing facilitated through an exclusively online experience. With respect to vehicle service, to accommodate this clear customer demand, a significant number of non-GM dealerships in Texas are currently offering mobile services to customers in the state. Specifically, service vehicles are deployed from their licensed dealership sales and service facilities to customer locations (homes, businesses, etc.) where licensed dealer technicians subsequently perform vehicle inspections and, if necessary, warranty and non-warranty repairs.

GM maintains a similar interest in accommodating this significant demand for flexibility and convenience demonstrated by Texas consumers. However, GM first seeks confirmation from the Department that such mobile services currently offered by non-GM dealers in Texas are permissible under 43 TAC §215.103 (reproduced below) given that, in relevant part: (i) the mobile service vehicles are deployed from and return to dealership sales and service facilities that are already properly licensed under the Texas Administrative Code; (ii) these mobile services are conducted by properly trained and



licensed dealership technicians; and (iii) these dealerships have received prior written approval from their manufacturer(s).

Based on the foregoing, we ask that the Department confirm that the mobile service activities described above comport with 43 TAC §215.103. Should you have questions or comments, please feel free to contact either Julie Shafer (615/785-1702, [REDACTED]) or Jeff Perry (248/321-2246, [REDACTED]). Thank you for your consideration.



## TITLE 43. TRANSPORTATION

### PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

#### CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

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

### SECTION 215.103. Service-only Facility

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(a) A service-only facility is a location occupied and operated by a franchised dealer that is a completely separate, noncontiguous site, from the franchised dealer's new motor vehicle sales and service or sales only location, where the franchised dealer will only perform warranty and nonwarranty repair services. Except as allowed in subsection (d) of this section, warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility.

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

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

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



GENERAL MOTORS



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





July 24, 2023

Andrew Hager, Regional Manager Business Operations  
Jean Hoglund, Director – EV Service and Parts  
General Motors LLC  
GM South Central Region  
3501 Olympus Blvd, Suite 280  
Dallas, Texas 75019

Dear Mr. Hager and Ms. Hoglund,

Thank you for your letter requesting clarification regarding 43 Texas Administrative Code (TAC) §215.103 and whether it allows franchised dealers in Texas to do mobile warranty repair work at customers' homes.

The current rule does not allow franchised dealers to perform mobile repair work. It stipulates in 43 TAC §215.103(a) that "warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility."

However, the Texas Department of Motor Vehicles (Department) is aware of the increased demand for mobile repair services that you note in your letter. In the coming year, the Department plans to undertake a review of its rules in 43 TAC Chapter 215 and will consider whether a change to 43 TAC §215.103(a) to allow franchised dealers the ability to conduct mobile repair is necessary or appropriate. As part of the rule review process, the Department will take into consideration General Motors' expressed desire to offer mobile warranty repair services that are deployed from the licensed dealership or licensed service-only facility but conducted at the customer's location. General Motors will be able to offer further comment and input both during the rule review process and before adoption of any rule amendments that result from the rule review.

Thank you for helping us understand the perspective of the field. I look forward to working with you as we undertake the rule review of 43 TAC Chapter 215.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Avitia", is written over a light blue horizontal line.

Daniel Avitia  
Executive Director

# **ATTACHMENT 5**

**Karen Phillips**

---

**From:** Karen Phillips  
**Sent:** Friday, August 9, 2024 11:39 AM  
**Subject:** ACTION REQUESTED for Texas Team - Mobil Service Dealer Letter to TX legislature  
**Attachments:** TX Mobile Service draft support letter.docx

----- Forwarded Message -----

**Subject:**FW: ACTION REQUESTED for Texas Team - Mobil Service Dealer Letter to TX legislature  
**Date:**Thu, 22 Feb 2024 22:23:55 +0000  
**From:**Elliott Martin <[william.2.martin@gm.com](mailto:william.2.martin@gm.com)>  
**CC:**Johnny Putnam Jr <[john.putnam@chevrolet.com](mailto:john.putnam@chevrolet.com)>

Good Afternoon Everyone,

Please see attached documents regarding Mobile Service in Texas. Attached are some word documents to fill out to submit to work towards changing the state laws regarding Mobile service. See the note below.

Thanks,

**W. Elliott Martin**

**GM District Service Manager  
Chevrolet- Lafayette, LA area**

[William.E.Martin@gm.com](mailto:William.E.Martin@gm.com)

913-333-1149

 **general motors**

[Your Name] [Your Title]  
[Your Dealership]  
[Address]  
[City, State, ZIP]

[Date]

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Subject: Letter of Support for Proposed Rule Change - Mobile Service under 43 TAC §215.103

Dear Ms. Moriaty,

I am writing this letter to express my full support for the proposed rule change regarding mobile service under 43 TAC §215.103. As a motor vehicle dealer, I believe that this rule change will bring numerous benefits to both dealerships and customers in the state of Texas.

Mobile service offers a convenient and efficient solution for vehicle maintenance and repairs. It allows dealerships to extend their services beyond the traditional brick-and-mortar locations, reaching customers who may have difficulty visiting a physical dealership due to various reasons such as distance, time constraints, or mobility issues. By allowing mobile service, the Texas Department of Motor Vehicles will enable dealerships to provide a higher level of customer service and enhance the overall ownership experience.

Furthermore, mobile service can significantly reduce downtime for customers, as repairs and maintenance can be performed at their preferred location, whether it be their home, workplace, or any other convenient spot. This flexibility not only saves valuable time for customers but also contributes to their satisfaction and loyalty towards the dealership.

I firmly believe that the proposed rule change to allow mobile service under 43 TAC §215.103 aligns with the evolving needs and expectations of customers in today's fast-paced world. It will foster innovation, improve customer satisfaction, and contribute to the growth and success of motor vehicle dealerships in Texas.

Thank you for considering this letter of support. I trust that the Texas Department of Motor Vehicles will carefully evaluate the benefits of mobile service and make a decision that will positively impact the automotive industry and the customers it serves.

Sincerely,

[Your Name] [Your Title]

[Your Dealership]

Trent Polk - CEO  
Glenn Polk Chevy Buick GMC of Gainesville  
1608 West Hwy 82  
Gainesville, TX 76240

January 23, 2024

2024 JAN 29 AM 10:25  
**RECEIVED**

JAN 29 2024

TxDMV  
OFFICE OF GENERAL COUNSEL

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Subject: Letter of Support for Proposed Rule Change - Mobile Service under 43 TAC §215.103

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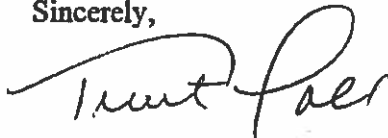
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Trent Polk - CEO

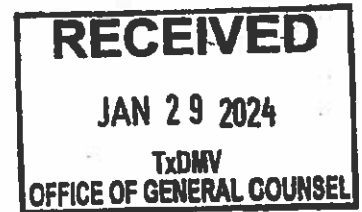
Glenn Polk Chevy Buick GMC of Gainesville

no money

Monte Hall GM  
Hall Chevrolet GMC  
385 West Dallas Street  
Canton, TX 75103

1/23/24

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731



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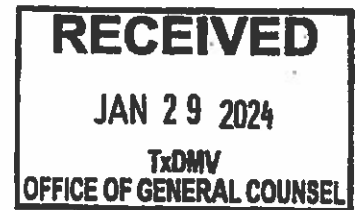
A handwritten signature in black ink, appearing to read "Monte Hall". The signature is stylized and cursive.

Monte Hall  
General Manger  
Hall Chevrolet GMC

Pam Hall President/Owner  
Hall Chevrolet GMC  
385 West Dallas Street  
Canton, TX 75103

1/23/24

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731



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Sincerely,

A handwritten signature in black ink that reads "Pam Hall". The signature is written in a cursive style with a large, sweeping initial "P".

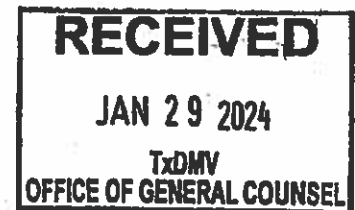
Pam Hall  
President/Owner  
Hall Chevrolet GMC



Shawn Polk – Owner & COO  
Glenn Polk Chevrolet of Sanger  
1405 North Stemmons St  
Sanger, TX 76266

1-23-2024

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731



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Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Polk".

Shawn Polk – Owner & COO

Glenn Polk Chevrolet of Sanger

Bill Owens, General Manager  
Jay Hodge Chevrolet  
478 Wildcat Way  
Sulphur Springs, TX 75482

RECEIVED

1-26-2024

FEB 02 2024

TxDMV  
OFFICE OF GENERAL COUNSEL

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

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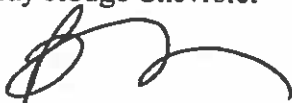
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Sincerely,

Bill Owens, General Manager

Jay Hodge Chevrolet



Nick Zorn, General Manager  
Classic Chevrolet Buick GMC of Cleburne  
822 Walter Holiday Dr.  
Cleburne, TX 76033

January 23, 2024

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

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Sincerely,



Nick Zorn, General Manager  
Classic Chevrolet Buick GMC of Cleburne



P.O. Box 2877  
CLEBURNE, TX 76033

NORTH TEXAS TX 750

7 FEB 2024 PM 11:58

FIRST CLASS

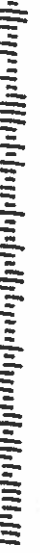


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Office of General Counsel  
Texas Department of Motor Vehicles  
4500 Jackson Avenue  
Austin, TX 78731



78731-606099

# **ATTACHMENT 6**

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# COMMITTEE ON TRANSPORTATION

---

TERRY CANALES  
*Chair*



JOHN RANEY  
*Vice Chair*

## TEXAS HOUSE OF REPRESENTATIVES

P.O. BOX 2910 · AUSTIN, TEXAS 78768-2910  
CAPITOL EXTENSION E2.122 · (512) 463-0818

August 8, 2024

Mr. Charles Bacarisse  
Chairman, Texas Motor Vehicle Board  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Re: Amended 43 TAC §215.103 and Proposed 43 TAC §215.124

Dear Chairman Bacarisse:

As the Chairman of the House Transportation Committee, I recently reviewed the April 26, 2024, *Texas Register* and the rule adoptions by the board which impact the State of Texas and the licensees over which the board is charged.

In addition, I am also aware of the proposed rules published in the July 12, 2024, *Texas Register*, which include the department's continued advancement of rules governing mobile warranty and recall service.

I am formally requesting the board to withdraw the recently adopted amendments to 43 TAC §215.103 and to withdraw the proposed rule, 43 TAC §215.124, as it is my opinion that the Texas Occupations Code, Chapter 2301, is not ambiguous as to where warranty work is to be performed and the adopted rule amendments and the proposed rule go beyond the plain text of the statute as passed by the Texas Legislature.

## **Texas Occupations Code Is Not Ambiguous**

Under the Code, the performance of warranty work is required to be performed by a franchised dealer and carried out at an established, permanent, and licenced physical facility. The Legislature makes this clear in the adopted language of the statutes by defining “dealership,” “franchised dealer,” and “warranty work.” It cannot be argued that there is any ambiguity in the Texas Occupations Code as to where warranty work is required to be performed.

**Dealership** means the **physical premises** and business facilities on which a franchised dealer operates the dealer’s business, including **the sale and repair of motor vehicles**. The term includes **premises or facilities** at which a person engages only in the repair of a motor vehicle if the repair is performed under a franchise and a motor vehicle manufacturer’s warranty.

(Occupations Code §2301.002(8); Emphasis added.)

**Franchised dealer** means a person who:

(A) **holds** a franchised motor vehicle dealer’s **license** issued by the board under this chapter and Chapter 503, Transportation Code; and

(B) is engaged in the business of buying, selling, or exchanging new motor vehicles and **servicing or repairing motor vehicles** under a manufacturer’s warranty at an **established and permanent place of business** under a franchise in effect with a manufacturer or distributor.

(Occupations Code §2301.002(16); Emphasis added.)

**Warranty work** means parts, labor, and any other expenses incurred by a franchised dealer in complying with the terms of a manufacturer’s or distributor’s warranty.

(Occupations Code §2301.002(37))

In addition, it is my understanding that all franchised dealers are licensed to do business by the TxDMV for a specific location. With respect to that specific licensed location, a new dealership as well as a dealership relocation is subject to protest by another same line-make franchised dealer under §2301.652, Occupations Code.

The administratively adopted amended mobile service rule and the proposal suggest either a disregard for the statutory protest rights by a same line-make dealer by allowing mobile vans for warranty work or a misunderstanding of the need to critically review and evaluate the issue to determine if or how best to allow for mobile service for warranty and recall work to satisfy the needs of all parties while maintaining the safest and best service for the public and licensees.

The Texas Legislature determined that warranty work is performed at a licensed and established permanent place of business and to make such a substantive change as to allow mobile warranty service, which is contrary to the statutory language, requires a thorough discussion and evaluation by the Legislature.

### **43 TAC §215.103. Service Only Facility.**

The proposal published in the *Texas Register*, 48 *TexReg* 8222, December 29, 2023, and adopted by the board and published in the April 26, 2024, *Texas Register*, effective June 1, 2024, provides:

#### *§215.103. Service Only Facility.*

- (a) A service-only facility is a location occupied and operated by a franchised dealer that is a completely separate, noncontiguous site, from the franchised dealer's new motor vehicle sales and service or sales only location, where the franchised dealer performs ~~[will only perform]~~ warranty ~~[and nonwarranty]~~ repair services and not new motor vehicle sales. ~~[Except as allowed in subsection (d) of this section, warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility,]~~
- (b) A franchised dealer must obtain a license to operate a service-only facility. A dealer may not obtain a service-only facility license to service a ~~[particular]~~ line-make ~~[line]~~ of new motor vehicles, unless that dealer is franchised and licensed to sell that line-make.
- (c) A service-only facility is a dealership subject to protest under Occupations Code, Chapter 2301.
- (d) Upon the manufacturer's or distributor's prior written approval, which cannot be unreasonably withheld, ~~[only]~~ a franchised dealer of the manufacturer or distributor may contract with another person as a subcontractor to perform warranty repair services



that the dealer is authorized to perform under a franchise agreement with a manufacturer or distributor. Payment shall be made by the franchised dealer to the subcontractor and not by the manufacturer or distributor to the subcontractor.

The agency's explanation for the §215.103 amendments states at 48 *TexReg* 8205 that "Chapter 2301 does not require warranty repair services to be performed only at a licensed dealer location."

This explanation runs contrary to the statutes that require that warranty work be performed at the franchised dealership, not merely "managed" at the dealership. If the Legislature had intended that mobile warranty service be allowed, the definitions of "dealership" and "franchised dealer" would have so provided.

I also understand that there is a November 20, 2020, letter from Mr. Roland Luna, Director, Motor Vehicle Division, with the TxDMV, that contradicts the new rule amendments and proposed rule as the issue was previously discussed as to whether a franchised dealer could perform mobile repair services.

Mr. Luna quoted §2301.251(a) and §2301.002(16)(B), Occupations Code, and concluded that:

A mobile repair service would have to demonstrate that it meets the **established and permanent** location requirement to be licensed to perform warranty repair services. In other words, if a franchised dealer is prohibited from performing warranty repair services at any location other than its established and permanent (licensed) location, it is unclear how a mobile repair service unit qualifies to be licensed.

As the agency has now adopted a new interpretation of the same statutes as relied upon in the 2020 Luna letter, I have also been told that the rule change explanation is because: (1.) a state agency can change its interpretation of a statute as long as it is done through the notice-and-comment rulemaking process in accordance with the Texas Government Code; (2.) while the 2020 [Luna] letter interpreted the statute differently, the proposed rule is based on a new interpretation and was created through the full rulemaking process; and, (3.) the rule [change] will supersede the [Luna] letter and allow franchised dealers more flexibility and

business opportunity.

However, the statute's text is plain, not ambiguous, and the rule as published in the April 26, 2024, *Texas Register*, is outside the plain statutory language. Unless ambiguous, the department does not have license to change its interpretation simply because the proposal went through a notice and comment process.

Repairs by a franchised dealer are to be performed at a permanent, licensed, and established location under the existing code unless the Legislature determines otherwise.

**Proposed 43 TAC §215.124. Mobile Warranty and Recall Services.**

The July 12, 2024, *Texas Register*, includes a proposed rule that again discusses mobile warranty work. This proposal states:

§215.124. Mobile Warranty and Recall Repair Services

(a) A franchised dealer may offer mobile warranty or recall repair services under a manufacturer's or distributor's warranty if these services are managed from a licensed location, which may be either a licensed sales and service location or a licensed service-only facility as described in §215.103 of this title (relating to Service-only Facility).

(b) The department considers mobile warranty or recall repair services to be managed from a licensed location if a franchised dealer at a licensed location:

(1) authorizes a mobile warranty or recall repair;

(2) dispatches personnel, parts, or tools to perform a warranty or recall repair at the location of a motor vehicle under warranty; or

(3) maintains warranty or recall records.

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

(d) A person with whom a franchised dealer contracts to perform

mobile warranty or recall repair services is not eligible to obtain a service-only facility license and may not advertise the performance of warranty repair or recall services to the public.

The department is giving itself the authority to provide that a mobile warranty service is allowable if “it is managed” from a licensed dealership. There is no provision in Chapter 2301, Occupations Code, that mobile service is allowable if “managed” from a licensed dealership.

The Board has the authority to adopt rules that are necessary or convenient to administer Chapter 2301, Occupations Code and to govern the practice and procedure before the board. The statute is not ambiguous, inexact, or vague in stating that warranty repairs are to be performed at a franchised dealer’s dealership—not on the side of the road or in a driveway.

### **Texas Agency Deference**

The Texas Supreme Court, when analyzing an agency’s interpretation of a statute it is charged with enforcing, discusses the Court’s “serious consideration” inquiry, *R.R. Comm’n of Tex. v. Tex. Citizens for a Safe Future & Clean Water*, 336 S.W.3d 619 (Tex. 2011). In this case, the court stated it will generally uphold an agency’s interpretation of a statute it is charged by the Legislature with enforcing, so long as the construction is reasonable and does not contradict the plain language of the statute.

Agency deference in Texas comes with the following caveats:

1. An agency regulation containing a reasonable interpretation of an **ambiguous** statute is given some deference if it applies to a formal opinion adopted after formal proceedings.
2. **The language at issue must be ambiguous.**
3. **An agency’s opinion cannot change plain language.**
4. An agency’s construction must be reasonable.
5. Alternative **unreasonable** constructions do not make a policy ambiguous. (*Id.*, at 625; Emphasis added.)

Consideration as to the duration of the interpretation is also recognized in Attorney General Opinion No. KP-0115.

An agency’s interpretation cannot contradict the statute. An agency will only

be deferred to when the text of a statute is ambiguous. When the statute's wording is clear, a court will apply the common meaning without any other rules of construction or extrinsic aids. Attorney General Opinion KP-0115, quoting *Combs v. Roark Amusement & Vending, L.P.* (422 S.W.3d 632, 635 (Tex. 2013)); *City of Rockwall v. Hughes*, 246 S.W.3d 621, 626 (Tex. 2008).

“An agency's opinion cannot change plain language.” *Fiess v. State Farm Lloyds*, 202 S.W.3d 744, 747 (Tex. 2006); KP-0115. As in this instance, the language is concise and not subject to misinterpretation or augmentation.

Since 1971, the statutes governing the franchised dealers have been carefully drafted and the plain language adopted by the Legislature states that the repair of a motor vehicle under warranty is to be conducted at a licensed, established, physical premises and business facility subject to protest—not via a mobile unit.

The statute is neither ambiguous nor in need of explanation. I believe the department was correct in 2020 when Mr. Luna wrote that a mobile repair service must demonstrate that it meets the established and permanent location requirement to be licensed to perform warranty repair services—which it cannot.

## **Conclusion**

The interplay of the statutes regarding the location of a franchised dealer's sales and repair facilities are written in plain text with no ambiguity.

The performance of warranty service and repair of a motor vehicle at other than the licensed, established, permanent, and physical premises of a franchised dealer and whether the statute should be amended to allow mobile service, is for the Legislature to determine.

As the statute is clearly written and unambiguous, it is the Legislature who is charged with making statutory amendments. The determination allowing warranty or recall work to be performed other than at the franchised dealer's physical, established, and licensed facility is a usurpation of the Legislature.

I am requesting the department to withdraw its amendments to 43 TAC §215.103 and to withdraw proposed 43 TAC §215.124. Whether the statute should be amended to allow mobile warranty or recall work requires a thorough discussion at the Texas Legislature regarding:

1. Safety concerns for both the vehicle owner and the technician;
  2. Whether a quality and thorough repair may be conducted other than at a physical licensed location;
  3. The limited scope of services that may be performed from a mobile unit and the understanding by the vehicle owner as to such limitations;
  4. Whether a technician can be engaged to conduct a repair from a mobile unit;
  5. Whether insurance can be obtained to cover such mobile service;
- and,
6. Other issues that may be brought to bear by stakeholders.

I am available to discuss this issue with all stakeholders. In the meantime, I reiterate my request for the board to withdraw 43 TAC §215.103, as amended and published in the April 26, 2024, *Texas Register* and 43 TAC §215.124, as published in the July 12, 2024, *Texas Register*.

Sincerely,



Representative Terry Canales  
Chair, House Transportation  
House District 40

c: Vice Chair Tammy McRae  
Christian Alvarado  
Stacey Gillman  
Brett Graham  
Sharla Omumu  
John Prewitt  
Darren Schlosser  
Executive Director Daniel Avitia

**Board Meeting Date: 10/24/2024**  
**ACTION ITEM**

---

**To:** Texas Department of Motor Vehicles Board  
**From:** Annette Quintero, Director, Vehicle Title and Registration Division  
**Agenda Item:** 8  
**Subject:** Chapter 217, Vehicle Titles and Registration  
Amendments: Subchapter A, B, C, D, E, F, G, H, I, J, and L  
New: §217.31  
Repeal: §217.34 and §217.87  
(Relating to HB 718 and HB 3297 Legislative Implementation and Cleanup)

---

**RECOMMENDATION**

Action Item. Adopt proposed amendments, repeals, and new section in 43 Texas Administrative Code (TAC) Chapter 217.

**PURPOSE AND EXECUTIVE SUMMARY**

This rule item would adopt revisions to Chapter 217, Vehicle Titles and Registration in conjunction with a review of Chapter 217 in compliance with Government Code, §2001.039 and the implementation of House Bill (HB) 718 and HB 3297, 88<sup>th</sup> Legislature, Regular Session (2023).

**FINANCIAL IMPACT**

There will be no significant fiscal implications due to the proposed amendments, new section, and repeals.

**BACKGROUND AND DISCUSSION**

**Rule Review**

As part of the department's rule review of Chapter 217, Vehicle Titles and Registration, the department has considered and recommends adopting amendments, a new section, and repeals to sections of Chapter 217 to achieve the following goals:

- to implement statutory changes;
- to add conforming language to be consistent with statutes and other chapters in Title 43 of the Texas Administrative Code;
- to clarify the purpose of a rule by amending the title and language;
- to more specifically describe the department's methods and procedures;
- to delete language describing actions for which the department does not have rulemaking authority;
- to modify language to be consistent with current practice, including the use of records or electronic systems;
- to clarify existing requirements;
- to modernize language and improve readability through the use of consistent terminology;
- to clarify or delete unused, archaic, or inaccurate definitions, terms, and references to improve understanding and readability; and
- to repeal provisions that are redundant with statute.

### Significant Changes Based on Rule Review

- Adopted amendments to §217.9 to conform the rule to Transportation Code, §501.053 by deleting language providing for a certification of lien satisfaction and clarifying that applicants must provide both a release of all liens and a surety bond;
- Adopted amendment to §217.5(a)(2) clarify the types of evidence ownership accepted by the department for title applications for used cars; and
- Adopted amendment to §217.15(a)(1)(A) adds two new requirements for a manufacturer's certificate of ownership, including the name of the manufacturer and the seating capacity if the vehicle is a motor bus.

### Legislation Implementation

Amendments are also being adopted to implement HB 718, 88<sup>th</sup> Legislature, Regular Session (2023), which amended various sections in Transportation Code, Chapters 501, 502, 503, 504, 520, and 548 to remove provisions authorizing a vehicle dealer or converter to issue a temporary tag for a vehicle and replaced these tags with categories of license plates effective July 1, 2025. Accordingly, HB 718 requires a motor vehicle dealer to issue or transfer to a person who buys a vehicle from the dealer, a license plate or set of license plates. HB 718 requires the department to determine new distribution methods, systems, and procedures. Under these new procedures, if a motor vehicle is sold to a Texas resident, a Texas dealer will assign a license plate to the vehicle unless the buyer has a specialty or other qualifying license plate, and the assigned license plate will stay with the vehicle if the vehicle is later sold to another Texas buyer.

Additionally, amendments are being adopted to implement HB 3297, 88<sup>th</sup> Legislature, Regular Session (2023), which amended various sections in Transportation Code Chapters 502, 547, and 548. HB 3297 repealed Transportation Code provisions mandating vehicle safety inspections for non-commercial vehicles but maintained safety inspections for commercial vehicles and vehicle emissions inspections for vehicles in certain counties. HB 3297 is effective January 1, 2025.

### Comments

The proposed rules were published for comment in the July 12, 2024, issue of the *Texas Register*. The comment period closed on August 12, 2024.

The department received four written comments (attached). The department received written comments from Carvana, the Texas Automobile Dealers Association (TADA), the Texas Independent Automobile Dealers Association (TIADA), and the Coalition for Sensible Public Records Access (CSPRA). The department considered all written comments and is recommending changes to the rule text at adoption in response to some of these comments.

### Recommended Changes at Adoption

Department staff recommend several changes to the rules at adoption from the text that was proposed in the *Texas Register*:

- **§217.2 and §217.22:** In response to a comment from Carvana, staff proposes to replace the phrase “within 12 months of the expiration date” in the definition of “current photo identification” with “expired not more than 12 months” to make the definition clearer and provide for ease of reading.
- **§217.27:** In response to a comment from Carvana, staff proposes to replace the phrase “the symbol, tab, or other device prescribed by and issued by the department” in §217.27(a)(2) with “the vehicle registration insignia,” which is a defined term in §217.22, to align with the use of that same phrase in §217.27(a)(1).



- **§217.53:** In response to a comment from Carvana, staff proposes to substitute a reference to §215.151(d) for the proposed broader references to the Transportation Code and to another rule in Chapter 215, and to remove a vague statement about license plates transferring with the motor vehicle in a nonretail sale. Additionally, staff proposes to remove references in proposed §217.53(b) to “registration insignia” and to Transportation Code, §502.491(b), in order to align the adopted rule with Transportation Code, §502.491(a), which requires removal of registration insignia at the time of sale.
- **§217.74:** Staff proposes to add “or user” to §217.74(g)(2) to align with the inclusion of both users and holders in adopted new §217.74(g), and to clarify that all new users of webDEALER, including those accessing webDEALER under an experienced holder’s account, must receive training before accessing webDEALER.
- **§217.84:** Staff proposes to withdraw the proposed amendment to §217.84(b)(5), in which staff had proposed language expanding the description of damage to a motor vehicle required in an application for a nonrepairable or salvage title. The proposed expanded language would have required the applicant to identify the major component parts that needed to be repaired or replaced on the vehicle. Staff recommend withdrawing this proposed amendment to allow further time for the department to make the technology enhancements required to implement such enhanced reporting.
- **§217.123:** In response to a public comment from CSPRA, staff proposes to modify §217.123(e)(1)(D) and §217.123(f)(1)(D) by clarifying that the requestor’s application include blank versions of the agreements used by the requestor to release motor vehicle record information to third parties. This modification will avoid the disclosure of confidential or propriety information that could be contained in the actual agreements used by the requestor to release motor vehicle record information to third parties.
- **§217.166:** In response to a comment from TADA, staff proposes to withdraw the proposed amendment to §217.166(h) that would have allowed a county tax assessor-collector to set a maximum number of webDEALER transactions for dealer deputies based on the deputy’s bond amount. TADA commented with concerns about the proposed amendment, and staff recommends that the board withdraw the proposed amendment to allow time for further research into the issues surrounding limitations on the number of webDEALER transactions for dealer deputies.

In addition, staff recommends non-substantive changes to the proposed text in the following sections to correct capitalization, make terminology consistent, and improve readability without changing meaning: §217.5 and §217.81.

**Effective Dates:**

Due to the delayed effective dates of HB 718 and HB 3297, it is necessary to delay the effective dates of the rules implementing those bills. If the board adopts the amendments, new sections, and repeals presented by the staff during its October 24, 2024 meeting, staff anticipates publication in the November 8, 2024, issue of the Texas Register and effective dates as listed below:

Adopted to be effective January 1, 2025: §§217.4, 217.15, 217.27 and 217.89.

Adopted to be effective July 1, 2025: §§217.8, 217.16, 217.40, 217.46, 217.52, 217.53, 217.168, 217.182 and 217.185.

While the amendments to §217.83 were proposed to be effective immediately, the amendments to §217.83 are adopted to be effective January 1, 2025, to allow insurance companies time for the preparation and training necessary to file owner-retained applications in webDEALER, as required by the amendments to §217.83.



1	<b>ADOPTION OF REVISIONS TO</b>
2	<b>SUBCHAPTER A. MOTOR VEHICLE TITLES</b>
3	<b>43 TAC §§217.2-217.9, 217.11 AND 217.14-217.16</b>
4	<b>SUBCHAPTER B. MOTOR VEHICLE REGISTRATION</b>
5	<b>43 TAC §§217.22, 217.23, 217.25-217.29, 217.33, 217.36, 217.37, 217.40, 217.41, 217.43,</b>
6	<b>217.45, 217.46, AND 217.50-217.56</b>
7	<b>SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS</b>
8	<b>43 TAC §§217.71, 217.74, AND 217.75</b>
9	<b>SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES</b>
10	<b>43 TAC §§217.81-217.86, 217.88, AND 217.89</b>
11	<b>SUBCHAPTER E. TITLE LIENS AND CLAIMS</b>
12	<b>43 TAC §217.106</b>
13	<b>SUBCHAPTER F. MOTOR VEHICLE RECORDS</b>
14	<b>43 TAC §§217.122-217.125, 217.129, AND 217.131</b>
15	<b>SUBCHAPTER G. INSPECTIONS</b>
16	<b>43 TAC §217.143 AND §217.144</b>
17	<b>SUBCHAPTER H. DEPUTIES</b>
18	<b>43 TAC §§217.161 AND 217.168</b>
19	<b>SUBCHAPTER I. PROCESSING AND HANDLING FEES</b>
20	<b>43 TAC §§217.181 - 217.185</b>
21	<b>SUBCHAPTER J. PERFORMANCE QUALITY RECOGNITION PROGRAM</b>
22	<b>43 TAC §217.205</b>
23	<b>SUBCHAPTER L. ASSEMBLED VEHICLES</b>

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## Chapter 217– Vehicle Titles and Registration

1 **43 TAC §217.404**

2 **NEW**

3 **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

4 **43 TAC §217.31**

5 **REPEAL OF**

6 **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

7 **43 TAC §217.34**

8 **SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES**

9 **43 TAC §217.87**

10 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) adopts amendments, a new  
11 section and repeals to 43 Texas Administrative Code (TAC) Chapter 217, Subchapter A, Motor Vehicle  
12 Titles; §§217.2-217.9, 217.11, and 217.14-217.16; Subchapter B, Motor Vehicle Registration, §§217.22,  
13 217.23, 217.25-217.29, 217.33, 217.36, 217.37, 217.40, 217.41, 217.43, 217.45, 217.46, 217.50-217.56;  
14 Subchapter C, Registration and Title Systems, §§217.71, 217.74, and 217.75; Subchapter D, Nonrepairable  
15 and Salvage Motor Vehicles, §§217.81-217.86, 217.88, and 217.89; Subchapter E, Title Liens and Claims,  
16 §217.106; Subchapter F, Motor Vehicle Records, §§217.122-217.125, 217.129, and 217.131; Subchapter  
17 G, Inspections §217.143 and §217.144; Subchapter H, Deputies, §§217.161 and 217.168; Subchapter I,  
18 Fees, §§217.181 - 217.185; Subchapter J, Performance Quality Recognition Program, §217.205; and  
19 Subchapter L, Assembled Vehicles, §217.404. The department adopts new §217.31 in Subchapter B and  
20 adopts repeals of §217.34 in Subchapter B and §217.87 in Subchapter D.

21 The department adopts the following sections without changes to the proposed text as  
22 published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5066) and they will not be  
23 republished: §§217.3, 217.4, 217.6, 217.7, 217.8, 217.9, 217.11, 217.14, 217.15, 217.16, 217.23, 217.25,

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1 217.26, 217.28, 217.29, 217.31, 217.33, 217.36, 217.37, 217.40, 217.41, 217.43, 217.45, 217.46, 217.50,  
2 217.51, 217.52, 217.54, 217.55, 217.56, 217.71, 217.75, 217.82, 217.85, 217.86, 217.88, 217.89,  
3 217.106, 217.122, 217.124, 217.125, 217.129, 217.131, 217.143, 217.144, 217.161, 217.168, 217.181,  
4 217.182, 217.183, 217.184, 217.185, and 217.205.

5 The following sections are adopted with revisions to the proposed text as published in the July 12,  
6 2024, issue of the *Texas Register* (49 TexReg 5066) and will be republished: §§217.2, 217.5, 217.22,  
7 217.27, 217.53, 217.74, 217.81, 217.83, 217.84, 217.123, 217.185 and 217.404.

8 In conjunction with this adoption, the department is adopting the repeal of §217.34 and §217.87,  
9 which is also published in this issue of the *Texas Register*. The rule sections will not be republished.

10 The department adopts amendments, a new section, and repeals to bring the rules into  
11 alignment with statute; to remove language that is redundant with statute; to clarify the purpose of a  
12 rule by amending the title and language; to clarify existing requirements; to modernize language and  
13 improve readability through the use of consistent terminology; to clarify or delete unused, archaic, or  
14 inaccurate definitions, terms, and references; and to more specifically describe the department's  
15 methods and procedures.

16 Amendments are also adopted to implement House Bill (HB) 718, 88<sup>th</sup> Legislature, Regular  
17 Session (2023), which amended various sections in Transportation Code, Chapters 501, 502, 503, 504,  
18 520, and 548 to remove provisions authorizing a vehicle dealer or converter to issue a temporary tag for  
19 a vehicle and replace these tags with categories of license plates, effective July 1, 2025. Accordingly, HB  
20 718 requires a motor vehicle dealer to issue to a person who buys a vehicle from the dealer a license  
21 plate or a set of license plates. HB 718 requires the department to determine new distribution methods,  
22 systems, and procedures; set certain fees; and adopt related rules by December 1, 2024. Beginning July  
23 1, 2025, if a new motor vehicle is sold to a Texas resident, a Texas dealer will assign a license plate to the

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1 vehicle unless the buyer has a specialty or other qualifying license plate, and the assigned license plate  
2 will stay with the vehicle if the vehicle is later sold to another Texas buyer.

3           Additionally, amendments are adopted to implement HB 3297, 88<sup>th</sup> Legislature, Regular Session  
4 (2023), which amended various sections in Transportation Code, Chapters 502, 547, and 548. HB 3297  
5 repealed Transportation Code provisions mandating vehicle safety inspections for noncommercial  
6 vehicles but maintained safety inspections for commercial vehicles and vehicle emissions inspections for  
7 vehicles in certain counties. HB 3297 is effective January 1, 2025.

8           Due to the delayed effective dates of HB 718 and HB 3297, it is necessary to delay the effective  
9 dates of the rules implementing those bills. As a result, the amendments to §§217.4, 217.15, 217.27 and  
10 217.89 are adopted to be effective January 1, 2025, and adopted amendments to §§217.8, 217.16, 217.40,  
11 217.46, 217.52, 217.53, 217.168, 217.182 and 217.185 are adopted to be effective July 1, 2025. While the  
12 amendments to §217.83 were proposed to be effective immediately, the amendments to §217.83 are  
13 adopted to be effective January 1, 2025, to allow insurance companies time for the preparation and  
14 training necessary to file owner-retained applications in webDEALER, as required by the amendments to  
15 §217.83. All other adopted rules will be effective 20 days after filing with the Secretary of State.

**16 REASONED JUSTIFICATION.****17 Subchapter A. Motor Vehicle Titles**

18           Adopted amendments to §217.2 delete the definitions for “all-terrain vehicle or ATV,” “house  
19 moving dolly,” “implements of husbandry,” “obligor,” “off-highway vehicle,” “recreational off-highway  
20 vehicle or ROV,” “sand rail,” and “utility vehicle or UTV” because none of these terms are used in  
21 adopted amended Chapter 217. Another adopted amendment adds a new definition for “current photo  
22 identification” in new §217.2(4), using language that currently appears in §217.5(d)(4) to allow the  
23 department the flexibility to accept government-issued photo identification as well as state-issued

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1 personal identification certificates that do not have expiration dates. At adoption and in response to a  
2 public comment, the phrase “within 12 months of the expiration date” in the definition of “current  
3 photo identification” was replaced with “expired not more than 12 months” to make the definition  
4 clearer and provide for ease of reading. The remaining paragraphs in §217.2 are adopted to be  
5 renumbered accordingly. An adopted amendment to §217.2(25) deletes subparagraphs A, B, and C  
6 from the definition of “verifiable proof,” as those subparagraphs are unnecessary and duplicative of  
7 language in §217.7, relating to Replacement of Title.

8           An adopted amendment to the introductory sentence in §217.3 adds the words “or this  
9 subchapter” to clarify that the rules in 43 TAC Chapter 217, Subchapter A, relating to Motor Vehicle  
10 Titles, regulate applications for title by motor vehicle owners. An adopted amendment deletes  
11 §217.3(1)(B) to remove unnecessary language that is duplicative of the definition of “moped” in §217.2  
12 and removes the letter for subparagraph (A) because there would only be one subparagraph in  
13 §217.3(1) due to the adopted deletion of subparagraph (B). An adopted amendment deletes  
14 §217.3(2)(A) to conform the rule to the Texas Transportation Code, Chapter 501, which does not  
15 prohibit the titling of implements of husbandry. An adopted amendment to §217.3(2)(C) replaces “farm  
16 tractors” with “tractors” to clarify that while farm tractors may be exempt from registration, tractors  
17 used to mow rights of way or to move commodities are not. Another adopted amendment deletes  
18 §217.3(2)(D) to remove unnecessary language that is duplicative of language in the Transportation Code.  
19 The remaining subsections of §217.3(2) are adopted to be renumbered accordingly. An adopted  
20 amendment to §217.3(4) deletes the portion of the paragraph reciting the weight requirements for  
21 mandatory titling of trailers, as well as the portion of the paragraph stating that trailers under 4,000  
22 pounds may be permissively titled, to remove unnecessary language that is duplicative of language in  
23 the Transportation Code.

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1           An adopted amendment to §217.4(d)(4) deletes language requiring completion of a vehicle  
2 inspection under Transportation Code, Chapter 548 for all title applications, and substitutes language  
3 specifying that for vehicles last registered in another state, applicants must verify the vehicle  
4 identification number (VIN) by a process described on a department self-certification form if the vehicle  
5 is not subject to Transportation Code, Chapter 548. The adopted changes would implement HB 3297,  
6 which removed the vehicle safety inspection as a prerequisite for registration and titling while still  
7 allowing the department to deter fraud by verifying the VINs of out-of-state vehicles. The adopted  
8 amendment also clarifies that if an applicant is registering or titling a vehicle in a county subject to  
9 emissions testing, the emissions testing requirements must be satisfied. An adopted amendment to  
10 §217.4(d)(5) deletes paragraphs (A) and (B) and re-organizes the rule accordingly. The adopted deletion  
11 of paragraphs (A) and (B) removes language that is unnecessary because it is duplicative of language in  
12 the Transportation Code. These amendments to §217.4 are adopted for a future effective date of  
13 January 1, 2025, in accordance with the effective date of HB 3297.

14           An adopted amendment to §217.5(a)(1)(A) adds new requirements for a manufacturer’s  
15 certificate of origin (MCO). Adopted new §217.5(a)(1)(A)(i) requires that a manufacturer’s name be  
16 listed on the MCO, to eliminate confusion as to the name of the manufacturer when shortened versions  
17 or abbreviations of a manufacturer’s name are printed on an MCO. Adopted new §217.5(a)(1)(A)(vi)  
18 requires that motor bus MCOs list seating capacity (number of passengers), to help the department  
19 quickly determine, based on the seating capacity, whether a vehicle should be registered or titled as a  
20 bus. The remainder of §217.5(a)(1)(A) is renumbered accordingly.

21           Section 217.5(a)(2) sets requirements for the evidence of motor vehicle ownership that must  
22 accompany an application for title on a used motor vehicle. The adopted amendment to §217.5(a)(2)  
23 deletes vague language relating to “other evidence of ownership” because the term is confusing and

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1 does not offer clear guidance to the public as to the type of ownership evidence that is acceptable to the  
2 department. Adopted new paragraphs §217.5(a)(2)(A)-(E) clarify the application requirements by listing  
3 the specific types of evidence of ownership that must be submitted as part of a title application,  
4 reflecting current department procedure. At adoption, the department corrected a capitalization error  
5 in the proposed text for §217.5(a)(2)(A).

6 An adopted amendment to §217.5(a)(4)(C)(ii) modernizes the rule by deleting a reference to “an  
7 original United States Customs stamp” that is not required under relevant statutes governing  
8 importation of motor vehicles. An adopted amendment to §217.4(a)(4)(C)(v) inserts a hyphen into the  
9 phrase “non United States” to correct a grammatical error.

10 An adopted amendment to §217.5(b)(4) changes the case of the term “Statement of Fact” from  
11 upper to lower case to correct a syntax error. An adopted amendment to §217.5(d)(1) removes “and  
12 expiration date” and replaces “document” with “current photo identification” to employ the adopted  
13 new defined term. An additional adopted amendment to §217.5(d)(1) deletes “concealed handgun  
14 license or,” as this term is not used in the Texas Government Code. Another adopted amendment  
15 deletes the definition of “current” from §217.5(d)(4) because it is adopted into new §217.2(4). The  
16 remaining subsections of §217.5(d) are renumbered accordingly. The adopted amendments to  
17 renumbered §§217.5(d)(5) and (6) remove an inaccurate reference to Occupations Code, Chapter 2301  
18 as the source of authority for issuing a general distinguishing number (GDN).

19 An adopted amendment to §217.6 adds a new subsection (d) clarifying the requirements for the  
20 department to place a hold on processing a title application under Transportation Code, §501.051(d).  
21 Adopted new §217.6(d)(1) clarifies the requirements for evidence of a legal action regarding ownership  
22 of a lien interest in a motor vehicle by specifying that the evidence must show a legal action that was  
23 filed in a district, county, statutory probate, or bankruptcy court. Adopted new §217.6(d)(1) allows the

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1 parties to maintain the status quo in a legal dispute over a motor vehicle by placing a hold on the  
2 transfer of the title until the dispute is resolved, without the necessity of obtaining a temporary  
3 injunction against the department. This enhances procedural efficiency for the department and saves  
4 resources for both the department and the parties involved in the legal dispute.

5 Adopted new §217.6(d)(2) clarifies that evidence of a legal action filed in a municipal or justice  
6 of the peace court is not sufficient evidence for a title processing hold unless the legal action is related  
7 to Code of Criminal Procedure, Chapter 47 or Government Code, §27.031. This adopted amendment  
8 makes the rule consistent with Transportation Code, §501.0521, which states that a justice of the peace  
9 or municipal court may not issue an order related to a motor vehicle title except in limited  
10 circumstances.

11 Adopted new §217.6(d)(3) clarifies that to qualify for a title processing hold, the legal action  
12 regarding ownership of or a lien interest in a motor vehicle must be active on a court’s docket, and that  
13 evidence of a legal action that has been resolved through a final nonappealable judgment will not  
14 support placing of a title processing hold. Adopted new §217.6(d)(5) defines “final nonappealable  
15 judgment” as one for which 30 days have passed from the date of judgment without appeal, to  
16 eliminate ambiguity as to what constitutes a non-appealable judgment for the purposes of releasing a  
17 title processing hold. When there is a final nonappealable judgment, adopted new §217.6(d)(3) requires  
18 evidence of post-judgment legal action before the department can place a hold on processing a title.  
19 These adopted amendments make the department’s procedures consistent with Transportation Code,  
20 §501.051(d), which states that a hold is terminated when a case is resolved by a final judgment.

21 Adopted new §217.6(d)(4) requires the department to place a ten-day temporary hold when a  
22 party submits the vehicle’s VIN and an explanation that the hold is requested to commence legal action.  
23 This adopted amendment reflects the current department practice of providing a temporary 10-day



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1 processing hold to allow a party to time to file a lawsuit and to present evidence of the legal action to  
2 the department. The adopted amendment acknowledges that title or lienholders, who are challenging  
3 legal bonded title applications or engaged in other types of disputes related to their title or lien  
4 interests, need time to prepare a legal action. Adopted new §217.6(d)(4) requires a party to submit a  
5 VIN for the vehicle at issue because title processing holds are placed in the department’s record system  
6 by VIN. Adopted new §217.6(d)(4) also requires a party to attest that the temporary hold is being  
7 requested in order to commence a legal action disputing a title or lien interest in a motor vehicle and  
8 not for purposes of delay, to ensure that the temporary hold is in furtherance of Transportation Code,  
9 §501.051(d).

10 Adopted amendments to §217.7 implement the adopted new defined term “current photo  
11 identification” in §217.2(4) by adding it §217.7(b)(1) in place of “document,” adding it to §217.7(b)(3)(A)  
12 - (C), and deleting the definition of “current” from §217.7(b)(4). The remaining subsections of §217.7(b)  
13 are renumbered accordingly. These adopted amendments improve readability of the rule and ensure  
14 consistent use of terminology throughout the subchapter. An adopted amendment to §217.7(b)(1)(F)  
15 deletes the phrase “concealed handgun license” because Government Code, Chapter 411 does not use  
16 the term “concealed handgun license” and this type of license is no longer required by law.

17 The adopted amendments to §217.8 implement HB 718, which amended Transportation Code,  
18 §501.147 to mandate that dealers holding a GDN submit notifications to the department of sales or  
19 transfers of motor vehicles to the dealer. An adopted amendment to §217.8(a) removes dealers that  
20 hold a GDN from the rule on voluntary notifications to the department since notification is now  
21 mandatory rather than voluntary under Transportation Code, §501.147, as amended by HB 718.  
22 Adopted new §217.8(b) requires dealers with a GDN to submit notifications to the department of sales  
23 or transfers of motor vehicles to the dealer, including all information required under Transportation

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1 Code, §501.147(b), as amended by HB 718. Adopted new §217.8(b) also clarifies that dealers with a GDN  
2 can submit the written notification to the department through a variety of methods, including  
3 electronically through the department’s website portal, as is required by Transportation Code,  
4 §501.147, as amended by HB 718. The other subsections of §217.8 are renumbered accordingly to  
5 accommodate the addition of adopted new §217.8(b). An adopted amendment to prior §217.8(b)  
6 clarifies that dealers that hold a GDN are identified as transferors for purposes of the department  
7 updating its records documenting the vehicle transfer. These amendments to §217.8 are adopted for a  
8 future effective date of July 1, 2025, in accordance with the effective date of HB 718.

9       Adopted amendments to §217.9(a)(1) delete the phrase “and the surety bonding company  
10 ensures lien satisfaction or” and insert new language specifying that an applicant, rather than a surety  
11 bond company, must provide both a release of all liens and a bond. The adopted amendment conforms  
12 the rule with Transportation Code, §501.053(a)(3), which requires an applicant to produce a release of  
13 all liens with a bond and does not authorize a surety bond company to ensure lien satisfaction in lieu of  
14 a release of all liens from the relevant lienholders. An adopted amendment to §217.9(e)(7) deletes  
15 language related to certification of lien satisfaction by the surety bond company and a notice of  
16 determination letter. This adopted amendment makes the paragraph consistent with the adopted  
17 amendment to §217.9(a)(1) and conforms the rule to Transportation Code, §501.053(a)(3), which does  
18 not provide for certification of lien satisfaction by a surety bond company, but instead requires a release  
19 of all liens and a surety bond for an applicant to qualify for bonded title.

20       Adopted amendments to §217.11(a) delete unnecessary and duplicative language that simply  
21 repeats requirements from Transportation Code §501.051(b), and substitute citations to Transportation  
22 Code §501.051(b). The adopted amendments create new paragraph (b) from former paragraph (a)(5),  
23 delete language from former paragraph (a)(5) referring to language in paragraph (a)(3)(B) that is

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1 adopted for deletion, and add language to the adopted new paragraph (b) clarifying and restating the  
2 current requirement that an affidavit for recission must be accompanied by an odometer disclosure  
3 statement if the vehicle was ever in the possession of the title applicant. The adopted amendments also  
4 delete prior §217.11(b) because it refers to language in paragraph (a)(3)(B) that is adopted for deletion.  
5 The adopted amendments thus remove unnecessary language and improve readability.

6 An adopted amendment to §217.14 deletes the phrase “registered with the following  
7 distinguishing license plates” and replaces it with the “eligible for machinery license plates and permit  
8 license plate, in accordance with Transportation Code, §502.146.” The adopted deletion clarifies that  
9 the exemption from titling for vehicles eligible for machinery license and permit plates is not limited to  
10 vehicles that have been registered and applies to all vehicles eligible for machinery license plates and  
11 permit license plates. An additional amendment deletes unnecessary language that is duplicative of  
12 statute.

13 An adopted amendment to §217.15(c) implements HB 3297 by replacing a reference to a “state  
14 inspection” fee with a broader reference to any fee “under Transportation Code, Chapter 548.” The  
15 adopted amendment aligns the rule with HB 3297 which amended Transportation Code, Chapter 548 to  
16 eliminate the requirement for a state safety inspection. These amendments to §217.15 are adopted for  
17 a future effective date of January 1, 2025, in accordance with the effective date of HB 3297.

18 An adopted amendment to §217.16(f)(4) implements HB 718 by replacing “buyer’s temporary  
19 tag fee” with “fee associated with the issuance of a license plate or set of plates.” The adopted  
20 amendment aligns the rule with HB 718, which amended Transportation Code Chapter 503 to eliminate  
21 buyer’s temporary tags. The amendments to §217.16 are adopted for a future effective date of July 1,  
22 2025, in accordance with the effective date of HB 718.

23 **Subchapter B. Motor Vehicle Registration.**

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## Chapter 217– Vehicle Titles and Registration

1           Adopted amendments to §217.22 add a new definition of “current photo identification” in new  
2 §217.22(11), using language that appears prior in §217.26(c) to allow the department the flexibility to  
3 accept government-issued photo identification as well as state-issued personal identification certificates  
4 that do not have expiration dates. At adoption, the phrase “within 12 months of the expiration date” to  
5 describe the definition of current photo identification” in new §217.22(11) was replaced with “expired  
6 not more than 12 months” in response to a public comment to make the definition clearer and provide  
7 for ease of reading.

8           Other adopted amendments to §217.22 delete the definition “legally blind” in §217.22(24)  
9 because it is not used in the subchapter, and delete the definition of “vehicle inspection sticker” in  
10 §217.22(47) to align with changes to the law to no longer require separate vehicle inspection stickers.  
11 The remaining subsections of §217.22 are renumbered accordingly. An adopted amendment to  
12 §217.22(27) adds a citation to Transportation Code, Chapter 503 for completeness, clarity, and ease of  
13 reference. An adopted amendment to §217.22(38) removes the phrase “under SA” to remove  
14 unnecessary and confusing wording.

15           Adopted amendments to §217.23(b)(1) add a cross reference to §217.5, relating to Evidence of  
16 Motor Vehicle Ownership, for clarity and ease of reference, and remove an unnecessary statutory  
17 reference.

18           Adopted amendments to §217.25 add a reference to Transportation Code, §502.145 to clarify  
19 that the statute creates an exception to the rule: Transportation Code, §502.145 allows a nonresident  
20 owner of a privately owned passenger car that is registered in the state or country in which the person  
21 resides and that is not operated for compensation to not register in Texas as long as the car’s licenses in  
22 the owner’s state of residence are valid.

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## Chapter 217– Vehicle Titles and Registration

1           Adopted amendments to §217.26(a) implement the adopted new defined term “current photo  
2 identification” in §217.22(11) by adding it to §217.26(a) in place of “document,” adding it to  
3 §§217.26(b)(2)(B), 217.26(b)(3), and 217.26(b)(4)(B) in place of “government issued,” deleting the  
4 definition of “current” from §217.26(c), and relettering the remaining subsections of §217.26  
5 accordingly. An adopted amendment to §217.26(a)(6) deletes “concealed handgun license” from the  
6 list of acceptable forms of identification as this type of license is no longer required by law.

7           Adopted amendments to §§217.27(a)(1) add the defined term “vehicle registration insignia” for  
8 clarity and consistency and delete unused or archaic terms and references. At adoption and in response  
9 to a public comment, the phrase “the symbol, tab, or other device prescribed by and issued by the  
10 department” was replaced in §217.27(a)(2) with “the vehicle registration insignia,” which is a defined term  
11 in §217.22, to align the use of that same phrase in §217.27(a)(1). Adopted amendments to §217.27(b)  
12 move the carve-out for a vehicle described by Transportation Code, §621.2061 to place the rear license  
13 plate so that it is clearly visible, readable, and legible, from paragraph (b)(1), which addresses vehicles  
14 that display two plates, to paragraph (b)(2), which addresses vehicles that only display one plate. This  
15 amendment acknowledges that vehicles described in Transportation Code, §621.2061 are carrying a load  
16 that obscures the license plate.

17           Adopted amendments to §217.27(c)(2)(A) implement HB 3297, which amended Transportation  
18 Code, §502.0024 to specify which vehicles may obtain a registration insignia for a period consisting of  
19 12, 24, 36, 48 or 60 consecutive months on payment of all fees for each full year of registration. The  
20 adopted amendments to §217.27(c)(2)(A) further implement HB 3297 by deleting outdated text that  
21 referenced vehicle inspections and sections of the Transportation Code that HB 3297 eliminated. Due to  
22 the adopted amendments implementing HB 3297, the amendments to §217.27 are adopted for a future  
23 effective date of January 1, 2025, in accordance with the effective date of HB 3297.

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## Chapter 217– Vehicle Titles and Registration

1           Adopted amendments to §217.27(d)(1)(2), (2)(A), (3), (e), (f), and (h) substitute the term  
2 “license plate number” for “alphanumeric pattern” to implement HB 718, which requires that the  
3 department issue license plates rather than temporary tags. An adopted amendment to §217.27(d)(1)  
4 substitutes the term “general issue” for the word “regular” to implement HB 718 with consistent  
5 terminology that distinguishes among types of license plates that the department will now issue.

6           The repeal of §217.28(e)(1) is adopted because the language is redundant with statute. The  
7 remaining sections are renumbered accordingly. Adopted amendments add new §217.28(e)(6) to clarify  
8 that the operation of a vehicle with an expired registration that has been stored or otherwise not in  
9 operation, that is driven only to an inspection station for the purpose of obtaining an inspection if  
10 required for registration, will not affect the determination of whether the registrant has a valid or invalid  
11 reason for being delinquent. This adopted amendment removes a deterrent to inspection and further  
12 clarifies when a vehicle will be assessed delinquency penalties.

13           Adopted amendments to §217.29 repeal §217.29(d) and §217.29(f) as these subsections are  
14 outdated and apply only to vehicle registrations expiring prior to January 1, 2017. The remaining  
15 subsections are adopted to be relettered accordingly. Adopted amendments to relettered §217.29(e)  
16 remove outdated language about vehicle registrations around January 1, 2017. Adopted amendments to  
17 relettered §217.29(f) modernize the rule by removing more outdated language about registration  
18 renewals in 2017, and by updating the wording to require the department and the department’s third-  
19 party centralized vendor to promptly facilitate and mail vehicle registration insignias to applicants who  
20 submit registration renewals via the Internet.

21           Adopted new §217.31 is a standalone rule regarding the federal heavy vehicle use tax (HVUT)  
22 requirements, which are imposed by 26 U.S.C. §4481, *et seq.* and 26 C.F.R. Part 41. Although the Internal  
23 Revenue Service (IRS) collects the HVUT, the department requires compliance with the HVUT

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## Chapter 217– Vehicle Titles and Registration

1 requirements prior to issuing vehicle registration for applicable vehicles, to prevent the state’s loss of  
2 federal-aid highway funds under 23 U.S.C. §141(c) and 23 U.S.C. §104(b)(1). The department also  
3 complies with 23 C.F.R. Part 669, Federal Highway Administration (FHWA) regulations regarding the  
4 enforcement of the HVUT requirements via the vehicle registration process for a highway motor vehicle  
5 as defined by the federal law on the HVUT.

6           Adopted new §217.31 also incorporates by reference IRS regulation 26 C.F.R. §41.6001-2  
7 regarding the circumstances under which a state must require proof of payment of the HVUT and the  
8 required manner in which such proof of payment must be received by a state as a condition of issuing a  
9 registration for a highway motor vehicle as defined by the federal law regarding the HVUT. Section  
10 41.6001-2(c) states that proof of payment of the HVUT consists of a receipted Schedule 1 (Form 2290  
11 “Heavy Vehicle Use Tax Return”) that is returned by the IRS, by mail or electronically. Section 41.6001-  
12 2(c) also authorizes an acceptable substitute for a receipted Schedule 1. The IRS provides guidance on its  
13 website regarding Form 2290 for the collection of the HVUT. The IRS website for Form 2290 is located at  
14 the following address: <https://www.irs.gov/forms-pubs/about-form-2290>.

15           Although the department complies with the HVUT requirements for all applicable vehicle  
16 registrations, multiple rules in Chapter 217 reference the HVUT requirements. New §217.31 helps  
17 vehicle registration applicants find the applicable HVUT requirements because new §217.31 is titled  
18 “Heavy Vehicle Use Tax.” Also, federal law imposes the requirements for the payment of the HVUT, as  
19 well as the circumstances under which a state must require proof of payment of the HVUT and the  
20 required manner in which such proof of payment must be received by a state.

21           Adopted amendments to §217.33 implement HB 718 by adding the word “license” before  
22 “plate” in several places in subparagraphs (a), (b), and (d) to improve readability through the use of  
23 consistent terminology.

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## Chapter 217– Vehicle Titles and Registration

1 The repeal of §217.34 is adopted to remove language that is redundant with statute.

2 Amendments to §§217.36(c)(1), 217.36(c)(4), and 217.36(c)(5) are adopted to modernize  
3 language and match current practices by removing references to submitting information to the  
4 department on magnetic tape and replacing them with references to submitting information through  
5 the secure transfer portal.

6 Adopted amendments to §217.37 clarify that the department and the county will only charge  
7 fees provided by statute or rule. The adopted amendments repeal §217.37(b) because it is a  
8 restatement of the \$2 fee for a duplicate registration receipt required in Transportation Code,  
9 §502.058(a).

10 Adopted amendments to §217.40 implement HB 718 by creating new plate types and ensuring  
11 consistency in the terminology used to refer to the new plates in rule. In accordance with the effective  
12 date of HB 718, the amendments to §217.40 are adopted for a future effective date of July 1, 2025.

13 Adopted amendments to §217.40(a) implement HB 718 by updating terminology and adding “special  
14 registration license plates” in addition to “special registration permits.”

15 Adopted amendments to §217.40(b)(1) add a statutory reference to Transportation Code,  
16 §502.434 and delete unnecessary language in §217.40(b)(1)(A)-(D) that is redundant with the statute to  
17 streamline the rule text and to improve readability and ease of reference. The remaining subsections in  
18 §217.40(b)(1) are relettered accordingly. Adopted amendments to §217.40(b)(2) add a reference to  
19 Transportation Code, §502.093 and delete unnecessary language in subparagraph (A) for ease of  
20 reference. An adopted amendment deletes §217.40(b)(2)(B) because it is redundant with statute, and  
21 the remaining subsections of §217.40(b)(2) are relettered accordingly. Adopted amendments to create  
22 new §217.40(b)(2)(C) implement HB 718 by specifying that the department will issue a license plate for  
23 an annual permit under Transportation Code, §502.093, and also provide a definition for the term



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## Chapter 217– Vehicle Titles and Registration

1 “foreign commercial motor vehicle.” Adopted amendments delete §217.40(b)(2)(C)(ii) because it is  
2 redundant with statute. Adopted amendments to §217.40(b)(3) clarify that 72-hour permits and 144-  
3 hour permits are governed in accordance with Transportation Code, §502.094 and delete existing  
4 language in subparagraphs (3)(A-D), and (4)(A-D) that is redundant with the statutory requirements, to  
5 streamline the rules and improve readability and consistency with other subsections.

6 Adopted new §217.40(c) implements HB 718 by providing for the issuance of various categories  
7 of special registration license plates and incorporates language that is currently §217.40(b)(5)-(6). An  
8 adopted amendment to renumbered §217.40(c)(1) implements HB 718 by substituting “license plates”  
9 for “permits,” and removes unnecessary language that duplicates the requirements of Transportation  
10 Code, §502.095. The remaining subsections of §217.40(c) are relettered and renumbered accordingly.  
11 Adopted new §217.40(c)(1)(C) requires a one-trip license plate to be displayed as required by  
12 §217.27(b), relating to Vehicle Registration Insignia, for clarity, ease of reference, and consistency with  
13 other subsections.

14 Adopted amendments to prior §217.40(b)(6), adopted to be renumbered §217.40(c)(2),  
15 substitute “license plates” for “temporary registration permits” to implement HB 718, and remove  
16 language that is redundant of Transportation Code §502.095. An adopted amendment to adopted  
17 relettered §217.40(c)(2)(A) substitutes “license plate” for “temporary permit” and “30-day license plate”  
18 for “permit” to implement HB 718. Another adopted amendment to §217.40(b)(6), adopted to be  
19 relettered as §217.40(c)(2)(A), aligns the rule with statute by striking motorcycles from the list of the  
20 types of vehicles for which a 30-day license plate is available because Transportation Code §502.095  
21 does not allow issuance of 30-day license plates to motorcycles. The remaining subsections are  
22 relettered accordingly. Adopted new §217.40(c)(2)(B) clarifies that a 30-day license plate must be

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## Chapter 217– Vehicle Titles and Registration

1 displayed as required by §217.27(b), relating to Vehicle Registration Insignia, for clarity, ease of  
2 reference, and consistency with other subsections.

3 An adopted amendment to prior §217.40(c), which is adopted to be relettered as §217.40(d)(1),  
4 implements HB 718 by substituting the word “special” for “temporary” and adding “or special  
5 registration license plate” for consistency with other subsections. Adopted amendments to  
6 §217.40(d)(3)(A) delete unnecessary, redundant language. Adopted amendments to prior  
7 §217.40(c)(4)(B), which is adopted to be relettered as §217.40(d)(4)(B), delete temporary agricultural  
8 permits from being obtained through the county tax assessor-collectors’ offices. This amendment  
9 implements HB 718 and aligns the rule with statute because HB 718 repealed Transportation Code,  
10 §502.092. Adopted amendments to adopted relettered §217.40(d)(4)(C) implement HB 718 by  
11 substituting “license plates” for “permits” and “temporary registration permits.”

12 Adopted amendments to prior §217.40(d), which is adopted to be relettered as §217.40(e),  
13 implement HB 718 by adding “special registration” and “or special registration license plate” where  
14 “permit” appears throughout the subsection for consistency in the description of the new plate. The  
15 adopted amendments to prior §217.40(d) delete unnecessary language that is redundant with statute.  
16 Adopted amendments to prior §217.40(e), which is adopted to be relettered to §217.40(f), implement  
17 HB 718 by replacing “temporary” with “special registration” and adding “or special registration license  
18 plates” wherever “permit” appears throughout the subsection, for consistency in the description of the  
19 new plate.

20 Adopted amendments to §217.41(b)(2)(A) replace “regular motor vehicle license plates” with  
21 “general issue license plates” to implement HB 718, modernize language and improve readability  
22 through the use of consistent terminology. Adopted amendments to §217.41(b)(3) update applicable  
23 statutory references governing the issuance of windshield disabled parking placards.

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## Chapter 217– Vehicle Titles and Registration

1           Adopted amendments to §217.43 add the word “license” in multiple places to improve  
2 readability through consistent terminology.

3           Adopted amendments to §217.45(b)(2)(B) remove language that is redundant with statute.

4           Adopted amendments to §217.45(b)(4) add the word “license” to modify “plate” in several places to  
5 implement HB 718 with consistent terminology. Adopted amendments to §217.45(c)(2)(A)(iii)  
6 implement HB 718 by replacing “alpha numeric pattern” with “license plate number” to modernize  
7 language and improve readability with consistent terminology. Adopted amendments to §§217.45(c),  
8 (d), (e), (f), (h), and (i) implement HB 718 with consistent terminology by adding “license” to modify  
9 “plate” in multiple places.

10           An adopted amendment to §217.46(a) clarifies that a motor vehicle is required to register as a  
11 commercial vehicle if it meets the definition under Transportation Code, §502.001(7) and deletes  
12 unnecessary language that repeats the statutory requirements. An adopted amendment to  
13 §217.46(b)(3)(A) deletes the words “and full trailers” because Transportation Code, §502.255 only  
14 authorizes a truck-tractor or commercial motor vehicle with a combination license plate to be used in  
15 combination with a semitrailer that has a gross weight of more than 6,000 pounds. Although  
16 Transportation Code, §502.255(e) says that for registration purposes, a semitrailer that has been  
17 converted to a trailer by means of an auxiliary axle assembly retains its status as a semitrailer, this  
18 exception under §502.255(e) is already addressed in §217.46(b)(3)(B). Another adopted amendment to  
19 §217.46(b)(3)(A) also clarifies that a truck or truck-tractor displaying a combination license plate issued  
20 under Transportation Code, §502.255 may only pull a semitrailer issued a license plate from another  
21 state to the extent authorized under a registration reciprocity agreement under Transportation Code,  
22 §502.091. Transportation Code, §502.255 regarding combination license plates does not authorize a  
23 truck or truck-tractor with a combination license plate to pull a semitrailer with a license plate issued by

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1 another state; however, Transportation Code, §502.091 provides such authority if there is a registration  
2 reciprocity agreement that authorizes it.

3           Adopted amendments to §217.46(b)(3)(A)(i) and (ii) modify the language because  
4 Transportation Code, §502.255(a) requires the truck or truck tractor in the combination to have a gross  
5 weight of “more than 10,000 pounds,” which means a truck or truck-tractor that has a gross weight of  
6 10,000 pounds or less does not qualify for registration under Transportation Code, §502.255. Adopted  
7 amendments to §217.46(b)(3)(A)(ix) replace “temporary” with “special registration,” replace “permits”  
8 with “special registration license plates,” and replace “permits” with “license plates” to improve  
9 readability through consistent terminology. An adopted amendment to §217.46(b)(3)(B) deletes the  
10 word “full” from the term “full trailers” because the language summarizes the authority under  
11 Transportation Code, §502.255(e) for a semitrailer that has been converted to a trailer by means of an  
12 auxiliary axle assembly to retain its status as a semitrailer. Transportation Code, §502.001 defines the  
13 word “trailer,” but does not define the term “full trailer.” Therefore, the adopted amendment deletes  
14 the word “full” from the term “full trailers” to provide clarity. An adopted amendment to  
15 §217.46(b)(3)(D)(iii) adds the word “license” to modify “plates,” to improve readability and clarity  
16 through consistent terminology. An adopted amendment deletes §217.46(b)(6) because in transit  
17 license plates under Transportation Code, §503.035 are addressed under 43 TAC §215.143. The  
18 remaining paragraphs of §217.46(b) are adopted to be renumbered accordingly.

19           An adopted amendment to renumbered §217.46(b)(7)(A) replaces the word “required” with the  
20 word “authorized” because a token trailer license plate is available for semitrailers that qualify for a  
21 token trailer license plate under the law. An adopted amendment to renumbered §217.46(b)(7)(B)  
22 deletes language regarding an exemption under Transportation Code, §502.094 because Transportation  
23 Code, §502.001(40) and §502.255 do not provide an exemption. Transportation Code, §502.001(40)

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## Chapter 217– Vehicle Titles and Registration

1 defines a token trailer and states that a token trailer is only authorized to be operated in combination  
2 with a truck or truck-tractor that has been issued an apportioned license plate, a combination license  
3 plate or a forestry vehicle license plate. Transportation Code, §502.001(40) does not list a truck or truck-  
4 tractor registered with a special registration permit under Transportation Code, §502.094, so a special  
5 registration permit under Transportation Code, §502.094 may not be used to increase the combined  
6 gross weight of a truck or truck-tractor to pull a token trailer, even if the truck or truck-tractor is  
7 registered for a lower combined gross weight under one of the types of registration referenced in  
8 Transportation Code, §502.001(40). If the truck or truck-tractor is only authorized to operate at a higher  
9 combined gross weight (combined gross weight of the truck or truck-tractor and the token trailer)  
10 because of the authority under Transportation Code, §502.094 for a 72- or 144-hour permit, then the  
11 truck or truck-tractor is operating under the registration authority under Transportation Code, §502.094,  
12 rather than the registration authority of a registration type referenced in Transportation Code,  
13 §502.001(40). However, a vehicle combination may be eligible under Transportation Code, Chapters 621  
14 through 623 to operate at a higher gross weight than a registered gross weight of 80,000 pounds  
15 provided the vehicle combination is operated in compliance with such laws, but provisions in  
16 Transportation Code, Chapters 621 through 623 might require such vehicle combination to operate at  
17 less than 80,000 pounds gross weight even if the combination is registered for 80,000 pounds gross  
18 weight. Vehicle registration is a different issue than maximum weight authorized under Transportation  
19 Code, Chapters 621 through 623. Also, Transportation Code, §623.011 is not the only statute in  
20 Transportation Code, Chapter 623 that might authorize the vehicle combination to exceed 80,000  
21 pounds gross weight. For these reasons, an adopted amendment to renumbered §217.46(b)(7)(B)  
22 replaces the reference to Transportation Code, §623.011 with a reference to Transportation Code,  
23 Chapters 621 through 623.

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## Chapter 217– Vehicle Titles and Registration

1           Adopted amendments to renumbered §217.46(b)(7)(D) change the catchline from “Full trailers”  
2 to “Trailer” and delete the word “full” from the term “full trailer” because Transportation Code,  
3 §502.255 only authorizes a semitrailer to be eligible for a token trailer license plate, and Transportation  
4 Code, §502.001 defines the word “trailer,” but does not define the term “full trailer.” §217.46(b)(3)(B)  
5 already includes the exception under Transportation Code, §502.255(e), which says that for registration  
6 purposes, a semitrailer converted to a trailer by means of an auxiliary axle assembly retains its status as  
7 a semitrailer. An adopted amendment to renumbered §217.46(b)(7)(D) also replaces the word “will”  
8 with the word “shall” before the word “not” because Government Code, §311.016 defines the word  
9 “shall” to impose a duty. Because Transportation Code, §502.255 does not authorize the department to  
10 issue a token trailer license plate for a trailer, this adopted amendment to renumbered §217.46(b)(7)(D)  
11 clarifies that the department is prohibited from issuing a token trailer license plate for a trailer.  
12 Government Code, Chapter 311 applies to each rule adopted under a code, such as the rules under  
13 Chapter 217.

14           An adopted amendment to §217.46(c)(1) clarifies that an applicant shall apply to the  
15 appropriate county tax assessor-collector or the department, as applicable, for commercial license  
16 plates. An adopted amendment to §217.46(c)(3)(B)(ii) clarifies the reference to the laws regarding  
17 overweight vehicles. An adopted amendment to §217.46(c)(4) provides an option to establish ownership  
18 of a vehicle by securing a bond if no VIN or serial number can be identified, to give vehicle owners  
19 flexibility with more avenues to establish ownership.

20           Adopted amendments to §217.46(c)(5)(C) clarify the sentence and remove an outdated  
21 reference to an international stamp under Chapter 218 of Title 43. Transportation Code, §502.046 says  
22 that evidence of financial responsibility as required by Transportation Code, §601.051, other than for a  
23 trailer or semitrailer, shall be submitted with the application for registration under Transportation Code,

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1 §502.046. If the vehicle is registered in compliance with Chapter 218, this is evidence that  
2 Transportation Code, §601.051 does not apply because Transportation Code, §601.007(c) says that  
3 Transportation Code, Chapter 601 (other than §601.054) does not apply to a motor vehicle that is  
4 subject to Transportation Code, Chapter 643. If Transportation Code, Chapter 643 requires a motor  
5 carrier to register its vehicle under Chapter 643, the motor carrier must obtain such registration under  
6 43 TAC Chapter 218 and Transportation Code, Chapter 643. The reference to registration under Chapter  
7 218 is a reference to operating authority, rather than vehicle registration as provided under  
8 Transportation Code, Chapter 502.

9       Adopted amendments to §217.46(c) delete paragraphs (6) and (7) because the department is  
10 adopting new §217.31, which provides the HVUT requirements. Federal law imposes the requirements  
11 for the payment of the HVUT, the circumstances under which a state must require proof of payment of  
12 the HVUT and the required manner in which such proof of payment must be received by a state.  
13 Adopted new §217.31 cites to the applicable federal law regarding the HVUT and incorporates the  
14 applicable IRS regulation by reference.

15       Adopted amendments to §217.46(d)(1) delete language regarding fixed five-year vehicle  
16 registration terms for rental trailers and token trailers because the language is not supported by statute.  
17 Transportation Code 502.0024(a), as amended by HB 3297, states, “Payment for all applicable fees...for  
18 the entire registration period is due at the time of registration.” Also, Transportation Code, §502.0024  
19 authorizes the applicant to choose a registration term up to five years. Further, HB 2357, 82<sup>nd</sup>  
20 Legislature, Regular Session (2011) deleted language regarding a five-year registration period for a token  
21 trailer. In addition, the department does not require trailers that are registered under Transportation  
22 Code, §502.0024 to have a March 31<sup>st</sup> expiration date, unless the registration term begins on April 1<sup>st</sup>.

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## Chapter 217– Vehicle Titles and Registration

1 An adopted amendment to §217.46(e)(1) adds the word “license” to modify “plates” for  
2 improved readability and clarity through consistent terminology. In accordance with the effective date  
3 of HB 718, the amendments to §217.46 are adopted for a future effective date of July 1, 2025.

4 An adopted amendment to §217.50 adds the word “license” to modify “plate” for improved  
5 readability and clarity through consistent terminology. Another adopted amendment to §217.50 deletes  
6 the definition of highway construction project to remove unused, archaic language.

7 Adopted amendments to §217.51 add the word “license” to modify “plate” for improved  
8 readability and clarity through consistent terminology.

9 Adopted amendments to §217.52 add the word “license” to modify “plate” in multiple places to  
10 implement HB 718, and for improved readability and clarity through consistent terminology. In  
11 addition, adopted amendments to §217.52(e)(3) add the word “special” and the term “specialty license  
12 plate” to implement HB 718 and clarify with consistent terminology. Adopted amendments to  
13 §217.52(h)(7) remove references to “alphanumeric patterns” and instead use “department-approved  
14 alpha numeric license plate numbers” to implement HB 718 with consistent terminology. Amendments  
15 are also adopted for §217.52(h)(7) to replace the word “pattern” with “license plate number” and to  
16 add the word “license” to modify “plate” to implement HB 718 with consistent terminology.

17 Additionally, adopted amendments to §217.52(h)(9) add the word “license” to modify “plates” in several  
18 places to use consistent terminology for clarity. Amendments are adopted to §217.52(k) to add  
19 “specialty” to modify “license plate” for clarity with consistent use of terminology, and to replace “will  
20 need to be remanufactured” with “may be remanufactured” for clarity and to provide flexibility.

21 Adopted amendments to §217.52(k)(5) add “to law enforcement” to clarify where license plate numbers  
22 and license plates must be reported stolen. Adopted amendments to §217.52(l)(1) create consistent use  
23 of the term “specialty license plates” throughout the section to implement HB 718 and to align with the



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1 terminology used in other provisions of this chapter. An adopted amendment to §217.52(l)(1)(B)  
2 deletes the word “particular” as unnecessary language. Adopted amendments to §217.52(l)(2) update  
3 terminology by adding “specialty license plate” number and “license plate” to replace “pattern” and  
4 “alphanumeric pattern” to implement HB 718 and to be consistent in the use of terminology throughout  
5 the chapter. Adopted amendments to §217.52(m) add the word “license” to modify “plates” in multiple  
6 places to implement HB 718 and to create consistency in terminology for clarity. Adopted amendments  
7 to §217.52(n)(1)(A) clarify, implement HB 718, and create consistent use of terminology by replacing  
8 “pattern is an auction pattern” with “license plate number was purchased through auction.” In  
9 accordance with the effective date of HB 718, the amendments to §217.52 are adopted for a future  
10 effective date of July 1, 2025.

11           Adopted amendments to the §217.53 section title substitute the word “disposition” for  
12 “removal” and add “or transfer” to implement HB 718 by broadening the heading language to  
13 incorporate allowing license plates to remain with the vehicle when it is sold or transferred, while the  
14 registration insignia is removed and disposed of. Adopted amendments to §217.53(a) implement  
15 Transportation Code, §502.491 and §504.901, as amended by HB 718, clarifying that upon the sale or  
16 transfer of a motor vehicle to a dealer that holds a GDN, general issue license plates shall be removed  
17 and retained for issuance to a subsequent purchaser or transferor of that motor vehicle and the  
18 registration insignia shall be removed and disposed of by the dealer.

19           At adoption, §217.53(a) was modified in response to a public comment by substituting a  
20 reference to §215.151(d) for the proposed broader references to the Transportation Code and to  
21 another rule in Chapter 215, and by removing a vague statement about license plates transferring with  
22 the motor vehicle in a nonretail sale. Section 215.151(d) specifically addresses the disposition of general  
23 issued license plates upon a subsequent retail or nonretail sale of a motor vehicle by a dealer to an in-

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1 state or out of state purchaser. This modification will align §217.53(a) with §215.151(d) as to the  
2 disposition of general issue license plates for motor vehicles purchased and sold by dealers.

3 Adopted amendments to §217.53(b) implement Transportation Code, §502.491(b) and  
4 §504.901(b), as amended by HB 718, by clarifying that upon the sale or transfer of a motor vehicle in  
5 which neither party is a dealer, the registration insignia and the general issue license plates remain with  
6 the motor vehicle. At adoption, the proposed language of §217.53(b) was modified to remove  
7 references to registration insignia and to Transportation Code, §502.491(b). These changes at adoption  
8 align the adopted rule with Transportation Code, §502.491(a), which requires removal of registration  
9 insignia at the time of sale.

10 Adopted new §217.53(c) implements HB 718 and mitigates the risk of license plate fraud by  
11 requiring that a license plate other than a general issue license plate shall be removed by the owner of a  
12 motor vehicle that is sold or transferred, and that removed license plates may be transferred if eligible.  
13 Otherwise, such plates must be disposed of in a manner that renders the license plate unusable or that  
14 ensures the license plates will not be available for fraudulent use on a motor vehicle. The adopted  
15 amendments delete prior §217.53(c) to remove language that is redundant with statute. Adopted  
16 amendments create new §217.53(d) to implement HB 718 and to mitigate the risk of license plate fraud  
17 by requiring that a retail purchaser who chooses to obtain replacement general issue license plates  
18 dispose of the replaced license plates in a manner that renders the license plates unusable. In  
19 accordance with the effective date of HB 718, the amendments to §217.53 are adopted for a future  
20 effective date of July 1, 2025.

21 Adopted amendments to §217.54(c)(2)(F) and §217.54(j) modify language to implement HB  
22 3297 by replacing language regarding the state's portion of the inspection fee with language regarding  
23 any fee that is required to be collected at the time of registration under Transportation Code, §548.509

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1 for the first year of registration under Transportation Code, §502.0023 and on an annual basis thereafter  
2 for the remainder of the registration term.

3 An adopted amendment to §217.55(a) uses consistent terminology for clarity by adding the  
4 word “license” to modify “plate” in several places. Adopted amendments to §217.55(b)(5) update the  
5 language and correct a cross-reference to clarify that an affidavit for alias exempt registration must be  
6 accompanied not by a regular title application, but instead by the specific, separate application required  
7 by the department to create the alias record of vehicle registration and title as outlined in §217.13,  
8 relating to Alias Certificate of Title. Adopted amendments to §217.55(e)(3) and §217.55(e)(6) modify the  
9 language to implement HB 3297 by replacing language regarding the state’s portion of the inspection  
10 fee with language regarding any fee that is required to be collected at the time of registration under  
11 Transportation Code, §548.509 for the first year of registration under Transportation Code, §502.0025  
12 and on an annual basis thereafter for the remainder of the registration term.

13 Adopted amendments to §217.56(b)(5) update terminology by replacing “rejection letters” with  
14 “notices of determination” to better describe the department’s processes. An adopted amendment to  
15 §217.56(b)(6) deletes the word “permit” in accordance with the implementation of HB 718.

16 An adopted amendment to §217.56(c)(2)(B) incorporates by reference the January 1, 2024,  
17 version of the International Registration Plan (IRP). Texas is bound by IRP, which is a vehicle registration  
18 reciprocity agreement between the 48 contiguous states, the District of Columbia, and the Canadian  
19 provinces. Section 217.56 must incorporate the latest edition of IRP because it contains language  
20 regarding the nature and requirements of vehicle registration under IRP. Texas is a member of IRP, as  
21 authorized by Transportation Code, §502.091 and 49 U.S.C. §31704, and must comply with the current  
22 edition of IRP. The jurisdictions that are members of IRP amended the January 1, 2022, version of IRP to  
23 create the January 1, 2024, version of the IRP. An adopted amendment to §217.56(c)(2)(B) also provides

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1 the online address where one can obtain a copy of the January 1, 2024, version of the IRP, as well as the  
2 January 1, 2016, version of the IRP Audit Procedures Manual and prior versions of both of these IRP  
3 documents. Because the department adopted documents by reference into an administrative rule, 1  
4 TAC §91.40(e) requires the department to maintain and distribute a copy of the documents to  
5 interested parties. In addition, adopted amendments to §217.56(c)(2)(B) move the rule text regarding a  
6 request to the department for a copy of the documents and delete rule text regarding the review of the  
7 IRP documents in the department’s Motor Carrier Division, which allows the department to comply with  
8 1 TAC §91.40(e) in the most efficient manner.

9 An adopted amendment to §217.56(c)(2)(M)(v) replaces “TxIRP” with “TxFLEET” because the  
10 department rebranded the TxIRP system as the TxFLEET system, which the department launched on  
11 September 16, 2024. The department will refer to the system as the TxFLEET system throughout this  
12 preamble, except when summarizing an adopted amendment that replaces “TxIRP” with “TxFLEET.”

### 13 **Subchapter C. Registration and Title Systems**

14 Adopted amendments to §217.71(a)(3) delete the phrase “for users who opt” as all dealers will  
15 be required to use webDEALER to submit title and registration applications effective July 1, 2025.

16 Adopted amendments to §217.74 implement Transportation Code, §520.0055, created by HB  
17 718, which requires all motor vehicle dealers to use the webDEALER system to submit title and  
18 registration applications for purchasers after July 1, 2025. An adopted amendment to the title of  
19 §217.74 revises the section title to “webDEALER Access, Use, and Training” to accurately reflect the  
20 scope of the section. Adopted amendments to §217.74(c) implement HB 718 by making it required,  
21 rather than discretionary, for all motor vehicle dealers who hold a GDN to get access to webDEALER, and  
22 by requiring that all active holders must obtain access to webDEALER prior to July 1, 2025. To ensure  
23 that all dealers are able to meet the deadline of July 1, 2025, adopted amendments to §217.74(c) allow

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1 the department to provide dealers access to webDEALER in the county where the dealer is located  
2 without waiting for a county tax assessor-collector to process the dealer’s application and provide  
3 access. Adopted amendments to §217.74(e) add an “entity” to the webDEALER users that may have  
4 their authorization to use webDEALER revoked, rescinded, or cancelled to allow the department to  
5 cancel the access of tax assessor-collectors and their deputies or employees who abuse their access to  
6 webDEALER to perpetuate fraud or other wrongdoing.

7 Adopted new §217.74(g) requires all existing webDEALER users who process title and  
8 registration transactions through webDEALER complete training by April 30, 2025, and all new  
9 webDEALER users created on or after April 30, 2025, complete webDEALER training before being given  
10 webDEALER permissions. New adopted §217.74(g)(1) provides that the required webDEALER training  
11 will include, at a minimum, training regarding transactions performed in webDEALER and proper use of  
12 the system. The adopted amendments to new §217.74(g)(2) provide for an exemption from webDEALER  
13 training for holders who have had access to webDEALER for more than six months and who have  
14 submitted more than 100 transactions within the system as of October 1, 2024. At adoption, new  
15 §217.74(g)(2) was amended to add “or users” to align with the inclusion of both users and holders in  
16 adopted new §217.74(g), and to clarify that all new users of webDEALER, including those accessing  
17 webDEALER under an experienced holder’s account, must receive training before accessing webDEALER.  
18 The adopted amendments to new §217.74(g)(3) provide that the failure of holders and users to  
19 complete the required webDEALER training shall result in denial of access to webDEALER. These  
20 adopted amendments to §217.74 implement HB 718 by ensuring that webDEALER users are  
21 appropriately trained and given access to the webDEALER system before the July 1, 2025, effective date  
22 for mandatory webDEALER use by all dealers.

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1           Adopted amendments delete §217.75(c)(5), which references training required by August 31,  
2 2020, because it is outdated. The remaining subsections in §217.75 are renumbered accordingly.  
3 Adopted amendments to renumbered §217.75(c)(5) remove “after August 31, 2020” because it is  
4 outdated and unnecessary.

**5 Subchapter D. Nonrepairable and Salvage Motor Vehicles.**

6           Adopted amendments throughout the entire Subchapter D eliminate the hyphen for the term  
7 “non-repairable” to align with the use of that same term in Transportation Code, Chapter 501 and  
8 maintain consistency. Additional adopted amendments throughout the subchapter add the phrase  
9 “nonrepairable or salvage record of title” to each mention of nonrepairable or salvage vehicle title to  
10 account for the department’s statutory authority under Transportation Code, Chapter 501 to issue  
11 electronic titles for nonrepairable and salvage motor vehicles and the department’s current practice of  
12 issuing electronic versions of nonrepairable and salvage vehicle titles in lieu of paper titles at the request  
13 of applicants.

14           Adopted amendments to §217.81 clarify wording by replacing “certificates of” with “titles” and  
15 adding “motor” to describe nonrepairable, salvage and rebuilt salvage motor vehicles. The adopted  
16 changes provide consistency in the terms used throughout §217.81 to describe the purpose and scope  
17 of the subchapter. At adoption, the department eliminated the hyphen in the term “non-repairable” in  
18 §217.81 to maintain consistency with the use of that same term elsewhere in this chapter and in  
19 Transportation Code, Chapter 501.

20           Adopted amendments to §217.82 define terms with the definitions of those same terms  
21 provided in Transportation Code, §501.002 and §501.091 for purposes of consistency: “casual sale,” as  
22 defined in Transportation Code, §501.091(2); “certificate of title” as defined by Transportation Code,  
23 §501.002(1-a); “damage” as defined by Transportation Code, §501.091(3); “insurance company” as

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1 defined by Transportation Code, §501.091(5); “metal recycler” as defined by Transportation Code  
2 §501.091(7); “nonrepairable vehicle title” as defined by §501.091(10); “out-of-state buyer” as defined  
3 by Transportation Code, §501.091(11); “salvage vehicle dealer” as defined by Transportation Code,  
4 §501.091(17); and “salvage vehicle title” as defined by Transportation Code, §501.091(16). Adopted  
5 amendments to §217.82 create a new §217.82(15) and §217.82(23) to add the defined terms  
6 “nonrepairable record of title” and “salvage record of title,” respectively. These terms are used  
7 throughout the subchapter and the adopted definitions align with their use and meaning in  
8 Transportation Code, Chapter 501. Prior §217.82(15) through §217.82(21) are renumbered accordingly  
9 based on the addition of adopted new §217.82(15). An adopted amendment to renumbered  
10 §217.82(19) deletes “certificate of” and “regular certificate of” from the defined term “Rebuilt salvage  
11 certificate of title” to account for the department’s current practice of issuing electronic or paper titles  
12 and is consistent with the standalone term “title” that is defined in Transportation Code, Chapter 501 to  
13 encompass both electronic and paper versions of a motor vehicle title. An adopted amendment to  
14 renumbered §217.82(20) moves “is” under §217.82(20)(A) to §217.82(20)(A)(i) and deletes “damaged  
15 and” from §217.82(20)(A)(ii) to conform the definition of “salvage motor vehicle” to the definition of the  
16 same term provided in Transportation Code, §501.091(15), as the statutory definition does not specify  
17 that a salvage motor vehicle coming into the state on an out of state title to evidence damage.

18 The adopted amendment to §217.83(a)(2) makes a minor change by substituting “any” for  
19 “alternate” to account for all methods developed and commonly used by insurance companies to assess  
20 the condition of a motor vehicle to determine if the motor vehicle should be classified as a  
21 nonrepairable motor vehicle. At adoption, a minor correction was made to §217.83(a)(2) by deleting a  
22 space left between “non” and “repairable” to make it one word, “nonrepairable.” The adopted  
23 amendment to §217.83(b)(1) deletes “certificate of” as the term “certificate of title” is limited to paper

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1 titles, but the department issues both paper and electronic versions of titles that are more accurately  
2 captured with the standalone term of “title.” The adopted repeal of prior §217.83(c)(1) eliminates text  
3 specifying a Texas title requirement for a motor vehicle retained by an owner that becomes classified as  
4 a nonrepairable or salvage motor vehicle, as this requirement conflicts with Transportation Code,  
5 §501.1002 where no such requirement is specified for an owner-retained motor vehicle. The adopted  
6 amendment to renumbered §217.83(c)(1) clarifies the method required for insurance companies to  
7 submit owner-retained motor vehicle notice forms to the department by specifying that it be submitted  
8 to the department through the department’s electronic system known as webDEALER. The  
9 department’s infrastructure and operations have been modernized and this adopted amendment  
10 provides guidance to insurance companies on the proper filing method for such forms. The adopted  
11 repeal of §217.83(c)(5) eliminates text that is duplicative of the text in §217.83(c)(3) and §217.83(c)(4)  
12 that prohibits the transfer of owner-retained motor vehicles that become classified as nonrepairable or  
13 salvage motor vehicles without owners first securing the respective titles for the motor vehicles.  
14 Adopted amendments to §§217.83(c)(2), 217.83(c)(3), 217.83(c)(4), and 217.83(c)(6) renumber those  
15 sections based on the adopted repeal of §§217.83(c)(1) and 217.83(c)(5).

16 The adopted amendment to §217.84(b)(8) deletes “certificate of” as part of the description of  
17 the application form to align with the defined terms for nonrepairable and salvage title specified in  
18 Transportation Code, §501.091 and §217.82 of this subchapter that do not include the term “certificate  
19 of.” At adoption, the department withdrew the proposed amendment to §217.84(b)(5), in which the  
20 department had proposed language expanding the description of damage to a motor vehicle required  
21 for an application for a nonrepairable or salvage title. The proposed expanded language would have  
22 required the applicant to identify the major component parts that needed to be repaired or replaced on



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1 the vehicle. The department is withdrawing this proposed amendment to allow further time to make the  
2 technology enhancements required to implement such enhanced reporting.

3 The adopted amendments to §217.84(d)(1)(A) and (B) delete “certificate of” from “Texas  
4 Certificate of Title” to rephrase the term as “Texas Title.” The deletion of “certificate of” would align with  
5 the department’s current practice of issuing both paper and electronic versions of titles that is more  
6 accurately captured with the standalone term “title,” which is defined in Transportation Code, Chapter  
7 501 to encompass electronic and paper titles. The adopted amendments to §217.84(d)(1)(E) and (F) add  
8 the phrase “or record of title” to account for the electronic versions of a title for a nonrepairable or  
9 salvage motor vehicle. The adopted amendment to §217.84(d)(3) deletes the words “vehicle title” from  
10 “salvage vehicle title” to create a new phrase of “salvage or nonrepairable vehicle title,” which is used  
11 throughout the subchapter for ease of reading. The adopted amendment to §217.84(d)(4) deletes the  
12 text and replaces it with a reference to Transportation Code, §501.0935, as the deleted text is  
13 duplicative of the text in statute and is therefore unnecessary. The adopted amendment to  
14 §217.84(f)(3)(B) deletes “certificate of” from the term “regular certificate of title” to be consistent with  
15 term “regular title,” as specified in Transportation Code, §501.9112(b)(A).

16 The adopted amendment to §217.85(b) deletes “certificate of” as the term “certificate of title”  
17 is limited to paper titles, but the department issues both paper and electronic versions of titles that is  
18 more accurately captured with the standalone term of “title.”

19 The adopted amendments to §217.86 create a new §217.86(d) that requires a receipt from the  
20 department evidencing the surrender of ownership documents for a vehicle transferred to a metal  
21 recycler as specified in §217.86(c) and a department-prescribed form detailing the transfer. The adopted  
22 amendment ensures vehicles delivered to metal recyclers follow the requirements set out in §217.86(a)-  
23 (c) as a prerequisite to their dismantling, scrapping or destruction, as well as to ensure proper

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1 documentation of the transfer and surrender of the receipt for purposes of reporting such information  
2 to the department by the metal recycler. The adopted amendments to §§217.86(d), 217.86(e) and  
3 217.86(f) re-letter the provisions to §§217.86(e), 217.86(f) and 217.86(g) based on the addition of  
4 adopted new §217.86(d). Also, an adopted amendment to prior §217.86(f) clarifies that the 60-day  
5 period for reporting to the department the delivery of a vehicle for dismantling, scrapping or  
6 destruction, begins upon the delivery of the vehicle to the metal recycler to be consistent with the  
7 deadline set out in Transportation Code, §501.107.

8 The adopted repeal of §217.87 eliminates text that is duplicative to Transportation Code,  
9 §501.09111 and is therefore unnecessary.

10 The adopted amendment to §217.88(a) adds the phrase “Sale, transfer or release with” to the  
11 title of the subsection to clarify its scope. The adopted amendments to §217.88(b) add the phrase “Sale,  
12 transfer or release without” to the title of the subsection to clarify its scope. Adopted amendments to  
13 §217.88(b) also delete the remaining text for the subsection and replace it with a reference to  
14 Transportation Code, §501.095(a), because the deleted text is duplicative to the text in statute and is  
15 therefore unnecessary. The adopted amendment to §217.88(d) incorporates a reference to  
16 Transportation Code, §501.091(2)(A-C) to exempt those persons not subject to the numerical limit for  
17 casual sales. This adopted amendment acknowledges these persons or entities are not subject to the  
18 limitations of the rule provided the sales are consistent with the requirements specified in the statute.  
19 The adopted amendment to §217.88(e)(1)(D) deletes the existing description for a photo identification  
20 and adds a reference to the list of current photo identifications provided in §217.7(b). The adopted  
21 amendment provides consistency throughout Chapter 217 as to what forms of current photo  
22 identification are acceptable to the department for purposes of the titling and/or registration of motor  
23 vehicles. The adopted amendment to §217.88(g)(1) adds a three-year retention requirement for export-

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1 only sales records to align with the records retention requirement specified in Transportation Code,  
2 §501.099(g). The adopted amendment to §217.88(g)(2)(C) deletes the existing description for a photo  
3 identification and adds a reference to the list of photo identifications provided in §217.88(f)(1)(B). The  
4 adopted amendment provides consistency as to what photo identifications are acceptable to the  
5 department for purposes of export-only sales of motor vehicles. The adopted amendments to  
6 §217.88(g)(2)(E) delete certain data collection items from the export-only sale list and renumber the list  
7 accordingly, to align with the requirements provided in Transportation Code, §501.099(g)(2).

8 Adopted amendments throughout §217.89 delete the words “certificate of” from the phrase  
9 “rebuilt salvage certificate of title” to read “rebuilt salvage title”. These adopted amendments account  
10 for the department’s current practice of issuing electronic or paper titles and is consistent with the  
11 standalone term “title” that is defined in Transportation Code, Chapter 501 that encompasses electronic  
12 and paper versions of a motor vehicle title. The adopted amendments to §§217.89(a), 217.89(d),  
13 217.89(f), and 217.89(g) delete “certificate of” from the phrase “certificate of title” as the term  
14 “certificate of title” is limited to paper titles, while the department issues both paper and electronic  
15 versions of titles, which are more accurately captured with the standalone term of “title.” The adopted  
16 repeal of §217.89(d)(3), which required the submission of a motor vehicle safety inspection, is necessary  
17 to comply with amendments to Transportation Code, Chapter 548 as amended by HB 3297, which  
18 eliminated the mandatory motor vehicle safety inspections in the state. Adopted amendments to  
19 §217.89(d)(4) through §217.89(d)(7) are renumbered accordingly based on the repeal of §217.89(d)(3).  
20 An additional adopted amendment to prior §217.89(d)(5) qualifies the requirement for submitting proof  
21 of financial responsibility in those instances where the vehicle is to be registered at the time of  
22 application. The adopted amendment clarifies that such proof is not required where the application  
23 seeks only to retitle the vehicle without registration. An additional adopted amendment to prior

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1 §217.89(d)(6) deletes the requirement for attaining a motor vehicle inspection report for vehicles last  
2 titled or registered in another state or country. The adopted amendment also clarifies the requirement  
3 for motor vehicles last titled or registered in another country to secure a VIN inspection and require  
4 those vehicles last titled or registered in another state to submit a form as referenced by §217.4(d)(4)  
5 that would self-certify the VIN. The adopted amendments to §217.89(d)(5) are necessary to comply  
6 with HB 3297, which eliminated the mandatory motor vehicle safety inspections in the state. The  
7 amendments also ensure that motor vehicles being brought into the state from another state or country  
8 are in alignment with the statutory requirements set out for VIN inspections under Transportation Code,  
9 §501.030 and §501.032. The adopted amendment to §217.89(e)(1) adds the phrase “or record title” to  
10 account for the electronic version of a title for a salvage motor vehicle. The adopted amendment to  
11 §217.89(e)(2) substitutes “does” for “may” as it pertains to what is considered evidence of ownership  
12 for a rebuilt salvage motor vehicle. This adopted amendment conforms to the requirements set out in  
13 Transportation Code, Chapters 501 and 683 that prohibit the items listed in this subsection as qualifying  
14 as evidence of ownership for a rebuilt salvage motor vehicle. The adopted amendment to §217.89(g)  
15 deletes “on its face” as being unnecessary language. In accordance with the effective date of HB 3297,  
16 the amendments to §217.89 are adopted for a future effective date of January 1, 2025.

**17 Subchapter E. Title Liens and Claims**

18 An adopted amendment to §217.106 adds language providing a citation to Transportation Code,  
19 §501.115, which governs the time limits for a lienholder to provide a discharge of lien after receiving  
20 final payment. The adopted amendment to §217.106 adds clarity, ease of reference, and improved  
21 guidance to the public.

**22 Subchapter F. Motor Vehicle Records**

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1           Adopted amendments to §217.122(b)(2) add a citation to Transportation Code, §730.003(5) to  
2 define “person” for clarity and consistency between the rules and statutes.

3           An adopted amendment to §217.123(b)(5) deletes a concealed handgun license as a method of  
4 current identification for a requestor of motor vehicle records as a concealed handgun license is no longer  
5 required by law. Adopted amendments to §217.123(c)(3) align this section with statute by requiring a law  
6 enforcement requestor seeking personal information from agency records to identify its intended use or  
7 the agency’s incident or case number for which the personal information is needed. Adopted  
8 amendments create new §217.123(e)(1)(D) and (E) to require a requestor of the department’s motor  
9 vehicle records to provide in its application for a service agreement, blank copies of agreements used by  
10 the requestor to release motor vehicle record information to third parties, and any additional material  
11 provided to third party requestors detailing the process in which they obtain motor vehicle record  
12 information and describing their limitations as how this information may be used, to ensure that  
13 requestors are in compliance with the limitations on the use of personal information under Transportation  
14 Code, Chapter 730. At adoption, §217.123(e)(1)(D) was modified in response to a public comment by  
15 clarifying that the requestor’s application include blank versions of the agreements used by the requestor  
16 to release motor vehicle record information to third parties. This modification will avoid the disclosure of  
17 confidential or propriety information that could be contained in an actual agreement used by the  
18 requestor to release motor vehicle record information to third parties.

19           The remaining subsections of §217.123(e)(1) are adopted to be relettered accordingly. Adopted  
20 new §217.123(e)(2) clarifies that the department will not enter into a service agreement to release motor  
21 vehicle record information if it determines any of the information provided in an application is incomplete,  
22 inaccurate, or does not meet statutory requirement, to protect the confidentiality of motor vehicle  
23 records from misuse or inappropriate disclosure. Adopted new §217.123(f)(1)(D) and (E) require

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## Chapter 217– Vehicle Titles and Registration

1 requestors of bulk records to provide in an application for a bulk contract blank copies of agreements  
2 used by the requestor to release motor vehicle record information to third parties, and any additional  
3 material provided to third party requestors detailing the process through which they obtain motor vehicle  
4 record information and describing their limitations as to how this information may be used, to ensure that  
5 requestors are in compliance with the limitations on the use of personal information under Transportation  
6 Code, Chapter 730. At adoption, §217.123(f)(1)(D) was modified in response to a public comment by  
7 clarifying that the requestor’s application include blank versions of the agreements used by the requestor  
8 to release motor vehicle record information to third parties. This modification will avoid the disclosure of  
9 confidential or propriety information that could be contained in the actual agreements used by the  
10 requestor to release motor vehicle record information to third parties. The remaining subsections of  
11 §217.123(f)(1) are adopted to be renumbered accordingly. Adopted new §217.123(f)(2) provides that the  
12 department will not enter into a bulk contract to release motor vehicle record information if the  
13 department determines any of the information provided by a requestor is incomplete, inaccurate, or does  
14 not meet statutory requirements, to protect the confidentiality of motor vehicle records from misuse or  
15 inappropriate disclosure. The remaining subsections of §217.123(f) are adopted to be renumbered  
16 accordingly.

17       Adopted amendments to §217.124(e) delete “and” before “toll project entities” and add “and  
18 federal governmental entities” as being exempt from the payment of fees except for the fees listed in  
19 §217.124(d)(1), (6), or (8), to expedite and streamline the delivery of documents to federal government  
20 entities. Adopted amendments to §217.124(f) add an “a” before “reciprocity,” delete the “s” in  
21 agreements, replace “other” with “another” before “governmental,” and replace “entities” with “entity”  
22 to improve readability and to use consistent terminology.

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## Chapter 217– Vehicle Titles and Registration

1           An adopted amendment to §217.125(b)(2) adds the word “proof” where it was inadvertently  
2 left out of the rule to make the sentence comprehensible. Another adopted amendment to  
3 §217.125(b)(2) clarifies that a requestor who is not yet involved in litigation must provide proof that the  
4 request is in anticipation of litigation that would necessitate the release of the documents requested, to  
5 limit the unnecessary release of confidential motor vehicle records and the resulting potential for  
6 misuse of personal information. Adopted amendments to §217.125(b)(3), to further limit the  
7 inappropriate release of confidential motor vehicle records, replace the requirement that a requestor  
8 prove they are “in a researching occupation” with a more specific requirement that the requestor is  
9 “employed by an entity in the business of conducting research related to the requested information,”  
10 and gives the department discretion to determine whether the employment is valid and the business  
11 research sufficiently related to the requested information.

12           An adopted amendment to §217.129(a) adds a citation to Transportation Code §730.005 and  
13 §730.006 for clarity and ease of reference. An adopted amendment to §217.129(c) adds “has  
14 previously been terminated” to align with the title of §217.130, relating to Approval for Persons Whose  
15 Access to Motor Vehicle Records has Previously Been Terminated.

16           An adopted amendment to §217.131 deletes prior §217.131(a) and combines the language “has  
17 previously received personal information from the department and” into renumbered §217.131(a) to  
18 streamline the rule and improve readability. The remaining subsections of §217.131 are adopted to be  
19 relettered accordingly.

## 20 **Subchapter G. Inspections.**

21           The adopted amendment to §217.143(c) adds a reference to Transportation Code, §731.102 to  
22 the inspection requirements for an assembled vehicle. This adopted amendment clarifies the minimum

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1 requirements set forth in statute that must be met to evaluate the function and structural integrity of an  
2 assembled vehicle. The adopted amendment to §217.143(g) substitutes “any applicable” for “an” as it  
3 pertains to an inspection or reinspection of an assembled vehicle under Transportation Code, Chapter  
4 548. The adopted amendment is necessary to comply with amendments to Transportation Code,  
5 Chapter 548 by HB 3297, which eliminated the mandatory motor vehicle safety inspections in the state.

6       Adopted amendments to §217.144 create new §217.144(b) and move the existing text in  
7 §217.144 under new §217.144(a). These amendments restructure §217.144 for ease of reading, to  
8 separate text addressing the training for inspectors from text addressing the outcome of identification  
9 number inspections. Adopted new §217.144(b) prohibits the department from titling or registering a  
10 motor vehicle where the inspector is unable to ascertain the motor vehicle’s make or year of  
11 manufacture and further prohibits a motor vehicle being classified as an assembled, homemade, or shop  
12 vehicle where the inspection is unable to determine the vehicle’s make or year of manufacture. The  
13 adopted amendment clarifies the department’s existing interpretation of Transportation Code, Chapter  
14 501 and the department’s existing practices and procedures for identification number inspections  
15 performed on motor vehicles that are subject to such inspections under Transportation Code, §501.032.  
16 The adopted amendments align those interpretations and practices to provide guidance to the public on  
17 the requirements and consequences associated with a motor vehicle’s identity.

**18 Subchapter H. Deputies.**

19       An adopted amendment to §217.161 removes unnecessary transition language regarding a  
20 deputy appointed under Transportation Code, §520.0071, on or before December 31, 2016. HB 2202  
21 and HB 2741, 83<sup>rd</sup> Legislature, Regular Session, 2013, added Transportation Code, §520.0071 and  
22 repealed Transportation Code, §§520.008, 520.009, 520.0091 and 520.0092, effective September 1,



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## Chapter 217– Vehicle Titles and Registration

1 2013. Both HB 2202 and HB 2741 stated that a deputy appointed under Transportation Code, §520.0091  
2 on or before August 31, 2013, may continue to perform the services authorized under Transportation  
3 Code, §§520.008, 520.009, 520.0091 and 520.0092 until the effective date of rules adopted by the board  
4 regarding the types of deputies authorized to perform titling and registration duties under  
5 Transportation Code, §520.0071 as added by HB 2202 and HB 2741. The board adopted rules under  
6 Transportation Code, §520.0071, effective March 12, 2015; however, §217.161 authorized a deputy  
7 appointed under Transportation Code, §520.0071 on or before December 31, 2016, additional time to  
8 comply with the rules. All deputies were required to comply with the new and amended rules regarding  
9 deputies, beginning on January 1, 2017. An adopted amendment to §217.161 also removes the  
10 unnecessary reference to January 1, 2017.

11 An adopted amendment to §217.168(b)(1) adds the word “county” before the term “tax  
12 assessor-collector” to make the terminology consistent throughout Chapter 217. An adopted  
13 amendment to §217.168(b)(1) also creates a new subparagraph (A) for the second sentence in  
14 §217.168(b)(1) due to the adopted addition of new §217.168(b)(1)(B), which clarifies that title  
15 transaction fees collected by full service deputies authorized by a county tax assessor-collector can be  
16 assessed on webDEALER title transactions where the full service deputies have been approved by a  
17 county tax assessor-collector to approve title transactions through webDEALER. The adopted  
18 amendment is necessary to address and account for the influx of title transactions due to the new  
19 requirement of Transportation Code, §520.0055, as amended by HB 718, that dealers holding a GDN use  
20 webDEALER for filing title transactions.

21 An adopted amendment to §217.168(d) replaces terminology related to one-trip permits and  
22 30-day permits under Transportation Code, §502.095 with terminology describing one-trip special

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## Chapter 217– Vehicle Titles and Registration

1 registration license plates and 30-day special registration license plates, to implement the license plate  
2 requirements of HB 718. In accordance with the effective date of HB 718, the amendments to §217.168  
3 are adopted for a future effective date of July 1, 2025. An adopted amendment to §217.168(d) also  
4 replaces the word “temporary” with the term “special registration” for consistency with the terminology  
5 in §217.40(b) regarding the category of “special registration permits” under Transportation Code,  
6 §502.094, which are called 72-hour permits and 144-hour permits. In addition, adopted amendments to  
7 §217.168(d) reduce the amount of the processing and handling fee that a full service deputy may retain  
8 for special registration permits and special registration license plates under Transportation Code,  
9 §502.094 and §502.095 from \$4.75 to \$4.25. These adopted amendments to §217.168(d) provide that  
10 \$0.50 of the processing and handling fee be remitted to the department by citing to the formula  
11 established by §217.185(b), which the department is also adopting in this adoption. This adopted  
12 amendment to §217.168(d) is necessary for the department to comply with Transportation Code,  
13 §502.356, which requires the board by rule to adopt a fee (automation fee) of not less than \$0.50 and  
14 not more than \$1.00 that shall be collected in addition to registration fees and deposited into a  
15 subaccount in the Texas Department of Motor Vehicles fund. Section 502.356 specifies how the  
16 department may use the automation fee to provide for or enhance the automation of and the necessary  
17 infrastructure for certain services and procedures. The board established the automation fee at \$0.50  
18 under §217.72(c). Transportation Code, §502.1911(b) requires the board by rule to include the  
19 automation fee that is established under Transportation Code, §502.356 in the processing and handling  
20 fee for registration transactions. Therefore, \$0.50 of each processing and handling fee must be remitted  
21 to the department.

**22 Subchapter I. Fees.**

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## Chapter 217– Vehicle Titles and Registration

1           An adopted amendment to Subchapter I updates the title of the subchapter by adding the  
2 words “Processing and Handling” to read “Processing and Handling Fees,” to more accurately describe  
3 the content and scope of the subchapter. An adopted amendment to §217.181 replaces the word “fee”  
4 with the word “fees” because Subchapter I prescribes the department’s processing and handling fees  
5 authorized by Transportation Code, §502.1911. Section 217.183 includes two processing and handling  
6 fees, which are more fully described in the summary of adopted amendments to §217.183. Adopted  
7 amendments to §217.181 also amend other words to ensure that there is subject-verb agreement  
8 between the word “fees” and the applicable verbs.

9           Adopted amendments to §217.182(1) add the term “special registration license plate” and the  
10 words “special registration” to modify the word “permit” to clarify that each constitutes a “registration  
11 transaction,” and implement HB 718, which requires the department to issue license plates rather than  
12 paper permits, with consistent use of terminology across the chapter. In accordance with the effective  
13 date of HB 718, the amendments to §217.182 are adopted for a future effective date of July 1, 2025.

14           Adopted amendments to §217.183 clarify that the department charges two different processing  
15 and handling fees under Transportation Code, §502.1911: 1) a flat fee of \$4.75 for a registration  
16 transaction that is processed outside of the department’s TxFLEET system; and 2) \$4.75 plus the  
17 applicable service charge for each registration transaction processed through the TxFLEET system.  
18 Transportation Code, §502.1911(b)(2) requires the board by rule to set the applicable processing and  
19 handling fee in an amount that is sufficient to cover the expenses associated with collecting the  
20 registration fees. The applicable service charge for a registration transaction processed through the  
21 TxFLEET system is the fee that the Texas Department of Information Resources (DIR) sets under  
22 Government Code, §2054.2591, which states that a state agency may charge such fee for a transaction

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1 that uses the state electronic Internet portal project. The department uses the state electronic Internet  
2 portal project for the payment engine for the TxFLEET system as required by Government Code,  
3 §2054.113. The department must pass the DIR fee to the registration applicant to comply with  
4 Transportation Code, §502.1911(b)(2).

5           Although the department included the DIR fee in the processing and handling fee of \$4.75 for a  
6 registration transaction that is processed outside of the TxFLEET system, the department did not include  
7 the DIR fee in the \$4.75 charge that is a portion of the processing and handling fee for a registration  
8 transaction that is processed through the TxFLEET system. For a registration transaction that is  
9 processed through the TxFLEET system, the processing and handling fee consists of the \$4.75 charge  
10 plus the DIR fee, which is generally represented by the following mathematical formula: 2.25 percent  
11 plus \$0.25 for each credit card or debit card transaction processed. However, \$0.25 is added to the  
12 amount of the underlying fee prior to multiplying that amount by 2.25 percent, and an additional \$0.25  
13 is added to that calculation to compute the DIR fee. For example, if the underlying fee is \$100.00  
14 (including the \$4.75 charge), the DIR fee would be \$2.51, which would result in a total cost of \$102.51  
15 for the registration transaction.

16           The registration fees for the vehicle registration transactions that are processed through the  
17 TxFLEET system are typically more expensive than vehicle registration transactions that are processed  
18 outside of the TxFLEET system. For example, Transportation Code, §502.0023 authorizes the extended  
19 registration of commercial fleet vehicles for up to an eight-year term for which the applicant must pay  
20 all registration fees, as well as all other applicable fees, for the selected term at the time of registration.  
21 In addition, a commercial fleet could include vehicles with a gross weight that exceeds 6,000 pounds.  
22 Transportation Code, §502.252 states that the fee for a registration year for registration of a vehicle

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1 with a gross weight of 6,000 pounds or less is \$50.75, unless otherwise provided by Transportation  
2 Code, Chapter 502. Transportation Code, §502.253 provides a fee schedule for a registration year for  
3 registration of a vehicle with a gross weight of more than 6,000 pounds, unless otherwise provided by  
4 Transportation Code, Chapter 502. The fee schedule in Transportation Code, §502.253 provides a fee for  
5 seven different ranges of weight classifications based on pounds, starting with a fee of \$54.00 for a  
6 vehicle that falls within the weight classification of 6,001 pounds through 10,000 pounds and ending  
7 with a fee of \$840.00 for a vehicle that falls within the weight classification of 70,001 through 80,000  
8 pounds. If an applicant wanted to register 12 fleet vehicles for a five-year term under Transportation  
9 Code, §502.0023, the DIR fee would greatly exceed \$4.75.

10 Adopted amendments to §217.183 also separate the language by adding subsections (a)  
11 through (c) to provide clarity. Adopted new §217.183(a) contains the current language regarding the  
12 processing and handling fee that is \$4.75 for a registration transaction that is not processed through the  
13 TxFLEET system. Adopted new §217.183(a) also clarifies that the language is subject to the language in  
14 new subsections (b) and (c). Adopted new §217.183(a) also modifies the rule text to state that certain  
15 registration transactions are exempted by §217.184. Adopted new §217.183(b) replaces the existing  
16 language with clarified language to describe the processing and handling fee that applies to a  
17 registration transaction that is processed through the TxFLEET system. Adopted new §217.183(b) also  
18 clarifies that it is subject to the language in new subsection (c) and the exemptions under §217.184.  
19 Adopted new §217.183(c) separates existing rule text that explains that the department shall only  
20 collect the processing and handling fee on the registration transaction if the transaction includes both  
21 registration and issuance of a license plate or specialty plate.

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1           Adopted amendments to §217.184 replace the word “fee” with the word “fees” because  
2 Subchapter I prescribes the department’s processing and handling fees authorized by Transportation  
3 Code, §502.1911. Section 217.183 includes two processing and handling fees, which are more fully  
4 described in the summary of adopted amendments to §217.183.

5           An adopted amendment to the title of §217.185 changes the word “Fee” to “Fees” and an  
6 adopted amendment to §217.185(a) changes the word “amount” to “amounts” because the department  
7 has two different processing and handling fees under §217.183. Adopted amendments to §217.185(a)(1)  
8 also combine language in §217.185(a)(1) and §217.185(a)(2) for consistency and ease of understanding  
9 without changing the meaning. An adopted amendment to prior §217.185(a)(2) deletes the paragraph  
10 to remove redundancy, and renumber the remaining paragraphs accordingly. An adopted amendment  
11 to renumbered §217.185(a)(2) replaces “TxIRP” with “TxFLEET” because the department rebranded the  
12 TxIRP system as the TxFLEET system, which the department launched on September 16, 2024. At  
13 adoption, the department deleted “or (d)(1)(B)(i)” in §217.185(a)(2) as a reference to §217.46(d)(1)(B)(i)  
14 since that provision is adopted for repeal.

15           An adopted amendment to renumbered §217.185(a)(3) replaces a reference to the  
16 department’s online registration portal with a reference to Texas by Texas (TxT) or the department’s  
17 Internet Vehicle Title and Registration Service (IVTRS) because the department currently provides the \$1  
18 discount if the registration transaction was processed through either one of these systems.

19           An adopted amendment to §217.185(b) deletes the reference to Transportation Code, §502.092  
20 because HB 718 repeals §502.092, effective July 1, 2025. An adopted amendment to §217.185(b) also  
21 clarifies the rule by specifying the allocation of the \$4.75 processing and handling fee collected by  
22 entities that process applications for special registrations under Transportation Code, §§502.093 -

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## Chapter 217– Vehicle Titles and Registration

1 502.095. Adopted amendments to §217.185(b) further provide that the \$0.50 remainder of the  
2 processing and handling fee be remitted to the department. This adopted amendment is necessary for  
3 the department to comply with Transportation Code, §502.356, which requires the board by rule to  
4 adopt an automation fee of not less than \$0.50 and not more than \$1.00 that shall be collected in  
5 addition to registration fees and deposited into a subaccount in the Texas Department of Motor Vehicles  
6 fund. Section 502.356 specifies how the department may use the automation fee to provide for or  
7 enhance the automation of and the necessary infrastructure for certain services and procedures. The  
8 board established the automation fee at \$0.50 under §217.72(c). Transportation Code, §502.1911(b)  
9 requires the board by rule to include the automation fee that is established under Transportation Code,  
10 §502.356 in the processing and handling fee for registration transactions. Therefore, \$0.50 of each  
11 processing and handling fee must be remitted to the department. Other amendments to §217.185(b)  
12 replace the word “temporary” with the words “special registration” to describe the referenced permit,  
13 and add the words “special registration license plate” to implement HB 718 and to ensure consistent use  
14 of terminology across the chapter. In accordance with the effective date of HB 718, the amendments to  
15 §217.185 are adopted for a future effective date of July 1, 2025.

**16 Subchapter J. Performance Quality Recognition Program.**

17 The adopted amendment to §217.205(e) replaces the current deadline of 90 calendar days for  
18 the department’s decision to award or deny a service recognition in response to an application from a  
19 county tax assessor-collector’s office by specifying a reoccurring annual deadline of December 31. The  
20 adopted amendment streamlines the department’s process and allows the department more flexibility  
21 to address all submitted applications in a timely and efficient manner without sacrificing the quality of  
22 the review based on the current deadline structure.

**23 Subchapter L. Assembled Vehicles**

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1           An adopted amendment to §217.404(a) deletes the phrase “prior to applying for title” because  
2 this phrase is unnecessary and clarifies that an application for title for an assembled vehicle is part of the  
3 process for an applicant applying for title. An adopted amendment to §217.404(b) adds the phrase  
4 “under Transportation Code, Chapter 731” to clarify that applications for assembled vehicles are  
5 required to comply with that chapter. At adoption, a minor correction was made to §217.404(b) by  
6 capitalizing the word “Code” that was proposed in lowercase text.

**7 SUMMARY OF COMMENTS.**

8           The department received four written comments on the proposal.

9           The department received written comments from one individual, the Texas Independent  
10 Automobile Dealers Association (TIADA), the Texas Automobile Dealers Association (TADA), and the  
11 Coalition for Sensible Public Records Access (CSPRA).

12 **Comment:** An individual commented that the phrase “within 12 months of the expiration date” within  
13 the definition of “current photo identification” in §§217.2(4) and 217.22(11) is confusing and suggests  
14 replacing the phrase with “or is expired not more than 12 months.”

15 **Response:** The department agrees. The department modified the proposed language in §217.2(4) and  
16 §217.22(11) at adoption to address this concern by replacing “within 12 months of the expiration date”  
17 with “expired not more than 12 months” for clarity and ease of reading.

18 **Comment:** An individual commented that the phrase “the symbol, tab, or other device prescribed by and  
19 issued by the department” in §217.27(a)(2) should be replaced with “vehicle registration insignia” to align  
20 with the use of that same term in §217.27(a)(1), which is a defined term in §217.22.

21 **Response:** The department agrees. The department modified the proposed language in §217.27(a)(2) at  
22 adoption to address this concern by replacing “the symbol, tab, or other device prescribed by and issued



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## Chapter 217– Vehicle Titles and Registration

1 by the department” with “the vehicle registration insignia” for consistent use of a defined term in the  
2 chapter.

3 **Comment:** An individual commented that since §217.4(d)(4) requires no physical documentation to  
4 comply with the vehicle inspection process under Transportation Code, Chapter 548, they request the  
5 department to make changes to webDEALER to allow dealers to comply with the VIN self-certification  
6 process electronically within webDEALER as opposed to completing and uploading the form in  
7 webDEALER.

8 **Response:** The department disagrees because this comment is outside the scope of this rulemaking  
9 process; however, the department will take the suggestion into consideration in the future development  
10 of webDEALER.

11 **Comment:** An individual commented that there is a potential conflict between §217.53(a) and  
12 §215.151(d) concerning the disposition of license plates because §215.151(d) directs a dealer to dispose  
13 of the existing license plates for a motor vehicle sold to an out of state buyer or sold by export and  
14 §217.53(a) directing the dealer to transfer the existing plates of sold motor vehicles without any specified  
15 exceptions. The comment further provided the rule did not seem to address situations of motor vehicles  
16 sold out of state through wholesale auctions or through dealer-to-dealer transactions.

17 **Response:** The department agrees. At adoption, the department modified §217.53(a) by incorporating a  
18 reference to §215.151(d) that addresses the disposition of general issue license plates upon a subsequent  
19 retail or nonretail sale of a motor vehicle by a dealer to an in-state or out of state purchaser. This  
20 modification will align §217.53(a) with §215.151(d) as to the disposition of general issue license plates for  
21 motor vehicles purchased and sold by dealers. The department anticipates future rulemaking prior to July  
22 1, 2025, to clarify the procedures for the secure transfer of general issue license plates in the context of

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1 auction sales, after consulting with the department’s advisory committees and seeking further  
2 stakeholder input.

3 **Comment:** An individual commented that §217.71(b)(7) references a nonexistent system, “webLIEN”.

4 **Response:** The department agrees and acknowledges that webLIEN does not currently exist but that it  
5 represents a potential future deployment of online interface and should remain in §217.71(b)(7) as a  
6 placeholder. The webLIEN language was not proposed for amendment in this rulemaking.

7 **Comment:** TADA and TIADA commented that the webDEALER training requirements in §217.74(g) should  
8 be struck from the rule because dealers have already completed webDEALER training from alternative  
9 sources and would be unfairly penalized by having to complete a department required training program  
10 that would be duplicative of their previous training.

11 **Response:** The department disagrees. The adopted new language in §217.74(g) limits the required  
12 training to new dealers and those dealers lacking sufficient experience in processing transactions in  
13 webDEALER. A dealer who had access to webDEALER for more than six months prior to October 1,  
14 2024, and submitted more than 100 transactions is exempt from the training requirement. The  
15 training requirements will ensure dealers have the knowledge and information they need to accurately  
16 enter transactions into webDEALER so that transactions can be efficiently reviewed and approved by the  
17 county tax assessor-collectors. To further assist dealers with these requirements, the department intends  
18 to expand accessibility to webDEALER training by offering 24/7 online access.

19 **Comment:** TIADA commented that §217.40 should allow a dealer to apply for a temporary 30-day  
20 registration extension for the license plates issued by the dealer in lieu of applying for a 30-day license  
21 plate when the dealer is unable to timely obtain the permanent registration for a motor vehicle.

22 **Response:** The department disagrees. Transportation Code, §503.063, as amended by HB 718, provides  
23 that the license plates issued for a motor vehicle sold by a dealer are valid for the operation of the vehicle

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1 while the motor vehicle’s application for registration is submitted by the dealer under Transportation  
2 Code, §501.0234 and is pending approval. Thus, an extension of registration is not necessary during the  
3 pendency of the application for registration nor is there a need to issue a 30-day license plate.

4 **Comment:** TADA commented that §217.36 should provide a specific reference to the exemption to  
5 registration refusals under Transportation Code, §702.003(f) to avoid any misunderstanding of the  
6 application of §217.36 by the department and/or county tax assessor-collectors.

7 **Response:** The department disagrees. §217.36 sufficiently addresses this concern by stating the refusal to  
8 register a motor vehicle must be in accordance with Transportation Code, §702.003. The reference to this  
9 statutory provision and requirement that the refusal to register be in accordance with this provision make  
10 clear that any exemption noted in the statutory provision prohibits such action by a county tax assessor-  
11 collector.

12 **Comment:** CSPRA stated the proposed language in Chapter 217, Subchapter F, requiring requestors to  
13 submit copies of the agreements they use to release motor vehicle record information to third parties,  
14 would disclose propriety information and is unnecessary given the assurances and prohibitions a  
15 requestor is obligated to comply with under Transportation Code, Chapter 730 concerning motor vehicle  
16 records.

17 **Response:** The department agrees. At adoption, §§217.123(e)(1)(D) and 217.123(f)(1)(D) were modified  
18 to clarify that the applications submitted by requestors include blank copies of the agreements used by  
19 requestors to release motor vehicle record information to third parties to avoid the disclosure of  
20 confidential or propriety information that could be contained in an actual agreement used by the  
21 requestor to release motor vehicle record information to third parties.

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**SUBCHAPTER A. MOTOR VEHICLE TITLES**  
**43 TAC §§217.2-9, 217.11, AND 217.14-16**

**STATUTORY AUTHORITY.** The department adopts amendments to Chapter 217 under Transportation Code, §501.0041, which gives the department authority to adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §501.023, which authorizes the department to prescribe the process and procedures for applying for a motor vehicle title; Transportation Code, §501.0235, which authorizes the department to adopt rules requiring current personal identification from applicants requesting a motor vehicle title; Transportation Code, §501.0236, as amended by HB 718, which authorizes the department to adopt rules governing the issuance of a motor vehicle titles and permits to purchasers of a motor vehicle where a motor vehicle dealer goes out of business; Transportation Code, §501.025, which authorizes the department to specify the requirements for a manufacturer’s certificate of origin for issuance of a motor vehicle title; Transportation Code, §501.029, which authorizes the department to adopt rules to identify documents that are acceptable as proof of ownership of a motor vehicle for registration purposes only; Transportation Code, §501.030, which authorizes the department to adopt rules governing identification number inspections for motor vehicles brought into the state; Transportation Code, §501.0315, which authorizes the department to adopt rules governing the designation of a beneficiary by a motor vehicle owner; §501.0321; Transportation Code §501.0322, which provides the department with authority to adopt rules to establish an alternative identification number inspection; Transportation Code, §501.051(d), which gives the department authority to place a hold on processing a title application for a motor vehicle if the department receives a request for a hold accompanied by evidence of a legal action regarding ownership of or a lien interest in the motor vehicle until a final, nonappealable judgment is entered in the action or the party requesting the hold requests

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1 that the hold be removed; Transportation Code, §501.147, as amended by HB 718, which authorizes the  
2 department to adopt rules governing the submission of transfer notifications to the department; and  
3 Transportation Code, §1002.001, which authorizes the department to adopt rules that are necessary and  
4 appropriate to implement the powers and the duties of the department, as well as the statutes referenced  
5 throughout this preamble.

6 **CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code  
7 Chapters 501 and 548.

8  
9 Text.

10 §217.2. Definitions.

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

13 (1) Alias--The name of a vehicle owner reflected on a title, when the name on the  
14 title is different from the name of the legal owner of the vehicle.

15 (2) Alias title--A title document issued by the department for a vehicle that is used  
16 by an exempt law enforcement agency in covert criminal investigations.

17 ~~[(3) All terrain vehicle or ATV--A motor vehicle as defined by Transportation Code,~~  
18 ~~§551A.001, and designed primarily for recreational use. The term does not include a "utility~~  
19 ~~vehicle" as defined by Transportation Code, §551A.001, or a self-propelled, motor-driven vehicle~~  
20 ~~designed or marketed by the manufacturer primarily for non-recreational uses.]~~

21 (3)~~[(4)]~~ Bond release letter--Written notification from the United States  
22 Department of Transportation authorizing United States Customs to release the bond posted for a

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1 motor vehicle imported into the United States to ensure compliance with federal motor vehicle  
2 safety standards.

3 (4) Current photo identification-- a government-issued photo identification that is  
4 currently valid or is expired not more than 12 months, or a state-issued personal identification  
5 certificate issued to a qualifying person if the identification states that it has no expiration.

6 (5) Date of sale--The date of the transfer of possession of a specific vehicle from a  
7 seller to a purchaser.

8 (6) Division director--The director of the department's Vehicle Titles and  
9 Registration Division.

10 (7) Executive administrator--The director of a federal agency, the director of a  
11 Texas state agency, the sheriff of a Texas county, or the chief of police of a Texas city who by law  
12 possesses the authority to conduct covert criminal investigations.

13 (8) Exempt agency--A governmental body exempt by law from paying title or  
14 registration fees for motor vehicles.

15 (9) Federal motor vehicle safety standards--Motor vehicle safety requirements  
16 promulgated by the United States Department of Transportation, National Highway Traffic Safety  
17 Administration, set forth in Title 49, Code of Federal Regulations.

18 ~~[(10)] House moving dolly--An apparatus consisting of metal beams and axles used~~  
19 ~~to move houses. House moving dollies, by nature of their construction and use, actually form large~~  
20 ~~semitrailers.]~~

21 ~~[(11)] Implements of husbandry--Farm implements, machinery, and tools used in~~  
22 ~~tilling the soil, including self-propelled machinery specifically designed or especially adapted for~~  
23 ~~applying plant food materials or agricultural chemicals. This term does not include an implement~~

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1 ~~unless it is designed or adapted for the sole purpose of transporting farm materials or chemicals.~~

2 ~~This term does not include any passenger car or truck. This term does include a towed vehicle that~~

3 ~~transports to the field and spreads fertilizer or agricultural chemicals; or a motor vehicle designed~~

4 ~~and adapted to deliver feed to livestock.]~~

5 (10) ~~[(12)]~~ Manufacturer's certificate of origin--A form prescribed by the

6 department showing the original transfer of a new motor vehicle from the manufacturer to the

7 original purchaser, whether importer, distributor, dealer, or owner and when presented with an

8 application for title showing on appropriate forms prescribed by the department, each subsequent

9 transfer between distributor and dealer, dealer and dealer, and dealer and owner.

10 (11) ~~[(13)]~~ Moped--A motor vehicle as defined by Transportation Code, §541.201.

11 (12) ~~[(14)]~~ Motor vehicle importation form--A declaration form prescribed by the

12 United States Department of Transportation and certified by United States Customs that relates to

13 any motor vehicle being brought into the United States and the motor vehicle's compliance with

14 federal motor vehicle safety standards.

15 (13) ~~[(15)]~~ Non-United States standard motor vehicle--A motor vehicle not

16 manufactured in compliance with federal motor vehicle safety standards.

17 ~~[(16)] Obligor--An individual who is required to make payments under the terms of a~~

18 ~~support order for a child.]~~

19 ~~[(17)] Off-highway vehicle--A motor vehicle as defined by Transportation Code,~~

20 ~~§551A.001.]~~

21 (14) ~~[(18)]~~ Person--An individual, firm, corporation, company, partnership, or other

22 entity.

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1           ~~[(19)] Recreational off-highway vehicle or ROV--A motor vehicle as defined by~~  
2 ~~Transportation Code, §551A.001, and designed primarily for recreational use. The term does not~~  
3 ~~include a "utility vehicle" as defined by Transportation Code, §551A.001, or a self-propelled,~~  
4 ~~motor-driven vehicle designed or marketed by the manufacturer primarily for non-recreational~~  
5 ~~uses.]~~

6           (15)[(20)] Safety certification label--A label placed on a motor vehicle by a  
7 manufacturer certifying that the motor vehicle complies with all federal motor vehicle safety  
8 standards.

9           ~~[(21)] Sand rail--A motor vehicle as defined by Transportation Code, §551A.001.]~~

10           (16)[(22)] Statement of fact--A written declaration that supports an application for  
11 a title, that is executed by an involved party to a transaction involving a motor vehicle, and that  
12 clarifies an error made on a title or other negotiable evidence of ownership. An involved party is  
13 the seller, or an agent of the seller involved in the motor vehicle transaction. When a written  
14 declaration is necessary to correct an odometer disclosure error, the signatures of both the seller  
15 and buyer when the error occurred are required.

16           (17)[(23)] Title application--A form prescribed by the division director that reflects  
17 the information required by the department to create a motor vehicle title record.

18           ~~[24] Utility vehicle or UTV--A motor vehicle as defined by Transportation Code,~~  
19 ~~§551A.001, and designed primarily for utility use. The term does not include a "golf cart" as~~  
20 ~~defined by Transportation Code, §551.401, or a self-propelled, motor-driven vehicle designed or~~  
21 ~~marketed by the manufacturer primarily for non-utility uses.]~~

22           (18)[(25)] Verifiable proof--Additional documentation required of a vehicle owner,  
23 lienholder, or agent executing an application for a certified copy of a title.



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1                   ~~[(A) Individual applicant. If the applicant is an individual, verifiable proof~~  
2 ~~consists of a copy of a current photo identification issued by this state or by the United States or~~  
3 ~~foreign passport.]~~

4                   ~~[(B) Business applicant. If the applicant is a business, verifiable proof~~  
5 ~~consists of an original or copy of a letter of signature authority on letterhead, a business card, or~~  
6 ~~employee identification and a copy of current photo identification issued by this state or by the~~  
7 ~~United States or foreign passport.]~~

8                   ~~[(C) Power of attorney. If the applicant is a person in whose favor a power~~  
9 ~~of attorney has been executed by the owner or lienholder, verifiable proof consists of the~~  
10 ~~documentation required under subparagraph (A) or (B) of this paragraph both for the owner or~~  
11 ~~lienholder and for the person in whose favor the power of attorney is executed.]~~

12

## 13 §217.3. Motor Vehicle Titles.

14           Unless otherwise exempted by law or this chapter, the owner of any motor vehicle that is  
15 required to be titled, including any motor vehicle required to be registered in accordance with  
16 Transportation Code Chapter 502, shall apply for a Texas title in accordance with Transportation  
17 Code Chapter 501 or 731, or this subchapter.

18                   (1) Motorcycles, autocycles, and mopeds.

19                           ~~[(A)]~~ The title requirements for a motorcycle, autocycle, and moped are the  
20 same requirements prescribed for any motor vehicle.

21                           ~~[(B) A vehicle that meets the criteria for a moped under Transportation~~  
22 ~~Code §541.201(8).]~~

23                   (2) Farm vehicles.

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1                                   ~~[(A)The term "motor vehicle" does not apply to implements of husbandry,~~  
2 ~~which may not be titled.]~~

3                                   (A)~~[(B)]~~ Farm tractors owned by agencies exempt from registration fees in  
4 accordance with Transportation Code §502.453, are required to be titled and registered with  
5 "Exempt" license plates issued in accordance with Transportation Code §502.451.

6                                   (B)~~[(C)]~~ Tractors ~~[Farm tractors]~~ used as road tractors to mow rights of way  
7 or used to move commodities over the highway for hire are required to be registered and titled.

8                                   ~~[(D) Owners of farm trailers and farm semitrailers with a gross weight of~~  
9 ~~34,000 pounds or less may apply for a Texas title. Owners of farm trailers and farm semitrailers~~  
10 ~~with a gross weight in excess of 34,000 pounds shall apply for a Texas title. If a farm trailer or farm~~  
11 ~~semitrailer with a gross weight of 34,000 pounds or less has been titled previously, any subsequent~~  
12 ~~owner shall apply for a Texas title for the farm trailer or farm semitrailer.]~~

13                                   (3) Neighborhood electric vehicles. The title requirements of a neighborhood  
14 electric vehicle (NEV) are the same requirements prescribed for any motor vehicle.

15                                   (4) Trailers, semitrailers, and house trailers.~~[ Owners of trailers and semitrailers~~  
16 ~~shall apply for a Texas title for any trailer or semitrailer with a gross weight in excess of 4,000~~  
17 ~~pounds. Owners of trailers and semitrailers with a gross weight of 4,000 pounds or less may apply~~  
18 ~~for a Texas title.]~~ If a trailer or semitrailer with a gross weight of 4,000 pounds or less has been  
19 titled previously, any subsequent owner shall apply for a Texas title for the trailer or semitrailer.

20 Travel ~~[House]~~ trailer-type vehicles must meet the criteria outlined in subparagraph (C) of this  
21 paragraph to be titled:

22                                   (A) The rated carrying capacity will not be less than one-third of its empty  
23 weight.

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1 (B) Mobile office trailers, mobile oil field laboratories, and mobile oil field  
2 bunkhouses are not designed as dwellings, but are classified as commercial semitrailers and must  
3 be registered and titled as commercial semitrailers if operated on the public streets and highways.

4 (C) House trailer-type vehicles and camper trailers must meet the following  
5 criteria in order to be titled.

6 (i) A house trailer-type vehicle that is less than eight feet six inches  
7 in width or less than 45 feet in length is classified as a travel trailer and shall be registered and  
8 titled.

9 (ii) A camper trailer shall be titled as a house trailer and shall be  
10 registered with travel trailer license plates.

11 (iii) A recreational park model type trailer that is primarily designed  
12 as temporary living quarters for recreational, camping or seasonal use, is built on a single chassis,  
13 and is 400 square feet or less when measured at the largest horizontal projection when in the set  
14 up mode shall be titled as a house trailer and may be issued travel trailer license plates.

15 (5) Assembled vehicles. The title requirements for assembled vehicles are  
16 prescribed in Subchapter L of this title (relating to Assembled Vehicles).

17 (6) Not Eligible for Title. The following are not eligible for a Texas title regardless of  
18 the vehicle's previous title or registration in this or any other jurisdiction:

19 (A) vehicles that are missing or are stripped of their motor, frame, or body,  
20 to the extent that the vehicle loses its original identity or makes the vehicle unsafe for on-road  
21 operation as determined by the department;

22 (B) vehicles designed by the manufacturer for on-track racing only;

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1 (C) vehicles designed or determined by the department to be for off-  
2 highway use only, unless specifically defined as a "motor vehicle" in Transportation Code Chapter  
3 501; or

4 (D) vehicles assembled, built, constructed, rebuilt, or reconstructed in any  
5 manner with:

6 (i) a body or frame from a vehicle which is a "nonrepairable motor  
7 vehicle" as that term is defined in Transportation Code §501.091(9); or

8 (ii) a motor or engine from a vehicle which is flood damaged, water  
9 damaged, or any other term which may reasonably establish the vehicle from which the motor or  
10 engine was obtained is a loss due to a water related event.

11

12 §217.4. Initial Application for Title.

13 (a) Time for application. A person must apply for the title not later than the 30th day after  
14 the date of assignment, except:

15 (1) in a seller-financed sale, the title must be applied for not later than the 45th day  
16 after the date the motor vehicle is delivered to the purchaser;

17 (2) a member of the armed forces or a member of a reserve component of the  
18 United States, a member of the Texas National Guard or of the National Guard of another state  
19 serving on active duty, must apply not later than the 60th day after the date of assignment of  
20 ownership; or

21 (3) as otherwise provided by Transportation Code, Chapter 501.

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1 (b) Place of application. Except as otherwise provided by Transportation Code, Chapters  
2 501 and 502, and by §217.84(a) of this title (relating to Application for Nonrepairable or Salvage  
3 Vehicle Title), when motor vehicle ownership is transferred, a title application must be filed with:

4 (1) the county tax assessor-collector in the county in which the applicant resides or  
5 in the county in which the motor vehicle was purchased or encumbered; or

6 (2) a county tax assessor-collector of a county who is willing to accept the  
7 application.

8 (c) Information to be included on application. An applicant for an initial title must file an  
9 application on a form prescribed by the department. The form will at a minimum require the:

10 (1) motor vehicle description including, but not limited to, the motor vehicle:

11 (A) year;

12 (B) make;

13 (C) identification number;

14 (D) body style; and

15 (E) empty weight;

16 (2) license plate number, if the motor vehicle is subject to registration under  
17 Transportation Code, Chapter 502;

18 (3) odometer reading and brand, or the word "exempt" if the motor vehicle is  
19 exempt from federal and state odometer disclosure requirements;

20 (4) previous owner's legal name and municipality and state, if available;

21 (5) legal name as stated on the identification presented and complete address of  
22 the applicant;

23 (6) name and mailing address of any lienholder and the date of lien, if applicable;

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1 (7) signature of the seller of the motor vehicle or the seller's authorized agent and  
2 the date the title application was signed; and

3 (8) signature of the applicant or the applicant's authorized agent and the date the  
4 title application was signed.

5 (d) Accompanying documentation. The title application must be supported by, at a  
6 minimum, the following documents:

7 (1) evidence of vehicle ownership, as described in §217.5 of this title (relating to  
8 Evidence of Motor Vehicle Ownership);

9 (2) an odometer disclosure statement properly executed by the seller of the motor  
10 vehicle and acknowledged by the purchaser, if applicable;

11 (3) proof of financial responsibility in the applicant's name, as required by  
12 Transportation Code, §502.046, unless otherwise exempted by law;

13 (4) for a vehicle last registered or titled in another state, verification of the vehicle  
14 identification number by a process prescribed on a form by the department for the applicant to  
15 self-certify the vehicle identification number if the vehicle is not subject to Transportation Code,  
16 Chapter 548 [inspection report if required by Transportation Code, Chapter 548, and  
17 Transportation Code, §501.030, and if the vehicle is being titled and registered, or registered only];

18 (5) a release of any liens, provided that if any liens are not released, they will be  
19 carried forward on the new title application; ~~[with the following limitations:]~~

20 ~~[(A) A lien recorded on out-of-state evidence as described in §217.5 cannot~~  
21 ~~be carried forward to a Texas title when there is a transfer of ownership, unless a release of lien or~~  
22 ~~authorization from the lienholder is attached; and]~~

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1                   ~~[(B) A lien recorded on out-of-state evidence as described in §217.5 is not~~  
2 ~~required to be released when there is no transfer of ownership from an out-of-state title and the~~  
3 ~~same lienholder is being recorded on the Texas application as is recorded on the out-of-state title;]~~  
4 and

5                   (6) any documents required by §217.9 of this title (relating to Bonded Titles).

6

7 §217.5. Evidence of Motor Vehicle Ownership.

8                   (a) Evidence of motor vehicle ownership properly assigned to the applicant must  
9 accompany the title application. Evidence must include, but is not limited to, the following  
10 documents.

11                   (1) New motor vehicles. A manufacturer's certificate of origin assigned by the  
12 manufacturer or the manufacturer's representative or distributor to the original purchaser is  
13 required for a new motor vehicle that is sold or offered for sale.

14                   (A) The manufacturer's certificate of origin must be in the form prescribed  
15 by the department and must contain, at a minimum, the following information:

16                                   (i) manufacturer's name on the face of the manufacturer's  
17 certificate of origin;

18                                   (ii)[(†)] motor vehicle description including, but not limited to, the  
19 motor vehicle year, make, model, identification number, and body style;

20                                   (iii)[(††)] the empty or shipping weight;

21                                   (iv)[(†††)] the gross vehicle weight when the manufacturer's  
22 certificate of origin is invoiced to a licensed Texas motor vehicle dealer and is issued for  
23 commercial motor vehicles as that term is defined in Transportation Code, Chapter 502;

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1                                    (v)[(iv)] a statement identifying a motor vehicle designed by the  
2 manufacturer for off-highway use only; ~~and]~~

3                                    (vi) if the vehicle is a motor bus, the manufacturer must show the  
4 seating capacity (number of passengers) of the motor bus on the manufacturer's certificate; and

5                                    (vii)[(v)] if the vehicle is a "neighborhood electric vehicle," a  
6 statement that the vehicle meets Federal Motor Vehicle Safety Standard 500 (49 C.F.R. §571.500)  
7 for low-speed vehicles.

8                                    (B) When a motor vehicle manufactured in another country is sold directly  
9 to a person other than a manufacturer's representative or distributor, the manufacturer's  
10 certificate of origin must be assigned to the purchaser by the seller.

11                                    (2) Used motor vehicles. Applicants applying for title to a used motor vehicle must  
12 relinquish as evidence of ownership one of the following documents: ~~[A title issued by the~~  
13 ~~department, a title issued by another state if the motor vehicle was last registered and titled in~~  
14 ~~another state, or other evidence of ownership must be relinquished in support of the title~~  
15 ~~application for any used motor vehicle. A registration receipt is required from a vehicle owner~~  
16 ~~coming from a state that no longer titles vehicles after a certain period of time.]~~

17                                    (A) a title issued by the department;

18                                    (B) a title issued by another state if the motor vehicle was last titled in  
19 another state;

20                                    (C) documents evidencing a transfer of motor vehicle ownership by  
21 operation of law as listed in Transportation Code §501.074;

22                                    (D) a registration receipt if the applicant is coming from a state that no  
23 longer titles vehicles after a certain period of time; or





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1 (C) for motor vehicles that are less than 25 years old, proof of compliance  
2 with United States Department of Transportation (USDOT) regulations including, but not limited to,  
3 the following documents:

4 (i) the original bond release letter with all attachments advising that  
5 the motor vehicle meets federal motor vehicle safety requirements or a letter issued by the  
6 USDOT, National Highway Traffic Safety Administration, verifying the issuance of the original bond  
7 release letter;

8 (ii) a legible copy of the motor vehicle importation form validated  
9 with a ~~[an original United States Customs stamp, date, and]~~signature as filed with the USDOT  
10 confirming the exemption from the bond release letter required in clause (i) of this subparagraph,  
11 or a copy thereof certified by United States Customs;

12 (iii) a verification of motor vehicle inspection by United States  
13 Customs certified on its letterhead and signed by its agent verifying that the motor vehicle  
14 complies with USDOT regulations;

15 (iv) a written confirmation that a physical inspection of the safety  
16 certification label has been made by the department and that the motor vehicle meets United  
17 States motor vehicle safety standards;

18 (v) the original bond release letter, verification thereof, or written  
19 confirmation from the previous state verifying that a bond release letter issued by the USDOT was  
20 relinquished to that jurisdiction, if the non-United ~~[non-United]~~ States standard motor vehicle was  
21 last titled or registered in another state for one year or less; or

22 (vi) verification from the vehicle manufacturer on its letterhead  
23 stationery.

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1 (b) Alterations to documentation. An alteration to a registration receipt, title,  
2 manufacturer's certificate, or other evidence of ownership constitutes a valid reason for the  
3 rejection of any transaction to which altered evidence is attached.

4 (1) Altered lien information on any surrendered evidence of ownership requires a  
5 release from the original lienholder or a statement from the proper authority of the state in which  
6 the lien originated. The statement must verify the correct lien information.

7 (2) A strikeover that leaves any doubt about the legibility of any digit in any  
8 document will not be accepted.

9 (3) A corrected manufacturer's certificate of origin will be required if the  
10 manufacturer's certificate of origin contains an:

11 (A) incomplete or altered vehicle identification number;

12 (B) alteration or strikeover of the vehicle's model year;

13 (C) alteration or strikeover to the body style, or omitted body style on the  
14 manufacturer's certificate of origin; or

15 (D) alteration or strikeover to the weight.

16 (4) A statement[Statement] of fact[Fact] may be requested to explain errors,  
17 corrections, or conditions from which doubt does or could arise concerning the legality of any  
18 instrument. A statement[Statement] of fact[Fact] will be required in all cases:

19 (A) in which the date of sale on an assignment has been erased or altered in  
20 any manner; or

21 (B) of alteration or erasure on a Dealer's Reassignment of Title.

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1 (c) Rights of survivorship. A signed "rights of survivorship" agreement may be executed by  
2 a natural person acting in an individual capacity in accordance with Transportation Code,  
3 §501.031.

4 (d) Identification required.

5 (1) An application for title is not acceptable unless the applicant presents a current  
6 photo identification of the owner containing a unique identification number~~[and expiration date]~~.  
7 The current photo identification ~~[document]~~ must be a:

8 (A) driver's license or state identification certificate issued by a state or  
9 territory of the United States;

10 (B) United States or foreign passport;

11 (C) United States military identification card;

12 (D) North Atlantic Treaty Organization identification or identification issued  
13 under a Status of Forces Agreement;

14 (E) United States Department of Homeland Security, United States  
15 Citizenship and Immigration Services, or United States Department of State identification  
16 document; or

17 (F)~~[concealed handgun license or]~~license to carry a handgun issued by the  
18 Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H.

19 (2) If the motor vehicle is titled in:

20 (A) more than one name, then the identification of one owner must be  
21 presented;

22 (B) the name of a leasing company, then:

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1 (i) proof of the Federal Employer Identification Number/Employee  
2 Identification Number (FEIN/EIN) of the leasing company must be submitted, written on the  
3 application, and can be entered into the department's titling system. The number must correspond  
4 to the name of the leasing company in which the vehicle is being titled; and

5 (ii) the leasing company may submit:

6 (I) a government issued photo identification, required under  
7 paragraph (1) of this subsection, of the lessee listed as the registrant; or

8 (II) a government issued photo identification, required under  
9 paragraph (1) of this subsection, of the employee or authorized agent who signed the application  
10 for the leasing company, and the employee's or authorized agent's employee identification, letter  
11 of authorization written on the lessor's letterhead, or a printed business card. The printed business  
12 card, employee identification, or letter of authorization written on the lessor's letterhead must  
13 contain the name of the lessor, and the employee's or authorized agent's name must match the  
14 name on the government issued photo identification;

15 (C) the name of a trust, then a government issued photo identification,  
16 required under paragraph (1) of this subsection, of a trustee must be presented; or

17 (D) the name of a business, government entity, or organization, then:

18 (i) proof of the Federal Employer Identification Number/Employee  
19 Identification Number (FEIN/EIN) of the business, government entity, or organization must be  
20 submitted, written on the application, and can be entered into the department's titling system.  
21 The number must correspond to the name of the business, government entity, or organization in  
22 which the vehicle is being titled;

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1 (ii) the employee or authorized agent must present a government  
2 issued photo identification, required under paragraph (1) of this subsection; and

3 (iii) the employee's or authorized agent's employee identification;  
4 letter of authorization written on the business', government entity's, or organization's letterhead;  
5 or a printed business card. The printed business card, employee identification, or letter of  
6 authorization written on the business', government entity's, or organization's letterhead must  
7 contain the name of the business, governmental entity, or organization, and the employee's or  
8 authorized agent's name must match the name on the government issued photo identification.

9 (3) In addition to the requirements of paragraphs (1) and (2) of this subsection, if a  
10 power of attorney is being used to apply for a title, then the applicant must show:

11 (A) identification, required under paragraph (1) of this subsection, matching  
12 the person named as power of attorney; or

13 (B) identification, required under paragraph (1) of this subsection, and  
14 employee identification or a printed business card or authorization written on the letterhead of  
15 the entity named as power of attorney that matches the identification of the employee if the  
16 power of attorney names an entity.

17 ~~[(4) Within this subchapter, "current" is defined as not to exceed 12 months after~~  
18 ~~the expiration date, except that a state issued personal identification certificate issued to a~~  
19 ~~qualifying person is considered current if the identification states that it has no expiration.]~~

20 ~~(4)~~~~[(5)]~~ Within this subsection, an identification document such as a printed  
21 business card, letter of authorization, or power of attorney, may be an original or a photocopy.

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1                    ~~(5)~~~~(6)~~ A person who holds a general distinguishing number issued under  
2 Transportation Code, Chapter 503 [~~or Occupations Code, Chapter 2301~~] is exempt from submitting  
3 to the county tax assessor-collector, but must retain:

4                    (A) the owner's identification, as required under paragraph (1) of this  
5 subsection; and

6                    (B) authorization to sign, as required under paragraph (2) of this subsection.

7                    ~~(6)~~~~(7)~~ A person who holds a general distinguishing number issued under  
8 Transportation Code, Chapter 503 [~~or Occupations Code, Chapter 2301~~] is not required to submit  
9 photo identification or authorization for an employee or agent signing a title assignment with a  
10 secure power of attorney.

11  
12 §217.6. Title Issuance.

13                    (a) Issuance. The department or its designated agent will issue a receipt and process the  
14 application for title on receipt of:

15                    (1) a completed application for title;

16                    (2) required accompanying documentation;

17                    (3) the statutory fee for a title application, unless exempt under:

18                    (A) Transportation Code, §501.138; or

19                    (B) Government Code, §437.217 and copies of official military orders are  
20 presented as evidence of the applicant's active duty status and deployment orders to a hostile fire  
21 zone; and

22                    (4) any other applicable fees.

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1 (b) Titles. The department will issue and mail or deliver a title to the applicant or, in the  
2 event that there is a lien disclosed in the application, to the first lienholder unless the title is an  
3 electronic record of title.

4 (c) Receipt. The receipt issued at the time of application for title may be used only as  
5 evidence of title and may not be used to transfer any interest or ownership in a motor vehicle or to  
6 establish a new lien.

7 (d) Temporary hold. The department shall place a hold on processing a title application for  
8 a motor vehicle if the department receives a request for a hold accompanied by evidence of a legal  
9 action regarding ownership of or a lien interest in the motor vehicle. The hold shall continue until a  
10 final, nonappealable judgment is entered in the action or the party requesting the hold requests  
11 that the hold be removed.

12 (1) Evidence of a legal action regarding ownership of or a lien interest in a motor  
13 vehicle means evidence showing a legal action regarding ownership of or a lien interest in a motor  
14 vehicle filed in a district, county, statutory probate court, or bankruptcy court.

15 (2) Legal actions filed in justice of the peace or municipal courts do not qualify as  
16 evidence for purposes of this section unless the case is related to Chapter 47, Code of Criminal  
17 Procedure, or Section 27.031, Government Code.

18 (3) Legal actions regarding ownership of or a lien interest in a motor vehicle must  
19 be active on a court's docket. If the evidence presented in support of a request for a hold is a legal  
20 action that has been resolved through a final nonappealable judgment, additional evidence of  
21 post-judgment legal actions must be presented to place a hold on processing a title.

22 (4) The department shall place a ten-day temporary hold on processing a title if a  
23 party seeking to obtain a 10-day temporary hold presents the VIN of the vehicle for which the hold



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1 is sought, and attests that the hold is being requested in order to commence a legal action  
2 disputing a title or lien interest in a motor vehicle and not for purposes of delay.

3 (5) For the purposes of this subsection, a final nonappealable judgment is a  
4 judgment for which 30 days have passed from the day the judgment was entered without a notice  
5 of appeal being filed.

6

7 §217.7. Replacement of Title.

8 (a) Lost or destroyed title. If a title is lost or destroyed, the department will issue a certified  
9 copy of the title to the owner, the lienholder, or a verified agent of the owner or lienholder in  
10 accordance with Transportation Code, Chapter 501, on proper application and payment of the  
11 appropriate fee to the department.

12 (b) Identification required.

13 (1) An owner or lienholder may not apply for a certified copy of title unless the  
14 applicant presents a current photo identification of the owner or lienholder containing a unique  
15 identification number and expiration date. The current photo identification [~~document~~] must be a:

16 (A) driver's license or state identification certificate issued by a state or  
17 territory of the United States;

18 (B) United States or foreign passport;

19 (C) United States military identification card;

20 (D) North Atlantic Treaty Organization identification or identification issued  
21 under a Status of Forces Agreement;

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1 (E) United States Department of Homeland Security, United States

2 Citizenship and Immigration Services, or United States Department of State identification

3 document; or

4 (F)[~~concealed handgun license or~~] license to carry a handgun issued by the

5 Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H.

6 (2) If the motor vehicle is titled in:

7 (A) more than one name, then the identification for each owner must be

8 presented;

9 (B) the name of a leasing company, then the lessor's employee or

10 authorized agent who signed the application for the leasing company must present:

11 (i) a government issued photo identification, required under

12 paragraph (1) of this subsection; and

13 (ii) employee identification, letter of authorization written on the

14 lessor's letterhead, or a printed business card. The printed business card, employee identification,

15 or letter of authorization written on the lessor's letterhead must contain the name of the lessor,

16 and the employee's or authorized agent's name must match the name on the government issued

17 photo identification;

18 (C) the name of a trust, then a government issued photo identification,

19 required under paragraph (1) of this subsection, of a trustee must be presented; or

20 (D) the name of a business, government entity, or organization, then:

21 (i) the employee or authorized agent must present a government

22 issued photo identification, required under paragraph (1) of this subsection; and

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1 (ii) the employee's or authorized agent's employee identification;  
2 letter of authorization written on the business', government entity's, or organization's letterhead;  
3 or a printed business card. The printed business card, employee identification, or letter of  
4 authorization written on the business', government entity's, or organization's letterhead must  
5 contain the name of the business, governmental entity, or organization, and the employee's or  
6 authorized agent's name must match the name on the government issued photo identification.

7 (3) In addition to the requirements of paragraphs (1) and (2) of this subsection, if a  
8 power of attorney is being used to apply for a certified copy of title, then the applicant must show:

9 (A) current photo identification, required under paragraph (1) of this  
10 subsection, matching the person named as power of attorney;

11 (B) current photo identification, required under paragraph (1) of this  
12 subsection, and employee identification or a printed business card or authorization written on the  
13 letterhead of the entity named as power of attorney that matches the identification of the  
14 employee if the power of attorney names an entity; or

15 (C) current photo identification, required under paragraph (1) of this  
16 subsection, of the owner or lienholder.

17 ~~[(4) Within this subchapter, "current" is defined as within 12 months after the~~  
18 ~~expiration date, except that a state issued personal identification certificate issued to a qualifying~~  
19 ~~person is considered current if the identification states that it has no expiration.]~~

20 ~~(4)~~[(5)] Within this subsection, an identification document, such as a printed  
21 business card, letter of authorization, or power of attorney, may be an original or a photocopy.

22 (c) Issuance. An application for a certified copy must be properly executed and supported  
23 by appropriate verifiable proof of the vehicle owner, lienholder, or agent regardless of whether

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1 the application is submitted in person or by mail. A certified copy will not be issued until after the  
2 14th day that the original title was issued.

3 (d) Denial. If issuance of a certified copy is denied, the applicant may resubmit the request  
4 with the required verifiable proof or may pursue the privileges available in accordance with  
5 Transportation Code, §501.052 and §501.053.

6 (e) Additional copies. An additional certified copy will not be issued until 30 days after  
7 issuance of the previous certified copy.

8 (f) Fees. The fee for obtaining a certified copy of a title is \$2 if the application is submitted  
9 to the department by mail and \$5.45 if the application is submitted in person for expedited  
10 processing at one of the department's regional offices.

11

12 §217.8. Second-Hand Vehicle Transfers.

13 (a) Voluntary notification. A transferor, other than a dealer who holds a general  
14 distinguishing number, of a motor vehicle may voluntarily make written notification to the  
15 department of the sale of the vehicle, in accordance with Transportation Code, §501.147. The  
16 written notification may be submitted to the department by mail, in person at one of the  
17 department's regional offices, or electronically through the department's Internet website.

18 (b) Required notification. A dealer who holds a general distinguishing number is required to  
19 submit a written vehicle transfer notification to the department including the information required  
20 under Transportation Code, §501.147(b) upon the sale or transfer of a motor vehicle to the dealer.  
21 The written notification may be submitted to the department by mail, in person at one of the  
22 department's regional offices, or electronically through the department's Internet website.

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1           (c)(4) Records. On receipt of written notice of transfer from the transferor of a motor  
2 vehicle or dealer who holds a general distinguishing number, the department will mark its records  
3 to indicate the date of transfer and will maintain a record of the information provided on the  
4 written notice of transfer.

5           (d)(6) Title issuance. A title will not be issued in the name of a transferee until the  
6 transferee files an application for the title as described in this subchapter.

7

## 8 §217.9. Bonded Titles

9           (a) Who may file. A person who has an interest in a motor vehicle to which the department  
10 has refused to issue a title or has suspended or revoked a title may request issuance of a title from  
11 the department on a prescribed form if the vehicle is in the possession of the applicant; and

12                   (1) there is a record that indicates a lien that is less than ten years old and the  
13 applicant provides a [surety bonding company ensures lien satisfaction or] release of all liens and a  
14 bond [lien];

15                   (2) there is a record that indicates there is not a lien or the lien is ten or more years  
16 old; or

17                   (3) the department has no previous motor vehicle record.

18           (b) Administrative fee. The applicant must pay the department a \$15 administrative fee in  
19 addition to any other required fees.

20           (c) Value. The amount of the bond must be equal to one and one-half times the value of  
21 the vehicle as determined under Tax Code §152.0412 regarding Standard Presumptive Value (SPV).  
22 If the SPV is not available, then a national reference guide will be used. If the value cannot be  
23 determined by the department through either source, then the person may obtain an appraisal. If

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1 a motor vehicle is 25 years or older, a person may obtain an appraisal to determine the value  
2 instead of using a national reference guide.

3 (1) The appraisal must be on a form specified by the department from a Texas  
4 licensed motor vehicle dealer for the categories of motor vehicles that the dealer is licensed to sell  
5 or a Texas licensed insurance adjuster who may appraise any type of motor vehicle.

6 (2) The appraisal must be dated and be submitted to the department within 30 days  
7 of the appraisal.

8 (3) If the motor vehicle is 25 years or older and the appraised value of the vehicle is  
9 less than \$4,000, the bond amount will be established from a value of \$4,000.

10 (4) If the motor vehicle is a trailer or semitrailer, the person may, as an alternative  
11 to an appraisal, have the bond amount established from a value of:

12 (A) \$4,000, if under 20 feet in length, or

13 (B) \$7,000, if 20 or more feet in length.

14 (d) Vehicle identification number inspection. If the department has no motor vehicle record  
15 for the vehicle, the vehicle identification number must be verified by an inspection under  
16 Transportation Code §501.0321.

17 (e) Required documentation. An applicant may apply for a bonded title if the applicant  
18 submits:

19 (1) any evidence of ownership;

20 (2) the original bond within 30 days of issuance;

21 (3) the notice of determination within one year of issuance and the receipt for \$15  
22 paid to the department;

23 (4) the documentation determining the value of the vehicle;

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1 (5) proof of the vehicle identification number inspection, as described in subsection  
2 (d) of this section, if the department has no motor vehicle record for the vehicle;

3 (6) a weight certificate if the weight cannot otherwise be determined;

4 (7) ~~[a certification of lien satisfaction by the surety bonding company, or]~~ a release  
5 of lien, if the ~~[notice of determination letter states that there may be a]~~ lien is less than ten years  
6 old; and

7 (8) any other required documentation and fees.

8 (f) Report of Judgment. The bond must require that the surety report payment of any  
9 judgment to the department within 30 days.

10

11 §217.11. Rescission, Cancellation or Revocation by Affidavit.

12 (a) Under Transportation Code §501.051(b), the ~~[The]~~ department may rescind, cancel, or  
13 revoke an existing title or application for a title if a notarized or county stamped affidavit is  
14 completed and presented to the department within 90 days of initial sale containing all of the  
15 information required by Transportation Code §501.051(b)(1)-(4).~~[:]~~

16 ~~[(1) a statement that the vehicle involved was a new motor vehicle in the process of~~  
17 ~~a first sale;]~~

18 ~~[(2) a statement that the dealer, the applicant, and any lienholder have canceled~~  
19 ~~the sale;]~~

20 ~~[(3) a statement that the vehicle was:]~~

21 ~~[(A) never in possession of the title applicant; or]~~

22 ~~[(B) in the possession of the title applicant;]~~

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1                   ~~[(4) the signatures of the dealer, the applicant, and any lienholder as principal to~~  
2                   ~~the document; and]~~

3                   ~~(b)[(5)] An affidavit must be accompanied by an odometer disclosure statement~~  
4                   ~~executed by the purchaser of the motor vehicle and acknowledged by the dealer if the vehicle was~~  
5                   ~~ever in the possession of the title applicant. [by the dealer if a statement is made pursuant to~~  
6                   ~~paragraph (3)(B) of this subsection to be used for the purpose of determining usage subsequent to~~  
7                   ~~sale.]~~

8                   ~~[(b) A rescission, cancellation, or revocation containing the statement authorized under~~  
9                   ~~subsection (a)(3)(B) of this section does not negate the fact that the vehicle has been subject to a~~  
10                   ~~previous retail sale.]~~

11

12                   217.14. Exemptions from Title.

13                   Vehicles eligible for machinery license plates and permit license plates in accordance with  
14                   Transportation Code, §502.146 ~~[registered with the following distinguishing license plates]~~ may  
15                   not be titled under Transportation Code, Chapter 501.[:]

16                   ~~[(1) vehicles eligible for machinery license plates and permit license plates in~~  
17                   ~~accordance with Transportation Code, §502.146; and]~~

18                   ~~[(2) vehicles eligible for farm trailer license plates in accordance with~~  
19                   ~~Transportation Code, §502.433, unless the owner chooses to title a farm semitrailer with a gross~~  
20                   ~~weight of more than 4,000 pounds that is registered in accordance with §502.146, as provided by~~  
21                   ~~Transportation Code, §501.036.]~~

22

23                   §217.15. Title Issuance to Government Agency for Travel Trailer.



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1 (a) A government agency may apply to the department for a title to a travel trailer  
2 purchased by or transferred to the government agency if the travel trailer is being used as  
3 temporary housing in response to a natural disaster or other declared emergency.

4 (b) A government agency applying for a title under subsection (a) of this section must  
5 comply with §217.4(a), (c), and (d) of this title (relating to Initial Application for Title).

6 (c) The department will issue a title to a government agency under this section without  
7 payment of a fee if the government agency is not applying for registration at the same time. If the  
8 government agency is also applying for registration, the government agency must pay any  
9 applicable ~~[state inspection]~~ fee under Transportation Code, Chapter 548 to the department at the  
10 time of application.

11

12 §217.16. Application for Title When Dealer Goes Out of Business.

13 (a) A person who purchased a vehicle from a dealer who is required to apply for a title on  
14 the purchaser's behalf under Transportation Code, §501.0234 may apply for title as prescribed by  
15 this section if the dealer has gone out of business and did not apply for title.

16 (b) For purposes of this section, a dealer has gone out of business if:

17 (1) the dealer's license has been closed or has expired; or

18 (2) operations have ceased at the licensed location as determined by the  
19 department.

20 (c) For purposes of this section, a person must obtain a letter on department letterhead  
21 stating a dealer has gone out of business. A person may request the letter by contacting the  
22 department, including a Regional Service Center, or a county tax assessor-collector's office.

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1 (d) An application under subsection (a) of this section must meet the requirements of  
2 §217.4 of this title (relating to Initial Application for Title) except the applicant:

3 (1) must provide the sales contract, retail installment agreement, or buyer's order  
4 in lieu of evidence of vehicle ownership as described in §217.5(a) of this title (relating to Evidence  
5 of Motor Vehicle Ownership);

6 (2) must provide the letter described by subsection (c) of this section; and

7 (3) is not required to provide a release of lien if the only recorded lienholder is the  
8 dealer that has gone out of business.

9 (e) If a title application under this section does not include a properly completed odometer  
10 disclosure statement, as required by Transportation Code, §501.072, the odometer brand will be  
11 recorded as "NOT ACTUAL MILEAGE."

12 (f) The department will waive the payment of the following fees if the applicant can  
13 provide evidence showing the fee was paid to the dealer:

14 (1) a title application fee under Transportation Code, §501.138;

15 (2) delinquent transfer penalty under Transportation Code, §501.146;

16 (3) all fees under Transportation Code, Chapter 502; and

17 (4) the fee associated with the issuance of a license plate or set of license plates

18 [~~buyer's temporary tag fee~~] under Transportation Code, §503.063.

19

20 **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

21 **43 TAC §§217.22, 217.23, 217.25-29, 217.31, 217.33, 217.34, 217.36, 217.37, 217.40, 217.41,**

22 **217.43, 217.45, 217.46, AND 217.50-56**

23

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1 **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
2 department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the  
3 department authority to adopt rules to administer Transportation Code Chapter 502, Registration of  
4 Vehicles; Transportation Code §502.0024, as amended by HB 3297, which requires the department  
5 develop and implement a system of registration to allow an owner of a vehicle to register the vehicle for  
6 an extended period of not more than five years; Transportation Code §502.040, which authorizes the  
7 department to prescribe the process and procedures for applying for a motor vehicle registration;  
8 Transportation Code §502.059, which authorizes the department to adopt rules providing for an  
9 automated registration process; Transportation Code §502.095, as amended by HB 718, which gives the  
10 department authority to issue one-trip and 30-day license plates; Transportation Code §502.1911, which  
11 authorizes the board to adopt rules to set registration processing and handing fees; Transportation Code  
12 §502.451(c), which authorizes the department to adopt rules to provide for the issuance of specially  
13 designated license plates for vehicles exempt by law, and Transportation Code §502.451(f), which  
14 authorizes the department to adopt rules to provide for the issuance of regularly designed license plates  
15 not bearing the word “exempt” for a vehicle that is exempt by law. Transportation Code §504.0011,  
16 which gives the department authority to implement and administer Transportation Code, Chapter 504,  
17 License Plates; Transportation Code §504.010, which authorizes the department to adopt rules  
18 governing the placement of license plates on motor vehicles; Transportation Code §520.003, which  
19 authorizes the department to adopt rules to administer Transportation Code §520, Miscellaneous  
20 Provisions; Transportation Code §520.004, which authorizes the department to adopt rules to establish  
21 standards for uniformity and service quality for counties conducting registration and titling services;  
22 Transportation Code §520.0055, as created by HB 718, gives the department authority to mandate  
23 motor vehicle dealers use a department designated electronic system to submit title and registration

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1 applications to county tax assessor-collectors for motor vehicle transactions; and Transportation Code  
2 §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement  
3 the powers and the duties of the department, as well as the statutes referenced throughout the this  
4 preamble.

5 **CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code  
6 Chapters 502, 504 and 520.

7

8 Text.

9 §217.22. Definitions.

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

12 (1) Affidavit for alias exempt registration--A form prescribed by the director that  
13 must be executed by an exempt law enforcement agency to request the issuance of exempt  
14 registration in the name of an alias.

15 (2) Agent--A duly authorized representative possessing legal capacity to act for an  
16 individual or legal entity.

17 (3) Alias--The name of a vehicle registrant reflected on the registration, different  
18 than the name of the legal owner of the vehicle.

19 (4) Alias exempt registration--Registration issued under an alias to a specific vehicle  
20 to be used in covert criminal investigations by a law enforcement agency.

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1 (5) Axle load--The total load transmitted to the road by all wheels whose centers  
2 may be included between two parallel transverse vertical planes 40 inches apart, extending across  
3 the full width of the vehicle.

4 (6) Border commercial zone--A commercial zone established under Title 49, C.F.R.,  
5 Part 372 that is contiguous to the border with Mexico.

6 (7) Bus--A motor vehicle used to transport persons and designed to accommodate  
7 more than 10 passengers, including the operator; or a motor vehicle, other than a taxicab,  
8 designed and used to transport persons for compensation.

9 (8) Carrying capacity--The maximum safe load that a commercial vehicle may carry,  
10 as determined by the manufacturer.

11 (9) Character--A numeric or alpha symbol displayed on a license plate.

12 (10) County or city civil defense agency--An agency authorized by a commissioner's  
13 court order or by a city ordinance to provide protective measures and emergency relief activities in  
14 the event of hostile attack, sabotage, or natural disaster.

15 (11) Current photo identification-- a government-issued photo identification that is  
16 currently valid or is expired not more than 12 months, or a state-issued personal identification  
17 certificate issued to a qualifying person if the identification states that it has no expiration.

18 (12)[(11)] Digital license plate--As defined in Transportation Code, §504.151.

19 (13)[(12)] Digital license plate owner--A digital license plate owner is a person who  
20 purchases or leases a digital license plate from a department-approved digital license plate  
21 provider.

22 (14)[(13)] Director--The director of the Vehicle Titles and Registration Division,  
23 Texas Department of Motor Vehicles.

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1                    ~~(15)~~~~(14)~~ Division--Vehicle Titles and Registration Division.

2                    ~~(16)~~~~(15)~~ Executive administrator--The director of a federal agency, the director of  
3 a Texas state agency, the sheriff of a Texas county, or the chief of police of a Texas city that by law  
4 possesses the authority to conduct covert criminal investigations.

5                    ~~(17)~~~~(16)~~ Exempt agency--A governmental body exempted by statute from paying  
6 registration fees when registering motor vehicles.

7                    ~~(18)~~~~(17)~~ Exempt license plates--Specially designated license plates issued to  
8 certain vehicles owned or controlled by exempt agencies.

9                    ~~(19)~~~~(18)~~ Exhibition vehicle--

10                    (A) An assembled complete passenger car, truck, or motorcycle that:

11                    (i) is a collector's item;

12                    (ii) is used exclusively for exhibitions, club activities, parades, and  
13 other functions of public interest;

14                    (iii) does not carry advertising; and

15                    (iv) has a frame, body, and motor that is at least 25-years old; or

16                    (B) A former military vehicle as defined in Transportation Code, §504.502.

17                    ~~(20)~~~~(19)~~ Fire-fighting equipment--Equipment mounted on fire-fighting vehicles  
18 used in the process of fighting fires, including, but not limited to, ladders and hoses.

19                    ~~(21)~~~~(20)~~ Foreign commercial motor vehicle--A commercial motor vehicle, as  
20 defined by 49 C.F.R. §390.5, that is owned by a person or entity that is domiciled in or a citizen of a  
21 country other than the United States.

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1                    ~~(22)~~~~((21))~~ GPS-- A global positioning system tracking device that can be used to  
2 determine the location of a digital license plate through data collection by means of a receiver in a  
3 digital license plate.

4                    ~~(23)~~~~((22))~~ Highway construction project--That section of the highway between the  
5 warning signs giving notice of a construction area.

6                    ~~(24)~~~~((23))~~ International symbol of access--The symbol adopted by Rehabilitation  
7 International in 1969 at its Eleventh World Congress of Rehabilitation of the Disabled.

8                    ~~[(24) Legally blind—Having not more than 20/200 visual acuity in the better eye  
9 with correcting lenses, or visual acuity greater than 20/200 but with a limitation in the field of  
10 vision such that the widest diameter of the visual field subtends an angle no greater than 20  
11 degrees.]~~

12                    (25) Legend--A name, motto, slogan, or registration expiration notification that is  
13 centered horizontally at the bottom of the license plate.

14                    (26) Make--The trade name of the vehicle manufacturer.

15                    (27) Metal license plate--A non-digital license plate issued by the department under  
16 Transportation Code Chapter 502, 503, or Chapter 504.

17                    (28) Nonprofit organization--An unincorporated association or society or a  
18 corporation that is incorporated or holds a certificate of authority under the Business  
19 Organizations Code.

20                    (29) Nominating State Agency--A state agency authorized to accept and distribute  
21 funds from the sale of a specialty plate as designated by the nonprofit organization (sponsoring  
22 entity).

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1 (30) Optional digital license plate information--Any information authorized to be  
2 displayed on a digital license plate in addition to required digital license plate information when  
3 the vehicle is in park, including:

4 (A) an emergency alert or other public safety alert issued by a governmental  
5 entity, including an alert authorized under Subchapter L, M, or P of Government Code Chapter 411;

6 (B) vehicle manufacturer safety recall notices;

7 (C) advertising; or

8 (D) a parking permit.

9 (31) Park--As defined in Transportation Code, §541.401.

10 (32) Political subdivision--A county, municipality, local board, or other body of this  
11 state having authority to provide a public service.

12 (33) Primary region of interest--The field on a metal or digital license plate with  
13 alphanumeric characters representing the plate number. The primary region of interest  
14 encompasses a field of 5.75 inches in width by 1.75 inches in height on metal license plates  
15 manufactured for motorcycles, mopeds, golf carts, or off-highway vehicles. The primary region of  
16 interest encompasses a field of 8.375 inches in width by 2.5625 inches in height on metal license  
17 plates manufactured for all other vehicles.

18 (34) Registration period--A designated period during which registration is valid. A  
19 registration period begins on the first day of a calendar month and ends on the last day of a  
20 calendar month.

21 (35) Required digital license plate information--The minimum information required  
22 to be displayed on a digital license plate: the registration expiration month and year (unless the  
23 vehicle is a token trailer as defined by Transportation Code, §502.001), the alphanumeric



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1 characters representing the plate number, the word "Texas," the registration expiration  
2 notification if the registration for the vehicle has expired; and the legend (if applicable).

3 (36) Secondary region of interest--The field on a metal or digital license plate with  
4 the word "Texas" centered horizontally at the top of the plate. The secondary region of interest  
5 encompasses a field of 2.5 inches in width by 0.5625 inches in height on metal license plates  
6 manufactured for motorcycles, mopeds, golf carts, or off-highway vehicles. The secondary region  
7 of interest encompasses a field of 6 inches in width by 1.9375 inches in height on metal license  
8 plates manufactured for all other vehicles.

9 (37) Service agreement--A contractual agreement that allows individuals or  
10 businesses to access the department's vehicle registration records.

11 (38) Specialty license plate--A special design license plate issued by the department  
12 [~~under SA~~].

13 (39) Specialty license plate fee--Statutorily or department required fee payable on  
14 submission of an application for a specialty license plate, symbol, tab, or other device, and  
15 collected in addition to statutory motor vehicle registration fees.

16 (40) Sponsoring entity--An institution, college, university, sports team, or any other  
17 non-profit individual or group that desires to support a particular specialty license plate by  
18 coordinating the collection and submission of the prescribed applications and associated license  
19 plate fees or deposits for that particular license plate.

20 (41) Street or suburban bus--A vehicle, other than a passenger car, used to  
21 transport persons for compensation exclusively within the limits of a municipality or a suburban  
22 addition to a municipality.

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1 (42) Tandem axle group--Two or more axles spaced 40 inches or more apart from  
2 center to center having at least one common point of weight suspension.

3 (43) Unconventional vehicle--A vehicle built entirely as machinery from the ground  
4 up, that is permanently designed to perform a specific function, and is not designed to transport  
5 property.

6 (44) Vehicle classification--The grouping of vehicles in categories for the purpose of  
7 registration, based on design, carrying capacity, or use.

8 (45) Vehicle description--Information regarding a specific vehicle, including, but not  
9 limited to, the vehicle make, model year, body style, and vehicle identification number.

10 (46) Vehicle identification number--A number assigned by the manufacturer of a  
11 motor vehicle or the department that describes the motor vehicle for purposes of identification.

12 ~~[(47) Vehicle inspection sticker--A sticker issued by the Texas Department of Public  
13 Safety signifying that a vehicle has passed all applicable safety and emissions tests.]~~

14 ~~(47)~~(48) Vehicle registration insignia--A license plate, symbol, tab, or other device  
15 issued by the department evidencing that all applicable fees have been paid for the current  
16 registration period and allowing the vehicle to be operated on the public highways.

17 ~~(48)~~(49) Vehicle registration record--Information contained in the department's  
18 files that reflects, but is not limited to, the make, vehicle identification number, model year, body  
19 style, license number, and the name of the registered owner.

20 ~~(49)~~(50) Volunteer fire department--An association that is organized for the  
21 purpose of answering fire alarms, extinguishing fires, and providing emergency medical services.

22

23 §217.23. Initial Application for Vehicle Registration.

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1 (a) An applicant for initial vehicle registration must file an application on a form prescribed  
2 by the department. The form will at a minimum require:

3 (1) the signature of the owner;

4 (2) the motor vehicle description, including, but not limited to, the motor vehicle's  
5 year, make, model, vehicle identification number, body style, carrying capacity for commercial  
6 motor vehicles, and empty weight;

7 (3) the license plate number;

8 (4) the odometer reading, or the word "exempt" if the motor vehicle is exempt  
9 from federal and state odometer disclosure requirements;

10 (5) the name and complete address of the applicant; and

11 (6) the name, mailing address, and date of any liens.

12 (b) The application must be accompanied by the following:

13 (1) evidence of vehicle ownership as specified in §217.5 of this title (relating to  
14 Evidence of Motor Vehicle Ownership) [~~Transportation Code, §501.030~~], unless the vehicle has  
15 been issued a nonrepairable or salvage vehicle title in accordance with Transportation Code,  
16 Chapter 501, Subchapter E;

17 (2) registration fees prescribed by law;

18 (3) any local fees or other fees prescribed by law and collected in conjunction with  
19 registering a vehicle;

20 (4) evidence of financial responsibility required by Transportation Code, §502.046,  
21 unless otherwise exempted by law;

22 (5) the processing and handling fee prescribed by §217.183 of this title (relating to  
23 Fee Amount); and

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1 (6) any other documents or fees required by law.

2 (c) An initial application for registration must be filed with the tax assessor-collector of the  
3 county in which the owner resides or any county tax assessor-collector who is willing to accept the  
4 application, except as provided in subsection (d) of this section.

5 (d) An application for registration, as a prerequisite to filing an application for title, may be  
6 filed with the county tax assessor-collector in the county in which:

7 (1) the owner resides;

8 (2) the motor vehicle is purchased or encumbered; or

9 (3) a county tax assessor-collector who is willing to accept the application.

10

11 §217.25. Out-of-State Vehicles.

12 A vehicle brought to Texas from out-of-state must be registered within 30 days of the date  
13 on which the owner establishes residence or secures gainful employment, except as provided by  
14 Transportation Code, §502.090 and Transportation Code, §502.145. Accompanying a completed  
15 application, an applicant must provide:

16 (1) an application for title as required by Transportation Code, Chapter 501, if the  
17 vehicle to be registered has not been previously titled in this state; and

18 (2) any other documents or fees required by law.

19

20 §217.26. Identification Required.

21 (a) An application for initial registration is not acceptable unless the applicant presents a  
22 current photo identification of the owner containing a unique identification number and expiration  
23 date. The current photo identification ~~[document]~~ must be a:

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1 (1) driver's license or state identification certificate issued by a state or territory of  
2 the United States;

3 (2) United States or foreign passport;

4 (3) United States military identification card;

5 (4) North Atlantic Treaty Organization identification or identification issued under a  
6 Status of Forces Agreement;

7 (5) United States Department of Homeland Security, United States Citizenship and  
8 Immigration Services, or United States Department of State identification document; or

9 (6) ~~concealed handgun license or~~ license to carry a handgun issued by the Texas  
10 Department of Public Safety under Government Code, Chapter 411, Subchapter H.

11 (b) If the motor vehicle is titled in:

12 (1) more than one name, then the identification of one owner must be presented;

13 (2) the name of a leasing company, then:

14 (A) proof of the Federal Employer Identification Number/Employee  
15 Identification Number (FEIN/EIN) of the leasing company must be submitted, written on the  
16 application, and can be entered into the department's titling system. The number must correspond  
17 to the name of the leasing company in which the vehicle is being titled; and

18 (B) the leasing company may submit:

19 (i) a current ~~[government-issued]~~ photo identification, required  
20 under this section, of the lessee listed as the registrant; or

21 (ii) a current ~~[government-issued]~~ photo identification, required  
22 under this section, of the employee or authorized agent who signed the application for the leasing  
23 company, and the employee's or authorized agent's employee identification, letter of

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1 authorization written on the lessor's letterhead, or a printed business card. The printed business  
2 card, employee identification, or letter of authorization written on the lessor's letterhead must  
3 contain the name of the lessor, and the employee's or authorized agent's name must match the  
4 name on the current [~~government-issued~~] photo identification;

5 (3) the name of a trust, then a current [~~government-issued~~] photo identification,  
6 required under this section, of a trustee must be presented; or

7 (4) the name of a business, government entity, or organization, then:

8 (A) proof of the Federal Employer Identification Number/Employee  
9 Identification Number (FEIN/EIN) of the business, government entity, or organization must be  
10 submitted, written on the application, and can be entered into the department's titling system.

11 The number must correspond to the name of the business, government entity, or organization in  
12 which the vehicle is being titled;

13 (B) the employee or authorized agent must present a current [~~government~~  
14 ~~issued~~] photo identification, required under this section; and

15 (C) the employee's or authorized agent's employee identification; letter of  
16 authorization written on the business', government entity's, or organization's letterhead; or a  
17 printed business card. The printed business card, employee identification, or letter of  
18 authorization written on the business', government entity's, or organization's letterhead must  
19 contain the name of the business, governmental entity, or organization, and the employee's or  
20 authorized agent's name must match the name on the current [~~government-issued~~] photo  
21 identification.

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1           ~~[(c) Within this section, "current" is defined as not to exceed 12 months after the~~  
2 ~~expiration date, except that a state-issued personal identification certificate issued to a qualifying~~  
3 ~~person is considered current if the identification states that it has no expiration.]~~

4           (c)~~[(d)]~~ Within this section, an identification document such as a printed business card,  
5 letter of authorization, or power of attorney, may be an original or photocopy.

6           (d)~~[(e)]~~ A person who holds a general distinguishing number issued under Transportation  
7 Code, Chapter 503 ~~[or Occupations Code, Chapter 2301,]~~ is exempt from submitting to the county  
8 tax assessor-collector, but must retain:

- 9                   (1) the owner's identification, as required under this section; and  
10                   (2) authorization to sign, as required under this section.

11           (e)~~[(f)]~~ A person who holds a general distinguishing number issued under Transportation  
12 Code, Chapter 503 ~~[or Occupations Code, Chapter 2301,]~~ is not required to submit photo  
13 identification or authorization for an employee or agent signing a title assignment with a secure  
14 power of attorney.

15           (f)~~[(g)]~~ This section does not apply to non-titled vehicles.

16  
17 §217.27. Vehicle Registration Insignia.

18           (a) On receipt of a complete initial application for registration with the accompanying  
19 documents and fees, the department will issue vehicle registration insignia to be displayed on or  
20 kept in the vehicle for which the registration was issued for the current registration period.

21                   (1) If the vehicle has a windshield, the vehicle registration insignia~~[the symbol, tab,~~  
22 ~~or other device prescribed by and issued by the department]~~ shall be attached to the inside lower

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1 left corner of the vehicle's front windshield in a manner that will not obstruct the vision of the  
2 driver, unless the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1.

3 (2) If the vehicle has no windshield, the vehicle registration insignia ~~[the symbol,~~  
4 ~~tab, or other device prescribed by and issued by the department]~~ shall be attached to the rear  
5 license plate unless the vehicle is registered under Transportation Code, Chapter 504, Subchapter  
6 B-1, except that registration receipts, retained inside the vehicle, may provide the record of  
7 registration for vehicles with permanent trailer plates.

8 (3) If the vehicle is registered under Transportation Code, Chapter 504, Subchapter  
9 B-1, the registration receipt, symbol, tab, or other device prescribed by and issued by the  
10 department must be retained with the vehicle and may provide the record of registration for  
11 vehicles with a digital license plate. The expiration month and year must appear digitally on the  
12 electronic visual display of the rear digital license plate.

13 (4) If the vehicle is registered as a former military vehicle as prescribed by  
14 Transportation Code, §504.502, the vehicle's registration number shall be displayed instead of  
15 displaying a symbol, tab, or license plate.

16 (A) Former military vehicle registration numbers shall be displayed on a  
17 prominent location on the vehicle in numbers and letters of at least two inches in height.

18 (B) To the extent possible, the location and design of the former military  
19 vehicle registration number must conform to the vehicle's original military registration number.

20 (b) Unless otherwise prescribed by law, each vehicle registered under this subchapter:

21 (1) must display two license plates that are clearly visible, readable, and legible,  
22 one at the exterior front and one at the exterior rear of the vehicle that are securely fastened at  
23 the exterior front and rear of the vehicle in an upright horizontal position of not less than 12



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1 inches from the ground, measuring from the bottom[, ~~except that a vehicle described by~~  
2 ~~Transportation Code, §621.2061 may place the rear plate so that it is clearly visible, readable, and~~  
3 ~~legible~~]; or

4 (2) must display one plate that is securely fastened at or as close as practical to the  
5 exterior rear of the vehicle in a position not less than 12 inches from the ground, measuring from  
6 the bottom if the vehicle is a road tractor, motorcycle, trailer or semitrailer, except that a vehicle  
7 described by Transportation Code, §621.2061 may place the rear plate so that it is clearly visible,  
8 readable, and legible.

9 (c) Each vehicle registered under this subchapter must display license plates:

10 (1) assigned by the department for the period; or

11 (2) validated by a registration insignia issued by the department for a registration  
12 period consisting of 12 consecutive months at the time of application for registration, except that:

13 (A) vehicles described by Transportation Code, §502.0024 [~~trailers,~~  
14 ~~semitrailers, or pole trailers not subject to inspection under §548.052(3)~~] may obtain a registration  
15 insignia for a period consisting of 12, 24, 36, 48 or 60 consecutive months on payment of all fees  
16 for each full year of registration; and

17 (B) vehicles may be registered for 24 consecutive months in accordance  
18 with Transportation Code, §548.102 on payment of all fees for each year of registration, regardless  
19 of the number of months remaining on the inspection at the time of registration, provided:

20 (i) the vehicle receives a two-year inspection under Transportation  
21 Code, §548.102; and

22 (ii) the application for registration is made in the name of the  
23 purchaser under Transportation Code, §501.0234.

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1 (d) The department may cancel any license plate issued with a personalized license plate  
2 number [~~alphanumeric pattern~~] if the department subsequently determines or discovers that the  
3 personalized license plate number [~~alphanumeric pattern~~] did not comply with this section when  
4 the license plate was issued, or if due to changing language usage, meaning, or interpretation, the  
5 personalized license plate number [~~alphanumeric pattern~~] no longer complies with this section.  
6 When reviewing a personalized license plate number [~~alphanumeric pattern~~], the department need  
7 not consider the applicant's subjective intent or declared meaning. The department will not issue  
8 any license plate containing a personalized license plate number [~~alphanumeric pattern~~] that  
9 meets one or more of the following criteria:

10 (1) The license plate number [~~alphanumeric pattern~~] conflicts with the  
11 department's current or proposed general issue [~~regular~~] license plate numbering system.

12 (2) The director or the director's designee finds that the personalized license plate  
13 number [~~alphanumeric pattern~~] may be considered objectionable. An objectionable license plate  
14 number [~~alphanumeric pattern~~] may include words, [~~or~~] phrases, or slang in any language;  
15 phonetic, numeric, or reverse spelling; acronyms; patterns viewed in mirror image; or code that  
16 only a small segment of the community may be able to readily decipher. An objectionable pattern  
17 may be viewed as:

18 (A) indecent (defined as including a direct reference or connotation to a  
19 sexual act, sexual body parts, excreta, or sexual bodily fluids or functions. Additionally, the license  
20 plate number [~~alphanumeric pattern~~] "69" is prohibited unless used with the full year (1969) or in  
21 combination with a reference to a vehicle;

22 (B) vulgar, directly or indirectly (defined as profane, swear, or curse words);

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1 (C) derogatory, directly or indirectly (defined as an expression that is  
2 demeaning to, belittles, or disparages any person, group, race, ethnicity, nationality, gender, or  
3 sexual orientation. "Derogatory" may also include a reference to an organization that advocates  
4 the expressions described in this subparagraph);

5 (D) a direct or indirect negative instruction or command directed at another  
6 individual related to the operation of a motor vehicle;

7 (E) a direct or indirect reference to gangs, illegal activities, implied threats  
8 of harm, or expressions that describe, advertise, advocate, promote, encourage, glorify, or  
9 condone violence, crime, or unlawful conduct;

10 (F) a direct or indirect reference to controlled substances or the  
11 physiological state produced by such substances, intoxicated states, or a direct or indirect  
12 reference that may express, describe, advertise, advocate, promote, encourage, or glorify such  
13 substances or states;

14 (G) a direct representation of law enforcement or other governmental  
15 entities, including any reference to a public office or position exclusive to government; or

16 (H) a pattern that could be misread by law enforcement.

17 (3) The license plate number [~~alphanumeric pattern~~] is currently on a license plate  
18 issued to another owner.

19 (e) Notwithstanding the provisions of this section, the department may issue license plates  
20 with personalized license plate numbers [~~alphanumeric patterns~~] that refer to:

21 (1) military branches, military rank, military units, military equipment, or status; or

22 (2) institutions of higher education, including military academies, whether funded  
23 privately, by the state, or by the federal government.

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1 (f) A decision to cancel or not to issue a license plate with a personalized license plate  
2 number [~~alphanumeric pattern~~] under subsection (d) of this section may be appealed to the  
3 executive director of the department or the executive director's designee within 20 days of  
4 notification of the cancellation or non-issuance. All appeals must be in writing, and the requesting  
5 party may include any written arguments, but shall not be entitled to a contested case hearing.  
6 The executive director or the executive director's designee will issue a decision no later than 30  
7 days after the department receives the appeal, unless additional information is sought from the  
8 requestor, in which case the time for decision is tolled until the additional information is provided.  
9 The decision of the executive director or the executive director's designee is final and may not be  
10 appealed to the board. An appeal to the executive director or the executive director's designee is  
11 denied by operation of law 31 days from the receipt of the appeal, or if the requestor does not  
12 provide additional requested information within ten days of the request.

13 (g) The provisions of subsection (a) of this section do not apply to vehicles registered with  
14 annual license plates issued by the department.

15 (h) A person whose initial application has been denied will receive a refund if the denial is  
16 not appealed in accordance with subsection (f) of this section. If an existing license plate with a  
17 personalized license plate number [~~alphanumeric pattern~~] has been canceled, the person may  
18 choose a new personalized license plate number [~~alphanumeric pattern~~] that will be valid for the  
19 remainder of the term, or the remaining term of the canceled license plate will be forfeited.

20

21 §217.28. Vehicle Registration Renewal.

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1 (a) To renew vehicle registration, a vehicle owner must apply to the tax assessor-collector  
2 of the county in which the owner resides or a county tax assessor-collector who is willing to accept  
3 the application.

4 (b) The department will send a registration renewal notice, indicating the proper  
5 registration fee and the month and year the registration expires, to each vehicle owner prior to the  
6 expiration of the vehicle's registration.

7 (c) The registration renewal notice should be returned by the vehicle owner to the county  
8 tax assessor-collector in the county in which the owner resides or a county tax assessor-collector  
9 who is willing to accept the application, or to that tax assessor-collector's deputy, either in person  
10 or by mail, unless the vehicle owner renews via the Internet. The renewal notice must be  
11 accompanied by the following documents and fees:

12 (1) registration renewal fees prescribed by law;

13 (2) any local fees or other fees prescribed by law and collected in conjunction with  
14 registration renewal; and

15 (3) evidence of financial responsibility required by Transportation Code, §502.046,  
16 unless otherwise exempted by law.

17 (d) If a registration renewal notice is lost, destroyed, or not received by the vehicle owner,  
18 the vehicle may be registered if the owner presents personal identification acceptable to the  
19 county tax assessor-collector or via the Internet. Failure to receive the notice does not relieve the  
20 owner of the responsibility to renew the vehicle's registration.

21 (e) Renewal of expired vehicle registrations.

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1                   ~~[(1) In accordance with Transportation Code, §502.407, a vehicle with an expired~~  
2 ~~registration may not be operated on the highways of the state after the fifth working day after the~~  
3 ~~date a vehicle registration expires.]~~

4                   (1)~~[(2)]~~ If the owner has been arrested or cited for operating the vehicle without  
5 valid registration then a 20% delinquency penalty is due when registration is renewed, the full  
6 annual fee will be collected, and the vehicle registration expiration month will remain the same.

7                   (2)~~[(3)]~~ If the county tax assessor-collector or the department determines that a  
8 registrant has a valid reason for being delinquent in registration, the vehicle owner will be  
9 required to pay for 12 months' registration. Renewal will establish a new registration expiration  
10 month that will end on the last day of the eleventh month following the month of registration  
11 renewal.

12                   (3)~~[(4)]~~ If the county tax assessor-collector or the department determines that a  
13 registrant does not have a valid reason for being delinquent in registration, the full annual fee will  
14 be collected and the vehicle registration expiration month will remain the same.

15                   (4)~~[(5)]~~ Specialty license plates, symbols, tabs, or other devices may be prorated as  
16 provided in §217.45(d)(2) of this title (relating to Specialty License Plates, Symbols, Tabs, and  
17 Other Devices).

18                   (5)~~[(6)]~~ Evidence of a valid reason may include receipts, passport dates, and military  
19 orders. Valid reasons may include:

- 20                               (A) extensive repairs on the vehicle;
- 21                               (B) the person was out of the country;
- 22                               (C) the vehicle is used only for seasonal use;
- 23                               (D) military orders;

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- 1 (E) storage of the vehicle;
- 2 (F) a medical condition such as an extended hospital stay; and
- 3 (G) any other reason submitted with evidence that the county tax assessor-
- 4 collector or the department determines is valid.

5 (6) The operation of a vehicle with an expired registration that has been stored or

6 otherwise not in operation that is driven only to an inspection station for the purpose of obtaining

7 an inspection, if applicable, required for registration, will not affect the determination of whether

8 the registrant has a valid or invalid reason for being delinquent.

- 9 (f) For purposes of Transportation Code §502.407(c), the county tax assessor-collector's
- 10 office of the county in which the owner resides is closed for a protracted period of time if the
- 11 county tax assessor-collector's office has notified the department that it is closed or will be closed
- 12 for more than one week.

13

14 §217.29. Vehicle Registration Renewal via Internet.

- 15 (a) Internet registration renewal program. The department will maintain a uniform Internet
- 16 registration renewal process. This process will provide for the renewal of vehicle registrations via
- 17 the Internet and will be in addition to vehicle registration procedures provided for in §217.28 of
- 18 this title (relating to Vehicle Registration Renewal). The Internet registration renewal program will
- 19 be facilitated by a third-party vendor.

- 20 (b) County participation in program. All county tax assessor-collectors shall process
- 21 registration renewals through an online system designated by the department.

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1 (c) Eligibility of individuals for participation. To be eligible to renew a vehicle's registration  
2 via the Internet, the vehicle owner must meet all criteria for registration renewal outlined in this  
3 subchapter and in Transportation Code, Chapter 502.

4 ~~[(d) Fees. This subsection applies to vehicle registrations expiring prior to January 1, 2017  
5 that are submitted for renewal prior to July 1, 2017. A vehicle owner who renews registration via  
6 the Internet must pay:]~~

7 ~~[(1) registration fees prescribed by law;]~~

8 ~~[(2) any local fees or other fees prescribed by law and collected in conjunction with  
9 registering a vehicle;]~~

10 ~~[(3) a fee of \$1 for the processing of a registration renewal by mail in accordance  
11 with Transportation Code, §502.197(a); and]~~

12 ~~[(4) a convenience fee of \$2 for the processing of an electronic registration renewal  
13 paid by a credit card payment in accordance with Transportation Code, §1001.009.]~~

14 ~~(d)~~(e) Information to be submitted by vehicle owner. A vehicle owner who renews  
15 registration via the Internet must submit or verify the following information:

16 (1) registrant information, including the vehicle owner's name and county of  
17 residence;

18 (2) vehicle information, including the license plate number of the vehicle to be  
19 registered;

20 (3) insurance information, including the name of the insurance company, the name  
21 of the insurance company's agent (if applicable), the telephone number of the insurance company  
22 or agent (local or toll free number serviced Monday through Friday 8:00 a.m. to 5:00 p.m.), the  
23 insurance policy number, and representation that the policy meets all applicable legal standards;



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1 (4) credit card information, including the type of credit card, the name appearing  
2 on the credit card, the credit card number, and the expiration date; and

3 (5) other information prescribed by rule or statute.

4 ~~[(f) Duties of the county. For vehicle registrations that expire prior to January 1, 2017 that  
5 are submitted for renewal prior to July 1, 2017, a county tax assessor-collector shall:]~~

6 ~~[(1) accept electronic payment for vehicle registration renewal via the Internet;]~~

7 ~~[(2) execute an agreement with the department as provided by the director;]~~

8 ~~[(3) process qualified Internet registration renewal transactions as submitted by the  
9 third-party vendor;]~~

10 ~~[(4) communicate with the third-party vendor and applicants via email, regular  
11 mail, or other means, as specified by the director;]~~

12 ~~[(5) promptly mail renewal registration validation stickers and license plates to  
13 applicants;]~~

14 ~~[(6) ensure that all requirements for registration renewal are met, including all  
15 requirements set forth in this subchapter, and in Transportation Code, Chapter 502;]~~

16 ~~[(7) reject applications that do not meet all requirements set forth in this chapter,  
17 and in Transportation Code, Chapter 502; and]~~

18 ~~[(8) register each vehicle for a 12-month period.]~~

19 ~~(e)[(g)] Duties of the county. [For vehicle registrations that expire on or after January 1,  
20 2017, and registrations that expired prior to January 1, 2017 that are submitted for renewal on or  
21 after July 1, 2017,] A[a] county tax assessor-collector shall:~~

22 (1) accept electronic payment for vehicle registration renewal via the Internet;

23 (2) execute an agreement with the department as provided by the director;

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1 (3) process qualified Internet registration renewal transactions as submitted by the  
2 third-party vendor;

3 (4) communicate with the third-party vendor and applicants via email, regular mail,  
4 or other means, as specified by the director;

5 (5) reject applications that do not meet all requirements set forth in this chapter,  
6 and in Transportation Code, Chapter 502; and

7 (6) register each vehicle for a 12-month period.

8 ~~(f)(h)~~ Duties of the department. For vehicle registration renewals ~~[registrations]~~ that are  
9 submitted via the Internet, the department and its centralized third-party vendor shall promptly  
10 facilitate and mail vehicle registration insignias to applicants ~~[expire on or after January 1, 2017,~~  
11 ~~and registrations that expired prior to January 1, 2017 that are submitted for renewal on or after~~  
12 ~~July 1, 2017, the department shall promptly mail renewal registration validation stickers and~~  
13 ~~license plates to applicants].~~

14

15 §217.31. Heavy Vehicle Use Tax.

16 (a) As applicable, an applicant must provide proof of payment of the heavy vehicle use tax  
17 imposed by 26 U.S.C. §4481, et seq. and 26 C.F.R. Part 41 with an application under this chapter as  
18 required by 26 C.F.R. §41.6001-2.

19 (b) The department adopts by reference 26 C.F.R. §41.6001-2.

20

21 §217.33. Commercial Farm Motor Vehicles, Farm Trailers, and Farm Semitrailers.

22 (a) An applicant must provide a properly completed application for farm license plates.

23 Except as provided by subsection (d) of this section, the application must be accompanied by proof

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1 of the applicant's Texas Agriculture or Timber Exemption Registration Number issued by the Texas  
2 Comptroller of Public Accounts. Proof of the registration number must be:

3 (1) legible;

4 (2) current; and

5 (3) in the name of the person or dba in which the vehicle is or will be registered,  
6 pursuant to Transportation Code, §502.146 and §502.433.

7 (b) A registration renewal of farm license plates must be accompanied by proof of the  
8 applicant's Texas Agriculture or Timber Exemption Registration Number issued by the Texas  
9 Comptroller of Public Accounts.

10 (c) In accordance with Transportation Code, §502.146 and §502.433, an applicant's Texas  
11 Agriculture or Timber Exemption Registration Number may be verified through the online system  
12 established by the Comptroller.

13 (d) A farmers' cooperative society incorporated under Agriculture Code, Chapter 51, or a  
14 marketing association organized under Agriculture Code, Chapter 52 applying for or renewing the  
15 registration of farm license plates under this section is not required to submit proof of the  
16 applicant's Texas Agriculture or Timber Exemption Registration issued by the Texas Comptroller of  
17 Public Accounts.

18

19 §217.36. Refusal to Register by Local Government and Record Notation.

20 (a) Enforcement of traffic warrant. A municipality may enter into a contract with the  
21 department under Government Code, Chapter 791, to indicate in the state's motor vehicle records  
22 that the owner of the vehicle is a person for whom a warrant of arrest is outstanding for failure to  
23 appear or who has failed to pay a fine on a complaint involving a violation of a traffic law. In

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1 accordance with Transportation Code, §702.003, a county tax assessor-collector may refuse to  
2 register a motor vehicle if such a failure is indicated in the motor vehicle record for that motor  
3 vehicle. A municipality is responsible for obtaining the agreement of the county in which the  
4 municipality is located to refuse to register motor vehicles for failure to pay civil penalties imposed  
5 by the municipality.

6 (b) Refusal to register vehicle in certain counties. A county may enter into a contract with  
7 the department under Government Code, Chapter 791 to indicate in the state's motor vehicle  
8 records that the owner of the vehicle has failed to pay a fine, fee, or tax that is past due. In  
9 accordance with Transportation Code, §502.010, a county tax assessor-collector may refuse to  
10 register a motor vehicle if such a failure is indicated in the motor vehicle record for that motor  
11 vehicle.

12 (c) Record notation. A contract between the department and a county, municipality, or  
13 local authority entered into under Transportation Code §502.010 or Transportation Code §702.003  
14 will contain the terms set out in this subsection.

15 (1) To place or remove a registration denial flag on a vehicle record, the contracting  
16 entity must submit data electronically by secure file transfer protocol [~~a magnetic tape~~] or other  
17 acceptable submission medium as determined by the department in a format prescribed by the  
18 department.

19 (2) The information submitted by the contracting entity will include, at a minimum,  
20 the vehicle identification number and the license plate number of the affected vehicle.

21 (3) If the contracting entity data submission contains bad or corrupted data, the  
22 submission medium will be returned to the contracting entity with no further action by the  
23 department.

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1                   (4) The secure file transfer protocol [~~magnetic tape~~] or other submission medium  
2 must be submitted to the department from a single source within the contracting entity.

3                   (5) The submission of a secure file transfer protocol [~~magnetic tape~~] or other  
4 submission medium to the department by a contracting entity constitutes a certification by that  
5 entity that it has complied with all applicable laws.

6

7 §217.37. Fees.

8                   [~~(a)~~] The department and the county will charge required fees, and only those fees  
9 provided by statute or rule.

10                   [~~(b) A \$2 fee for a duplicate registration receipt will be charged if a receipt is printed for~~  
11 ~~the customer.~~]

12

13 §217.40. Special Registrations.

14                   (a) Purpose and scope. Transportation Code, Chapter 502, Subchapters C and I, charge the  
15 department with the responsibility of issuing special registration permits and special registration  
16 license plates, which shall be recognized as legal registration for the movement of motor vehicles  
17 not authorized to travel on Texas public highways for lack of registration or for lack of reciprocity  
18 with the state or country in which the vehicles are registered. For the department to efficiently  
19 and effectively perform these duties, this section prescribes the policies and procedures for the  
20 application and the issuance of special [~~temporary~~] registration permits and special registration  
21 license plates.

22                   (b) Permit categories. The department will issue the following categories of special  
23 registration permits.

10/24/2024

Exhibit B

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1 (1) Additional weight permits in accordance with Transportation Code, §502.434.

2 ~~[The owner of a truck, truck tractor, trailer, or semitrailer may purchase temporary additional~~  
3 ~~weight permits for the purpose of transporting the owner's own seasonal agricultural products to~~  
4 ~~market or other points for sale or processing in accordance with Transportation Code, §502.434. In~~  
5 ~~addition, such vehicles may be used for the transportation without charge of seasonal laborers~~  
6 ~~from their place of residence, and materials, tools, equipment, and supplies from the place of~~  
7 ~~purchase or storage, to a farm or ranch exclusively for use on such farm or ranch.]~~

8 ~~[(A) Additional weight permits are valid for a limited period of less than one~~  
9 ~~year.]~~

10 ~~[(B) An additional weight permit will not be issued for a period of less than~~  
11 ~~one month or extended beyond the expiration of a license plate issued under Transportation Code,~~  
12 ~~Chapter 502.]~~

13 ~~[(C) The statutory fee for an additional weight permit is based on a~~  
14 ~~percentage of the difference between the owner's annual registration fee and the annual fee for~~  
15 ~~the desired gross vehicle weight computed as follows:]~~

16 ~~[(i) one month (or 30 consecutive days) 10%;]~~

17 ~~[(ii) one quarter (three consecutive months) 30%;]~~

18 ~~[(iii) two quarters (six consecutive months) 60%; or]~~

19 ~~[(iv) three quarters (nine consecutive months) 90%.]~~

20 ~~[(D) Additional weight permits are issued for calendar quarters with the first~~  
21 ~~quarter to begin on April 1st of each year.]~~

22 ~~(A)~~~~[(E)]~~ A permit will not be issued unless the registration fee for hauling  
23 the additional weight has been paid prior to the actual hauling.

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1                            ~~(B)~~~~(F)~~ An applicant must provide proof of the applicant's Texas Agriculture  
2 or Timber Exemption Registration Number issued by the Texas Comptroller of Public Accounts.

3 Proof of the registration number must be:

4                            (i) legible;

5                            (ii) current;

6                            (iii) in the name of the person or dba in which the vehicle is or will  
7 be registered; and

8                            (iv) verifiable through the online system established by the  
9 Comptroller.

10                            (2) Annual permits in accordance with Transportation Code, §502.093.

11                            ~~(A) [Transportation Code, §502.093 authorizes the department to issue~~  
12 ~~annual permits to provide for the movement of foreign commercial vehicles that are not~~  
13 ~~authorized to travel on Texas highways for lack of registration or for lack of reciprocity with the~~  
14 ~~state or country in which the vehicles are registered.]~~ The department will issue annual permits:

15                            (i) for a 12-month period designated by the department which  
16 begins on the first day of a calendar month and expires on the last day of the last calendar month  
17 in that annual registration period; and

18                            (ii) to each vehicle or combination of vehicles for the registration  
19 fee prescribed by weight classification in Transportation Code, §502.253 and §502.255.

20                            ~~[(B) The department will not issue annual permits for the importation of~~  
21 ~~citrus fruit into Texas from a foreign country except for foreign export or processing for foreign~~  
22 ~~export.]~~

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1                                    ~~(B)~~~~(C)~~ The following exemptions apply to vehicles displaying annual  
2 permits.

3                                    ~~(i)~~ Currently registered foreign semitrailers having a gross weight  
4 in excess of 6,000 pounds used or to be used in combination with commercial motor vehicles or  
5 truck tractors having a gross vehicle weight in excess of 10,000 pounds are exempted from the  
6 requirements to pay the token fee and display the associated distinguishing license plate provided  
7 for in Transportation Code, §502.255. An annual permit is required for the power unit only. For  
8 vehicles registered in combination, the combined gross weight may not be less than 18,000  
9 pounds.

10                                   ~~(ii) Vehicles registered with annual permits are not subject to the~~  
11 ~~optional county registration fee under Transportation Code, §502.401; the optional county fee for~~  
12 ~~transportation projects under Transportation Code, §502.402; or the optional registration fee for~~  
13 ~~child safety under Transportation Code, §502.403.]~~

14                                   (C) Upon approval of an application, the department will issue one license  
15 plate for a trailer, semitrailer, or foreign commercial motor vehicle as defined in Transportation  
16 Code, §648.001(4). The license plate issued to a truck-tractor shall be installed on the front of the  
17 truck-tractor. For other types of vehicles, the license plate issued shall displayed as required by  
18 §217.27(b) of this title (relating to Vehicle Registration Insignia).

19                                   (3) 72-hour permits and 144-hour permits in accordance with Transportation Code,  
20 §502.094.

21                                   ~~(A) In accordance with Transportation Code, §502.094, the department will~~  
22 ~~issue a permit valid for 72 hours or 144 hours for the movement of commercial motor vehicles,~~



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1 trailers, semitrailers, and motor buses owned by residents of the United States, Mexico, or  
2 Canada.]

3 [(B) A 72-hour permit or a 144-hour permit is valid for the period of time  
4 stated on the permit beginning with the effective day and time as shown on the permit registration  
5 receipt.]

6 [(C) Vehicles displaying 72-hour permits or 144-hour permits are subject to  
7 vehicle safety inspection in accordance with Transportation Code, §548.051, except for:]

8 [(i) vehicles currently registered in another state of the United  
9 States, Mexico, or Canada; and]

10 [(ii) mobile drilling and servicing equipment used in the production  
11 of gas, crude petroleum, or oil, including, but not limited to, mobile cranes and hoisting  
12 equipment, mobile lift equipment, forklifts, and tugs.]

13 [(D) The department will not issue a 72-hour permit or a 144-hour permit to  
14 a commercial motor vehicle, trailer, semitrailer, or motor bus apprehended for violation of Texas  
15 registration laws. Apprehended vehicles must be registered under Transportation Code, Chapter  
16 502.]

17 [(4) Temporary agricultural permits.]

18 [(A) Transportation Code, §502.092 authorizes the department to issue a  
19 30-day temporary nonresident registration permit to a nonresident for any truck, truck tractor,  
20 trailer, or semitrailer to be used in the movement of all agriculture products produced in Texas:]

21 [(i) from the place of production to market, storage, or railhead not  
22 more than 75 miles from the place of production; or]

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1 ~~[(ii) to be used in the movement of machinery used to harvest~~

2 ~~Texas-produced agricultural products.]~~

3 ~~[(B) The department will issue a 30-day temporary nonresident registration~~

4 ~~permit to a nonresident for any truck, truck tractor, trailer, or semitrailer used to move or harvest~~

5 ~~farm products, produced outside of Texas, but:]~~

6 ~~[(i) marketed or processed in Texas; or]~~

7 ~~[(ii) moved to points in Texas for shipment from the point of entry~~

8 ~~into Texas to market, storage, processing plant, railhead or seaport not more than 80 miles from~~

9 ~~such point of entry into Texas.]~~

10 ~~[(C) The statutory fee for temporary agricultural permits is one-twelfth of~~

11 ~~the annual Texas registration fee prescribed for the vehicle for which the permit is issued.]~~

12 ~~[(D) The department will issue a temporary agricultural permit only when~~

13 ~~the vehicle is legally registered in the nonresident's home state or country for the current~~

14 ~~registration year.]~~

15 ~~[(E) The number of temporary agricultural permits is limited to three~~

16 ~~permits per nonresident owner during any one vehicle registration year.]~~

17 ~~[(F) Temporary agricultural permits may not be issued to farm licensed~~

18 ~~trailers or semitrailers.]~~

19 (c) License plate categories. The department will issue the following categories of special

20 registration license plates.

21 (1)[(5)] One-trip license plates in accordance with [permits]Transportation Code,

22 §502.095\_ [authorizes the department to temporarily register any unladen vehicle upon application

23 to provide for the movement of the vehicle for one trip, when the vehicle is subject to Texas

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1 registration and not authorized to travel on the public roadways for lack of registration or lack of  
2 registration reciprocity.]

3 [(A) Upon receipt of the \$5 fee, registration will be valid for one trip only  
4 between the points of origin and destination and intermediate points as may be set forth in the  
5 application and registration receipt.]

6 [(B) The department will issue a one-trip permit to a bus which is not  
7 covered by a reciprocity agreement with the state or country in which it is registered to allow for  
8 the transit of the vehicle only. The vehicle should not be used for the transportation of any  
9 passenger or property, for compensation or otherwise, unless such bus is operating under charter  
10 from another state or country.]

11 [(C) A one-trip permit is valid for a period up to 15 days from the effective  
12 date of registration.]

13 (A)[(D)] A one-trip license plate[permit] may not be issued for a trip which  
14 both originates and terminates outside Texas.

15 (B)[(E)] A laden motor vehicle or a laden commercial vehicle cannot display  
16 a one-trip license plate[permit]. If the vehicle is unregistered, it must operate with a 72-hour or  
17 144-hour permit.

18 (C) A one-trip license plate must be displayed as required by §217.27(b) of  
19 this title (relating to Vehicle Registration Insignia).

20 (2)[(6)] 30-day license plates in accordance with [temporary registration  
21 permits]Transportation Code, §502.095 [authorizes the department to issue a temporary  
22 registration permit valid for 30 days for a \$25 fee].

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1                   (A) A vehicle operated on a 30-day license plate [~~temporary permit~~] is not  
2 restricted to a specific route. The 30-day license plate [~~permit~~] is available for:

3                   (i) [~~(A)~~] passenger vehicles;  
4                   [~~(B) motorcycles;~~]  
5                   (ii) [~~(C)~~] private buses;  
6                   (iii) [~~(D)~~] trailers and semitrailers with a gross weight not exceeding  
7 10,000 pounds;  
8                   (iv) [~~(E)~~] light commercial vehicles not exceeding a gross weight of  
9 10,000 pounds; and  
10                  (v) [~~(F)~~] a commercial vehicle exceeding 10,000 pounds, provided the  
11 vehicle is operated unladen.

12                   (B) A 30-day license plate must be displayed as required by §217.27(b) of  
13 this title (relating to Vehicle Registration Insignia).

14                   (d) [~~(e)~~] Application process.

15                   (1) Procedure. An owner who wishes to apply for a special [~~temporary~~] registration  
16 permit or special registration license plate for a vehicle which is otherwise required to be  
17 registered in accordance with this subchapter, must do so on a form prescribed by the  
18 department.

19                   (2) Form requirements. The application form will at a minimum require:

20                   (A) the signature of the owner;

21                   (B) the name and complete address of the applicant; and

22                   (C) the vehicle description.

23                   (3) Fees and documentation. The application must be accompanied by:

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1 (A) statutorily prescribed fees, ~~[, unless the applicant is exempt from fees~~  
2 ~~under Transportation Code, §501.0236 and provides the letter specified in §217.16(c) of this title~~  
3 ~~(relating to Application for Title When Dealer Goes Out of Business);]~~

4 (B) evidence of financial responsibility:

5 (i) as required by Transportation Code, Chapter 502, Subchapter B,  
6 provided that all policies written for the operation of motor vehicles must be issued by an  
7 insurance company or surety company authorized to write motor vehicle liability insurance in  
8 Texas; or

9 (ii) if the applicant is a motor carrier as defined by §218.2 of this  
10 title (relating to Definitions), indicating that the vehicle is registered in compliance with Chapter  
11 218, Subchapter B of this title (relating to Motor Carrier Registration); and

12 (C) any other documents or fees required by law.

13 (4) Place of application.

14 (A) All applications for annual permits must be submitted directly to the  
15 department for processing and issuance.

16 (B) Additional weight permits ~~[and temporary agricultural permits]~~ may be  
17 obtained by making application with the department through the county tax assessor-collectors'  
18 offices.

19 (C) 72-hour and 144-hour permits, one-trip license plates ~~[permits]~~, and 30-  
20 day license plates ~~[temporary registration permits]~~ may be obtained by making application either  
21 with the department or the county tax assessor-collectors' offices.

22 ~~(e)[(d)]~~ Receipt for special registration permit or special registration license plate in lieu of  
23 registration. A receipt will be issued for each special registration permit or special registration

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1 license plate in lieu of registration to be carried in the vehicle during the time the special  
2 registration permit or special registration license plate is valid. [~~A one-trip or 30-day trip permit~~  
3 ~~must be displayed as required by Transportation Code, §502.095(f).~~] If the receipt is lost or  
4 destroyed, the owner must obtain a duplicate from the department or from the county office. The  
5 fee for the duplicate receipt is the same as the fee required by Transportation Code, §502.058.

6 (f)[(e)] Transfer of special registration [~~temporary~~] permits or special registration license  
7 plates.

8 (1) Special registration [~~Temporary~~] permits and special registration license plates  
9 are non-transferable between vehicles and/or owners.

10 (2) If the owner of a vehicle displaying a special registration [~~temporary~~] permit or a  
11 special registration license plate disposes of the vehicle during the time the permit or license plate  
12 is valid, the permit or license plate must be returned to the county tax assessor-collector office or  
13 department immediately.

14 (g)[(f)] Replacement permits. Vehicle owners displaying annual permits may obtain  
15 replacement permits if an annual permit is lost, stolen, or mutilated.

16 (1) The fee for a replacement annual permit is the same as for a replacement  
17 number plate, symbol, tab, or other device as provided by Transportation Code, §502.060.

18 (2) The owner shall apply directly to the department in writing for the issuance of a  
19 replacement annual permit. Such request should include a copy of the registration receipt  
20 and replacement fee.

21 (h)[(g)] Agreements with other jurisdictions. In accordance with Transportation Code,  
22 §502.091, and Chapter 648, the executive director of the department may enter into a written  
23 agreement with an authorized officer of a state, province, territory, or possession of a foreign

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1 country to provide for the exemption from payment of registration fees by nonresidents, if  
2 residents of this state are granted reciprocal exemptions. The executive director may enter into  
3 such agreement only upon:

4 (1) the approval of the governor; and

5 (2) making a determination that the economic benefits to the state outweigh all  
6 other factors considered.

7 (i)~~(h)~~ Border commercial zones.

8 (1) Texas registration required. A vehicle located in a border commercial zone must  
9 display a valid Texas registration if the vehicle is owned by a person who:

10 (A) owns a leasing facility or a leasing terminal located in Texas; and

11 (B) leases the vehicle to a foreign motor carrier.

12 (2) Exemption for trips of short duration. Except as provided by paragraph (1) of  
13 this subsection, a foreign commercial vehicle operating in accordance with Transportation Code,  
14 Chapter 648 is exempt from the display of a temporary registration permit if:

15 (A) the vehicle is engaged solely in the transportation of cargo across the  
16 border into or from a border commercial zone;

17 (B) for each load of cargo transported the vehicle remains in this state for:

18 (i) not more than 24 hours; or

19 (ii) not more than 48 hours, if:

20 (I) the vehicle is unable to leave this state within 24 hours  
21 because of circumstances beyond the control of the motor carrier operating the vehicle; and

22 (II) all financial responsibility requirements applying to this  
23 vehicle are satisfied;

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1 (C) the vehicle is registered and licensed as required by the country in which  
2 the person that owns the vehicle is domiciled or is a citizen as evidenced by a valid metal license  
3 plate attached to the front or rear exterior of the vehicle; and

4 (D) the country in which the person who owns the vehicle is domiciled or is  
5 a citizen provides a reciprocal exemption for commercial motor vehicles owned by residents of  
6 Texas.

7 (3) Exemption due to reciprocity agreement. Except as provided by paragraph (1) of  
8 this subsection, a foreign commercial motor vehicle in a border commercial zone in this state is  
9 exempt from the requirement of obtaining a Texas registration if the vehicle is currently registered  
10 in another state of the United States or a province of Canada with which this state has a reciprocity  
11 agreement that exempts a vehicle that is owned by a resident of this state and that is currently  
12 registered in this state from registration in the other state or province.

13

14 §217.41. Disabled Person License Plates and Disabled Parking Placards.

15 (a) Purpose. Transportation Code, Chapters 504 and 681, charge the department with the  
16 responsibility for issuing specially designed license plates and disabled parking placards for  
17 disabled persons. For the department to perform these duties efficiently and effectively, this  
18 section prescribes the policies and procedures for the application, issuance, and renewal of  
19 disabled person license plates and disabled parking placards.

20 (b) Issuance.

21 (1) For purposes of this section, "disabled person" means a person eligible for  
22 issuance of a license plate bearing the International Symbol of Access under Transportation Code  
23 §504.201, including a qualifying disabled veteran under §504.202(b-1).



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- 1 (2) Disabled person license plates.
- 2 (A) Eligibility. In accordance with Transportation Code §504.201 and
- 3 §504.202(b-1) and (b-2), the department will issue specially designed license plates displaying the
- 4 International Symbol of Access to permanently disabled persons or their transporters instead of
- 5 general issue [~~regular motor vehicle~~] license plates. As satisfactory proof of eligibility, an
- 6 organization that transports disabled veterans who would qualify for license plates issued under
- 7 Transportation Code §504.202(b-1) must provide a written statement from the veteran's county
- 8 service officer of the county in which a vehicle described by Transportation Code §504.202(c) is
- 9 registered or by the Department of Veterans Affairs that:
- 10 (i) the vehicle is used exclusively to transport veterans of the United
- 11 States armed forces who have suffered, as a result of military service, a service-connected
- 12 disability;
- 13 (ii) the vehicle regularly transports veterans who are eligible to
- 14 receive license plates under Subsection (b-1); and
- 15 (iii) the veterans are not charged for the transportation.
- 16 (B) Specialty license plates. The department will issue disabled person
- 17 specialty license plates displaying the International Symbol of Access that can accommodate the
- 18 identifying insignia and that are issued in accordance with §217.43 or §217.45 of this title.
- 19 (C) License plate number. Disabled person license plates will bear a license
- 20 plate number assigned by the department or will bear a personalized license plate number issued
- 21 in accordance with §217.43 or §217.45 of this title.
- 22 (3) Windshield disabled parking placards.

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1 (A) Issuance. The department will issue removable windshield disabled  
2 parking placards to temporarily or permanently disabled persons and to the transporters of  
3 permanently disabled persons, as provided under Transportation Code §§504.201, 504.202 (b-1)  
4 and (b-2), and 681.004.

5 (B) Display. A person who has been issued a windshield disabled parking  
6 placard shall hang the placard from a vehicle's rearview mirror when the vehicle is parked in a  
7 disabled person parking space or shall display the placard on the center portion of the dashboard if  
8 the vehicle does not have a rearview mirror.

9 (c) Renewal of disabled person license plates. Disabled person license plates are valid for a  
10 period of 12 months from the date of issuance and are renewable as specified in §§217.28, 217.43,  
11 and 217.45 of this title.

12 (d) Replacement.

13 (1) License plates. If a disabled person metal license plate is lost, stolen, or  
14 mutilated, the owner may obtain a replacement metal license plate by applying with a county tax  
15 assessor-collector.

16 (A) Accompanying documentation. To replace disabled person metal license  
17 plates, the owner must present the current year's registration receipt and personal identification  
18 acceptable to the county tax assessor-collector.

19 (B) Absence of accompanying documentation. If the current year's  
20 registration receipt is not available and the county tax assessor-collector cannot verify that the  
21 disabled person metal license plates were issued to the owner, the owner must reapply in  
22 accordance with this section.

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1 (2) Disabled parking placards. If a disabled parking placard becomes lost, stolen, or  
2 mutilated, the owner may obtain a new disabled parking placard in accordance with this section.

3 (e) Transfer of disabled person license plates and disabled parking placards.

4 (1) License plates.

5 (A) Transfer between persons. Disabled person license plates may not be  
6 transferred between persons. An owner who sells or trades a vehicle to which disabled person  
7 license plates have been issued shall remove the disabled person license plates from the vehicle.  
8 The owner shall return the license plates to the department and shall obtain appropriate  
9 replacement license plates to place on the vehicle prior to any transfer of ownership.

10 (B) Transfer between vehicles. Disabled person license plates may be  
11 transferred between vehicles if the county tax assessor-collector or the department can verify the  
12 plate ownership and the owner of the vehicle is a disabled person or the vehicle is used to  
13 transport a disabled person.

14 (i) Plate ownership verification may include:

15 (I) a Registration and Title System (RTS) inquiry;

16 (II) a copy of the department application for disabled person  
17 license plates; or

18 (III) the owner's current registration receipt.

19 (ii) An owner who sells or trades a vehicle with disabled person  
20 license plates must remove the plates from the vehicle.

21 (iii) The department will provide a form that persons may use to  
22 facilitate a transfer of disabled person license plates between vehicles.

23 (2) Disabled parking placards.

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1 (A) Transfer between vehicles. Disabled parking placards may be displayed  
2 in any vehicle driven by the disabled person or in which the disabled person is a passenger.

3 (B) Transfer between persons. Disabled parking placards may not be  
4 transferred between persons.

5 (f) Seizure and revocation of disabled parking placard.

6 (1) If a law enforcement officer seizes and destroys a disabled parking placard  
7 under Transportation Code §681.012, the officer shall notify the department by email.

8 (2) The person to whom the seized disabled parking placard was issued may apply  
9 for a new disabled parking placard by submitting an application to the county tax assessor-  
10 collector of the county in which the person with the disability resides or in which the applicant is  
11 seeking medical treatment.

12

13 §217.43. Military Specialty License Plates.

14 (a) Purpose and Scope. Transportation Code, Chapter 504 authorizes the department to  
15 issue military specialty license plates. This section prescribes the policies and procedures for the  
16 application, issuance, and renewal of military specialty license plates.

17 (b) Classification and fees. The department will issue specialty license plates for the  
18 military and charge fees as authorized by Transportation Code, §504.202 and Chapter 504,  
19 Subchapter D.

20 (c) Application. Applications for military specialty license plates must be made to the  
21 department and include evidence of eligibility. The evidence of eligibility may include, but is not  
22 limited to:

23 (1) an official document issued by a governmental entity;

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- 1 (2) a letter issued by a governmental entity on that agency's letterhead;
- 2 (3) discharge papers;
- 3 (4) a death certificate; or
- 4 (5) an identification card issued by any branch of the military under the jurisdiction
- 5 of the United States Department of Defense or the United States Department of Homeland
- 6 Security indicating that the member is retired.

7 (d) Period. Military specialty license plates shall be valid for 12 months from the month of  
8 issuance or for a prorated period of at least 12 months coinciding with the expiration of  
9 registration and may be replaced in accordance with §217.32 of this title (relating to Replacement  
10 of License Plates, Symbols, Tabs, and Other Devices).

11 (e) Assignment and Transfer. Military license plates may not be assigned and may only be  
12 transferred to another vehicle owned by the same vehicle owner.

13 (f) Applicability. Section 217.45 of this title (relating to Specialty License Plates, Symbols,  
14 Tabs, and Other Devices) applies to military license plates, symbols, tabs, or other devices as to:

- 15 (1) what is considered one set of license plates per vehicle as determined by vehicle  
16 type;
- 17 (2) issuance of validation tabs and insignia;
- 18 (3) stolen or replaced license plates;
- 19 (4) payment of other applicable fees;
- 20 (5) personalization, except that Congressional Medal of Honor license plates may  
21 not be personalized;

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1 (6) renewal, except that the owner of a vehicle with Congressional Medal of Honor  
2 license plates must return the documentation and specialty license plate fee, if any, directly to the  
3 department;

4 (7) refunds; and

5 (8) expiration.

6

7 §217.45. Specialty License Plates, Symbols, Tabs, and Other Devices.

8 (a) Purpose and Scope. Transportation Code, Chapters 504, 551, and 551A charge the  
9 department with providing specialty license plates, symbols, tabs, and other devices. For the  
10 department to perform these duties efficiently and effectively, this section prescribes the policies  
11 and procedures for the application, issuance, and renewal of specialty license plates, symbols,  
12 tabs, and other devices, through the county tax assessor-collectors, and establishes application  
13 fees, expiration dates, and registration periods for certain specialty license plates. This section  
14 does not apply to military license plates except as provided by §217.43 of this title (relating to  
15 Military Specialty License Plates).

16 (b) Initial application for specialty license plates, symbols, tabs, or other devices.

17 (1) Application Process.

18 (A) Procedure. An owner of a vehicle registered as specified in this  
19 subchapter who wishes to apply for a specialty license plate, symbol, tab, or other device must do  
20 so on a form prescribed by the director.

21 (B) Form requirements. The application form shall at a minimum require the  
22 name and complete address of the applicant.

23 (2) Fees and Documentation.

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1 (A) The application must be accompanied by the prescribed registration fee,  
2 unless exempted by statute.

3 (B) The application must be accompanied by the statutorily prescribed  
4 specialty license plate fee. [~~If a registration period is greater than 12 months, the expiration date  
5 of a specialty license plate, symbol, tab, or other device will be aligned with the registration period  
6 and the specialty plate fee will be adjusted to yield the appropriate fee. If the statutory annual fee  
7 for a specialty license plate is \$5 or less, it will not be prorated.~~]

8 (C) Specialty license plate fees will not be refunded after an application is  
9 submitted and the department has approved issuance of the license plate.

10 (D) The application must be accompanied by prescribed local fees or other  
11 fees that are collected in conjunction with registering a vehicle, with the exception of vehicles  
12 bearing license plates that are exempt by statute from these fees.

13 (E) The application must include evidence of eligibility for any specialty  
14 license plates. The evidence of eligibility may include, but is not limited to:

15 (i) an official document issued by a governmental entity; or  
16 (ii) a letter issued by a governmental entity on that agency's  
17 letterhead.

18 (F) Initial applications for license plates for display on Exhibition Vehicles  
19 must include a photograph of the completed vehicle.

20 (3) Place of application. Applications for specialty license plates may be made  
21 directly to the county tax assessor-collector of the county in which the owner resides or a county  
22 tax assessor-collector who is willing to accept the application, except that applications for the  
23 following license plates must be made directly to the department:

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- 1 (A) County Judge;
- 2 (B) Federal Administrative Law Judge;
- 3 (C) State Judge;
- 4 (D) State Official;
- 5 (E) U.S. Congress--House;
- 6 (F) U.S. Congress--Senate; and
- 7 (G) U.S. Judge.
- 8 (4) Gift plates.
- 9 (A) A person may purchase general distribution specialty license plates as a
- 10 gift for another person if the purchaser submits an application for the specialty license plates that
- 11 provides:
- 12 (i) the name and address of the person who will receive the license
- 13 plates; and
- 14 (ii) the vehicle identification number of the vehicle on which the
- 15 license plates will be displayed.
- 16 (B) To be valid for use on a motor vehicle, the recipient of the license plates
- 17 must file an application with the county tax assessor-collector and pay the statutorily required
- 18 registration fees in the amount as provided by Transportation Code, Chapter 502 and this
- 19 subchapter.
- 20 (c) Initial issuance of specialty license plates, symbols, tabs, or other devices.
- 21 (1) Issuance. On receipt of a completed initial application for registration,
- 22 accompanied by the prescribed documentation and fees, the department will issue specialty
- 23 license plates, symbols, tabs, or other devices to be displayed on the vehicle for which the license
- 10/24/2024 Exhibit B



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1 plates, symbols, tabs, or other devices were issued for the current registration period. If the  
2 vehicle for which the specialty license plates, symbols, tabs, or other devices are issued is currently  
3 registered, the owner must surrender the license plates currently displayed on the vehicle, along  
4 with the corresponding license receipt, before the specialty license plates may be issued.

5 (2) Classic Motor Vehicles, Classic Travel Trailers, Custom Vehicles, Street Rods, and  
6 Exhibition Vehicles.

7 (A) License plates. Texas license plates that were issued the same year as  
8 the model year of a Classic Motor Vehicle, Travel Trailer, Street Rod, or Exhibition Vehicle may be  
9 displayed on that vehicle under Transportation Code, §504.501 and §504.502, unless:

10 (i) the license plate's original use was restricted by statute to  
11 another vehicle type;

12 (ii) the license plate is a qualifying plate type that originally required  
13 the owner to meet one or more eligibility requirements, except for a plate issued under  
14 Transportation Code, §504.202; or

15 (iii) the license plate number [~~alpha-numeric pattern~~] is already in  
16 use on another vehicle.

17 (B) Validation stickers and tabs. The department will issue validation  
18 stickers and tabs for display on license plates that are displayed as provided by subparagraph (A) of  
19 this paragraph.

20 (3) Number of license plates issued.

21 (A) Two license plates. Unless otherwise listed in subparagraph (B) of this  
22 paragraph, two specialty license plates, each bearing the same license plate number, will be issued  
23 per vehicle.

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1 (B) One license plate. One license plate will be issued per vehicle for all  
2 motorcycles and for the following specialty license plates:

3 (i) Antique Vehicle (includes Antique Auto, Antique Truck, Antique  
4 Motorcycle, and Antique Bus);

5 (ii) Classic Travel Trailer;

6 (iii) Rental Trailer;

7 (iv) Travel Trailer;

8 (v) Cotton Vehicle;

9 (vi) Disaster Relief;

10 (vii) Forestry Vehicle;

11 (viii) Golf Cart;

12 (ix) Log Loader;

13 (x) Military Vehicle;

14 (xi) Package Delivery Vehicle;

15 (xii) Fertilizer; and

16 (xiii) Off-highway Vehicle.

17 (C) Registration number. The identification number assigned by the military  
18 may be approved as the registration number instead of displaying Military Vehicle license plates on  
19 a former military vehicle.

20 (4) Assignment of license plates.

21 (A) Title holder. Unless otherwise exempted by law or this section, the  
22 vehicle on which specialty license plates, symbols, tabs, or other devices is to be displayed shall be  
23 titled in the name of the person to whom the specialty license plates, symbols, tabs, or other

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1 devices is assigned, or a title application shall be filed in that person's name at the time the  
2 specialty license plates, symbols, tabs, or other devices are issued.

3 (B) Non-owner vehicle. If the vehicle is titled in a name other than that of  
4 the applicant, the applicant must provide evidence of having the legal right of possession and  
5 control of the vehicle.

6 (C) Leased vehicle. In the case of a leased vehicle, the applicant must  
7 provide a copy of the lease agreement verifying that the applicant currently leases the vehicle.

8 (5) Classification of neighborhood electric vehicles. The registration classification of  
9 a neighborhood electric vehicle, as defined by §217.3(3) of this title (relating to Motor Vehicle  
10 Titles) will be determined by whether it is designed as a 4-wheeled truck or a 4-wheeled passenger  
11 vehicle.

12 (6) Number of vehicles. An owner may obtain specialty license plates, symbols,  
13 tabs, or other devices for an unlimited number of vehicles, unless the statute limits the number of  
14 vehicles for which the specialty license plate may be issued.

15 (7) Personalized license plate numbers.

16 (A) Issuance. The department will issue a personalized license plate number  
17 subject to the exceptions set forth in this paragraph.

18 (B) Character limit. A personalized license plate number may contain no  
19 more than six alpha or numeric characters or a combination of characters. Depending upon the  
20 specialty license plate design and vehicle class, the number of characters may vary. Spaces,  
21 hyphens, periods, hearts, stars, the International Symbol of Access, or silhouettes of the state of  
22 Texas may be used in conjunction with the license plate number.

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1 (C) Personalized license plates not approved. A personalized license plate  
2 number will not be approved by the executive director if the license plate number [~~alpha-numeric~~  
3 ~~pattern~~]:

4 (i) conflicts with the department's current or proposed general issue  
5 [~~regular~~] license plate numbering system;

6 (ii) would violate §217.27 of this title (relating to Vehicle  
7 Registration Insignia), as determined by the executive director; or

8 (iii) is currently issued to another owner.

9 (D) Classifications of vehicles eligible for personalized license plates. Unless  
10 otherwise listed in subparagraph (E) of this paragraph, personalized license plates are available for  
11 all classifications of vehicles.

12 (E) Categories of license plates for which personalized license plates are not  
13 available. Personalized license plate numbers are not available for display on the following  
14 specialty license plates:

15 (i) Amateur Radio (other than the official call letters of the vehicle  
16 owner);

17 (ii) Antique Motorcycle;

18 (iii) Antique Vehicle (includes Antique Auto, Antique Truck, and  
19 Antique Bus);

20 (iv) Apportioned;

21 (v) Cotton Vehicle;

22 (vi) Disaster Relief;

23 (vii) Farm Trailer (except Go Texan II);

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- 1 (viii) Farm Truck (except Go Texan II);
- 2 (ix) Farm Truck Tractor (except Go Texan II);
- 3 (x) Fertilizer;
- 4 (xi) Forestry Vehicle;
- 5 (xii) Log Loader;
- 6 (xiii) Machinery;
- 7 (xiv) Permit;
- 8 (xv) Rental Trailer;
- 9 (xvi) Soil Conservation;
- 10 (xvii) Texas Guard;
- 11 (xviii) Golf Cart;
- 12 (xix) Package Delivery Vehicle; and
- 13 (xx) Off-highway Vehicle.

14 (F) Fee. Unless specified by statute, a personalized license plate fee of \$40  
15 will be charged in addition to any prescribed specialty license plate fee.

16 (G) Priority. Once a personalized license plate number has been assigned to  
17 an applicant, the owner shall have priority to that number for succeeding years if a timely renewal  
18 application is submitted to the county tax assessor-collector each year in accordance with  
19 subsection (d) of this section.

20 (d) Specialty license plate renewal.

21 (1) Renewal deadline. If a personalized license plate is not renewed within 60 days  
22 after its expiration date, a subsequent renewal application will be treated as an application for  
23 new personalized license plates.

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1                   (2) Length of validation. Except as provided by Transportation Code, §§504.401,  
2 504.4061, or 504.502, all specialty license plates, symbols, tabs, or other devices shall be valid for  
3 12 months from the month of issuance or for a prorated period of at least 12 months coinciding  
4 with the expiration of registration.

5                   (3) Renewal.

6                   (A) Renewal notice. Approximately 60 days before the expiration date of a  
7 specialty license plate, symbol, tab, or other device, the department will send each owner a  
8 renewal notice that includes the amount of the specialty license plate fee and the registration fee.

9                   (B) Return of notice. The owner must return the fee and any prescribed  
10 documentation to the tax assessor-collector of the county in which the owner resides or a county  
11 tax assessor-collector who is willing to accept the application, except that the owner of a vehicle  
12 with one of the following license plates must return the documentation, and specialty license plate  
13 fee, if applicable, directly to the department and submit the registration fee to a county tax  
14 assessor-collector:

15                                   (i) County Judge;

16                                   (ii) Federal Administrative Law Judge;

17                                   (iii) State Judge;

18                                   (iv) State Official;

19                                   (v) U.S. Congress--House;

20                                   (vi) U.S. Congress--Senate; and

21                                   (vii) U.S. Judge.

22                   (C) Expired license plate numbers. The department will retain a specialty  
23 license plate number for 60 days after the expiration date of the license plates if the license plates

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1 are not renewed on or before their expiration date. After 60 days the number may be reissued to a  
2 new applicant. All specialty license plate renewals received after the expiration of the 60 days will  
3 be treated as new applications.

4 (D) Issuance of validation insignia. On receipt of a completed license plate  
5 renewal application and prescribed documentation, the department will issue registration  
6 validation insignia as specified in §217.27 unless this section or other law requires the issuance of  
7 new license plates to the owner.

8 (E) Lost or destroyed renewal notices. If a renewal notice is lost, destroyed,  
9 or not received by the vehicle owner, the specialty license plates, symbol, tab, or other device may  
10 be renewed if the owner provides acceptable personal identification along with the appropriate  
11 fees and documentation to the tax assessor-collector of the county in which the owner resides or a  
12 county tax assessor-collector who is willing to accept the application. Failure to receive the notice  
13 does not relieve the owner of the responsibility to renew the vehicle's registration.

14 (e) Transfer of specialty license plates.

15 (1) Transfer between vehicles.

16 (A) Transferable between vehicles. The owner of a vehicle with specialty  
17 license plates, symbols, tabs, or other devices may transfer the specialty license plates between  
18 vehicles by filing an application through the county tax assessor-collector in which the owner  
19 resides or a county tax assessor-collector who is willing to accept the application, if the vehicle to  
20 which the license plates are transferred:

21 (i) is titled or leased in the owner's name; and

22 (ii) meets the vehicle classification requirements for that particular  
23 specialty license plate, symbol, tab, or other device.

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1 (B) Non-transferable between vehicles. The following specialty license  
2 plates, symbols, tabs, or other devices are non-transferable between vehicles:

3 (i) Antique Vehicle license plates (includes Antique Auto, Antique  
4 Truck, and Antique Bus), Antique Motorcycle license plates, and Antique tabs;

5 (ii) Classic Auto, Classic Truck, Classic Motorcycle, Classic Travel  
6 Trailer, Street Rod, and Custom Vehicle license plates;

7 (iii) Forestry Vehicle license plates;

8 (iv) Log Loader license plates;

9 (v) Golf Cart license plates;

10 (vi) Package Delivery Vehicle license plates; and

11 (vii) Off-highway Vehicle license plates.

12 (C) New specialty license plates. If the department creates a new specialty  
13 license plate under Transportation Code, §504.801, the department will specify at the time of  
14 creation whether the license plate may be transferred between vehicles.

15 (2) Transfer between owners.

16 (A) Non-transferable between owners. Specialty license plates, symbols,  
17 tabs, or other devices issued under Transportation Code, Chapter 504, Subchapters C, E, and F are  
18 not transferable from one person to another except as specifically permitted by statute.

19 (B) New specialty license plates. If the department creates a new specialty  
20 license plate under Transportation Code, §504.801, the department will specify at the time of  
21 creation whether the license plate may be transferred between owners.

22 (3) Simultaneous transfer between owners and vehicles. Specialty license  
23 plates, symbols, tabs, or other devices are transferable between owners and vehicles



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1 simultaneously only if the owners and vehicles meet all the requirements in both paragraphs (1)  
2 and (2) of this subsection.

3 (f) Replacement.

4 (1) Application. When specialty license plates, symbols, tabs, or other devices are  
5 lost, stolen, or mutilated, the owner shall apply directly to a county tax assessor-collector for the  
6 issuance of replacements.

7 (2) Temporary registration insignia. If the specialty license plate, symbol, tab, or  
8 other device is lost, destroyed, or mutilated to such an extent that it is unusable, and if issuance of  
9 a replacement license plate would require that it be remanufactured, the owner must pay the  
10 statutory replacement fee, and the department will issue a temporary tag for interim use. The  
11 owner's new specialty license plate number will be shown on the temporary tag unless it is a  
12 personalized license plate, in which case the same personalized license plate number will be  
13 shown.

14 (3) Stolen specialty license plates.

15 (A) The department or county tax assessor-collector will not approve the  
16 issuance of replacement license plates with the same personalized license plate number if the  
17 department's records indicate either the vehicle displaying the personalized license plates or the  
18 license plates are reported as stolen to law enforcement. The owner will be directed to contact the  
19 department for another personalized license plate choice.

20 (B) The owner may select a different personalized number to be issued at  
21 no charge with the same expiration as the stolen specialty license plate. On recovery of the stolen  
22 vehicle or license plates, the department will issue, at the owner's or applicant's request,  
23 replacement license plates, bearing the same personalized number as those that were stolen.

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1 (g) License plates created after January 1, 1999. In accordance with Transportation Code,  
2 §504.702, the department will begin to issue specialty license plates authorized by a law enacted  
3 after January 1, 1999, only if the sponsoring entity for that license plate submits the following  
4 items before the fifth anniversary of the effective date of the law.

5 (1) The sponsoring entity must submit a written application. The application must  
6 be on a form approved by the director and include, at a minimum:

7 (A) the name of the license plate;

8 (B) the name and address of the sponsoring entity;

9 (C) the name and telephone number of a person authorized to act for the  
10 sponsoring entity; and

11 (D) the deposit.

12 (2) A sponsoring entity is not an agent of the department and does not act for the  
13 department in any matter, and the department does not assume any responsibility for fees or  
14 applications collected by a sponsoring entity.

15 (h) Assignment procedures for state, federal, and county officials.

16 (1) State Officials. State Official license plates contain the distinguishing prefix "SO."

17 Members of the state legislature may be issued up to three sets of State Official specialty license

18 plates with the distinguishing prefix "SO," or up to three sets of State Official specialty license

19 plates that depict the state capitol, and do not display the distinguishing prefix "SO." An

20 application by a member of the state legislature, for a State Official specialty license plate, must

21 specify the same specialty license plate design for each applicable vehicle. State Official license

22 plates are assigned in the following order:

23 (A) Governor;

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- 1 (B) Lieutenant Governor;
- 2 (C) Speaker of the House;
- 3 (D) Attorney General;
- 4 (E) Comptroller;
- 5 (F) Land Commissioner;
- 6 (G) Agriculture Commissioner;
- 7 (H) Secretary of State;
- 8 (I) Railroad Commission;
- 9 (J) Supreme Court Chief Justice followed by the remaining justices based on
- 10 their seniority;
- 11 (K) Criminal Court of Appeals Presiding Judge followed by the remaining
- 12 judges based on their seniority;
- 13 (L) Members of the State Legislature, with Senators assigned in order of
- 14 district number followed by Representatives assigned in order of district number, except that in
- 15 the event of redistricting, license plates will be reassigned; and
- 16 (M) Board of Education Presiding Officer followed by the remaining
- 17 members assigned in district number order, except that in the event of redistricting, license plates
- 18 will be reassigned.
- 19 (2) Members of the U.S. Congress.
- 20 (A) U.S. Senate license plates contain the prefix "Senate" and are assigned
- 21 by seniority; and
- 22 (B) U.S. House license plates contain the prefix "House" and are assigned in
- 23 order of district number, except that in the event of redistricting, license plates will be reassigned.

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1 (3) Federal Judge.

2 (A) Federal Judge license plates contain the prefix "USA" and are assigned

3 on a seniority basis within each court in the following order:

4 (i) Judges of the Fifth Circuit Court of Appeals;

5 (ii) Judges of the United States District Courts;

6 (iii) United States Bankruptcy Judges; and

7 (iv) United States Magistrates.

8 (B) Federal Administrative Law Judge license plates contain the prefix "US"

9 and are assigned in the order in which applications are received.

10 (C) A federal judge who retired on or before August 31, 2003, and who held

11 license plates expiring in March 2004 may continue to receive federal judge license plates. A

12 federal judge who retired after August 31, 2003, is not eligible for U.S. Judge license plates.

13 (4) State Judge.

14 (A) State Judge license plates contain the prefix "TX" and are assigned

15 sequentially in the following order:

16 (i) Appellate District Courts;

17 (ii) Presiding Judges of Administrative Regions;

18 (iii) Judicial District Courts;

19 (iv) Criminal District Courts; and

20 (v) Family District Courts and County Statutory Courts.

21 (B) A particular alpha-numeric combination will always be assigned to a

22 judge of the same court to which it was originally assigned.

1 (C) A state judge who retired on or before August 31, 2003, and who held  
2 license plates expiring in March 2004 may continue to receive state judge plates. A state judge  
3 who retired after August 31, 2003, is not eligible for State Judge license plates.

4 (5) County Judge license plates contain the prefix "CJ" and are assigned by county  
5 number.

6 (6) In the event of redistricting or other license plate reallocation, the department  
7 may allow a state official to retain that official's plate number if the official has had the number for  
8 five or more consecutive years.

9 (i) Development of new specialty license plates.

10 (1) Procedure. The following procedure governs the process of authorizing new  
11 specialty license plates under Transportation Code, §504.801, whether the new license plate  
12 originated as a result of an application or as a department initiative.

13 (2) Applications for the creation of new specialty license plates. An applicant for the  
14 creation of a new specialty license plate, other than a vendor specialty plate under §217.52 of this  
15 title (relating to Marketing of Specialty License Plates through a Private Vendor), must submit a  
16 written application on a form approved by the executive director. The application must include:

17 (A) the applicant's name, address, telephone number, and other identifying  
18 information as directed on the form;

19 (B) certification on Internal Revenue Service letterhead stating that the  
20 applicant is a not-for-profit entity;

21 (C) a draft design of the specialty license plate;

22 (D) projected sales of the license plate, including an explanation of how the  
23 projected figure was established;

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1 (E) a marketing plan for the license plate, including a description of the  
2 target market;

3 (F) a licensing agreement from the appropriate third party for any  
4 intellectual property design or design element;

5 (G) a letter from the executive director of the sponsoring state agency  
6 stating that the agency agrees to receive and distribute revenue from the sale of the specialty  
7 license plate and that the use of the funds will not violate a statute or constitutional provision; and

8 (H) other information necessary for the board to reach a decision regarding  
9 approval of the requested specialty license plate.

10 (3) Review process. The board:

11 (A) will not consider incomplete applications;

12 (B) may request additional information from an applicant if necessary for a  
13 decision; and

14 (C) will consider specialty license plate applications that are restricted by  
15 law to certain individuals or groups of individuals (qualifying license plates) using the same  
16 procedures as applications submitted for license plates that are available to everyone (non-  
17 qualifying license plates).

18 (4) Request for additional information. If the board determines that additional  
19 information is needed, the applicant must return the requested information not later than the  
20 requested due date. If the additional information is not received by that date, the board will return  
21 the application as incomplete unless the board:

22 (A) determines that the additional requested information is not critical for  
23 consideration and approval of the application; and

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1 (B) approves the application, pending receipt of the additional information  
2 by a specified due date.

3 (5) Board decision. The board's decision will be based on:

4 (A) compliance with Transportation Code, §504.801;

5 (B) the proposed license plate design, including:

6 (i) whether the design appears to meet the legibility and reflectivity  
7 standards established by the department;

8 (ii) whether the design meets the standards established by the  
9 department for uniqueness;

10 (iii) other information provided during the application process;

11 (iv) the criteria designated in §217.27 as applied to the design; and

12 (v) whether a design is similar enough to an existing plate design  
13 that it may compete with the existing license plate sales; and

14 (C) the applicant's ability to comply with Transportation Code, §504.702  
15 relating to the required deposit or application that must be provided before the manufacture of a  
16 new specialty license plate.

17 (6) Public comment on proposed design. All proposed license plate designs will be  
18 considered by the board as an agenda item at a regularly or specially called open meeting. Notice  
19 of consideration of proposed license plate designs will be posted in accordance with Office of the  
20 Secretary of State meeting notice requirements. Notice of each license plate design will be posted  
21 on the department's Internet website to receive public comment at least 25 days in advance of the  
22 meeting at which it will be considered. The department will notify all other specialty license plate  
23 organizations and the sponsoring agencies who administer specialty license plates issued in

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1 accordance with Transportation Code, Chapter 504, Subchapter G, of the posting. A comment on  
2 the proposed design can be submitted in writing through the mechanism provided on the  
3 department's Internet website for submission of comments. Written comments are welcome and  
4 must be received by the department at least 10 days in advance of the meeting. Public comment  
5 will be received at the board's meeting.

6 (7) Final approval.

7 (A) Approval. The board will approve or disapprove the specialty license  
8 plate application based on all of the information provided pursuant to this subchapter at an open  
9 meeting.

10 (B) Application not approved. If the application is not approved under  
11 subparagraph (A) of this paragraph, the applicant may submit a new application and supporting  
12 documentation for the design to be considered again by the board if:

13 (i) the applicant has additional, required documentation; or

14 (ii) the design has been altered to an acceptable degree.

15 (8) Issuance of specialty license plates.

16 (A) If the specialty license plate is approved, the applicant must comply with  
17 Transportation Code, §504.702 before any further processing of the license plate.

18 (B) Approval of the license plate does not guarantee that the submitted  
19 draft license plate design will be used. The board has final approval authority of all specialty  
20 license plate designs and may adjust or reconfigure the submitted draft design to comply with the  
21 format or license plate specifications.



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1 (C) If the board, in consultation with the applicant, adjusts or reconfigures  
2 the design, the adjusted or reconfigured design will not be posted on the department's website for  
3 additional comments.

4 (9) Redesign of specialty license plate.

5 (A) Upon receipt of a written request from the applicant, the department  
6 will allow redesign of a specialty license plate.

7 (B) A request for a redesign must meet all application requirements and  
8 proceed through the approval process of a new specialty license plate as required by this  
9 subsection.

10 (C) An approved license plate redesign does not require the deposit  
11 required by Transportation Code, §504.702, but the applicant must pay a redesign cost to cover  
12 administrative expenses.

13 (j) Golf carts.

14 (1) A county tax assessor-collector may issue golf cart license plates as long as the  
15 requirements under Transportation Code, §551.403 or §551.404 are met.

16 (2) A county tax assessor-collector may only issue golf cart license plates to  
17 residents or property owners of the issuing county.

18 (3) A golf cart license plate may not be used as a registration insignia, and a golf  
19 cart may not be registered for operation on a public highway.

20 (4) The license plate fee for a golf cart license plate is \$10.

21 (k) Off-highway vehicle.

22 (1) A county tax assessor-collector may issue off-highway vehicle license plates as  
23 long as the requirements under Transportation Code, §551A.053 or §551A.055 are met.

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1 (2) An off-highway vehicle license plate may not be used as a registration insignia,  
2 and an off-highway vehicle may not be registered for operation on a public highway.

3 (3) The license plate fee for an off-highway vehicle license plate is \$10.

4 (l) Package delivery vehicle.

5 (1) A county tax assessor-collector may issue package delivery license plates as long  
6 as the requirements under Transportation Code, §§551.453, 551.454, and 551.455 are met.

7 (2) The license plate fee for a package delivery license plate is \$25 to be paid on an  
8 annual basis.

9

10 §217.46. Commercial Vehicle Registration.

11 (a) Eligibility. A motor vehicle is required to be registered as a commercial motor vehicle if  
12 it meets the definition of a commercial motor vehicle under Transportation Code, §502.001(7). [A  
13 ~~motor vehicle, other than a motorcycle or moped, designed or used primarily for the~~  
14 ~~transportation of property, including any passenger car that has been reconstructed to be used,~~  
15 ~~and is being used, primarily for delivery purposes, with the exception of a passenger car used in~~  
16 ~~the delivery of the United States mail, must be registered as a commercial vehicle.]~~

17 (b) Commercial vehicle registration classifications.

18 (1) Apportioned license plates. Apportioned license plates are issued in lieu of  
19 Combination, Motor Bus, or Truck license plates to Texas carriers who proportionally register their  
20 fleets in other states, in conformity with §217.56 of this title (relating to Registration Reciprocity  
21 Agreements).

22 (2) City bus license plates. A street or suburban bus shall be registered with license  
23 plates bearing the legend "City Bus."

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1 (3) Combination license plates.

2 (A) Specifications. A truck or truck-tractor with a gross weight in excess of  
3 10,000 pounds used or to be used in combination with a semitrailer having a gross weight in excess  
4 of 6,000 pounds, may be registered with combination license plates. Such vehicles must be  
5 registered for a gross weight equal to the combined gross weight of all the vehicles in the  
6 combination, but not less than 18,000 pounds. Only one combination license plate is required and  
7 must be displayed on the front of the truck or truck-tractor. When displaying a combination license  
8 plate, a truck or truck-tractor is not restricted to pulling a semitrailer licensed with a Token Trailer  
9 license plate and may legally pull semitrailers ~~and full trailers~~ displaying other types of Texas  
10 license plates or license plates issued out of state; however, a truck or truck-tractor displaying a  
11 combination license plate issued under Transportation Code, §502.255 may only pull a semitrailer  
12 issued a license plate from another state to the extent authorized under a registration reciprocity  
13 agreement under Transportation Code, §502.091. The following vehicles may not be registered in  
14 combination:

15 (i) trucks or truck-tractors having a gross weight of ~~less than~~  
16 10,000 pounds or less or trucks or truck-tractors to be used exclusively in combination with  
17 semitrailers having gross weights not exceeding 6,000 pounds;

18 (ii) semitrailers with gross weights of 6,000 pounds or less, or  
19 semitrailers that are to be operated exclusively with trucks or truck-tractors having gross weight of  
20 ~~less than~~ 10,000 pounds or less;

21 (iii) trucks or truck-tractors used exclusively in combination with  
22 semitrailer-type vehicles displaying Machinery, Permit, or Farm Trailer license plates;

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1 (iv) trucks or truck-tractors used exclusively in combination with  
2 travel trailers and manufactured housing;

3 (v) trucks or truck-tractors to be registered with Farm Truck or Farm  
4 Truck Tractor license plates;

5 (vi) trucks or truck-tractors and semitrailers to be registered with  
6 disaster relief license plates;

7 (vii) trucks or truck-tractors and semitrailers to be registered with  
8 Soil Conservation license plates;

9 (viii) trucks or truck-tractors and semitrailers to be registered with  
10 U.S. Government license plates or Exempt license plates issued by the State of Texas; and

11 (ix) vehicles that are to be issued special registration [~~temporary~~]  
12 permits, such as 72-Hour Permits, 144-Hour Permits, or special registration license plates, such as  
13 One Trip license plates, [~~Permits,~~] or 30-Day license plates [~~Permits~~] in accordance with  
14 Transportation Code, §502.094 and §502.095.

15 (B) Converted semitrailers. Semitrailers that are converted to [~~full~~] trailers  
16 by means of auxiliary axle assemblies will retain their semitrailer status, and such semitrailers are  
17 subject to the combination and token trailer registration requirements.

18 (C) Axle assemblies. Various types of axle assemblies that are specially  
19 designed for use in conjunction with other vehicles or combinations of vehicles may be used to  
20 increase the load capabilities of such vehicles or combinations.

21 (i) Auxiliary axle assemblies such as trailer axle converters, jeep  
22 axles, and drag axles, which are used in conjunction with truck-tractor and semitrailer  
23 combinations, are not required to be registered; however, the additional weight that is acquired by

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1 the use of such axle assemblies must be included in the combined gross weight of the  
2 combination.

3 (ii) Ready-mixed concrete trucks that have an auxiliary axle assembly  
4 installed for the purpose of increasing a load capacity of such vehicles must be registered for a  
5 weight that includes the axle assembly.

6 (D) Exchange of Combination license plates. Combination license plates  
7 shall not be exchanged for another type of registration during the registration year, except that:

8 (i) if a major permanent reconstruction change occurs, Combination  
9 license plates may be exchanged for Truck license plates, provided that a corrected title is applied  
10 for;

11 (ii) if the department initially issues Combination license plates in  
12 error, the plates will be exchanged for license plates of the proper classification;

13 (iii) if the department initially issues Truck or Trailer license plates in  
14 error to vehicles that should have been registered in combination, such license plates will be  
15 exchanged for Combination and Token Trailer license plates; or

16 (iv) if a Texas apportioned carrier acquires a combination license  
17 power unit, the Combination license plates will be exchanged for Apportioned license plates.

18 (4) Cotton Vehicle license plates. The department will issue Cotton Vehicle license  
19 plates in accordance with Transportation Code, §504.505 and §217.45 of this title (relating to  
20 Specialty License Plates, Symbols, Tabs, and Other Devices).

21 (5) Forestry Vehicle license plates. The department will issue Forestry Vehicle  
22 license plates in accordance with Transportation Code, §504.507 and §217.45 of this title.

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1           ~~[(6) In Transit license plates. The department may issue an In Transit license plate~~  
2 ~~annually to any person, firm, or corporation engaged in the primary business of transporting and~~  
3 ~~delivering by means of the full mount, saddle mount, tow bar, or any other combination, new~~  
4 ~~vehicles and other vehicles from the manufacturer or any other point of origin to any point of~~  
5 ~~destination within the State. Each new vehicle being transported, delivered, or moved under its~~  
6 ~~own power in accordance with this paragraph must display an In Transit license plate in~~  
7 ~~accordance with Transportation Code, §503.035.]~~

8           (6)[(7)] Motor Bus license plates. A motor bus as well as a taxi and other vehicles  
9 that transport passengers for compensation or hire, must display Motor Bus license plates when  
10 operated outside the limits of a city or town, or adjacent suburb, in which its company is  
11 franchised to do business.

12           (7)[(8)] Token Trailer license plates.

13           (A) Qualification. The department will issue Token Trailer license plates for  
14 semitrailers that are authorized ~~[required]~~ to be registered in combination.

15           (B) Validity. A Token Trailer license plate is valid only when it is displayed on  
16 a semitrailer that is being pulled by a truck or a truck-tractor that has been properly registered  
17 with Forestry Vehicle (in accordance with Transportation Code, §504.507), Combination (in  
18 accordance with Transportation Code, §502.255), or Apportioned (in accordance with  
19 Transportation Code, §502.091) license plates for combined gross weights that include the weight  
20 of the semitrailer, except as authorized under Transportation Code, Chapters 621 through 623.~~[,~~  
21 ~~unless exempted by Transportation Code, §502.094 and §623.011.]~~

22           (C) House-moving dollies. House-moving dollies are to be registered with  
23 Token Trailer license plates and titled as semitrailers; however, only one such dolly in a

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1 combination is required to be registered and titled. The remaining dolly (or dollies) is permitted to  
2 operate unregistered, since by the nature of its construction, it is dependent upon another such  
3 vehicle in order to function. The pulling unit must display a Combination or Apportioned license  
4 plate.

5 (D) Trailers. [~~Full trailers.~~] The department shall [~~will~~] not issue a Token  
6 Trailer license plate for a [~~full~~] trailer.

7 (8)[(9)] Tow Truck license plates. A Tow Truck license plate must be obtained for all  
8 tow trucks operating and registered in this state. The department will not issue a Tow Truck license  
9 plate unless the Texas Department of Licensing and Regulation has issued a permit for the tow  
10 truck under Occupations Code, Chapter 2308, Subchapter C.

11 (c) Application for commercial vehicle registration.

12 (1) Application form. An applicant shall apply for commercial license plates through  
13 the appropriate county tax assessor-collector or the department, as applicable, upon forms  
14 prescribed by the director and shall require, at a minimum, the following information:

15 (A) owner name and complete address;

16 (B) complete description of vehicle, including empty weight; and

17 (C) vehicle identification number or serial number.

18 (2) Empty weight determination.

19 (A) The weight of a Motor Bus shall be the empty weight plus carrying  
20 capacity, in accordance with Transportation Code, §502.055.

21 (B) The weight of a vehicle cannot be lowered below the weight indicated  
22 on a Manufacturer's Certificate of Origin unless a corrected Manufacturer's Certificate of Origin is  
23 obtained.

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1 (C) In all cases where the department questions the empty weight of a  
2 particular vehicle, the applicant should present a weight certificate from a public weight scale or  
3 the Department of Public Safety.

4 (3) Gross weight.

5 (A) Determination of Weight. The combined gross weight of vehicles  
6 registering for combination license plates shall be determined by the empty weight of the truck or  
7 truck-tractor combined with the empty weight of the heaviest semitrailer or semitrailers used or to  
8 be used in combination therewith, plus the heaviest net load to be carried on such combination  
9 during the motor vehicle registration year, provided that in no case may the combined gross  
10 weight be less than 18,000 pounds.

11 (B) Restrictions. The following restrictions apply to combined gross weights.

12 (i) After a truck or truck-tractor is registered for a combined gross  
13 weight, such weight cannot be lowered at any subsequent date during the registration year. The  
14 owner may, however, lower the gross weight when registering the vehicle for the following  
15 registration year, provided that the registered combined gross weight is sufficient to cover the  
16 heaviest load to be transported during the year and provided that the combined gross weight is  
17 not less than 18,000 pounds.

18 (ii) A combination of vehicles is restricted to a total gross weight not  
19 to exceed 80,000 pounds; however, all combinations may not qualify for 80,000 pounds unless  
20 such weight can be properly distributed in accordance with axle load limitations, and distance  
21 between axles, in accordance with Transportation Code, §621.101 or another section in  
22 Transportation Code, Chapters 621 through 623. [~~§623.011.~~]



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1 (4) Vehicle identification number or serial number. Ownership may [~~must~~] be  
2 established by a court order or by securing a bond if no vehicle identification number or serial  
3 number can be identified. Once ownership has been established, the department will assign a  
4 number upon payment of the fee.

5 (5) Accompanying documentation. Unless otherwise exempted by law, completed  
6 applications for commercial license plates shall be accompanied by:

7 (A) prescribed registration fees;

8 (B) prescribed local fees or other fees that are collected in conjunction with  
9 registering a vehicle;

10 (C) evidence of financial responsibility as required by Transportation Code,  
11 §502.046; however, if the applicant is a motor carrier as defined by §218.2 of this title (relating to  
12 Definitions), proof of financial responsibility may be in the form of a registration listing [~~or an~~  
13 ~~international stamp~~] indicating that the vehicle is registered in compliance with Chapter 218,  
14 Subchapter B of this title (relating to Motor Carrier Registration);

15 (D) an application for Texas Title in accordance with Subchapter A of this  
16 chapter, or other proof of ownership;

17 (E) proof of payment of the Federal Heavy Vehicle Use Tax, if applicable;

18 (F) an original or certified copy of the current permit issued in accordance  
19 with Occupations Code, Chapter 2308, Subchapter C, if application is being made for Tow Truck  
20 license plates; and

21 (G) other documents or fees required by law.

22 ~~[(6) Proof of payment required. Proof of payment of the Federal Heavy Vehicle Use~~  
23 ~~Tax is required for vehicles with a gross registration weight of 55,000 pounds or more, or in cases~~

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1 ~~where the vehicle's gross weight is voluntarily increased to 55,000 pounds or more. Proof of~~  
2 ~~payment shall consist of an original or photocopy of the Schedule 1 portion of Form 2290 received~~  
3 ~~by the Internal Revenue Service (IRS), or a copy of the Form 2290 with Schedule 1 attached as filed~~  
4 ~~with the IRS, along with a photocopy of the front and back of the canceled check covering the~~  
5 ~~payment to the IRS.]~~

6 ~~[(7) Proof of payment not required. Proof of payment of the Federal Heavy Vehicle~~  
7 ~~Use Tax is not required:]~~

8 ~~[(A) for new vehicles when an application for title and registration is~~  
9 ~~supported by a Manufacturer's Certificate of Origin;]~~

10 ~~[(B) on used vehicles when an application for title and registration is filed~~  
11 ~~within 60 days from the date of transfer to the applicant as reflected on the assigned title, except~~  
12 ~~that proof of payment will be required when an application for Texas title and registration is~~  
13 ~~accompanied by an out-of-state title that is recorded in the name of the applicant;]~~

14 ~~[(C) when a vehicle was previously wrecked, in storage, or otherwise out of~~  
15 ~~service and, therefore, not registered or operated during the current registration year or during~~  
16 ~~the current tax year, provided that a non-use affidavit is signed by the operator; and]~~

17 ~~[(D) as a prerequisite to registration of vehicles apprehended for operating~~  
18 ~~without registration or reciprocity or when an owner or operator purchases temporary operating~~  
19 ~~permits or additional weight.]~~

20 (d) Renewal of commercial license plates.

21 (1) Registration period. The department will establish the registration period for  
22 commercial vehicles, unless specified by statute. Commercial license plates are issued for  
23 established annual registration periods ~~[as follows.]~~

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1                   ~~[(A) March expiration. If a fleet under §217.54 of this title (relating to~~  
2 ~~Registration of Fleet Vehicles) contains a vehicle with a combination license plate, the established~~  
3 ~~annual registration period for the fleet is April 1st through March 31st.]~~

4                   ~~[(B) Five-year registration with March 31st expiration. The following license~~  
5 ~~plates are available with a five-year registration period. Registration fees for the license plates~~  
6 ~~listed below may be paid on an annual basis, or may be paid up front for the entire five-year~~  
7 ~~period:]~~

8                                 ~~[(i) Five-year Rental Trailer license plates issued for rental trailers~~  
9 ~~that are part of a rental fleet; and]~~

10                                ~~[(ii) Five-year Token Trailer license plates, available to owners of~~  
11 ~~semitrailers to be used in combination with truck tractors displaying Apportioned or Combination~~  
12 ~~license plates.]~~

13                   (2) Registration Renewal Notice. The department will send a registration renewal  
14 notice, indicating the proper registration fee and the month and year the registration expires, to  
15 each vehicle owner approximately six to eight weeks prior to the expiration of the vehicle's  
16 registration.

17                   (3) Return of registration renewal notices. Except for authorized online renewals,  
18 registration renewal notices should be returned by the vehicle owner to the department or the  
19 appropriate county tax assessor-collector, as indicated on the registration renewal notice. Unless  
20 otherwise exempted by law, registration renewal notices may be returned either in person or by  
21 mail, and shall be accompanied by:

22                                 (A) statutorily prescribed registration renewal fees;

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1 (B) prescribed local fees or other fees that are collected in conjunction with  
2 registration renewal;

3 (C) evidence of financial responsibility as required by Transportation Code,  
4 §502.046; and

5 (D) other prescribed documents or fees.

6 (4) Lost or destroyed registration renewal notice. If a registration renewal notice is  
7 lost, destroyed, or not received by the vehicle owner, the vehicle may be registered if the owner  
8 presents personal identification acceptable to the county tax assessor-collector. Failure to receive  
9 the notice does not relieve the owner of the responsibility to renew the vehicle's registration.

10 (e) Transfer of commercial vehicle license plates.

11 (1) Transfer between persons. With the exceptions noted in paragraph (3) of this  
12 subsection, when ownership of a vehicle displaying commercial vehicle license plates is  
13 transferred, application for transfer of such license plates shall be made with the county tax  
14 assessor-collector in the county in which the purchaser resides or a county tax assessor-collector  
15 who is willing to accept the application. If the purchaser does not intend to use the vehicle in a  
16 manner that would qualify it for the license plates issued to that vehicle, such license plates must  
17 be exchanged for the appropriate license plates.

18 (2) Transfer between vehicles. Commercial vehicle license plates are non-  
19 transferable between vehicles.

20 (3) Transfer of Apportioned and Tow Truck license plates. Apportioned and Tow  
21 Truck license plates are non-transferable between persons or vehicles, and become void if the  
22 vehicle to which the license plates were issued is sold.

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1 (f) Replacement of lost, stolen, or mutilated commercial vehicle license plates. An owner of  
2 lost, stolen, or mutilated commercial vehicle license plates may obtain replacement license plates  
3 by filing an Application for Replacement Plates and remitting the prescribed fee to the county tax  
4 assessor-collector or from the department.

5

6 217.50. Equipment and Vehicles Within Road Construction Projects.

7 Road construction equipment (machinery type vehicles) operating laden or unladen within  
8 the limits of a project are not required to display the \$5 machinery license plate, regardless of the  
9 intermingling of regular vehicular traffic; however, conventional commercial vehicles operating  
10 within the limits of a project shall be required to be registered with regular commercial license  
11 plates whenever traffic is allowed to intermingle. [~~A highway construction project is that section of~~  
12 ~~the highway between the warning signs giving notice of a construction area.]~~

13

14 §217.51. Change of Classification: Trucks and Truck-Tractors.

15 When a truck is converted into a truck-tractor and the registration classification is changed  
16 from "truck" to "combination," an exchange of license plates is required; however, if a truck-  
17 tractor is converted into a truck and the registration classification is changed from "combination"  
18 to "truck" the license plates shall not be exchanged, unless the change involves a major permanent  
19 reconstruction change, such as when the frame of a truck-tractor is altered to accommodate the  
20 installation of a different type bed or body. In this instance, the owner must exchange license  
21 plates and file an application for corrected title. Under no circumstances will a refund in  
22 registration fees be authorized when a combination plate is exchanged for truck license plates as  
23 the result of a reconstruction change.

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1

2 §217.52. Marketing of Specialty License Plates through a Private Vendor.

3 (a) Purpose and scope. The department will enter into a contract with a private vendor to

4 market department-approved specialty license plates in accordance with Transportation Code,

5 Chapter 504, Subchapter J. This section sets out the procedure for approval of the design,

6 purchase, and replacement of vendor specialty license plates. In this section, the license plates

7 marketed by the vendor are referred to as vendor specialty license plates.

8 (b) Application for approval of vendor specialty license plate designs.

9 (1) Approval required. The vendor shall obtain the approval of the board for each

10 license plate design the vendor proposes to market in accordance with this section and the

11 contract entered into between the vendor and the department.

12 (2) Application. The vendor must submit a written application on a form approved

13 by the executive director to the department for approval of each license plate design the vendor

14 proposes to market. The application must include:

15 (A) a draft design of the specialty license plate;

16 (B) projected sales of the license plate, including an explanation of how the

17 projected figure was determined;

18 (C) a marketing plan for the license plate including a description of the

19 target market;

20 (D) a licensing agreement from the appropriate third party for any design or

21 design element that is intellectual property; and

22 (E) other information necessary for the board to reach a decision regarding

23 approval of the requested vendor specialty license plate.

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1 (c) Review and approval process. The board will review vendor specialty license plate  
2 applications. The board:

3 (1) will not consider incomplete applications; and

4 (2) may request additional information from the vendor to reach a decision.

5 (d) Board decision.

6 (1) Decision. The decision of the board will be based on:

7 (A) compliance with Transportation Code, Chapter 504, Subchapter J;

8 (B) the proposed license plate design, including:

9 (i) whether the design meets the legibility and reflectivity standards  
10 established by the department;

11 (ii) whether the design meets the standards established by the  
12 department for uniqueness to ensure that the proposed license plate complies with Transportation  
13 Code, §504.852(c);

14 (iii) whether the license plate design can accommodate the  
15 International Symbol of Access (ISA) as required by Transportation Code, §504.201(f);

16 (iv) the criteria designated in §217.27 of this title (relating to Vehicle  
17 Registration Insignia) as applied to the design;

18 (v) whether a design is similar enough to an existing license plate  
19 design that it may compete with the existing license plate sales; and

20 (vi) other information provided during the application process.

21 (2) Public comment on proposed design. All proposed license plate designs will be  
22 considered by the board as an agenda item at a regularly or specially called open meeting. Notice

23 of consideration of proposed license plate designs will be posted in accordance with Office of the  
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1 Secretary of State meeting notice requirements. Notice of each license plate design will be posted  
2 on the department's Internet web site to receive public comment at least 25 days in advance of  
3 the meeting at which it will be considered. The department will notify all specialty license plate  
4 organizations and the sponsoring agencies who administer specialty license plates issued in  
5 accordance with Transportation Code, Chapter 504, Subchapter G, of the posting. A comment on  
6 the proposed design can be submitted in writing through the mechanism provided on the  
7 department's Internet web site for submission of comments. Written comments are welcome and  
8 must be received by the department at least 10 days in advance of the meeting. Public comment  
9 will be received at the board's meeting.

10 (e) Final approval and specialty license plate issuance.

11 (1) Approval. The board will approve or disapprove the specialty license plate  
12 application based on all of the information provided pursuant to this subchapter in an open  
13 meeting.

14 (2) Application not approved. If the application is not approved, the applicant may  
15 submit a new application and supporting documentation for the design to be considered again by  
16 the board if:

17 (A) the applicant has additional, required documentation; or

18 (B) the design has been altered to an acceptable degree.

19 (3) Issuance of approved specialty license plates.

20 (A) If the vendor's specialty license plate is approved, the vendor must  
21 submit the non-refundable start-up fee before any further design and processing of the specialty  
22 license plate.



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1 (B) Approval of the specialty license plate does not guarantee that the  
2 submitted draft specialty license plate design will be used. The board has final approval of all  
3 specialty license plate designs and will provide guidance on the submitted draft design to ensure  
4 compliance with the format and specialty license plate specifications.

5 (f) Redesign of vendor specialty license plates.

6 (1) On receipt of a written request from the vendor, the department will allow a  
7 redesign of a vendor specialty license plate.

8 (2) The vendor must pay the redesign administrative costs as provided in the  
9 contract between the vendor and the department.

10 (g) Multi-year vendor specialty license plates. Purchasers will have the option of purchasing  
11 vendor specialty license plates for a one-year, a three-year, or a five-year period.

12 (h) License plate categories and associated fees. The categories and the associated fees for  
13 vendor specialty license plates are set out in this subsection.

14 (1) Custom license plates. Custom license plates include license plates with a  
15 variety of pre-approved background and character color combinations that may be personalized  
16 with either three alpha and two or three numeric characters or two or three numeric and three  
17 alpha characters. Generic license plates on standard white sheeting with the word "Texas" that  
18 may be personalized with up to six alphanumeric characters are considered custom license plates  
19 before December 2, 2010. The fees for issuance of Custom and Generic license plates are \$150 for  
20 one year, \$400 for three years, and \$450 for five years.

21 (2) T-Plates (Premium) license plates. T-Plates (Premium) license plates may be  
22 personalized with up to seven alphanumeric characters, including the "T," on colored backgrounds

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1 or designs approved by the department. The fees for issuance of T-Plates (Premium) license plates  
2 are \$150 for one year, \$400 for three years, and \$450 for five years.

3 (3) Luxury license plates. Luxury license plates may be personalized with up to six  
4 alphanumeric characters on colored backgrounds or designs approved by the department. The fees  
5 for issuance of luxury license plates are \$150 for one year, \$400 for three years, and \$450 for five  
6 years.

7 (4) Freedom license plates. Freedom license plates include license plates with a  
8 variety of pre-approved background and character color combinations that may be personalized  
9 with up to seven alphanumeric characters. The fees for issuance of freedom license plates are  
10 \$195 for one year, \$445 for three years, and \$495 for five years.

11 (5) Background-only license plates. Background-only license plates include non-  
12 personalized license plates with a variety of pre-approved background and character color  
13 combinations and may be embossed or non-embossed.

14 (A) The fees for issuance of non-embossed, background only license plates are  
15 \$50 for one year, \$130 for three years, and \$175 for five years.

16 (B) Except as stated in subsection (h)(9)(C), the fees for embossed, background-only  
17 license plates are \$125 for one year, \$205 for three years, and \$250 for five years.

18 (6) Vendor souvenir license plates. Vendor souvenir license plates are replicas of  
19 vendor specialty license plate designs that may be personalized with up to 24 alphanumeric  
20 characters. Vendor souvenir license plates are not street legal or legitimate insignias of vehicle  
21 registration. The fee for issuance of souvenir license plates is \$40.

22 (7) Auction~~[of alphanumeric patterns]~~. The vendor may auction department-  
23 approved license plate numbers~~[alphanumeric patterns]~~ for one, three, or five year terms with

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1 options to renew indefinitely at the current price established for a one, three, or five year luxury  
2 category license plate. The purchaser of the auction license plate number [~~pattern~~] may select from  
3 the vendor background designs, including any embossed license plate designs, at no additional  
4 charge at the time of initial issuance. The auction license plate number [~~pattern~~] may be moved from  
5 one vendor design plate to another vendor design license plate as provided in subsection (n)(1) of  
6 this section. The auction license plate number [~~pattern~~] may be transferred from owner to owner as  
7 provided in subsection (l)(2) of this section.

8 (8) Embossed, personalized specialty license plates. The vendor may sell embossed,  
9 personalized specialty license plates with a variety of pre-approved background and character color  
10 combinations that may be personalized with up to seven alphanumeric characters. Except as stated in  
11 subsection (h)(7) of this section, the fees for issuance of embossed, personalized specialty license plates  
12 are \$270 for one year, \$520 for three years, and \$570 for five years. Except as stated in subsection  
13 (h)(9)(C) of this section, the fees under subsection (h)(9) of this section do not apply to an embossed,  
14 personalized specialty license plate.

15 (9) Personalization and specialty license plate fees.

16 (A) The fee for the personalization of license plates applied for prior to  
17 November 19, 2009 is \$40 if the license plates are renewed annually.

18 (B) The personalization fee for license plates applied for after November 19,  
19 2009 is \$40 if the license plates are issued pursuant to Transportation Code, Chapter 504,  
20 Subchapters G and I.

21 (C) If the license plates are renewed annually, the personalization and  
22 specialty license plate fees remain the same fee as at the time of issuance if a sponsor of a  
23 specialty license plate authorized under Transportation Code, Chapter 504, Subchapters G and I

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1 signs a contract with the vendor in accordance with Transportation Code, Chapter 504, Subchapter  
2 J, even if the board approves the specialty license plate to be an embossed specialty license plate  
3 design.

4 (i) Payment of fees.

5 (1) Payment of specialty license plate fees. The fees for issuance of vendor specialty  
6 license plates will be paid directly to the state through vendor and state systems for the license  
7 plate category and period selected by the purchaser. A person who purchases a multi-year vendor  
8 specialty license plate must pay upon purchase the full fee which includes the renewal fees.

9 (2) Payment of statutory registration fees. To be valid for use on a motor vehicle,  
10 the license plate owner is required to pay, in addition to the vendor specialty license plate fees,  
11 any statutorily required registration fees in the amount as provided by Transportation Code,  
12 Chapter 502, and this subchapter.

13 (j) Refunds. Fees for vendor specialty license plate fees will not be refunded after an  
14 application is submitted to the vendor and the department has approved issuance of the license  
15 plate.

16 (k) Replacement.

17 (1) Application. An owner must apply directly to the county tax assessor-collector  
18 for the issuance of replacement vendor specialty license plates and must pay the fee described in  
19 paragraphs [paragraph] (2) or (3) of this subsection, whichever applies.

20 (2) Lost or mutilated vendor specialty license plates. To replace vendor specialty  
21 license plates that are lost or mutilated, the owner must pay the statutory replacement fee  
22 provided in Transportation Code, §504.007.

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1 (3) Optional replacements. An owner of a vendor specialty license plate may  
2 replace vendor specialty license plates by submitting a request to the county tax assessor-collector  
3 accompanied by the payment of a \$6 fee.

4 (4) Interim replacement tags. If the vendor specialty license plates are lost or  
5 mutilated to such an extent that they are unusable, replacement specialty license plates ~~may~~ ~~[will~~  
6 ~~need to]~~ be remanufactured. The county tax assessor-collector will issue interim replacement tags for  
7 use until the replacements are available. The owner's vendor specialty license plate number will be  
8 shown on the interim replacement tags.

9 (5) Stolen vendor specialty license plates. The county tax assessor-collector will not  
10 approve the issuance of replacement vendor specialty license plates with the same license plate  
11 number if the department's records indicate that the vehicle displaying that license plate number  
12 was reported stolen or the license plates themselves were reported stolen to law enforcement.

13 (I) Transfer of vendor specialty license plates.

14 (1) Transfer between vehicles. The owner of a vehicle with vendor specialty license  
15 plates may transfer the specialty license plates between vehicles by filing an application through  
16 the county tax assessor-collector if the vehicle to which the specialty license plates are  
17 transferred:

18 (A) is titled or leased in the owner's name; and

19 (B) meets the vehicle classification requirements for that ~~[particular]~~  
20 specialty license plate.

21 (2) Transfer between owners. Vendor specialty license plates may not be  
22 transferred between persons unless the specialty license plate number ~~[pattern]~~ was initially  
23 purchased through auction as provided in subsection (h)(7) of this section. An auctioned license plate

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1 number [~~alphanumeric pattern~~] may be transferred as a specialty license plate or as a virtual pattern to  
2 be manufactured on a new background as provided under the restyle option in subsection (n)(1) of this  
3 section. In addition to the fee paid at auction, the new owner of an auctioned license plate number  
4 [~~alphanumeric pattern~~] or plate will pay the department a fee of \$25 to cover the cost of the transfer,  
5 and complete the department's prescribed application at the time of transfer.

6 (m) Gift license plates.

7 (1) A person may purchase license plates as a gift for another person if the  
8 purchaser submits a statement that provides:

9 (A) the purchaser's name and address;

10 (B) the name and address of the person who will receive the license plates;

11 and

12 (C) the vehicle identification number of the vehicle on which the license  
13 plates will be displayed or a statement that the license plates will not be displayed on a vehicle.

14 (2) To be valid for use on a motor vehicle, the recipient of the license plates must  
15 file an application with the county tax assessor-collector and pay the statutorily required  
16 registration fees in the amount as provided by Transportation Code, Chapter 502, and this  
17 subchapter.

18 (n) Restyled vendor specialty license plates. A person who has purchased a multi-year  
19 vendor specialty license plate may request a restyled license plate at any time during the term of  
20 the plate.

21 (1) For the purposes of this subsection, "restyled license plate" is a vendor specialty  
22 license plate that has a different style from the originally purchased vendor specialty license plate  
23 but:

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1 (A) is within the same price category, except if the license plate number was  
2 purchased through auction [~~pattern is an auction pattern~~] and has the same alpha-numeric  
3 characters and expiration date as the previously issued multi-year license plates; or

4 (B) is restyling from a non-embossed specialty license plate style to an  
5 embossed specialty license plate style and has the same alpha-numeric characters and expiration  
6 date as the previously issued multi-year license plates.

7 (2) The fee for each restyled license plate is:

8 (A) \$50 for restyling under subsection (n)(1)(A) of this section; or

9 (B) \$75 for restyling under subsection (n)(1)(B) of this section.

10

11 §217.53. Disposition [~~Removal~~] of License Plates and Registration Insignia upon Sale or Transfer of  
12 Motor Vehicle.

13 (a) Upon the sale or transfer of a motor vehicle to a dealer, the dealer shall remove and retain  
14 the assigned general issue license plates for disposition at the time of a subsequent purchase in  
15 accordance with §215.151(d) (relating to License Plate General Use Requirements), and the dealer shall  
16 remove and dispose of the registration insignia as provided in Transportation Code, §502.491. [~~Purpose-~~  
17 ~~Transportation Code, Chapter 502, Subchapter L and Chapter 504, Subchapter K, provide for the~~  
18 ~~removal of the license plates and registration insignia when a motor vehicle is sold or transferred.~~  
19 ~~Motor vehicles eligible for this process are limited to a passenger car or a light truck, as those~~  
20 ~~terms are defined in Transportation Code, §502.001-]~~

21 (b) Upon the sale or transfer of a motor vehicle in which neither party is a dealer, the general  
22 issue license plates remain with the motor vehicle as provided in Transportation Code, §504.901.

23 [~~Disposition of removed license plates. License plates removed from a motor vehicle by a licensed~~

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1 motor vehicle dealer or by a motor vehicle owner in a private transaction as provided in  
2 Transportation Code, ~~§502.491~~, may be:}]

3           ~~[(1) transferred to another vehicle:]~~

4                   ~~[(A) that is titled or will be titled in the same owner name as the vehicle~~  
5 ~~from which the license plates were removed;]~~

6                   ~~[(B) that is of the same vehicle classification (passenger car or light truck) as~~  
7 ~~the vehicle from which the license plates were removed; and]~~

8                   ~~[(C) upon acceptance of a request to transfer the license plate by the county~~  
9 ~~tax assessor-collector in which the application is filed as provided by Transportation Code,~~  
10 ~~§501.023 or §502.040, whichever applies;]~~

11                   ~~[(2) disposed of in a manner that renders the license plates unusable or that~~  
12 ~~ensures the license plates will not be available for fraudulent use on a motor vehicle; or]~~

13                   ~~[(3) retained by the owner of the motor vehicle from which the license plates were~~  
14 ~~removed.}]~~

15           (c) A license plate other than a general issue license plate shall be removed by the owner of a  
16 motor vehicle that is sold or transferred. Removed license plates may be transferred if eligible;  
17 otherwise, must be disposed of in a manner that renders the license plates unusable or that ensures the  
18 license plates will not be available for fraudulent use on a motor vehicle.

19           ~~[(c) Vehicle transit permit.]~~

20                   ~~[(1) Obtaining a vehicle transit permit. A person who obtains a motor vehicle in a~~  
21 ~~private transaction may obtain one vehicle transit permit (temporary single trip permit), through~~  
22 ~~the department's website at [www.txdmv.gov](http://www.txdmv.gov) if the seller or transferor has removed the license~~  
23 ~~plates and registration insignia.}]~~



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1           ~~[(2) Restrictions. The permit, which is valid only for the period shown on the~~  
2 ~~permit, may be used for operation of the motor vehicle only as provided in Transportation Code,~~  
3 ~~§502.492, and must be carried in the vehicle at all times. The permit may only be used on~~  
4 ~~passenger vehicles 6,000 pounds or less and light trucks with a gross vehicle weight of 10,000~~  
5 ~~pounds or less.]~~

6           (d) If the purchaser at a retail sale chooses to obtain replacement general issue license plates,  
7 the replaced license plates must be disposed of in a manner that renders the license plates unusable or  
8 that ensures the license plates will not be available for fraudulent use on a motor vehicle.

9

10 §217.54. Registration of Fleet Vehicles.

11           (a) Scope. A registrant may consolidate the registration of multiple motor vehicles in a fleet  
12 instead of registering each vehicle separately. A fleet may include trailers and semitrailers. Except  
13 as provided by §217.55 of this title (relating to Exempt and Alias Vehicle Registration), to  
14 consolidate registration, a registration must meet the requirements of this section.

15           (b) Eligibility. A fleet must meet the following requirements to be eligible for fleet  
16 registration.

17           (1) No fewer than 12 vehicles will be registered as a fleet;

18           (2) Vehicles may be registered in annual increments for up to eight years;

19           (3) All vehicles in a fleet must be owned by or leased to the same business entity;

20           (4) All vehicles must be vehicles that are not registered under the International

21 Registration Plan; and

22           (5) Each vehicle must currently be titled in Texas or be issued a registration receipt,

23 or the registrant must submit an application for a title or registration for each vehicle.

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1 (c) Application.

2 (1) Application for fleet registration must be in a form prescribed by the

3 department. At a minimum the form will require:

4 (A) the full name and complete address of the registrant;

5 (B) a description of each vehicle in the fleet, which may include the vehicle's

6 model year, make, model, vehicle identification number, document number, body style, gross

7 weight, empty weight, and for a commercial vehicle, manufacturer's rated carrying capacity in

8 tons;

9 (C) the existing license plate number, if any, assigned to each vehicle; and

10 (D) any other information that the department may require.

11 (2) The application must be accompanied by the following items:

12 (A) in the case of a leased vehicle, a certification that the vehicle is currently

13 leased to the person to whom the fleet registration will be issued;

14 (B) registration fees prescribed by law for the entire registration period

15 selected by the registrant;

16 (C) local fees or other fees prescribed by law and collected in conjunction

17 with registering a vehicle for the entire registration period selected by the registrant;

18 (D) evidence of financial responsibility for each vehicle as required by

19 Transportation Code, §502.046, unless otherwise exempted by law;

20 (E) annual proof of payment of Heavy Vehicle Use Tax;

21 (F) any fees that are required to be collected at the time of registration

22 under Transportation Code, §548.509 for the first year of registration under Transportation Code,

23 §502.0023; [the state's portion of the vehicle inspection fee;] and

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1 (G) any other documents or fees required by law.

2 (d) Registration period.

3 (1) The fleet owner will designate a single registration period for a fleet so the  
4 registration period for each vehicle will expire on the same date.

5 (2) The fleet registration period will begin on the first day of a calendar month and  
6 end on the last day of a calendar month.

7 (e) Registration receipt and fleet license plates.

8 (1) As evidence of registration, the department will issue a registration receipt and  
9 one or two metal fleet license plates for each vehicle in a fleet.

10 (2) The registration receipt for each vehicle shall at all times be carried in that  
11 vehicle and be available to law enforcement personnel upon request.

12 (3) A registration receipt or fleet license plate may not be transferred between  
13 vehicles, owners, or registrants.

14 (f) Fleet composition.

15 (1) A registrant may add a vehicle to a fleet at any time during the registration  
16 period. An added vehicle will be given the same registration period as the fleet and will be issued  
17 one or two metal fleet license plates and a registration receipt.

18 (2) A registrant may remove a vehicle from a fleet at any time during the  
19 registration period. After a vehicle is removed from the fleet, the fleet registrant shall either  
20 return the metal fleet license plates for that vehicle to the department or provide the department  
21 with acceptable proof that the metal fleet license plates for that vehicle have been destroyed.  
22 Credit for any vehicle removed from the fleet for the remaining full year increments can be applied

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1 to any vehicle added to the fleet or at the time of renewal. No refunds will be given if credit is not  
2 used or the account is closed.

3 (3) If the number of vehicles in an account falls below 12 during the registration  
4 period, fleet registration will remain in effect. If the number of vehicles in an account is below 12  
5 at the end of the registration period, fleet registration will be canceled. In the event of  
6 cancellation, each vehicle shall be registered separately. The registrant shall immediately either  
7 return all metal fleet license plates to the department or provide the department with acceptable  
8 proof that the metal fleet license plates have been destroyed.

9 (g) Fees.

10 (1) When a fleet is first established, the department will charge a registration fee  
11 for each vehicle for the entire registration period selected. A currently registered vehicle, however,  
12 will be given credit for any remaining time on its separate registration.

13 (2) When a vehicle is added to an existing fleet, the department will charge a  
14 registration fee that is prorated based on the number of months of fleet registration remaining. If  
15 the vehicle is currently registered, this fee will be adjusted to provide credit for the number of  
16 months of separate registration remaining.

17 (3) When a vehicle is removed from fleet registration, it will be considered to be  
18 registered separately. The vehicle's separate registration will expire on the date that the fleet  
19 registration would have expired. The registrant must pay the statutory replacement fee to obtain  
20 regular registration insignia before the vehicle may be operated on a public highway.

21 (4) In addition to the registration fees prescribed by Transportation Code, Chapter  
22 502, an owner registering a fleet under this section must pay a one-time fee of \$10 per motor  
23 vehicle, semitrailer, or trailer in the fleet. This fee is also due as follows:

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1 (A) for each vehicle added to the owner's existing fleet; and

2 (B) for each vehicle that a buyer registers as a fleet, even though the seller

3 previously registered some or all of the vehicles as a fleet under this section.

4 (h) Payment. Payment will be made in the manner prescribed by the department.

5 (i) Cancellation.

6 (1) The department will cancel registration for non-payment and lack of proof of  
7 annual payment of the Heavy Vehicle Use Tax.

8 (2) The department may cancel registration on any fleet vehicle on the anniversary  
9 date of the registration if the fleet vehicle is not in compliance with the inspection requirements  
10 under Transportation Code, Chapter 548 or the inspection requirements in the rules of the Texas  
11 Department of Public Safety.

12 (3) A vehicle with a canceled registration may not be operated on a public highway.

13 (4) If the department cancels the registration of a vehicle under this subsection, the  
14 registrant can request the department to reinstate the registration by doing the following:

15 (A) complying with the requirements for which the department canceled  
16 the registration;

17 (B) providing the department with notice of compliance on a form  
18 prescribed by the department; and

19 (C) for a registration canceled under paragraph (2) of this subsection, paying  
20 an administrative fee in the amount of \$10.

21 (5) A registrant is eligible for reinstatement of the registration only within 90  
22 calendar days of the department's notice of cancellation.

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1 (6) If a registrant fails to timely reinstate the registration of a canceled vehicle  
2 registration under this section, the registrant:

3 (A) is not entitled to a credit or refund of any registration fees for the  
4 vehicle; and

5 (B) must immediately either return the metal fleet license plates to the  
6 department or provide the department with acceptable proof that the metal fleet license plates  
7 have been destroyed.

8 (j) Inspection fee. The registrant must pay the department by the deadline listed in the  
9 department's invoice for any fees that are required to be collected at the time of registration  
10 under Transportation Code, §548.509 on an annual basis under Transportation Code, §502.0023.

11 [~~the state's portion of the vehicle inspection fee.~~]

12

13 §217.55. Exempt and Alias Vehicle Registration.

14 (a) Exempt license plate registration.

15 (1) Issuance. Pursuant to Transportation Code, §502.453 or §502.456, certain  
16 vehicles owned by and used exclusively in the service of a governmental agency, owned by a  
17 commercial transportation company and used exclusively for public school transportation services,  
18 designed and used for fire-fighting or owned by a volunteer fire department and used in the  
19 conduct of department business, privately owned and used in volunteer county marine law  
20 enforcement activities, used by law enforcement under an alias for covert criminal investigations,  
21 owned by units of the United States Coast Guard Auxiliary headquartered in Texas and used  
22 exclusively for conduct of United States Coast Guard or Coast Guard Auxiliary business and

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1 operations, or owned or leased by a non-profit emergency medical service provider are exempt  
2 from payment of a registration fee and are eligible for exempt plates.

3 (2) Application for exempt registration.

4 (A) Application. An application for exempt license plates shall be made to  
5 the county tax assessor-collector, shall be made on a form prescribed by the department, and shall  
6 contain the following information:

7 (i) vehicle description;

8 (ii) name of the exempt agency;

9 (iii) a certification by an authorized person stating that the vehicle is  
10 owned or under the control of and will be operated by the exempt agency; and

11 (iv) a certification that each vehicle listed on the application has the  
12 name of the exempt agency printed on each side of the vehicle in letters that are at least two  
13 inches high or in an emblem that is at least 100 square inches in size and of a color sufficiently  
14 different from the body of the vehicle as to be clearly legible from a distance of 100 feet, unless  
15 the applicant complies with the requirements under this section for each vehicle that is exempt by  
16 law from the inscription requirements.

17 (B) Emergency medical service vehicle.

18 (i) The application for exempt registration must contain the vehicle  
19 description, the name of the emergency medical service provider, and a statement signed by an  
20 officer of the emergency medical service provider stating that the vehicle is used exclusively as an  
21 emergency response vehicle and qualifies for registration under Transportation Code, §502.456.

22 (ii) A copy of an emergency medical service provider license issued  
23 by the Department of State Health Services must accompany the application.

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1 (C) Fire-fighting vehicle. The application for exempt registration of a fire-  
2 fighting vehicle or vehicle owned privately by a volunteer fire department and used exclusively in  
3 the conduct of department business must contain the vehicle description, including a description  
4 of any fire-fighting equipment mounted on the vehicle if the vehicle is a fire-fighting vehicle. The  
5 certification must be executed by the person who has the proper authority and shall state either:

6 (i) the vehicle is designed and used exclusively for fire-fighting; or  
7 (ii) the vehicle is owned by a volunteer fire department and is used  
8 exclusively in the conduct of its business.

9 (D) County marine law enforcement vehicle. The application for exempt  
10 registration of a privately-owned vehicle used by a volunteer exclusively in county marine law  
11 enforcement activities, including rescue operations, under the direction of the sheriff's  
12 department must include a statement signed by a person having the authority to act for a sheriff's  
13 department verifying that fact.

14 (E) United States Coast Guard Auxiliary vehicle. The application for exempt  
15 registration of a vehicle owned by units of the United States Coast Guard Auxiliary headquartered  
16 in Texas and used exclusively for conduct of United States Coast Guard or Coast Guard Auxiliary  
17 business and operation, including search and rescue, emergency communications, and disaster  
18 operations, must include a statement by a person having authority to act for the United States  
19 Coast Guard Auxiliary that the vehicle or trailer is used exclusively in fulfillment of an authorized  
20 mission of the United States Coast Guard or Coast Guard Auxiliary, including search and rescue,  
21 emergency communications, or disaster operations.

22 (F) Motor vehicles owned and used by state-supported institutions. If the  
23 applicant is exempt from the inscription requirements under Education Code §51.932, the



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1 applicant must present a certification that each vehicle listed on the application is exempt from  
2 the inscription requirements under Education Code §51.932.

3 (3) Exception. A vehicle may be exempt from payment of a registration fee but  
4 display license plates other than exempt license plates if the vehicle is not registered under  
5 subsection (b) of this section.

6 (A) If the applicant is a law enforcement office, the applicant must present a  
7 certification that each vehicle listed on the application will be dedicated to law enforcement  
8 activities.

9 (B) If the applicant is exempt from the inscription requirements under  
10 Transportation Code, §721.003, the applicant must present a certification that each vehicle listed  
11 on the application is exempt from inscription requirements under Transportation Code, §721.003.  
12 The applicant must also provide a citation to the section that exempts the vehicle.

13 (C) If the applicant is exempt from the inscription requirements under  
14 Transportation Code, §721.005 the applicant must present a certification that each vehicle listed  
15 on the application is exempt from inscription requirements under Transportation Code, §721.005.  
16 The applicant must also provide a copy of the order or ordinance that exempts the vehicle.

17 (b) Affidavit for issuance of exempt registration under an alias.

18 (1) On receipt of an affidavit for alias exempt registration, approved by the  
19 executive administrator of an exempt law enforcement agency, the department will issue alias  
20 exempt license plates for a vehicle and register the vehicle under an alias for the law enforcement  
21 agency's use in covert criminal investigations.

22 (2) The affidavit for alias exempt registration must be in a form prescribed by the  
23 director and must include the vehicle description, a sworn statement that the vehicle will be used

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1 in covert criminal investigations, and the signature of the executive administrator or the executive  
2 administrator's designee as provided in paragraph (3) of this subsection. The vehicle registration  
3 insignia of any vehicles no longer used in covert criminal investigations shall be surrendered  
4 immediately to the department.

5 (3) The executive administrator, by annually filing an authorization with the  
6 director, may appoint a staff designee to execute the affidavit. A new authorization must be filed  
7 when a new executive administrator takes office.

8 (4) The letter of authorization must contain a sworn statement delegating the  
9 authority to sign the affidavit to a designee, the name of the designee, and the name and the  
10 signature of the executive administrator.

11 (5) The affidavit for alias exempt registration must be accompanied by an ~~by a~~  
12 ~~title]~~ application required by the department to create the alias record of vehicle registration and  
13 title as outlined in §217.13 of this title (relating to Alias Certificate of Title)~~under §217.103 of this~~  
14 ~~title (relating to Restitution Liens)].~~ The application must contain the information required by the  
15 department to create the alias record of vehicle registration and title.

16 (c) Replacement of exempt registration.

17 (1) If a metal exempt license plate is lost, stolen, or mutilated, a properly executed  
18 application for metal exempt license plates must be submitted to the county tax assessor-  
19 collector.

20 (2) An application for replacement metal exempt license plates must contain the  
21 vehicle description, original license number, and the sworn statement that the license plates  
22 furnished for the vehicle have been lost, stolen, or mutilated and will not be used on any other  
23 vehicle.

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1 (d) Title requirements. Unless exempted by statute, a vehicle must be titled at the time the  
2 exempt registration is issued.

3 (e) Extended Registration of County Fleet Vehicles.

4 (1) Subsections (a)(2), (a)(3)(B), and (c) of this section do not apply under this  
5 subsection.

6 (2) The owner of the exempt county fleet must file a completed application for  
7 exempt county fleet registration on a form prescribed by the department, and shall contain the  
8 following information:

9 (A) vehicle description;

10 (B) name of the exempt agency;

11 (C) a certification by an authorized person stating that the vehicle is owned  
12 by and used exclusively in the service of the county;

13 (D) a certification that each vehicle listed on the application has the name  
14 of the exempt agency printed on each side of the vehicle in letters that are at least two inches high  
15 or in an emblem that is at least 100 square inches in size and of a color sufficiently different from  
16 the body of the vehicle as to be clearly legible from a distance of 100 feet, unless the applicant  
17 complies with the requirements under this section for each vehicle that is exempt by law from the  
18 inscription requirements; and

19 (E) designation of a single registration period for the fleet to ensure that the  
20 registration period for each vehicle will expire on the same last day of a calendar month.

21 (3) The application for exempt county fleet registration must be accompanied by  
22 any fees that are required to be collected at the time of registration under Transportation Code,

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1 §548.509 for the first year of registration under Transportation Code, §502.0025. [the state's  
2 portion of the vehicle inspection fees.]

3 (4) As evidence of registration, the department will issue a registration receipt and  
4 one or two metal exempt fleet license plates for each vehicle in the exempt county fleet. The  
5 registration receipt for each vehicle must be carried in that vehicle at all times and be made  
6 available to law enforcement personnel upon request. The registration receipt and exempt fleet  
7 license plates may not be transferred between vehicles, owners, or registrants.

8 (5) An owner may add or remove a vehicle from an exempt county fleet at any time  
9 during the registration period. An added vehicle will be given the same registration period as the  
10 other vehicles in the exempt county fleet and will be issued a registration receipt and one or two  
11 metal exempt fleet license plates. Upon the removal of a vehicle from the exempt county fleet, the  
12 owner of the vehicle shall dispose of the registration receipt and shall either return the metal  
13 exempt fleet license plates to the department or provide the department with acceptable proof  
14 that the metal exempt fleet license plates have been destroyed.

15 (6) An owner must pay the department by the deadline listed in the department's  
16 invoice for any fees that are required to be collected at the time of registration under  
17 Transportation Code, §548.509 on an annual basis under Transportation Code, §502.0025. [the  
18 state's portion of the vehicle inspection fee.] Payment shall be made in the manner prescribed by  
19 the department.

20 (7) The department may cancel registration on an exempt county fleet or any  
21 vehicle in an exempt county fleet on the anniversary date of the registration if the vehicle is not in  
22 compliance with Transportation Code §502.0025, this subsection, the inspection requirements  
23 under Transportation Code Chapter 548, or the inspection requirements in the rules of the Texas

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1 Department of Public Safety. A vehicle with a canceled registration may not be operated on a  
2 public highway.

3 (8) If the department cancels the registration of a vehicle in an exempt county fleet  
4 under subsection (e)(7) of this section, the owner may request that the department reinstate the  
5 registration. To request reinstatement, the owner must comply with the requirements that led the  
6 department to cancel the registration and must provide the department with notice of compliance  
7 on a form prescribed by the department. An owner is eligible for reinstatement of the registration  
8 of a vehicle in an exempt county fleet if the department receives the owner's request for  
9 reinstatement and proof of compliance no later than 90 calendar days after the date of the  
10 department's notice of cancellation. If the department does not timely receive an owner's request  
11 to reinstate the registration, the owner must immediately do the following:

12 (A) either return all metal exempt county fleet license plates to the  
13 department or provide the department with acceptable proof that the metal exempt county fleet  
14 license plates have been destroyed; and

15 (B) dispose of the registration receipt in a manner prescribed by the  
16 department.

17 (9) If a metal exempt county fleet license plate is lost, stolen, or mutilated, the  
18 owner may request a new metal exempt county fleet license plate from the department. The  
19 request must include the following:

20 (A) a certification that the previously issued metal exempt county fleet  
21 license plate furnished for the vehicle has been lost, stolen, or mutilated and that the new metal  
22 exempt county fleet license plate will not be used on any other vehicle;

23 (B) the vehicle description; and

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1 (C) the original license plate number, if applicable.

2

3 §217.56. Registration Reciprocity Agreements.

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

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

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

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

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

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

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1 (5) Regional Service Center--A department office which provides specific services to  
2 the public, including replacement titles, bonded title notices of determination [~~rejection letters~~],  
3 and apportioned registration under the International Registration Plan (IRP).

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

7 (c) Multilateral agreements.

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

11 (2) International Registration Plan.

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

18 (B) Adoption. The department adopts by reference the January 1, 2024,  
19 [~~2022~~] version of the IRP. The department also adopts by reference the January 1, 2016, version of  
20 the IRP Audit Procedures Manual. In the event of a conflict between this section and the IRP or the  
21 IRP Audit Procedures Manual, the IRP and the IRP Audit Procedures Manual control. Copies of the  
22 documents are available online at [www.irponline.org](http://www.irponline.org) or on request to the department. [~~for review~~]

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1 in the Motor Carrier Division, Texas Department of Motor Vehicles. Copies are also available on  
2 request.]

3 (C) Application.

4 (i) An applicant must submit an application to the department on a  
5 form prescribed by the director, along with additional documentation as required by the director.

6 An applicant shall provide the department with a copy of the applicant's receipt under the Unified  
7 Carrier Registration System Plan and Agreement under 49 U.S.C. §14504a (UCR) to prove the  
8 applicant is currently registered under UCR if the applicant is required to register under UCR.

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

11 (D) Fees. Upon receipt of the applicable fees in the form as provided by  
12 §209.23 of this title (relating to Methods of Payment), the department will issue one or two license  
13 plates and a cab card for each vehicle registered.

14 (E) Display of License Plates and Cab Cards.

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

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



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

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

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

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

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

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

2 (iii) the distance must be adjusted, and the adjustment results in a

3 shortage of registration fees due Texas or any other IRP jurisdiction.

4 (H) Refunds. If an audit conducted under subparagraph (F) of this paragraph

5 reveals an overpayment of fees to Texas or any other IRP jurisdiction, the department will refund

6 the overpayment of registration fees in accordance with Transportation Code, §502.195 and the

7 IRP. Any registration fees refunded to a carrier for another jurisdiction will be deducted from

8 registration fees collected and transmitted to that jurisdiction.

9 (I) Cancellation or revocation. The director or the director's designee may

10 cancel or revoke a registrant's apportioned registration and all privileges provided by the IRP as

11 authorized by the following:

12 (i) the IRP; or

13 (ii) Transportation Code, Chapter 502.

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

15 (i) Notice. If a registrant is assessed additional registration fees, as

16 provided in subparagraph (G) of this paragraph, and the additional fees are not paid by the due

17 date provided in the notice or it is determined that a registrant's apportioned license plates and

18 privileges should be canceled or revoked, as provided in subparagraph (I) of this paragraph, the

19 director or the director's designee will mail a notice by certified mail to the last known address of

20 the registrant. The notice will state the facts underlying the assessment, cancellation, or

21 revocation; the effective date of the assessment, cancellation, or revocation; and the right of the

22 registrant to request a conference as provided in clause (ii) of this subparagraph.

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

15 (iii) Appeal. If a conference held in accordance with clause (ii) of this  
16 subparagraph fails to resolve matters in the registrant's favor, the registrant may submit an appeal under  
17 §224.122 of this title (relating to Appeal of Decision Regarding Assessment, Cancellation, or Revocation  
18 Under §217.56). An appeal will be governed by Chapter 224 of this title (relating to Adjudicative  
19 Practice and Procedure) and Transportation Code, Chapter 502.

20 (K) Reinstatement.

21 (i) The director or the director's designee will reinstate apportioned  
22 registration to a previously canceled or revoked registrant if all applicable fees and assessments

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1 due on the previously canceled or revoked apportioned account have been paid and the applicant  
2 provides proof of an acceptable recordkeeping system for a period of no less than 60 days.

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

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

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

12 (I) deny initial issuance of apportioned registration;

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

15 (III) deny renewal of apportioned registration; or

16 (IV) suspend current apportioned registration.

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

22 (M) Temporary cab card.

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

5 (I) Texas title as prescribed by Transportation Code, Chapter  
6 501 and Subchapter A of this chapter (relating to Motor Vehicle Titles); or

7 (II) registration receipt to evidence title for registration  
8 purposes only (Registration Purposes Only) as provided for in Transportation Code, §501.029 and  
9 §217.24 of this title (relating to Vehicle Last Registered in Another Jurisdiction).

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

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

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

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

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

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

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

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

16

17 **STATUTORY AUTHORITY.** The department adopts a repeal to Chapter 217 under Transportation Code  
18 §551.202, which identifies the operation on roadways of electric personal assistive mobility devices.

19 **CROSS REFERENCE TO STATUTE.** The adopted repeal would implement Transportation Code Chapter  
20 551.

21

22 Text.

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1 ~~[217.34. Electric Personal Assistive Mobility Device.]~~

2 ~~[The owner of an electric personal assistive mobility device, as defined by Transportation~~  
3 ~~Code, §551.201, is not required to register it. The device may only be operated on a residential~~  
4 ~~street, roadway, or public highway in accordance with Transportation Code, §551.202.]~~

5

6

**SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS**

7

**43 TAC §§217.71, 217.74, AND 217.75**

8

9 **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
10 department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the  
11 department authority to adopt rules to administer Transportation Code Chapter 502, Registration of  
12 Vehicles; Transportation Code §502.040, which authorizes the department to prescribe the process and  
13 procedures for applying for a motor vehicle registration; Transportation Code §502.059, which  
14 authorizes the department to adopt rules providing for an automated registration process;  
15 Transportation Code §520.003, which authorizes the department to adopt rules to administer  
16 Transportation Code §520, Miscellaneous Provisions; Transportation Code §520.004, which authorizes  
17 the department to adopt rules to establish standards for uniformity and service quality for counties  
18 conducting registration and titling services; Transportation Code §520.0055, as created by HB 718, gives  
19 the department authority to mandate motor vehicle dealers use a department designated electronic  
20 system to submit title and registration applications to county tax assessor-collectors for motor vehicle  
21 transactions; and Transportation Code §1002.001, which authorizes the board to adopt rules that are  
22 necessary and appropriate to implement the powers and the duties of the department, as well as the  
23 statutes referenced throughout the this preamble.

10/24/2024

Exhibit B

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1 **CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code  
2 Chapters 502 and 520.

3

4 Text.

5 §217.71. Automated and Web-Based Vehicle Registration and Title Systems.

6 (a) Purpose.

7 (1) Transportation Code, Chapters 501 and 502, charge the department with the  
8 responsibility for issuing titles and registering vehicles operating on the roads, streets, and  
9 highways of the state.

10 (2) To provide a more efficient, cost-effective system for registering and titling  
11 vehicles, submitting title and registration records to county tax assessor-collectors and the  
12 department, maintaining records, improving inventory control of accountable items, and collecting  
13 and reporting of applicable fees consistent with those statutes, the department has designed:

14 (A) an automated system known as the registration and title system. This  
15 system expedites registration and titling processes, provides a superior level of customer service to  
16 the owners and operators of vehicles, and facilitates availability of the department's motor vehicle  
17 records for official law enforcement needs. Automated equipment compatible with the  
18 registration and title system is indispensable to the operational integrity of the system; and

19 (B) a web-based system known as webDEALER. This system expedites  
20 registration and titling processes, provides a superior level of customer service to the owners and  
21 operators of vehicles, and facilitates availability of the department's motor vehicle records for  
22 official law enforcement needs.



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1                   (3) This subchapter prescribes the policies and procedures under which the  
2 department may make the automated equipment available to a county tax assessor-collector as  
3 designated agent of the state for processing title and vehicle registration documents and the  
4 policies and procedures ~~[for users who opt]~~ to use webDEALER.

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

7                   (1) Automated equipment--Equipment associated with the operation of the  
8 registration and titling system, including, but not limited to, microcomputers, printers, software,  
9 and cables.

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

11                   (3) Executive director--The executive director of the Texas Department of Motor  
12 Vehicles.

13                   (4) Fair share allocation--The amount of automated equipment determined by the  
14 department to be effective at providing a reasonable level of service to the public. This amount  
15 will be determined on transaction volumes, number of county substations, and other factors  
16 relating to a particular county's need.

17                   (5) RTS--The department's registration and title system.

18                   (6) Title application--A form as defined by §217.2 of this title (relating to  
19 Definitions), and includes the electronic process provided by the department that captures the  
20 information required by the department to create a motor vehicle title record.

21                   (7) webDEALER--The department's web-based titling and registration system used  
22 to submit title applications to county tax assessor-collectors and the department. This term

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1 includes any other web-based system which facilitates electronic submission of title applications,  
2 including webSALVAGE, eTITLE, and webLIEN.

3

4 §217.74. webDEALER Access, Use, and Training. [~~Access to and Use of webDEALER.~~]

5 (a) Each county tax assessor-collector shall request access to, and accept title applications  
6 submitted through, webDEALER. A county tax assessor-collector must utilize webDEALER in order  
7 to accept a title application in the county as provided by subsections (b) and (c) of this section.

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

13 (c) A motor vehicle dealer who holds [~~holder of~~] a general distinguishing number (holder)  
14 [~~who wishes to become a user of webDEALER~~] must contact each county tax assessor-collector to  
15 whom they submit title applications for webDEALER access. The county must provide the holder  
16 access. A holder must obtain access from each county [~~tax assessor-collector~~] to whom the user  
17 submits title applications. All active holders must obtain access to webDEALER in advance of July 1,  
18 2025. If a holder does not have webDEALER access by April 30, 2025, the department may provide  
19 the holder access to webDEALER in the county where the holder is located.

20 (d) A county tax assessor-collector may authorize a deputy appointed by the county tax  
21 assessor-collector in accordance with subchapter H of this chapter (relating to Deputies) to utilize  
22 webDEALER.

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

4 (f) When submitting a title application through webDEALER, a user must:

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

8 (A) arial font;

9 (B) black ink; and

10 (C) a size of 1/4" height x 2 1/4" length;

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

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

16 (g) Required webDEALER training. A holder described under subsection (c) and required to  
17 process title and registration transactions through webDEALER in accordance with Transportation  
18 Code, Section 520.0055, and each user accessing webDEALER under the holder's account must  
19 complete webDEALER training conducted by the department by April 30, 2025. New users created  
20 on or after April 30, 2025, must complete webDEALER training before being given webDEALER  
21 permissions.

22 (1) Required training will include, at a minimum, training regarding transactions  
23 performed in webDEALER and proper use of the system.

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1                   (2) A holder or user who has had access to webDEALER for more than six months  
2 and submitted more than 100 transactions within the system as of October 1, 2024, is not required  
3 to take the webDEALER training under this section.

4                   (3) Failure for holders and users accessing webDEALER under the holder’s account  
5 to complete the required training as outlined in this section shall result in denial of access to  
6 webDEALER.

7

8 §217.75. Required Training on the Registration and Title System and Identification of Fraud.

9           (a) Required training. A person performing registration or titling services through RTS,  
10 including a department employee, department contractor, county tax assessor-collector employee,  
11 or full service deputy as defined by §217.162(6) of this title (relating to Definitions), must complete  
12 a training program as prescribed by this section. Required training will include, at a minimum:

13                   (1) training regarding transactions performed in RTS; and

14                   (2) identification of fraudulent activity related to vehicle registration and titling.

15           (b) Online training. The department will make required training for county tax assessor-  
16 collector employees and full service deputies available through the department's online training  
17 system.

18           (c) Registration and Title System training for county tax assessor-collector staff and full  
19 service deputies. To satisfy the training requirements under subsection (a)(1) of this section, a  
20 county tax assessor-collector employee or full service deputy must complete each training course  
21 associated with the permissions that person is assigned in RTS. A person completes a training  
22 course when the person obtains a score of at least 80 percent on the course test, and the training

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1 is verified. This section does not limit the number of times or how often a person may take a  
2 training course or test.

3 (1) A county tax assessor-collector or county tax assessor-collector's system  
4 administrator must create accounts for and assign permissions in RTS to each employee or full  
5 service deputy who will be given access to RTS based on that person's job duties as determined by  
6 the county tax assessor-collector or the county tax assessor-collector's system administrator.

7 (2) The department will assign training content for specific permissions in RTS.

8 (3) A person must take required training using the person's individually assigned  
9 training identifier for the department's online training system.

10 (4) The department will enable a permission on completion of required training.

11 ~~[(5) A person with permissions in RTS on or before the effective date of this section  
12 must complete required training under this section by August 31, 2020. A person who has not been  
13 assigned permissions in RTS on or before the effective date of this section must complete all  
14 required training before permissions are enabled by the department.]~~

15 (5)~~[(6)]~~ If new training is made available for a new or existing permission ~~[after~~  
16 ~~August 31, 2020,]~~ a person with permissions enabled before the new training is made available  
17 must complete the required training within 120 days of the department's notification that the  
18 training is available. A county employee, or full service deputy, who is on leave on the date of the  
19 department's notification that the new training is available, for at least 120 days thereafter, and  
20 due to circumstances beyond that person's control, as determined by the county tax assessor-  
21 collector may have an additional 14 days upon returning to work to complete the new training.

22 (d) Failure to complete required training.

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1 (1) Except as provided in paragraph (2) of this subsection, the department will  
2 disable a permission if a person fails to complete required training for the permission within the  
3 timeframes required by this section.

4 (2) The department will not disable a permission for a county tax assessor-collector  
5 employee or a full service deputy if the person timely submits their score for each required  
6 training course; however, the department will disable the person's permission if the department  
7 determines that the submitted score is not at least 80 percent.

8 (3) A disabled permission may be enabled by using the process to complete training  
9 and enable permissions in subsection (c) of this section.

10

11

**SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES**

12

**43 TAC §§217.81-217.86, 217.88, and 217.89**

13

14 **STATUTORY AUTHORITY.** The department adopts amendments to Chapter 217 under Transportation Code,

15 §501.0041, which gives the department authority to adopt rules to administer Transportation Code,

16 Chapter 501, Certificate of Title Act; Transportation Code, §501.030, which authorizes the department to

17 adopt rules governing identification number inspections for motor vehicles brought into the state;

18 Transportation Code, §501.0925, which authorizes the department to adopt rules governing the issuance

19 of titles to insurance companies; Transportation Code, §501.097, which authorizes the department to

20 prescribe the process and procedures for applying for nonrepairable and salvage vehicle titles;

21 Transportation Code, §501.1003, which authorizes the department to require salvage dealers to report

22 nonrepairable and salvage motor vehicles that are dismantled, scrapped or destroyed and to surrender

23 ownership documents for such vehicles; and Transportation Code, §1002.001, which authorizes the board

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1 to adopt rules that are necessary and appropriate to implement the powers and the duties of the  
2 department, as well as the statutes referenced throughout this preamble.

3 **CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code  
4 Chapter 501; and Occupations Code Chapter 2302.

5

6 Text.

7 §217.81. Purpose and Scope.

8 Transportation Code, Chapter 501, Subchapter E, charges the department with the responsibility  
9 of issuing titles for nonrepairable [~~non-repairable~~] and salvage motor vehicles [~~vehicle titles~~] and  
10 titles [~~certificates of title~~] for rebuilt salvage motor vehicles. For the department to efficiently and  
11 effectively issue the vehicle titles [~~and certificates of title~~], maintain records, collect the applicable fees,  
12 and ensure the proper application by motor vehicle owners, this subchapter prescribes the policies and  
13 procedures for the application for and issuance of vehicle titles for nonrepairable [~~non-repairable~~] and  
14 salvage motor vehicles, and titles for rebuilt salvage motor vehicles.

15

16 §217.82. Definitions.

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

19 (1) Casual sale--sale as defined by Transportation Code, §501.091(2) [~~The sale by a~~  
20 ~~salvage vehicle dealer, insurance company, or salvage pool operator of not more than five nonrepairable~~

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1 ~~or salvage motor vehicles to the same person during a calendar year. The term does not include a sale to~~  
2 ~~a salvage vehicle dealer or the sale of an export-only motor vehicle to a person who is not a resident of~~  
3 ~~the United States].~~

4 (2) Certificate of title--title as defined by Transportation Code, §501.002(1-a) [~~A written~~  
5 ~~instrument that may be issued solely by and under the authority of the department and that reflects the~~  
6 ~~transferor, transferee, vehicle description, license plate and lien information, and rights of survivorship~~  
7 ~~agreement as specified in Subchapter A of this chapter or as required by the department].~~

8 (3) Application for Title--A form prescribed by the director of the department's Vehicle  
9 Titles and Registration Division that reflects the information required by the department to create a  
10 motor vehicle title record.

11 (4) Damage--damage as defined by Transportation Code, §501.091(3) [~~Sudden damage~~  
12 ~~to a motor vehicle caused by the motor vehicle being wrecked, burned, flooded, or stripped of major~~  
13 ~~component parts. The term does not include gradual damage from any cause, sudden damage caused by~~  
14 ~~hail, or any damage caused only to the exterior paint of the motor vehicle].~~

15 (5) Date of sale--The date of the transfer of possession of a specific vehicle from a seller  
16 to a purchaser.

17 (6) Department--The Texas Department of Motor Vehicles.

18 (7) Export-only sale--The sale of a nonrepairable or salvage motor vehicle, by a salvage  
19 vehicle dealer, including a salvage pool operator acting as agent for an insurance company, or a  
20 governmental entity, to a person who resides outside the United States.



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1 (8) Flood damage--A title remark that is initially indicated on a nonrepairable or salvage  
2 vehicle title to denote that the damage to the vehicle was caused exclusively by flood and that is carried  
3 forward on subsequent title issuance.

4 (9) Insurance company--as defined by Transportation Code, §501.091(5) ~~[A person~~  
5 ~~authorized to write automobile insurance in this state or an out-of-state insurance company that pays a~~  
6 ~~loss claim for a motor vehicle in this state].~~

7 (10) Manufacturer's certificate of origin--A form prescribed by the department showing  
8 the original transfer of a new motor vehicle from the manufacturer to the original purchaser, whether  
9 importer, distributor, dealer, or owner, and when presented with an application for title, showing, on  
10 appropriate forms prescribed by the department, each subsequent transfer between distributor and  
11 dealer, dealer and dealer, and dealer and owner.

12 (11) Metal recycler--A person as defined by Transportation Code §501.091(7). ~~[who:]~~

13 ~~[(A) is predominately engaged in the business of obtaining ferrous or nonferrous~~  
14 ~~metal that has served its original economic purpose to convert the metal, or sell the metal for~~  
15 ~~conversion, into raw material products consisting of prepared grades and having an existing or potential~~  
16 ~~economic value;]~~

17 ~~[(B) has a facility to convert ferrous or nonferrous metal into raw material~~  
18 ~~products consisting of prepared grades and having an existing or potential economic value, by a method~~  
19 ~~other than the exclusive use of hand tools, including the processing, sorting, cutting, classifying,~~  
20 ~~cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the~~  
21 ~~metal; and]~~

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1                                   ~~[(C) sells or purchases the ferrous or nonferrous metal solely for use as raw~~  
2 ~~material in the production of new products.]~~

3                                   (12) Motor vehicle--A vehicle described by Transportation Code, §501.002(17).

4                                   (13) Nonrepairable motor vehicle--A motor vehicle as defined by Transportation Code,  
5 §501.091(9).

6                                   (14) Nonrepairable vehicle title--title as defined by Transportation Code, §501.091(10) [A  
7 ~~document that evidences ownership of a nonrepairable motor vehicle~~].

8                                   (15) Nonrepairable record of title--title as defined by Transportation Code, §501.091(10-  
9 a).

10                                   (16)[(15)] Out-of-state buyer--buyer as defined by Transportation Code, §501.091(11) [A  
11 ~~person licensed in an automotive business by another state or jurisdiction if the department has listed~~  
12 ~~the holders of such a license as permitted purchasers of salvage motor vehicles or nonrepairable motor~~  
13 ~~vehicles based on substantially similar licensing requirements and on whether salvage vehicle dealers~~  
14 ~~licensed in Texas are permitted to purchase salvage motor vehicles or nonrepairable motor vehicles in~~  
15 ~~the other state or jurisdiction~~].

16                                   (17)[(16)] Out-of-state ownership document--A negotiable document issued by another  
17 jurisdiction that the department considers sufficient to prove ownership of a nonrepairable or salvage  
18 motor vehicle and to support issuance of a comparable Texas certificate of title for the motor vehicle.  
19 The term does not include a title issued by the department, including a:

20                                   (A) regular certificate of title;

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1 (B) nonrepairable vehicle title;

2 (C) salvage vehicle title;

3 (D) salvage certificate;

4 (E) Certificate of Authority to Demolish a Motor Vehicle; or

5 (F) any other ownership document issued by the department.

6 (18) ~~[(17)]~~ Person--An individual, partnership, corporation, trust, association, or other  
7 private legal entity.

8 (19) ~~[(18)]~~ Rebuilt salvage ~~[certificate of]~~ title--A ~~[regular certificate of]~~ title evidencing  
9 ownership of a nonrepairable motor vehicle that was issued a nonrepairable vehicle title prior to  
10 September 1, 2003, or salvage motor vehicle that has been rebuilt.

11 (20) ~~[(19)]~~ Salvage motor vehicle--A motor vehicle, regardless of the year model:

12 (A) that ~~[is]~~:

13 (i) is damaged or is missing a major component part to the extent that  
14 the cost of repairs exceeds the actual cash value of the motor vehicle immediately before the damage; or

15 (ii) ~~[damaged and]~~ comes into this state under an out-of-state ownership  
16 document that states on its face "accident damage," "flood damage," "inoperable," "rebuildable,"  
17 "salvageable," or similar notation, and is not an out-of-state ownership document with a "rebuilt," "prior  
18 salvage," or similar notation, or a nonrepairable motor vehicle; and

19 (B) does not include:

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1 (i) a motor vehicle for which an insurance company has paid a claim for  
2 repairing hail damage, or theft, unless the motor vehicle was damaged during the theft and before  
3 recovery to the extent that the cost of repair exceeds the actual cash value of the motor vehicle  
4 immediately before the damage;

5 (ii) the cost of materials or labor for repainting the motor vehicle; or

6 (iii) sales tax on the total cost of repairs.

7 ~~(21)[(20)]~~ Salvage vehicle dealer--dealer as defined by Transportation Code,  
8 §501.091(17) [A person engaged in this state in the business of acquiring, selling, dismantling, repairing,  
9 rebuilding, reconstructing, or otherwise dealing in nonrepairable motor vehicles or salvage motor  
10 vehicles or used parts, including a person who is in the business of a salvage vehicle dealer, regardless of  
11 whether the person holds a license issued by the department to engage in the business. The term does  
12 not include a person who casually repairs, rebuilds, or reconstructs fewer than three salvage motor  
13 vehicles in the same calendar year].

14 ~~(22)[(21)]~~ Salvage vehicle title--title as defined by Transportation Code, §501.091(16) [A  
15 document issued by the department that evidences ownership of a salvage motor vehicle].

16 ~~(23)~~ Salvage record of title--title as defined by Transportation Code, §501.091(16-a).

17

18 §217.83. Requirement for Nonrepairable [~~Non-repairable~~] or Salvage Vehicle Title or Nonrepairable or  
19 Salvage Record of Title.

20 (a) Determination of condition of vehicle.

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1 (1) Salvage motor vehicle. When a vehicle is damaged, the actual cash value of the  
2 motor vehicle immediately before the damage and the cost of repairs shall be used to determine  
3 whether the damage is sufficient to classify the motor vehicle as a salvage motor vehicle.

4 (2) Nonrepairable [~~Non-repairable~~] motor vehicle. When a vehicle is damaged, the  
5 actual cash value of the motor vehicle immediately before the damage and the cost of repairs, or any  
6 [~~alternate~~] method commonly used by the insurance industry, shall be used to determine whether the  
7 damage is sufficient to classify the motor vehicle as a nonrepairable [~~non-repairable~~] motor vehicle.

8 (3) The actual cash value of the motor vehicle is the market value of a motor vehicle as  
9 determined:

10 (A) from publications commonly used by the automotive and insurance  
11 industries to establish the values of motor vehicles; or

12 (B) if the entity determining the value is an insurance company, by any other  
13 procedure recognized by the insurance industry, including market surveys, that is applied in a uniform  
14 manner.

15 (4) The cost of repairs, including parts and labor, shall be determined by:

16 (A) using a manual of repair costs or other instrument that is generally  
17 recognized and used in the motor vehicle industry to determine those costs; or

18 (B) an estimate of the actual cost of the repair parts and the estimated labor  
19 costs computed by using hourly rate and time allocations that are reasonable and commonly assessed in  
20 the repair industry in the community in which the repairs are performed.

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- 1 (5) The cost of repairs does not include:
- 2 (A) the cost of:
- 3 (i) repairs related to gradual damage to a motor vehicle;
- 4 (ii) repairs related to hail damage; or
- 5 (iii) materials and labor for repainting or when the damage is solely to
- 6 the exterior paint of the motor vehicle; or
- 7 (B) sales tax on the total cost of repairs.
- 8 (b) Who must apply.
- 9 (1) An insurance company licensed to do business in this state that acquires ownership
- 10 or possession of a nonrepairable [~~non-repairable~~] or salvage motor vehicle that is covered by a
- 11 [~~certificate of~~] title issued by this state or a manufacturer's certificate of origin shall obtain a
- 12 nonrepairable [~~non-repairable~~] or salvage vehicle title or nonrepairable or salvage record of title, as
- 13 provided by §217.84 of this title (relating to Application for Nonrepairable [~~Non-repairable~~] or Salvage
- 14 Vehicle Title or Nonrepairable or Salvage Record of Title), before selling or otherwise transferring the
- 15 nonrepairable [~~non-repairable~~] or salvage motor vehicle, except as provided by subsection (c) of this
- 16 section.
- 17 (2) A salvage vehicle dealer shall obtain a Nonrepairable [~~Non-repairable~~] or Salvage
- 18 Vehicle Title or Nonrepairable or Salvage Record of Title, or comparable out-of-state ownership
- 19 document, before selling or otherwise transferring the motor vehicle, except as provided by §217.88(b)

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1 of this title (relating to Sale, Transfer, or Release of Ownership of a Nonrepairable [~~Non-repairable~~]or  
2 Salvage Motor Vehicle).

3 (3) A person, other than an insurance company or salvage vehicle dealer, who acquires  
4 ownership of a nonrepairable [~~non-repairable~~]or salvage motor vehicle that has not been issued a  
5 nonrepairable [~~non-repairable~~]vehicle title, a salvage vehicle title, or a comparable out-of-state  
6 ownership document, shall obtain a nonrepairable [~~non-repairable~~]or salvage vehicle title or  
7 nonrepairable or salvage record of title, as provided by §217.84, before selling or otherwise transferring  
8 the motor vehicle, unless the motor vehicle will be dismantled, scrapped, or destroyed.

9 (c) Owner-retained vehicles.

10 [(1) An owner may retain a vehicle only as provided by this subsection and if the vehicle  
11 was titled in Texas before it became a salvage or non-repairable vehicle.]

12 (1)[(2)] When an insurance company pays a claim on a nonrepairable [~~non-repairable~~]or  
13 salvage motor vehicle and does not acquire ownership of the motor vehicle, the company shall submit  
14 through webDEALER to the department before the 31st day after the date of the payment of the claim,  
15 on a form prescribed by the department, a report stating that:

16 (A) the insurance company has paid a claim on the nonrepairable [~~non-~~  
17 ~~repairable~~]or salvage motor vehicle; and

18 (B) the insurance company has not acquired ownership of the  
19 nonrepairable [~~non-repairable~~] or salvage motor vehicle.

20 (2)[(3)] Upon receipt of the report described in paragraph (2) of this subsection, the  
21 department will place an appropriate notation on the motor vehicle record to prevent registration and

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1 transfer of ownership prior to the issuance of a salvage or nonrepairable [~~non-repairable~~] vehicle title or  
2 salvage or nonrepairable record of title.

3 (3)[(4)] The owner who retained the nonrepairable [~~non-repairable~~] or salvage motor  
4 vehicle to which this subsection applies shall obtain a nonrepairable [~~non-repairable~~] or salvage vehicle  
5 title or nonrepairable or salvage record of title, as provided by §217.84, before selling or otherwise  
6 transferring the nonrepairable [~~non-repairable~~] or salvage motor vehicle.

7 [(5) Until a non-repairable or salvage vehicle title, or a comparable out-of-state  
8 ownership document, has been issued for an owner retained non-repairable or salvage vehicle, the  
9 owner of the motor vehicle may not sell or otherwise transfer ownership of the vehicle.]

10 (4)[(6)] The owner of an owner retained nonrepairable [~~non-repairable~~] or salvage  
11 motor vehicle may not operate or permit operation of the motor vehicle on a public highway, until the  
12 motor vehicle is rebuilt, titled as a rebuilt salvage motor vehicle or rebuilt nonrepairable [~~non-repairable~~]  
13 motor vehicle, if applicable, and is registered in accordance with Subchapter B of this chapter.

14 (d) Self-insured vehicles. The owner of a nonrepairable [~~non-repairable~~] or salvage motor vehicle  
15 that is self-insured and that has been removed from normal operation by the owner shall apply to the  
16 department for a nonrepairable [~~non-repairable~~] or salvage vehicle title or nonrepairable or salvage  
17 record of title, as provided by §217.84, before the 31st day after the damage occurred, and before selling  
18 or otherwise transferring ownership of the nonrepairable [~~non-repairable~~] or salvage motor vehicle.

19 (e) Casual sales. A salvage vehicle dealer, salvage pool operator, or insurance company that  
20 acquires a nonrepairable [~~non-repairable~~] or salvage motor vehicle shall apply to the department for a



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1 nonrepairable [~~non-repairable~~] or salvage vehicle title or nonrepairable or salvage record of title, in  
2 accordance with §217.84, prior to offering the motor vehicle for sale in a casual sale.

3 (f) Export-only vehicles. A salvage vehicle dealer, including a salvage pool operator acting as  
4 agent for an insurance company, or governmental entity that acquires a nonrepairable [~~non-repairable~~]  
5 or salvage motor vehicle and offers it for sale to a non-United States resident shall apply to the  
6 department for a nonrepairable [~~non-repairable~~] or salvage vehicle title, as provided by §217.84, before  
7 selling or otherwise transferring the nonrepairable [~~non-repairable~~] or salvage motor vehicle and before  
8 delivery of the nonrepairable [~~non-repairable~~] or salvage motor vehicle to the buyer. A salvage vehicle  
9 dealer or governmental entity shall maintain records of all export-only nonrepairable [~~non-repairable~~] or  
10 salvage motor vehicle sales as provided by §217.88(g).

11 (g) Voluntary application. A person who owns or acquires a motor vehicle that is not a  
12 nonrepairable [~~non-repairable~~] or salvage motor vehicle may voluntarily, and on proper application, as  
13 provided by §217.84, apply for a nonrepairable [~~non-repairable~~] or salvage vehicle title or nonrepairable  
14 or salvage record of title.

15  
16 §217.84. Application for Nonrepairable or Salvage Vehicle Title or Nonrepairable or Salvage Record of  
17 Title.

18 (a) Place of application. The owner of a nonrepairable or salvage motor vehicle who is required  
19 to obtain or voluntarily chooses to obtain a nonrepairable or salvage vehicle title, as provided by §217.83  
20 of this title (relating to Requirement for Nonrepairable [~~Non-repairable~~] or Salvage Vehicle Title or  
21 Nonrepairable or Salvage Record of Title), shall apply for a nonrepairable or salvage vehicle title or

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1 nonrepairable or salvage record of title by submitting an application, the required accompanying  
2 documentation, and the statutory fee to the department.

3 (b) Information on application. An applicant for a nonrepairable or salvage vehicle title or  
4 nonrepairable or salvage record of title shall submit an application on a form prescribed by the  
5 department. A completed form, in addition to any other information required by the department, must  
6 include:

7 (1) the name and current address of the owner;

8 (2) a description of the motor vehicle, including the model year, make, body style, and  
9 vehicle identification number;

10 (3) a statement describing whether the motor vehicle is a nonrepairable or salvage  
11 motor vehicle;

12 (4) whether the damage was caused exclusively by flood;

13 (5) a description of the damage to the motor vehicle;

14 (6) the odometer reading and brand, or the word "exempt" if the motor vehicle is  
15 exempt from federal and state odometer disclosure requirements, if the motor vehicle is a salvage motor  
16 vehicle;

17 (7) the name and mailing address of any lienholder and the date of lien, as provided by  
18 subsection (e) of this section; and

19 (8) the signature of the applicant or the applicant's authorized agent and the date the  
20 ~~[certificate of]~~ title application was signed.

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1 (c) Accompanying documentation. A nonrepairable or salvage vehicle title or nonrepairable or  
2 salvage record of title application must be supported, at a minimum, by:

3 (1) evidence of ownership, as described by subsection (d)(1) or (3) of this section, if the  
4 applicant is an insurance company that is unable to locate one or more of the owners;

5 (2) an odometer disclosure statement properly executed by the seller of the motor  
6 vehicle and acknowledged by the purchaser, if the motor vehicle is less than 10 model years old and the  
7 motor vehicle is a salvage motor vehicle; and

8 (3) a release of any liens.

9 (d) Evidence of nonrepairable or salvage motor vehicle ownership.

10 (1) Evidence of nonrepairable or salvage motor vehicle ownership properly assigned to  
11 the applicant must accompany the application for a nonrepairable or salvage vehicle title or  
12 nonrepairable or salvage record of title, except as provided by paragraph (2) of this subsection. Evidence  
13 must include documentation sufficient to show ownership to the nonrepairable or salvage motor vehicle,  
14 such as:

15 (A) a Texas [~~Certificate of~~] Title;

16 (B) a certified copy of a Texas [~~Certificate of~~] Title;

17 (C) a manufacturer's certificate of origin;

18 (D) a Texas Salvage Certificate;

19 (E) a nonrepairable vehicle title or record of title;

20 (F) a salvage vehicle title or record of title;

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1 (G) a comparable ownership document issued by another jurisdiction, except  
2 that if the applicant is an insurance company, evidence must be provided indicating that the insurance  
3 company is:

4 (i) licensed to do business in Texas; or

5 (ii) not licensed to do business in Texas, but has paid a loss claim for the  
6 motor vehicle in this state; or

7 (H) a photocopy of the inventory receipt or a title and registration verification  
8 evidencing surrender to the department of the negotiable evidence of ownership for a motor vehicle as  
9 provided by §217.86 of this title (relating to Dismantling, Scrapping, or Destruction of Motor Vehicles),  
10 and if the evidence of ownership surrendered was from another jurisdiction, a photocopy of the front  
11 and back of the surrendered evidence of ownership.

12 (2) An insurance company that acquires ownership or possession of a nonrepairable or  
13 salvage motor vehicle through payment of a claim may apply for a nonrepairable or salvage vehicle title  
14 to be issued in the insurance company's name without obtaining an ownership document or if it  
15 received an ownership document without the proper assignment of the owner if the company is unable  
16 to obtain a title from the owner, in accordance with paragraph (1) of this subsection, and the application  
17 is not made earlier than the 30th day after the date of payment of the claim. The application must also  
18 include:

19 (A) a statement that the insurance company has provided at least two written  
20 notices to the owner and any lienholder attempting to obtain the title or proper assignment of title for  
21 the motor vehicle;

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1 (B) a statement that the insurance company paid a loss claim for the vehicle that  
2 was accepted; and

3 (C) any unassigned or improperly assigned title in the insurance company's  
4 possession.

5 (3) An insurance company that acquires, through payment of a claim, ownership or  
6 possession of a salvage motor vehicle or nonrepairable motor vehicle covered by an out-of-state  
7 ownership document may obtain a salvage ~~vehicle title~~ or nonrepairable vehicle title or salvage or  
8 nonrepairable record of title in accordance with paragraph (1) or (2) of this subsection if:

9 (A) the motor vehicle was damaged, stolen, or recovered in this state; or

10 (B) the motor vehicle owner from whom the company acquired ownership  
11 resides in this state.

12 (4) A salvage pool operator may apply for title consistent with Transportation Code,  
13 §501.0935. ~~[in the name of the salvage pool operator by providing to the department:]~~

14 ~~[(A) documentation from the insurance company that:]~~

15 ~~[(i) the salvage pool operator, on request of an insurance company, was~~  
16 ~~asked to take possession of the motor vehicle subject to an insurance claim and the insurance company~~  
17 ~~subsequently denied coverage or did not take ownership of the vehicle; and]~~

18 ~~[(ii) the name and address of the owner of the motor vehicle and the~~  
19 ~~lienholder, if any; and]~~

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1                                   ~~[(B) proof that the salvage pool operator, before the 31st day after receiving the~~  
2 ~~information from the insurance company, sent a notice to the owner and any lienholder informing them~~  
3 ~~that:]~~

4                                   ~~[(i) the motor vehicle must be removed from the location specified in~~  
5 ~~the notice not later than the 30th day after the date the notice is mailed; and]~~

6                                   ~~[(ii) if the motor vehicle is not removed within the time specified in the~~  
7 ~~notice, the salvage pool operator will sell the motor vehicle and retain from the proceeds any costs~~  
8 ~~actually incurred by the operator in obtaining, handling, and disposing of the motor vehicle, except for~~  
9 ~~charges:]~~

10                                   ~~[(i) that have been or are subject to being reimbursed by a third~~  
11 ~~party; and]~~

12                                   ~~[(ii) for storage or impoundment of the motor vehicle.]~~

13                                   (5) Proof of notice under this subsection consists of:

14                                   (A) the validated receipts for registered or certified mail and return receipt or an  
15 electronic certified mail receipt, including signature receipt; and

16                                   (B) any unopened certified letters returned by the post office as unclaimed,  
17 undeliverable, or with no forwarding address.

18                                   (e) Recordation of lien on nonrepairable and salvage vehicle titles. If the motor vehicle is a  
19 salvage motor vehicle, a new lien or a currently recorded lien may be recorded on the salvage vehicle

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1 title. If the motor vehicle is a nonrepairable motor vehicle, only a currently recorded lien may be  
2 recorded on the nonrepairable vehicle title.

3 (f) Issuance. Upon receipt of a completed nonrepairable or salvage vehicle title application,  
4 accompanied by the statutory application fee and the required documentation, the department will,  
5 before the sixth business day after the date of receipt, issue a nonrepairable or salvage vehicle title or  
6 nonrepairable or salvage record of title, as appropriate.

7 (1) If the condition of salvage is caused exclusively by flood, a "Flood Damage" notation  
8 will be reflected on the face of the document and will be carried forward upon subsequent title issuance.

9 (2) If a lien is recorded on a nonrepairable or salvage vehicle title, the vehicle title will be  
10 mailed to the lienholder. For proof of ownership purposes, the owner will be mailed a receipt or printout  
11 of the newly established motor vehicle record, indicating a lien has been recorded.

12 (3) A nonrepairable vehicle title will state on its face that the motor vehicle may:

13 (A) not be repaired, rebuilt, or reconstructed;

14 (B) not be issued a regular [~~certificate of~~] title or registered in this state;

15 (C) not be operated on a public highway; and

16 (D) may only be used as a source for used parts or scrap metal.

17

18 §217.85. Replacement of Nonrepairable [~~Non-repairable~~] or Salvage Motor Vehicle Ownership

19 Documents.

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1 (a) Location. Applications for certified copies of ownership documents for nonrepairable [~~non-~~  
2 ~~repairable~~] or salvage motor vehicles will only be processed at the department's Austin headquarters  
3 office.

4 (b) Notation. The certified copy will contain the words "Certified Copy" and the date issued, and  
5 the motor vehicle record will be noted accordingly until ownership of the nonrepairable [~~non-repairable~~]  
6 or salvage motor vehicle is transferred. Then the notation will be eliminated from the new [~~certificate of~~]  
7 title and from the motor vehicle record.

8 (c) Replacement of nonrepairable [~~non-repairable~~] or salvage vehicle titles. If a  
9 nonrepairable [~~non-repairable~~] or salvage vehicle title is lost or destroyed, the department will issue a  
10 certified copy of the ownership document type originally issued, except as provided by subsection (d)(2)  
11 of this section, to the motor vehicle owner, lienholder, or verifiable agent on submission of verifiable  
12 proof and payment of the appropriate fee as provided in §217.7 of this title (relating to Replacement of  
13 Title).

14 (d) Replacement of nonrepairable [~~non-repairable~~] or salvage ownership documents issued prior  
15 to September 1, 2003.

16 (1) If a salvage certificate of title issued by this state prior to September 1, 2003, is lost  
17 or destroyed, the department will issue a certified copy of a salvage vehicle title, to the motor vehicle  
18 owner, lienholder, or verifiable agent on proper application, submission of verifiable proof, and payment  
19 of the appropriate fee as provided in §217.7.

20 (2) If a nonrepairable [~~non-repairable~~] certificate of title or salvage certificate issued by  
21 this state prior to September 1, 2003, is lost or destroyed, the department will issue a salvage vehicle



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1 title to the motor vehicle owner, lienholder, or verifiable agent on proper application, submission of  
2 verifiable proof, and payment of the appropriate fee as provided in §217.7.

3

4 §217.86. Dismantling, Scrapping, or Destruction of Motor Vehicles.

5 (a) A person who acquires ownership of a nonrepairable [~~non-repairable~~] or salvage motor  
6 vehicle for the purpose of dismantling, scrapping, or destruction shall, not later than the 30th day after  
7 the motor vehicle was acquired:

8 (1) submit to the department a report, on a form prescribed by the department:

9 (A) stating that the motor vehicle will be dismantled, scrapped, or destroyed;

10 and

11 (B) certifying that all unexpired license plates and registration validation stickers  
12 have been removed from the motor vehicle, in accordance with Occupations Code, §2302.252; and

13 (2) surrender to the department the properly assigned ownership document.

14 (b) The person shall:

15 (1) maintain records of each motor vehicle that will be dismantled, scrapped, or  
16 destroyed, as provided by Chapter 221, Subchapter D of this title (relating to Records); and

17 (2) store all unexpired license plates and registration validation stickers removed from  
18 those vehicles in a secure location.

19 (c) The department will issue the person a receipt with surrender of the report and ownership  
20 documents.

10/24/2024

Exhibit B

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1            (d) For purposes of dismantling, scrapping, or destruction, a nonrepairable or salvage motor  
2 vehicle may only be transferred to a metal recycler upon issuance of a receipt as provided in subsection  
3 (c) of this section. The transfer shall be documented on a form prescribed by the department and be  
4 included with the transfer of the vehicle along with the receipt as provided in subsection (c) of this  
5 section.

6            (e)[(d)] License plates and registration validation stickers removed from vehicles reported under  
7 subsection (a)(1) of this section may be destroyed upon receipt of the acknowledged report from the  
8 department.

9            (f)[(e)] The department will place an appropriate notation on motor vehicle records for which  
10 ownership documents have been surrendered to the department.

11            (g)[(f)] Not later than 60 days after the motor vehicle is delivered to the metal recycler for  
12 purposes of the vehicle being dismantled, scrapped, or destroyed, the person shall report to the  
13 department and provide evidence that the motor vehicle has been dismantled, scrapped, or destroyed.

14

15 §217.88. Sale, Transfer, or Release of Ownership of a Nonrepairable [~~Non-repairable~~] or Salvage Motor  
16 Vehicle.

17            (a) Sale, transfer or release with [~~With~~] a nonrepairable [~~non-repairable~~] or salvage motor  
18 vehicle title or nonrepairable or salvage record of title. The ownership of a motor vehicle for which a  
19 nonrepairable [~~non-repairable~~] vehicle title, nonrepairable [~~non-repairable~~] record of title, salvage  
20 vehicle title, salvage record of title, or a comparable out-of-state ownership document has been issued,

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1 including a motor vehicle that has a "Flood Damage" notation on the title, may be sold, transferred, or  
2 released to anyone.

3 (b) Sale, transfer or release without ~~[Without]~~ a nonrepairable ~~[non-repairable]~~ or salvage motor  
4 vehicle title or nonrepairable or salvage record of title shall be consistent with Transportation Code,  
5 §501.095(a). ~~[If a non-repairable vehicle title, non-repairable record of title, salvage vehicle title, salvage~~  
6 ~~record of title, or a comparable out-of-state ownership document has not been issued for a non-~~  
7 ~~repairable or salvage motor vehicle, only a salvage vehicle dealer, used automotive parts recycler, metal~~  
8 ~~recycler, insurance company, or governmental entity may sell, transfer, or otherwise release ownership~~  
9 ~~of the motor vehicle. Such person may only sell, transfer, or otherwise release ownership of a motor~~  
10 ~~vehicle to which this subsection applies to:]~~

11 ~~[(1) a salvage vehicle dealer;]~~

12 ~~[(2) a used automotive parts recycler;]~~

13 ~~[(3) a metal recycler;]~~

14 ~~[(4) a governmental entity; or]~~

15 ~~[(5) an insurance company.]~~

16 (c) Sale of self-insured nonrepairable ~~[non-repairable]~~ or salvage motor vehicle. The owner of a  
17 self-insured nonrepairable ~~[non-repairable]~~ or salvage motor vehicle that has been damaged and  
18 removed from normal operation shall obtain a nonrepairable ~~[non-repairable]~~ or salvage vehicle title or  
19 nonrepairable or salvage record of title before selling or otherwise transferring ownership of the motor  
20 vehicle.

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1 (d) Casual sales. A salvage vehicle dealer, salvage pool operator, or insurance company may sell  
2 up to five nonrepairable [~~non-repairable~~] or salvage motor vehicles, for which nonrepairable [~~non-~~  
3 ~~repairable~~] or salvage vehicle titles or nonrepairable or salvage record of title have been issued, to a  
4 person, not to include those specified in Transportation Code, §501.091(2)(A-C), in a casual sale during a  
5 calendar year.

6 (e) Records of casual sales.

7 (1) A salvage vehicle dealer, salvage pool operator, or insurance company must maintain  
8 records of each casual sale made during the previous 36 months, in accordance with Transportation  
9 Code, §501.108, that at a minimum contain:

10 (A) the date of sale;

11 (B) the sales price;

12 (C) the name and address of the purchaser;

13 (D) a legible photocopy of a form of current photo identification as specified in  
14 §217.7(b) of this title (Relating to Replacement of Title) [~~the purchaser's government-issued photo~~  
15 ~~identification~~];

16 (E) the form of identification provided, the identification document number, and  
17 the name of the jurisdiction that issued the identification document;

18 (F) the description of the motor vehicle, including the vehicle identification  
19 number, model year, make, body style, and model;

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1 (G) a photocopy of the front and back of the properly assigned ownership  
2 document provided to the purchaser; and

3 (H) the purchaser's certification, on a form provided by the department, that the  
4 purchase of motor vehicles in a casual sale is not intended to circumvent the provisions of Transportation  
5 Code, Chapter 501 (relating to Certificates of Title) and Occupations Code, Chapter 2302 (relating to  
6 Salvage Vehicle Dealers).

7 (2) Records may be maintained on a form provided by the department or in an  
8 electronic format.

9 (3) Records must be maintained on the business premises of the seller, and shall be  
10 made available for inspection upon request.

11 (f) Export-only sales.

12 (1) In accordance with Transportation Code, §501.099, only a licensed salvage vehicle  
13 dealer, including a salvage pool operator acting as agent for an insurance company, or governmental  
14 entity may sell a nonrepairable [~~non-repairable~~] or salvage motor vehicle to a person who resides  
15 outside the United States, and only:

16 (A) when a nonrepairable [~~non-repairable~~] or salvage vehicle title has been  
17 issued for the motor vehicle prior to offering it for export-only sale; and

18 (B) prior to the sale, the seller obtains a legible photocopy of a government-  
19 issued photo identification of the purchaser that can be verified by law enforcement, issued by the  
20 jurisdiction in which the purchaser resides that may consist of:

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- 1 (i) a passport;
- 2 (ii) a driver's license;
- 3 (iii) consular identity document;
- 4 (iv) national identification certificate or identity document; or
- 5 (v) other government-issued identification that includes the name of the
- 6 jurisdiction issuing the document, the purchaser's full name, foreign address, date of birth, photograph,
- 7 and signature.

8 (2) The seller must obtain the purchaser's certification, on a form prescribed by the

9 department, that the purchaser will remove the motor vehicle from the United States and will not return

10 the motor vehicle to any state of the United States as a motor vehicle titled or registered under its

11 manufacturer's vehicle identification number.

12 (3) The seller must provide the buyer with a properly assigned nonrepairable [~~non-~~

13 ~~repairable~~] or salvage vehicle title.

14 (4) The seller must stamp FOR EXPORT ONLY and the seller's salvage vehicle dealer

15 license number or the governmental entity's name, whichever applies, on the face of the title and on any

16 unused reassignments on the back of the title.

17 (g) Records of export-only sales.

18 (1) A salvage vehicle dealer or governmental entity that sells a nonrepairable [~~non-~~

19 ~~repairable~~] or salvage motor vehicle for export-only must maintain records of all export-only sales until

20 the third anniversary of the date of the sale.

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- 1 (2) Records of each sale must include:
- 2 (A) a legible copy of the stamped and properly assigned nonrepairable [~~non-~~
- 3 ~~repairable~~] or salvage vehicle title;
- 4 (B) the buyer's certified statement required by subsection (f)(2) of this section;
- 5 (C) a legible photocopy [~~copy~~] of a form of photo identification as specified in
- 6 subsection (f)(1)(B) of this section[~~the buyer's photo identification document~~];
- 7 (D) a legible copy of any other documents related to the sale of the motor
- 8 vehicle; and
- 9 (E) a listing of each motor vehicle sold for export-only that states the:
- 10 (i) date of sale;
- 11 ~~[(ii) name and address of the seller;]~~
- 12 [(ii)] name [~~and address~~] of the purchaser;
- 13 [(iii)] purchaser's identification document number;
- 14 [(iv)] name of the country that issued the identification document;
- 15 [(v)] the form of identification provided by the purchaser; and
- 16 [(vi)] description of the motor vehicle that includes the year, make,
- 17 ~~model, and~~ vehicle identification number of the motor vehicle.
- 18 (3) The listing required by paragraph (2)(E) of this subsection must be maintained either
- 19 on a form provided by the department or in an electronic format approved by the department.

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1 (4) The salvage vehicle dealer or governmental entity shall submit the listing prescribed  
2 by paragraph (2)(E) of this subsection to the department within 30 days from the date of sale.

3 (5) Upon receipt of the listing prescribed by paragraph (2)(E) of this subsection, the  
4 department will place an appropriate notation on the motor vehicle record to identify it as a motor  
5 vehicle sold for export-only that may not be operated, retitled, or registered in this state.

6

7 §217.89. Rebuilt Salvage Motor Vehicles.

8 (a) Filing for title. When a salvage motor vehicle or a nonrepairable ~~[non-repairable]~~ motor  
9 vehicle for which a nonrepairable ~~[non-repairable]~~ vehicle title was issued prior to September 1, 2003,  
10 has been rebuilt, the owner shall file a ~~[certificate of]~~ title application, as described in §217.4 of this title  
11 (relating to Initial Application for Title), for a rebuilt salvage ~~[certificate of]~~ title.

12 (b) Place of application. An application for a rebuilt salvage ~~[certificate of]~~ title shall be filed with  
13 the county tax assessor-collector in the county in which the applicant resides, in the county in which the  
14 motor vehicle was purchased or is encumbered, or to any county tax assessor-collector who is willing to  
15 accept the application.

16 (c) Fee for rebuilt salvage ~~[certificate of]~~ title. In addition to the statutory fee for a title  
17 application and any other applicable fees, a \$65 rebuilt salvage fee must accompany the application.

18 (d) Accompanying documentation. The application for a ~~[certificate of]~~ title for a rebuilt  
19 nonrepairable ~~[non-repairable]~~ or salvage motor vehicle must be supported, at a minimum, by the  
20 following documents:



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1 (1) evidence of ownership, properly assigned to the applicant, as described in subsection  
2 (e) of this section;

3 (2) a rebuilt statement, on a form prescribed by the department that includes:

4 (A) a description of the motor vehicle, which includes the motor vehicle's model  
5 year, make, model, identification number, and body style;

6 (B) an explanation of the repairs or alterations made to the motor vehicle;

7 (C) a description of each major component part used to repair the motor vehicle  
8 and showing the identification number required by federal law to be affixed to or inscribed on the part;

9 (D) the name of the owner and the name and address of the rebuilder;

10 (E) a statement by the owner that the owner is the legal and rightful owner of  
11 the vehicle, the vehicle is rebuilt, repaired, reconstructed, or assembled and that the vehicle  
12 identification number disclosed on the rebuilt affidavit is the same as the vehicle identification number  
13 affixed to the vehicle;

14 (F) the signature of the owner, or the owner's authorized agent; and

15 (G) a statement by the rebuilder that the vehicle has been rebuilt, repaired, or  
16 reconstructed by the rebuilder and that all component parts used were obtained in a legal and lawful  
17 manner, signed by the rebuilder or the rebuilder's authorized agent or employee;

18 ~~((3) evidence of inspection submitted by the person who repairs, rebuilds, or~~  
19 ~~reconstructs a non-repairable or salvage motor vehicle in the form of disclosure on the rebuilt statement~~  
20 ~~of the vehicle inspection report authorization or certificate number, and the date of inspection, issued by~~

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1 an authorized state safety inspection station after the motor vehicle was rebuilt, if the motor vehicle will  
2 be registered at the time of application;]

3 (3)[(4)] an odometer disclosure statement properly executed by the seller of the motor  
4 vehicle and acknowledged by the purchaser, if applicable;

5 (4)[(5)] proof of financial responsibility in the title applicant's name, as required by  
6 Transportation Code §502.046, unless otherwise exempted by law, if the motor vehicle will be registered  
7 at the time of application;

8 (5)[(6)] unless otherwise exempted by law, a vehicle identification number inspection  
9 [report required by] under Transportation Code, §501.0321 [§548.256 and Transportation Code  
10 §501.030] if the motor vehicle was last titled or [and] registered in another [state or] country, or a  
11 document described under 217.4(d)(4) of this title (relating to Initial Application for Title) if the vehicle  
12 was last titled or registered in another state [unless otherwise exempted by law]; and

13 (6)[(7)] a release of any liens, unless there is no transfer of ownership and the same  
14 lienholder is being recorded as is recorded on the surrendered evidence of ownership.

15 (e) Evidence of ownership of a rebuilt salvage motor vehicle:

16 (1) may include:

17 (A) a Texas Salvage Vehicle Title or Record of Title;

18 (B) a Texas Nonrepairable [non-repairable] Certificate of Title issued prior to  
19 September 1, 2003;

20 (C) a Texas Salvage Certificate; or

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1 (D) a comparable salvage certificate or salvage certificate of title issued by  
2 another jurisdiction, except that this ownership document will not be accepted if it indicates that the  
3 motor vehicle may not be rebuilt in the jurisdiction that issued the ownership document; but

4 (2) does ~~may~~ not include:

5 (A) a Texas nonrepairable ~~non-repairable~~ vehicle title issued on or after  
6 September 1, 2003;

7 (B) an out-of-state ownership document that indicates that the motor vehicle is  
8 nonrepairable ~~non-repairable~~, junked, for parts or dismantling only, or the motor vehicle may not be  
9 rebuilt in the jurisdiction that issued the ownership document; or

10 (C) a certificate of authority to dispose of a motor vehicle issued in accordance  
11 with Transportation Code, Chapter 683.

12 (f) Rebuilt salvage ~~certificate of~~ title issuance. Upon receiving a completed ~~certificate of~~ title  
13 application for a rebuilt salvage motor vehicle, along with the applicable fees and required  
14 documentation, the transaction will be processed and a rebuilt salvage ~~certificate of~~ title will be issued.  
15 The ~~certificate of~~ title will include a "Rebuilt Salvage" notation and a description or disclosure of the  
16 motor vehicle's former condition on its face.

17 (g) Issuance of rebuilt salvage ~~certificate of~~ title to a motor vehicle from another jurisdiction.  
18 On proper application, as prescribed by §217.4, by the owner of a motor vehicle that is brought into this  
19 state from another jurisdiction and for which a certificate of title issued by the other jurisdiction contains  
20 a "Rebuilt," "Salvage," or analogous title remark, the department will issue the applicant a ~~certificate of~~

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## Chapter 217– Vehicle Titles and Registration

1 title or other appropriate document for the motor vehicle. A ~~[certificate of]~~ title or other appropriate  
2 document issued under this subsection will show ~~[on its face]~~:

3 (1) the date of issuance;

4 (2) the name and address of the owner;

5 (3) any registration number assigned to the motor vehicle;

6 (4) a description of the motor vehicle as determined by the department; and

7 (5) any title remark the department considers necessary or appropriate.

8

9 **STATUTORY AUTHORITY.** The department adopts a repeal to Chapter 217 under Transportation Code,  
10 §501.09111, which identifies the rights and limitations of rights to owners of nonrepairable and salvage  
11 motor vehicles.

12 **CROSS REFERENCE TO STATUTE.** The adopted repeal implements Transportation Code, Chapter 501.

13

14 Text.

15 ~~[\$217.87. Rights of Holder of Non-repairable or Salvage Motor Vehicle Documents.]~~

16 ~~[(a) The owner of a motor vehicle for which a salvage certificate or a non-repairable or salvage~~  
17 ~~certificate of title was issued prior to September 1, 2003, or a salvage vehicle title issued on or after~~  
18 ~~September 1, 2003:]~~

19 ~~[(1) may:]~~

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## Chapter 217– Vehicle Titles and Registration

1                                   ~~[(A) possess, transport, dismantle, scrap, or destroy, the motor vehicle;]~~

2                                   ~~[(B) sell, transfer, or release ownership of the motor vehicle or used part from~~

3 ~~the motor vehicle as provided by §217.88 of this title (relating to Sale, Transfer, or Release of Ownership~~

4 ~~of a Non-repairable or Salvage Motor Vehicle); or]~~

5                                   ~~[(C) repair, rebuild, or reconstruct the motor vehicle; and]~~

6                                   ~~[(2) may not operate or permit operation of the motor vehicle on the public highways~~

7 ~~until a rebuilt salvage certificate of title is issued.]~~

8                                   ~~[(b) The owner of a motor vehicle for which a non-repairable vehicle title was issued on or after~~

9 ~~September 1, 2003;]~~

10                                   ~~[(1) may:]~~

11                                   ~~[(A) possess, transport, dismantle, scrap, or destroy, the motor vehicle; or]~~

12                                   ~~[(B) sell, transfer, or release ownership of the motor vehicle or used part from~~

13 ~~the motor vehicle as provided by §217.88; and]~~

14                                   ~~[(2) may not:]~~

15                                   ~~[(A) repair, rebuild, or reconstruct the motor vehicle;]~~

16                                   ~~[(B) retitle or register the motor vehicle; and]~~

17                                   ~~[(C) operate or permit operation of the motor vehicle on the public highways.]~~

18

19

**SUBCHAPTER E. TITLE LIENS AND CLAIMS**

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1 **43 TAC §217.106**

2

3 **STATUTORY AUTHORITY.** The department adopts amendments to Chapter 217 under Transportation Code  
4 §501.115, which provides the department authority to govern the discharge of a lien on a title, and  
5 Transportation Code, §1002.001, which authorizes the department to adopt rules that are necessary and  
6 appropriate to implement the powers and the duties of the department.

7 **CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code  
8 Chapter 501.

9

10 Text.

11 §217.106. Discharge of Lien.

12 A lienholder shall provide the owner, or the owner's designee, a discharge of the lien after  
13 receipt of the final payment within the time limits specified in Transportation Code, §501.115 [~~Chapter~~  
14 ~~501~~]. The lienholder shall submit one of the following documents:

15 (1) the title including an authorized signature in the space reserved for release of lien;

16 (2) a release of lien form prescribed by the department, with the form filled out to

17 include the:

18 (A) title or document number, or a description of the motor vehicle including,

19 but not limited to, the motor vehicle:

20 (i) year;

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- 1 (ii) make;
- 2 (iii) vehicle identification number; and
- 3 (iv) license plate number, if the motor vehicle is subject to registration
- 4 under Transportation Code, Chapter 502;
- 5 (B) printed name of lienholder;
- 6 (C) signature of lienholder or an authorized agent;
- 7 (D) printed name of the authorized agent if the agent's signature is shown;
- 8 (E) telephone number of lienholder; and
- 9 (F) date signed by the lienholder;
- 10 (3) signed and dated correspondence submitted on company letterhead that includes:
- 11 (A) a statement that the lien has been paid;
- 12 (B) a description of the vehicle as indicated in paragraph (2)(A) of this
- 13 subsection;
- 14 (C) a title or document number; or
- 15 (D) lien information;
- 16 (4) any out-of-state prescribed release of lien form, including an executed release on a
- 17 lien entry form;

1 (5) out-of-state evidence with the word "Paid" or "Lien Satisfied" stamped or written in  
2 longhand on the face, followed by the name of the lienholder, countersigned or initialed by an agent,  
3 and dated; or

4 (6) original security agreements or copies of the original security agreements if the  
5 originals or copies are stamped "Paid" or "Lien Satisfied" with a company paid stamp or if they contain a  
6 statement in longhand that the lien has been paid followed by the company's name.

7

8 **SUBCHAPTER F. MOTOR VEHICLE RECORDS**

9 **43 TAC §§217.122-125, 217.129, AND 217.131**

10

11 **STATUTORY AUTHORITY.** The department adopts amendments to Chapter 217 under Transportation  
12 Code §730.014, which give the department authority to adopt rules to administer Transportation Code,  
13 Chapter 730, Motor Vehicle Records Disclosure Act; and Transportation Code §1002.001, which  
14 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and  
15 duties of the department, as well as the statutes referenced throughout this preamble.

16 **CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code,  
17 Chapter 730.

18

19 Text.

20 §217.122. Definitions.

21 (a) Words and terms defined in Transportation Code, Chapter 730 have the same meaning  
22 when used in this subchapter, unless the context clearly indicates otherwise.



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## Chapter 217– Vehicle Titles and Registration

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

3 (1) Department--Texas Department of Motor Vehicles.

4 (2) Requestor--A person as defined by Transportation Code, §730.003(5), this state, or  
5 an agency of this state seeking personal information contained in motor vehicle records directly from the  
6 department.

7 (3) Service agreement--A contractual agreement with the department that allows a  
8 requestor electronic motor vehicle records.

9 (4) Written request--A request submitted in writing, including by mail, electronic mail,  
10 electronic media, and facsimile transmission.

11 (5) Signature--Includes an electronic signature, as defined by Transportation Code  
12 §501.172, to the extent the department accepts such electronic signature.

13 (6) Batch Inquiry--Access, under a service agreement, to department motor vehicle  
14 records associated with Texas license plate numbers or vehicle identification numbers, where  
15 requests are submitted electronically to the department in a prescribed batch format. The department  
16 makes a disclosure for each record in a batch.

17 (7) MVInet Access--Electronic access, under a service agreement, to the  
18 department's motor vehicle registration and title database, with the ability to query records by a  
19 Texas license plate number, vehicle identification number, placard number, or current or previous  
20 document number. The department makes a disclosure each time a query of the system is made.

21 (8) Bulk--A disclosure by the department under Transportation Code §730.007 of at  
22 least 250 motor vehicle records containing personal information, including any of the files defined  
23 by subsection (b)(10) - (13) of this section.

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## Chapter 217– Vehicle Titles and Registration

1 (9) Bulk contract--A contractual agreement with the department for the disclosure of  
2 motor vehicle records in bulk to the requestor.

3 (10) Master File--A bulk file containing all the department's active and inactive  
4 registration and title records.

5 (11) Weekly Updates--A bulk file containing the department's new and renewed  
6 vehicle registration and title records from the previous week.

7 (12) Specialty Plates File--A bulk file containing Texas specialty license plate records.

8 (13) eTAG File--A bulk file containing records related to new or updated eTAGs,  
9 vehicle transfer notifications, and plate-to-owner records.

10 (14) Dealer/Supplemental File--A pair of files, one containing records of registration  
11 and title transactions processed by dealers with the department during the previous week and  
12 another containing the dealers' information, that are only available as a supplement to a bulk  
13 contract that includes the Weekly Updates.

14

15 §217.123. Access to Motor Vehicle Records.

16 (a) Except as required under subsection (f) of this section, a requestor seeking personal  
17 information from department motor vehicle records shall submit a written request in a form  
18 required by the department. A completed and properly executed form must include:

19 (1) the name and address of the requestor;

20 (2) a description of the requested motor vehicle records, including the Texas license  
21 plate number, title or document number, or vehicle identification number of the motor vehicle  
22 about which information is requested;

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1 (3) proof of the requestor's identity, in accordance with subsections (b) or (c) of  
2 this section;

3 (4) a statement that the requestor:

4 (A) is the subject of the record;

5 (B) has the written consent of the person who is the subject of the record;

6 or

7 (C) will strictly limit the use of the personal information in department  
8 motor vehicle records to a permitted use under Transportation Code Chapter 730, as indicated on  
9 the form;

10 (5) a certification that the statements made on the form are true and correct; and

11 (6) the signature of the requestor.

12 (b) Except as required by subsection (c) of this section, a requestor must provide the  
13 requestor's current photo identification containing a unique identification number. The  
14 identification must be a:

15 (1) driver's license, Texas Department of Public Safety identification, or state  
16 identification certificate issued by a state or territory of the United States;

17 (2) United States or foreign passport;

18 (3) United States military identification card;

19 (4) United States Department of Homeland Security, United States Citizenship and  
20 Immigration Services, or United States Department of State identification document;

21 (5) ~~concealed handgun license or~~ license to carry a handgun issued by the Texas  
22 Department of Public Safety under Government Code Chapter 411, Subchapter H; or

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1 (6) North Atlantic Treaty Organization identification or identification issued under a  
2 Status of Forces Agreement.

3 (c) A requestor seeking personal information from department motor vehicle records for  
4 use by a law enforcement agency must:

5 (1) present the requestor's current law enforcement credentials;

6 (2) electronically submit the request in a manner that the department can verify  
7 that the requestor is acting on behalf of a law enforcement agency; or

8 (3) provide a written statement from a higher level in the chain of command on the  
9 law enforcement agency's letterhead stating that the requestor is not authorized to provide  
10 current law enforcement credentials and identifying the intended use or the ~~[law enforcement]~~  
11 agency's incident or case number for which the personal information is needed.

12 (d) A requestor seeking personal information from department motor vehicle records for  
13 use by a law enforcement agency may submit a verbal request to the department if the law  
14 enforcement agency has provided reasonable assurances that were accepted by the department as  
15 to the identity of the requestor within the last 12 months on a form required by the department. If  
16 a request is submitted verbally, the department may require the requestor to confirm the request  
17 in writing.

18 (e) A requestor may receive electronic access to department motor vehicle records under  
19 the terms and conditions of a service agreement.

20 (1) Before a requestor can enter into a service agreement, the requestor must file a  
21 completed application on a form required by the department, for review and approval by the  
22 department. An application for a service agreement must include:

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1 (A) a statement that the requestor will strictly limit the use of the personal  
2 information from department motor vehicle records to a permitted use under Transportation Code  
3 Chapter 730, as indicated on the application;

4 (B) the name and address of the requestor;

5 (C) proof of the requestor's identity, in accordance with subsections (b) or  
6 (c) of this section;

7 (D) blank copies of agreements used by the requestor to release motor  
8 vehicle record information to third parties;

9 (E) any additional material provided to third-party requestors detailing the  
10 process through which they obtain motor vehicle record information and describing their  
11 limitations as to how this information may be used;

12 (F)[(D)] the signature of the requestor or, if the requestor is an organization  
13 or entity, the signature of an officer or director of the requestor; and

14 (G)[(E)] a certification that the statements made in the application are true  
15 and correct.

16 (2) If the department determines any of the information provided in the application is  
17 incomplete, inaccurate, or does not meet statutory requirements the department will not enter into a  
18 service agreement to release motor vehicle record information.

19 (3)[(2)] Unless the requestor is exempt from the payment of fees, a service  
20 agreement must contain an adjustable account, in which an initial deposit and minimum balance is  
21 maintained in accordance with §217.124 of this title (relating to Cost of Motor Vehicle Records).  
22 Notwithstanding §217.124 of this title, the department may modify initial deposit and minimum  
23 balance requirements depending on usage.

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1 (f) Access to bulk motor vehicle records. A requestor seeking access to department motor  
2 vehicle records in bulk must enter into a bulk contract with the department.

3 (1) Before a requestor can enter into a bulk contract, the requestor must file a  
4 completed application on a form required by the department, for review and approval by the  
5 department. An application for a bulk contract must include:

6 (A) a statement that the requestor will strictly limit the use of the personal  
7 information to a permitted use under Transportation Code Chapter 730, as indicated on the  
8 application;

9 (B) the name and address of the requestor;

10 (C) proof of the requestor's identity, in accordance with §217.123(b) or (c)  
11 of this title (relating to Access to Motor Vehicle Records);

12 (D) blank copies of agreements used by the requestor to release motor  
13 vehicle record information to third parties;

14 (E) any additional material provided to third party requestors detailing the  
15 process in which they obtain motor vehicle record information and describing their limitations as  
16 to how this information may be used;

17 (F)[(D)] a certification that the statements made on the form are true and  
18 correct; and

19 (G)[(E)] the signature of the requestor or, if the requestor is an organization  
20 or entity, the signature of an officer or director of the requestor.

21 (2) If the department determines any of the information provided is incomplete,  
22 inaccurate, or does not meet statutory requirements the department will not enter into a bulk contract  
23 to release motor vehicle record information.

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1                    ~~(3)~~~~(2)~~ Prior to the execution of a bulk contract, a requestor must provide proof

2 the requestor has:

3                    (A) posted a \$1 million performance bond, payable to this state,  
4 conditioned upon the performance of all the requirements of Transportation Code Chapter 730  
5 and this subchapter; and

6                    (B) insurance coverage in the amount of at least \$3 million and that meets  
7 the requirements of Transportation Code §730.014(c)(3).

8                    (g) If a person is convicted of an offense under Transportation Code Chapter 730 or is  
9 found by a court to have violated a rule under this subchapter, then any contract with that person  
10 to access department motor vehicle records is terminated as of the date of the court's final  
11 determination.

12                    (h) The requirements of this section do not apply to discovery, subpoena, or other means  
13 of legal compulsion for the disclosure of personal information.

14                    (i) An authorized recipient will receive requested motor vehicle records in accordance with  
15 Title 18 U.S.C. §2721 et seq.; Transportation Code Chapter 730; Government Code §552.130; and  
16 this subchapter.

17

18 §217.124. Cost of Motor Vehicle Records.

19                    (a) Standard costs. The department will charge fees in accordance with Government Code  
20 Chapter 552 and the cost rules promulgated by the Office of the Attorney General in 1 Texas  
21 Administrative Code Chapter 70 (relating to Cost of Copies of Public Information).

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1 (b) Law enforcement. An employee of a state, federal, or local law enforcement agency is  
2 exempt from the payment of fees for motor vehicle records in subsection (c)(1) - (4) of this section  
3 if the records are necessary to carry out lawful functions of the law enforcement agency.

4 (c) Motor vehicle record costs:

5 (1) Title history - \$5.75;

6 (2) Certified title history - \$6.75;

7 (3) Title and registration verification (record search) - \$2.30; and

8 (4) Certified title and registration verification (record search) - \$3.30.

9 (d) Electronic motor vehicle records and files:

10 (1) Master File - \$5,000 plus \$.38 per 1,000 records;

11 (2) Weekly Updates - deposit of \$1,755 and \$135 per week;

12 (3) eTAG File - deposit of \$845 and \$65 per week;

13 (4) Dealer/Supplemental File - deposit of \$1,235 and \$95 per week;

14 (5) Specialty Plates File - deposit of \$1,235 and \$95 per week;

15 (6) Batch Inquiry - deposit of \$1,000, minimum balance of \$750 and \$23 per run

16 plus \$.12 per record;

17 (7) MVInet Access - deposit of \$200, minimum balance of \$150 and \$23 per month

18 plus \$.12 per record; and

19 (8) Scofflaw remarks (inquiry, addition, or deletion) - deposit of \$500, minimum

20 balance of \$350 and \$23 per run plus \$.12 per record.

21 (e) Texas governmental entities, as defined in Government Code §2252.001, the Texas Law

22 Enforcement Telecommunication System, ~~and~~ toll project entities, as defined by Transportation



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1 Code §372.001, and federal governmental entities are exempt from the payment of fees, except  
2 for the fees listed in subsection (d)(1), (6), or (8) of this section.

3 (f) Reciprocity agreements. The department may enter into a reciprocity agreement [~~agreements~~]  
4 for records access with another[~~other~~] governmental entity[~~entities~~] that may waive some or all of the  
5 fees established in this section.

6

7 §217.125. Additional Documentation Related to Certain Permitted Uses.

8 (a) The department may require a requestor to provide reasonable assurance as to the  
9 identity of the requestor and that the use of motor vehicle records is only as authorized under  
10 Transportation Code §730.012(a). Where applicable, each requestor submitting a request for  
11 motor vehicle records shall provide documentation satisfactory to the department that they are  
12 authorized to request the information on behalf of the organization, entity, or government agency  
13 authorized to receive the information.

14 (b) Requestors seeking personal information from motor vehicle records from the  
15 department for a permitted use listed in this subsection must submit additional documentation.

16 (1) A request under Transportation Code §730.007(a)(2)(C) must include the  
17 personal information the business is attempting to verify against the department's motor vehicle  
18 records and documentation sufficient to prove the requestor is a business actively licensed by,  
19 registered with, or subject to regulatory oversight by a government agency.

20 (2) A request under Transportation Code §730.007(a)(2)(D) must include proof of a  
21 legal proceeding, or if no proceeding has been initiated, proof the requestor is in anticipation of  
22 litigation relating to the request which would necessitate release of the document(s) requested.

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1           (3) A request under Transportation Code §730.007(a)(2)(E) must include  
2 documentation sufficient to prove the requestor is employed by an entity in the business of  
3 conducting research related to the requested information and demonstrating the employment  
4 relationship. The department has discretion in determining whether the entity is in the business of  
5 conducting research related to the requested information and in determining whether the  
6 documentation provided is sufficient to demonstrate an employment relationship. [~~in a~~  
7 ~~researching occupation.]~~

8           (4) A request under Transportation Code §730.007(a)(2)(F) must include an active  
9 license number provided by the Texas Department of Insurance or an active out-of-state license  
10 number provided by the relevant regulatory authority, an active license number the insurance  
11 support organization is working under, or proof of self-insurance.

12           (5) A request under Transportation Code §730.007(a)(2)(G) must include an active  
13 license number provided by the Texas Department of Licensing and Regulation or an active out-of-  
14 state license number provided by the relevant regulatory authority.

15           (6) A request under Transportation Code §730.007(a)(2)(H) must include an active  
16 license number provided by the Texas Department of Public Safety or an active out-of-state license  
17 number provided by the relevant regulatory authority.

18           (7) A request under Transportation Code §730.007(a)(2)(I) must include a copy of  
19 an active commercial driver's license.

20           (8) A request under Transportation Code §730.007(a)(2)(J) must include  
21 documentation to relate the requested personal information with the operation of a toll  
22 transportation facility or another type of transportation project as described by Transportation  
23 Code §370.003.

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1 (9) A request under Transportation Code §730.007(a)(2)(K) must include  
2 documentation on official letterhead indicating a permitted use for personal information, as  
3 defined by the Fair Credit Reporting Act (15 U.S.C. §1681 et. Seq.).

4 (10) A request under Transportation Code §730.007(a)(2)(L) must include an active  
5 license number of a manufacturer, dealership, or distributor issued by the department or an active  
6 out-of-state license number provided by the relevant regulatory authority.

7 (11) A request under Transportation Code §730.007(a)(2)(M) must include an active  
8 license or registration number of a salvage vehicle dealer, an independent motor vehicle dealer, or  
9 a wholesale motor vehicle dealer issued by the department; or an active license issued by the  
10 Texas Department of Licensing and Regulation to a used automotive parts recycler; or other proof  
11 that the requestor is subject to regulatory oversight by an entity listed in Transportation Code  
12 §730.007(a)(2)(M)(iv).

13 (c) The department may require a requestor to provide additional information to clarify the  
14 requestor's use of the personal information under Transportation Code Chapter 730, if the  
15 reasonable assurances provided with the request are not satisfactory to the department.

16

17 §217.129. Ineligibility to Receive Personal Information Contained in Motor Vehicle Records.

18 (a) The department may deny a request for or cease disclosing personal information  
19 contained in the department's motor vehicle records if it determines withholding the information  
20 benefits the public's interest more than releasing the information subject to Transportation Code,  
21 §730.005 and §730.006.

22 (b) If the department determines an authorized recipient has violated a term or condition  
23 of a contract with the department to access motor vehicle records and the department terminates

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1 the contract, that authorized recipient cannot enter into a subsequent contract with the  
2 department to access motor vehicle records unless approved to do so under §217.130 of this title  
3 (relating to Approval for Persons Whose Access to Motor Vehicle Records Has Previously Been  
4 Terminated).

5 (c) Termination of a contract with the department to access motor vehicle records caused  
6 by any member of an organization or entity shall be effective on the whole organization or entity.  
7 Subsequent organizations or entities formed by any member, officer, partner, or affiliate of an  
8 organization or entity whose contract with the department to access motor vehicle records has  
9 previously been terminated cannot enter into a subsequent contract with the department to  
10 access motor vehicle records, unless approved to do so under §217.130 of this title (relating to  
11 Approval for Persons Whose Access to Motor Vehicle Records Has Previously Been Terminated).

12

13 217.131. Notices Regarding Unauthorized Recipient.

14 ~~[(a) For the purposes of this section, a requestor includes a person, the state, or an agency~~  
15 ~~of this state that previously received personal information from department motor vehicle~~  
16 ~~records.]~~

17 (a)~~[(b)]~~ A requestor who has previously received personal information from the  
18 department and is not an authorized recipient must, not later than 90 days after the date the  
19 requestor becomes aware that the requestor is not an authorized recipient, delete from the  
20 requestor's records any personal information received from the department that the requestor is  
21 not permitted to receive and use under Transportation Code Chapter 730.

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1           **(b) [(e)]** A requestor who becomes aware that the requestor is not an authorized recipient must  
2 promptly notify the department that the requestor is not an authorized recipient and provide the date  
3 they became aware.

4           **(c) [(d)]** If the department becomes aware that the requestor is not an authorized recipient  
5 before receiving notice from the requestor, the department will send a written notice to the  
6 requestor stating that the requestor is not an authorized recipient. If the requestor was not  
7 already aware that it is not an authorized recipient, within 90 days from the date the department  
8 sends its notice under this subsection, the requestor must delete any personal information  
9 received from the department that the requestor is not permitted to receive and use under  
10 Transportation Code Chapter 730.

11           **(d) [(e)]** A requestor who becomes aware that the requestor is not an authorized recipient  
12 must notify the department when all the department's personal information has been deleted.

13

14

**SUBCHAPTER G. INSPECTIONS**

15

**43 TAC §217.143 AND §217.144**

16

17 **STATUTORY AUTHORITY.** The department adopts amendments to Chapter 217 under Transportation Code,  
18 §501.0041, which gives the department authority to adopt rules to administer Transportation Code,  
19 Chapter 501, Certificate of Title Act; Transportation Code, §501.030, which authorizes the department to  
20 adopt rules governing identification number inspections for motor vehicles brought into the state;  
21 Transportation Code, §501.0321, which authorizes the department to adopt rules establishing the training  
22 requirements for personnel conducting identification number inspections; Transportation Code,  
23 §501.0322, which provides the department with authority to adopt rules to establish an alternative  
10/24/2024

Exhibit B

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1 identification number inspection; and Transportation Code, §1002.001, which authorizes the board to  
2 adopt rules that are necessary and appropriate to implement the powers and the duties of the  
3 department, as well as the statutes referenced throughout this preamble.

4 **CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code,  
5 Chapters 501 and 731.

6

7 Text.

8 §217.143. Inspection Requirements.

9 (a) On initial titling of an assembled vehicle under Transportation Code Chapter 731, and  
10 Subchapter L of this title (relating to Assembled Vehicles), with the exception of an assembled  
11 motorcycle, assembled trailer, and glider kit, an applicant must provide proof, on a form  
12 prescribed by the department, of a safety inspection performed by a master technician.

13 (b) In addition to the requirement under subsection (a) of this section, an owner applying  
14 for initial registration of a custom vehicle or street rod must provide proof, on a form prescribed  
15 by the department, of a safety inspection performed by a master technician under this section as  
16 required under Transportation Code §504.501(e).

17 (c) The inspection must meet the minimum requirements under Transportation Code,  
18 §731.102 to evaluate the structural integrity and proper function of the equipment.

19 (d) The inspector must certify that:

20 (1) the vehicle and equipment are structurally stable;

21 (2) the vehicle and equipment meet the necessary conditions to be operated safely

22 on the roadway;

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## Chapter 217– Vehicle Titles and Registration

1 (3) equipment used in the construction of the vehicle, for which a federal motor  
2 vehicle safety standard exists, complies with the applicable standard; and

3 (4) if the vehicle is a custom vehicle or street rod, the vehicle is equipped and  
4 operational with all equipment required by statute as a condition of sale during the year the  
5 vehicle was manufactured or resembles.

6 (e) The inspection of an assembled vehicle required under subsection (a) of this section is  
7 in addition to all other required inspections including an inspection required under Transportation  
8 Code Chapter 548.

9 (f) The applicant must pay all fees to the master technician for the inspection of an  
10 assembled vehicle required under subsection (a) of this section, including any reinspection.

11 (g) In addition to the fees in subsection (f) of this section, the applicant must pay all  
12 applicable fees for other required inspections as required by law, including any applicable [a] inspection or reinspection required under Transportation Code Chapter 548.

13  
14  
15 §217.144. Identification Number Inspection.

16 (a) In addition to any other requirement specified by Transportation Code, §501.0321, a  
17 person is qualified to perform an inspection under Transportation Code, §501.0321, if that person  
18 has completed one of the following training programs:

19 (1) Intermediate or Advanced Motor Vehicle Crime Investigator Training provided  
20 by the Motor Vehicle Crime Prevention Authority;

21 (2) Auto Theft School (Parts 1 and 2) provided by the Texas Department of Public  
22 Safety; or

23 (3) Auto Theft Course provided by the National Insurance Crime Bureau.

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1           (b) If a person qualified to perform an inspection under Transportation Code, §501.0321, is  
2 unable to determine a manufactured motor vehicle’s original year of manufacture or original make  
3 designation, the department will not issue title and registration to the motor vehicle. A person  
4 inspecting a motor vehicle under §501.0321 who is able to identify the motor vehicle as a  
5 manufactured motor vehicle, but is unable to identify the manufactured motor vehicle’s original  
6 year of manufacture or original make designation, or both, may not identify the vehicle as an  
7 assembled, homemade, or shop-made vehicle.

8

9

**SUBCHAPTER H. DEPUTIES**

10

**43 TAC §§217.161 AND 217.168**

11

12 **STATUTORY AUTHORITY:** The department adopts amendments to Chapter 217 under Transportation Code  
13 §502.095, as amended by HB 718, which gives the department authority to issue one-trip and 30-day  
14 license plates; Transportation Code §502.1911, which authorizes the department to adopt rules to set  
15 registration processing and handling fees; Transportation Code §520.003, which authorizes the  
16 department to adopt rules to administer Transportation Code, Chapter 520, Miscellaneous Provisions;  
17 Transportation Code, §520.004, which authorizes the department to adopt rules to establish standards for  
18 uniformity and service quality for counties conducting registration and titling services; and Transportation  
19 Code, §1002.001, which authorizes the department to adopt rules that are necessary and appropriate to  
20 implement the powers and the duties of the department.

21 **CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code  
22 Chapters 502 and 520.

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## Chapter 217– Vehicle Titles and Registration

1

2 Text.

3 §217.161. Purpose and Scope.

4 Pursuant to Transportation Code, §520.0071, a county tax assessor-collector, with the  
5 approval of the commissioners court of the county, may appoint deputies to perform designated  
6 motor vehicle titling and registration services. This subchapter prescribes the classification types,  
7 duties, and obligations of deputies; the type and amount of any bonds that deputies may be  
8 required to post; and the fees that deputies may be authorized to charge or retain. All [A deputy  
9 appointed under Transportation Code, §520.0071, on or before December 31, 2016, may continue  
10 to perform services authorized under former Transportation Code, §§520.008, 520.009, 520.0091,  
11 and 520.0092, as amended by Acts 2011, 82nd Leg., ch. 1296 (H.B. 2357). Beginning January 1,  
12 2017, all] deputies must be deputized in accordance with and comply with the provisions of this  
13 subchapter.

14

15 §217.168. Deputy Fee Amounts.

16 (a) Fees. A county tax assessor-collector may authorize a deputy to charge or retain the fee  
17 amounts prescribed by this section according to the type of deputy and transaction type.

18 (b) Title transactions. For each motor vehicle title transaction processed:

19 (1) A full service deputy may charge the customer a fee of up to \$20, as determined  
20 by the full service deputy and approved by the county tax assessor-collector.

21 (A) The full service deputy retains the entire fee charged to the customer.

22 (B) If a full service deputy is authorized by a county tax assessor-collector to  
23 review and approve title transactions submitted through webDEALER, the full service deputy is

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1 required to designate the fee of up to \$20 within the department’s Registration and Title System  
2 that will be assessed on webDEALER title transactions.

3 (2) A dealer deputy may charge the customer a fee of up to \$10, as determined by  
4 the dealer deputy and approved by the tax assessor-collector. The dealer deputy retains the entire  
5 fee charged to the customer. This section does not preclude a dealer deputy from charging a  
6 documentary fee authorized by Finance Code, §348.006.

7 (c) Registration and registration renewals. For each registration transaction processed:

8 (1) A full service deputy may:

9 (A) retain \$1 from the processing and handling fee established by §217.183  
10 of this title (relating to Fee Amount); and

11 (B) charge a convenience fee of \$9, except as limited by §217.184 of this  
12 title (relating to Exclusions).

13 (2) A limited service deputy may retain \$1 from the processing and handling fee  
14 established by §217.183.

15 (d) Special registration [Temporary] permit and special registration license plate  
16 transactions under Transportation Code, §502.094 or §502.095. For each special registration  
17 [temporary] permit or special registration license plate transaction processed by a full service  
18 deputy, the full service deputy may retain the portion of the [entire] processing and handling fee  
19 authorized by §217.185(b) of this title (relating to Allocation of Processing and Handling  
20 Fees)[established by §217.183].

21 (e) Full service deputy convenience fee. The convenience fee authorized by this section is  
22 collected by the full service deputy directly from the customer and is in addition to the processing

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1 and handling fee established by §217.183. A full service deputy may not charge any additional fee  
2 for a registration or registration renewal transaction.

3 (f) Related transactions by a full service deputy. The limitations of subsections (b), (c), (d),  
4 and (e) of this section do not apply to other services that a full service deputy may perform that  
5 are related to titles or registrations, but are not transactions that must be performed through the  
6 department's automated vehicle registration and title system. Services that are not transactions  
7 performed through the department's automated vehicle registration and title system include, but  
8 are not limited to, the additional fees a full service deputy may charge for copying, faxing, or  
9 transporting documents required to obtain or correct a motor vehicle title or registration.  
10 However, the additional fees that a full service deputy may charge for these other services may be  
11 limited by the terms of the county tax assessor-collector's authorization to act as deputy.

12 (g) Posting of fees. At each location where a full service deputy provides titling or  
13 registration services, the deputy must prominently post a list stating all fees charged for each  
14 service related to titling or registration. The fee list must specifically state each service, including  
15 the additional fee charged for that service, that is subject to subsections (b), (c), (d), or (e) of this  
16 section. The fee list must also state that each service subject to an additional fee under subsection  
17 (b), (c), (d), or (e) of this section may be obtained from the county tax assessor-collector without  
18 the additional fee. If the full service deputy maintains a website advertising or offering titling or  
19 registration services, the deputy must post the fee list described by this subsection on the website.

20 (h) Additional compensation. The fee amounts set forth in this section do not preclude or  
21 limit the ability of a county to provide additional compensation to a deputy out of county funds.

22

23

**SUBCHAPTER I. PROCESSING AND HANDLING FEES**

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Chapter 217– Vehicle Titles and Registration

1 **43 TAC §§217.181 - 217.185**

2

3 **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
4 department adopts amendments to Chapter 217 under Transportation Code §502.0021, which gives the  
5 department authority to adopt rules to administer Transportation Code Chapter 502, Registration of  
6 Vehicles; Transportation Code §502.040, which authorizes the department to prescribe the process and  
7 procedures for applying for a motor vehicle registration; Transportation Code §502.059, which  
8 authorizes the department to adopt rules providing for an automated registration process;  
9 Transportation Code §502.1911 which authorizes the board to adopt rules to set registration processing  
10 and handling fees; Transportation Code §520.003, which authorizes the department to adopt rules to  
11 administer Transportation Code Chapter 520, Miscellaneous Provisions; Transportation Code §520.004,  
12 which authorizes the department to adopt rules to establish standards for uniformity and service quality  
13 for counties conducting registration and titling services; Transportation Code §520.0055, as created by  
14 HB 718, gives the department authority to mandate motor vehicle dealers use a department designated  
15 electronic system to submit title and registration applications to the county tax assessor-collectors for  
16 motor vehicle transactions; and Transportation Code §1002.001, which authorizes the board to adopt  
17 rules that are necessary and appropriate to implement the powers of the department, as well as the  
18 statutes throughout this preamble.

19 **CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code  
20 Chapters 502 and 520; and Government Code Chapter 2054.

21

22 Text.

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## Chapter 217– Vehicle Titles and Registration

## 1 §217.181. Purpose and Scope.

2 This subchapter prescribes the processing and handling fees [~~fee~~] authorized by Transportation  
3 Code, §502.1911, which include [~~includes~~] the fee established under Transportation Code,  
4 §502.356(a), and are [~~is~~] sufficient to cover the expenses associated with collecting registration  
5 fees by the department, a county tax assessor-collector, a private entity with which a county tax  
6 assessor-collector contracts under Transportation Code, §502.197, or a deputy assessor-collector  
7 that is deputized in accordance with Subchapter H of this chapter (relating to Deputies).

8

## 9 §217.182. Registration Transaction.

10 As used in this subchapter, a "registration transaction" is a registration or registration  
11 renewal under Transportation Code, Chapter 502, or a transaction to issue the following:

12 (1) a registration, registration renewal, special registration license plate, or special  
13 registration permit issued under Transportation Code, Chapter 502, Subchapter C (Special  
14 Registrations);

15 (2) a license plate issued under Transportation Code, §502.146;

16 (3) a temporary additional weight permit under Transportation Code, §502.434;

17 (4) a license plate or license plate sticker under Transportation Code, §§504.501,  
18 504.502, 504.506, or 504.507;

19 (5) a golf cart license plate under Transportation Code, §551.402; or

20 (6) a package delivery vehicle license plate under Transportation Code, §551.452.

21 (7) an off-highway vehicle license plate under Transportation Code, §551A.052.

22

## 23 §217.183. Fee Amount.

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## Chapter 217– Vehicle Titles and Registration

1           (a) Except as stated otherwise in this section and except as exempted [limited] by §217.184  
2 of this title (relating to Exclusions), a processing and handling fee in the amount of \$4.75 shall be  
3 collected with each registration transaction processed by the department, the county tax assessor-  
4 collector, or a deputy appointed by the county tax assessor-collector.

5           (b) Except as stated otherwise in subsection (c) of this section and except as exempted by  
6 §217.184 of this title (relating to Exclusions), for each registration transaction processed through  
7 the department’s TxFLEET system, the processing and handling fee consists of the following, which  
8 the applicant must pay: [For registrations processed through the TxIRP system, the applicant shall  
9 pay any applicable service charge.]

10                   (1) \$4.75; and

11                   (2) the applicable service charge.

12           (c) If a transaction includes both registration and issuance of a license plate or specialty  
13 plate, the processing and handling fee shall be collected on the registration transaction only.

14

15 §217.184. Exclusions.

16           The following transactions are exempt from the processing and handling fees [fee]  
17 established by §217.183 of this title (relating to Fee Amount), but are subject to any applicable  
18 service charge set pursuant to Government Code, §2054.2591, Fees. The processing and handling  
19 fees [fee] may not be assessed or collected on the following transactions:

20                   (1) a replacement registration sticker under Transportation Code, §502.060;

21                   (2) a registration transfer under Transportation Code, §502.192;

22                   (3) an exempt registration under Transportation Code, §502.451 or §502.0025;

23                   (4) a vehicle transit permit under Transportation Code, §502.492;

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## Chapter 217– Vehicle Titles and Registration

- 1 (5) a replacement license plate under Transportation Code, §504.007;
- 2 (6) a registration correction receipt, duplicate receipt, or inquiry receipt;
- 3 (7) an inspection fee receipt; or
- 4 (8) an exchange of license plate for which no registration fees are collected.

5

6 §217.185. Allocation of Processing and Handling Fees. [~~Fee.~~]

7 (a) For registration transactions, except as provided in subsection (b) of this section, the  
8 fee amounts [~~amount~~] established in §217.183 of this title (relating to Fee Amount) shall be  
9 allocated as follows:

10 (1) If the registration transaction was processed in person at the office of the  
11 county tax assessor-collector or mailed to an office of the county tax assessor-collector:

12 (A) the county tax assessor-collector may retain \$2.30; and

13 (B) the remaining amount shall be remitted to the department.

14 [~~(2) If the registration transaction was mailed to office of the county tax assessor-~~  
15 ~~collector:]~~

16 [~~(A) the county tax assessor collector may retain \$2.30; and]~~

17 [~~(B) the remaining amount shall be remitted to the department.]~~

18 (2)[(~~3~~)] If the registration transaction was processed through the department or the  
19 TxFLEET [~~TxIRP~~] system or is a registration processed under Transportation Code, §§502.0023,  
20 502.091, or 502.255; or §217.46(b)(5) [~~or (d)(1)(B)(i)~~] of this title (relating to Commercial Vehicle  
21 Registration):

22 (A) \$2.30 will be remitted to the county tax assessor-collector; and

23 (B) the remaining amount shall be retained by the department.

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1                   (3)[(4)] If the registration transaction was processed through Texas by Texas (TxT)  
2 or the department's Internet Vehicle Title and Registration Service (IVTRS), [online registration  
3 portal,] the fee established in §217.183 of this title is discounted by \$1:

4                   (A) Texas Online receives the amount set pursuant to Government Code,  
5 §2054.2591, Fees;

6                   (B) the county tax assessor-collector may retain \$.25; and

7                   (C) the remaining amount shall be remitted to the department.

8                   (4)[(5)] If the registration transaction was processed by a limited service deputy or  
9 full service deputy appointed by the county tax assessor-collector in accordance with Subchapter H  
10 of this chapter (relating to Deputies):

11                   (A) the deputy may retain:

12                               (i) the amount specified in §217.168(c) of this title (relating to  
13 Deputy Fee Amounts). The deputy must remit the remainder of the processing and handling fee to  
14 the county tax assessor-collector; and

15                               (ii) the convenience fee established in §217.168, if the registration  
16 transaction is processed by a full service deputy;

17                   (B) the county tax assessor-collector may retain \$1.30; and

18                   (C) the county tax assessor-collector must remit the remaining amount to  
19 the department.

20                   (5)[(6)] If the registration transaction was processed by a dealer deputy appointed  
21 by the county tax assessor-collector in accordance with Subchapter H of this chapter (relating to  
22 Deputies):



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## Chapter 217– Vehicle Titles and Registration

1 (A) the deputy must remit the processing and handling fee to the county tax  
2 assessor-collector;

3 (B) the county tax assessor-collector may retain \$2.30; and

4 (C) the county tax assessor-collector must remit the remaining amount to  
5 the department.

6 (b) For transactions under Transportation Code, §§502.093 – 502.095, [~~§§502.092-~~  
7 ~~502.095,~~] the entity receiving the application and processing the transaction collects [~~and retains~~]  
8 the \$4.75 [~~entire~~] processing and handling fee established in §217.183;[-]

9 (1) the entity may retain \$4.25;

10 (2) the entity must remit the remaining amount to the department; and

11 (3) a [A] full service deputy processing a special registration [~~temporary~~] permit or  
12 special registration license plate transaction may not charge a convenience fee for that  
13 transaction.

14

15 **SUBCHAPTER J. PERFORMANCE QUALITY RECOGNITION PROGRAM**

16 **43 TAC §217.205**

17

18 **STATUTORY AUTHORITY.** The department adopts amendments to Chapter 217 under Transportation Code,  
19 §520.003, which authorizes the department to adopt rules to administer Transportation Code,

20 Chapter 520, Miscellaneous Provisions; Transportation Code, §520.004, which authorizes the department

21 to adopt rules to establish standards for uniformity and service quality for counties conducting registration

22 and titling services; and Transportation Code, §1002.001, which authorizes the board to adopt rules that

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1 are necessary and appropriate to implement the powers and the duties of the department, as well as the  
2 statutes referenced throughout this preamble.

3 **CROSS REFERENCE TO STATUTE.** The adopted amendments would implement Transportation Code  
4 Chapter 520.

5

6 Text.

7 §217.205. Department Decision to Award, Deny, Revoke, or Demote a Recognition Level.

8 (a) Award of recognition level. The department may award a recognition level based on the  
9 following for the time frame of September 1st through August 31st immediately preceding the  
10 application deadline:

11 (1) information and documents contained in the application;

12 (2) any additional information, documentation, or clarification requested by the  
13 department; and

14 (3) information and documentation from department records.

15 (b) Denial of recognition level. The department may deny an award of recognition if:

16 (1) the application contains any incomplete or inaccurate information;

17 (2) the applicant fails to provide requested documents;

18 (3) the application contains incomplete documents;

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## Chapter 217– Vehicle Titles and Registration

1 (4) the application was not received by the department or postmarked by the  
2 department's deadline;

3 (5) the county tax assessor-collector who applied for recognition no longer holds the  
4 office of county tax assessor-collector;

5 (6) the county tax assessor-collector did not sign the application; or

6 (7) the department discovers information which shows the applicant does not comply  
7 with the criteria to receive a recognition level.

8 (c) Revocation of recognition level or demotion of recognition level.

9 (1) The department may revoke a recognition level if the department discovers  
10 information which shows the county tax assessor-collector no longer complies with the criteria for any  
11 recognition level.

12 (2) The department may demote a recognition level if the department discovers  
13 information which shows the county tax assessor-collector no longer complies with the criteria for the  
14 current recognition level, but still complies with the criteria for a recognition level. The recognition level  
15 will be demoted to the highest recognition level for which the county tax assessor-collector qualifies.

16 (d) Notice of department decision to award, deny, revoke, or demote a recognition level. The  
17 department shall notify the county tax assessor-collector of the department's decision via email,  
18 facsimile transmission, or regular mail.

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## Chapter 217– Vehicle Titles and Registration

1 (e) Deadline for department decision to award or to deny a recognition level. No later than  
2 December 31st of the calendar year ~~[90 calendar days after receiving the application for recognition]~~, the  
3 department shall send a written notice to the applicant stating:

4 (1) the department's decision to award or to deny a recognition level; or

5 (2) there will be a delay in the department's decision.

6

7

**SUBCHAPTER L. ASSEMBLED VEHICLES**

8

**43 TAC §217.404**

9 **STATUTORY AUTHORITY:** The department adopts amendments to Chapter 217 under Transportation Code  
10 §731.002 which authorizes the department to adopt rules as necessary to implement Chapter 731,  
11 governing assembled vehicles; and §1002.001, which authorizes the department to adopt rules that are  
12 necessary and appropriate to implement the powers and the duties of the department.

13 **CROSS REFERENCE TO STATUTE:** The adopted amendments would implement Transportation Code  
14 Chapters 501 and 731.

15

16 Text.

17 §217.404. Initial Application for Title.

18 (a) An ~~[Prior to applying for title, an]~~ applicant must submit to the department a complete  
19 application for title. The application may be submitted in person, by mail, or electronically, to the  
20 department. The application must include:

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## Chapter 217– Vehicle Titles and Registration

- 1 (1) photographs of the front, rear, and side of the assembled vehicle, and if a  
2 replica, a photograph of what the vehicle is a replica of;
- 3 (2) evidence of ownership of the basic component parts of the assembled vehicle as  
4 described in §217.405 of this subchapter (relating to Evidence of Ownership), as applicable to the  
5 type of assembled vehicle;
- 6 (3) if applicable, proof, on a form prescribed by the department, of a safety  
7 inspection required under §217.143 of this chapter (relating to Assembled Vehicle Inspection  
8 Requirements), and Transportation Code §731.101;
- 9 (4) if applicable, a copy of the Automobile and Light Truck certification, or a  
10 successor certification, for the master technician who completed the inspection described in  
11 paragraph (3) of this subsection;
- 12 (5) a copy of the inspection that may be required under Transportation Code  
13 Chapter 548 if the assembled vehicle is to be registered for operation on the roadway;
- 14 (6) a Rebuilt Vehicle Statement;
- 15 (7) a weight certificate;
- 16 (8) identification as required in §217.5(d) of this chapter (relating to Evidence of  
17 Motor Vehicle Ownership); and
- 18 (9) any of the following means to establish the vehicle identification number:
- 19 (A) an Application for Assigned or Reassigned Number, and Notice of  
20 Assigned Number or Installation of Reassigned Vehicle Identification Number, on forms prescribed  
21 by the department;

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1 (B) an Application for Assigned or Reassigned Number, establishing the  
2 vehicle identification number assigned by the manufacturer of the component part by which the  
3 assembled vehicle will be identified;

4 (C) acceptable proof, as established by the department, of a vehicle  
5 identification number assigned by the maker of the kit used to construct the assembled vehicle; or

6 (D) acceptable proof, as established by the department, of a vehicle  
7 identification number assigned by the manufacturer of the replica, custom vehicle, street rod, or  
8 glider kit.

9 (b) Following receipt of all information required under subsection (a) of this section, the  
10 department will review the application for completeness and to determine if [that] the vehicle  
11 meets assembled vehicle qualifications under Transportation Code, Chapter 731.

12 (c) If the department determines that the application is complete and the vehicle meets  
13 assembled vehicle qualifications, the department will issue a letter to the applicant on department  
14 letterhead, stating that the application is complete and that the vehicle qualifies as an assembled  
15 vehicle. The letter shall include a list of the supporting documents and information identified in  
16 subsection (d)(2) of this section.

17 (d) Following receipt of the department's letter described in subsection (c) of this section,  
18 the applicant may then submit the letter and the completed application to the county tax assessor-  
19 collector for processing. The application must include:

20 (1) the department-issued letter described in subsection (c) of this section;

21 (2) copies of all items required to be submitted to the department in subsection

22 (a)(1) - (9) of this section; and

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- 1 (3) the requirements as identified in §217.23 of this chapter (relating to Initial
- 2 Application for Vehicle Registration) if obtaining registration.



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## COALITION FOR SENSIBLE PUBLIC RECORDS ACCESS

Date: August 1, 2024  
To: Laura Moriaty  
General Counsel  
Texas Department of Motor Vehicles

Re: **TRD-202402865 Goes Beyond the Statutory Authority and Requires Unnecessary Disclosure of Proprietary Information**

### Who We Are

The Coalition for Sensible Public Records Access (CSPRA) is a non-profit organization dedicated to promoting the principle of open public record access to ensure individuals, the press, advocates, and businesses the continued freedom to collect and use the information made available in the public record for personal, governmental, commercial, and societal benefit. Members of CSPRA are just a few of the many entities that comprise a vital link in the flow of information for these purposes and provide services that are widely used by constituents in your state. Collectively, CSPRA members alone employ over 40,000 persons across the U.S. and over 5,000 of those are in Texas. The economic and societal activity that relies on entities such as CSPRA members is valued in the trillions of dollars. Our economy and society depend on value-added information and services that includes public record data for many important aspects of our daily lives and work and we work to protect those sensible uses of public records.

### Requiring Disclosure of Contracts Was Considered But Not Adopted When SB 15 Was Passed

The proposed rules would require disclosure of copies of agreements used by a requestor to release motor vehicle records to third parties. It is not clear if this means all executed agreements or copies of the forms of contracts used and why such documents are being sought. Either way, such contracts are not mentioned in the law as this idea was discussed and not adopted in the legislative process of enacting SB 15. Also, such contracts in either form constitute proprietary information typically excluded from disclosure in public records laws. The law provides the following assurances. The requestor must:

- Provide a binding assurance that all data contracts hold clients to all relevant state laws and contractual restrictions.
- Provide an annual report of all third parties to which personal information was disclosed and the purpose of the disclosure.



We suggest that these and other existing provisions provide adequate statutory authority to enforce SB 15.

### **Protect Beneficial Uses of Public Records**

Use of public records in transportation is an essential societal function that needs to be protected. We want help make sure the Department has the information they need to administer the law without unnecessarily exposing proprietary information of the businesses that use public records to provide societal benefits. Thank you for your consideration of our input.

***Richard J. Varn***

**Executive Director**

**Coalition for Sensible Public Records Access**

San Antonio, TX

Email: [cspra@cspra.org](mailto:cspra@cspra.org)

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*A non-profit organization dedicated to promoting the principle of open public records access to ensure individuals, the press, advocates, and businesses the continued freedom to collect and use the information made available in the public record for personal, commercial, and societal benefit.*



August 6, 2024

Laura Moriaty, General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

RE: Proposed Amendments to Administrative Code, Title 43, Part 10, Chapters 215 and 217

Ms. Moriaty:

Founded in 2012, Carvana is a Fortune 500 e-commerce platform that provides our customers alternatives to the traditional purchasing process. By providing customers with the option of purchasing a vehicle online from the comfort of their home, Carvana allows customers to select, purchase, and have their vehicle delivered directly to their door. To date, Carvana has sold nearly 225,000 used vehicles to Texans who have chosen to take advantage of the Carvana experience.

For context, it is important to understand how Carvana operates, which is distinctly different from the traditional dealer model. Carvana's retail activities, whether a consumer is purchasing or selling (including trading) a motor vehicle, are conducted completely online. A purchaser's first face-to-face interaction with a Carvana employee is on the day they take possession of the motor vehicle, whether it is delivered to their home or picked up at one of Carvana's iconic vending machines.

Over the years, Carvana has worked with the department to ensure compliance with Texas licensing requirements. Carvana uses logistical way-point locations (hubs) to complete fulfillment (delivery) of vehicles, which the department has determined do not constitute retail sales activities requiring licensure. For example, a resident in Tyler, Texas may have their sale contractually completed under the license issued to Carvana's location in Blue Mound, Texas, while the hub (delivery departure location) is in Shreveport, Louisiana. This approach works well for Carvana in operationalizing sales contracting activities, vehicle fulfillment, and title and registration.

Currently, with online-based issuance of buyer's tags, any person can be granted access to the appropriate license's eTAG account to process the buyer's tag regardless of physical location, and buyer's tags can be printed on regular printer paper, meaning there is virtually no friction in the process of issuing a buyer's tag making the process very friendly and easy to use. Carvana only issues Texas buyers tags to Texas purchasers titling and registering their vehicle in Texas. As a result of House Bill 718, the regular printer paper is being replaced by a physical, inventoried asset (metal license plates), which impose new considerations for Carvana.

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Based on the calculation in the proposed rules, a reasonable calculation results in Carvana, across its licenses, receiving an annual allotment of at least 80,000 to 100,000 license plates. On a quarterly basis, Carvana would be required to store at least 20,000 license plates and handle a quarterly replenishment of 10,000-20,000 license plates. Many of Carvana's locations are small and do not have the type of physical storage space to accommodate the thousands of transactions facilitated through the location, even on a quarterly basis.

Additionally, Carvana has an in-house, purpose-built license plate management system, which it intends to utilize to the maximum extent possible to manage Texas license plates. Carvana strongly encourages the department to include as much connectivity as possible (i.e., through APIs and similar integrations) in its new license plate management system to allow dealers of all sizes to integrate their dealer management systems or other systems with the department's license plate system. Carvana welcomes the opportunity to partner with the department's vendor to develop and/or test these types of solutions.

With this context in mind, it is critical to Carvana's operations, and its ability to effectively manage this new program, continue to provide the level of service Texans have come to expect from Carvana, and ensure compliance with state law and rules that the department include additional flexibility and allowances in the final rule and/or license plate system.

### **Important Requests for Consideration**

Item #1: In order to effectively manage tens of thousands of plates quarterly and annually, Carvana must be able to centralize plate storage and allow its staff to distribute plates across its numerous licensed and unlicensed locations at a frequency conducive to Carvana's operations and storage constraints.

To facilitate centralized plate storage, reduce shipping costs, and provide flexibility, Carvana requests the rules allow:

- the department to allocate license plates generically to a dealer with multiple licenses or to one of the dealer's licenses,
- the department to ship plate allocations to a central dealer-specified location, and
- a dealer to allocate/reallocate their allocation amongst its licenses as needed.

Currently, Carvana has dealer licenses that are not utilized for sales and title and registration activities; however, the proposed rules would result in plates being issued to those licenses, resulting in needless storage and unused allocation. The volume of sales on Carvana's licenses fluctuates, so it is quite possible that one license could use its allocation, requiring a new order of plates, while another license could still have thousands of available plates. Clearly, this would be inefficient for both the department and Carvana.

The ability to centralize the storage of license plates and allocate/reallocate them to the Carvana license that needs them will ensure optimal plate allocation utilization, reduce shipping, enhance storage compliance, and mitigate risk. Carvana strongly suggests that the license plate system be designed to allow for dealer licenses to be linked by the

department to facilitate centralization and/or re-allocation of inventory amongst the linked licenses. While the overall need for this by dealers may be low (i.e., likely less than a dozen dealers organizations), it will be extremely beneficial to those with multiple locations who elect to use such allowance and represent a disproportionately large sales volume.

Item #2: As previously stated, Carvana uses logistical way-points (hubs) as departure locations for at-home delivery fulfillment. Retail activities do not occur at these locations, so the department has determined they do not require a license. However, the ability for those locations to issue and affix metal license plates as Carvana does paper temporary tags today is critical.

Carvana requests the rules authorize dealers to store license plates at unlicensed locations operated by the dealer so long as plates are stored according to the storage requirements and is able to provide plate locations at all times. This will ensure Carvana can continue using its final point of delivery locations as it does today. Carvana is receptive to limitations to this allowance, such as by request to and subject to approval by the department.

Item #3: Carvana encourages the department to consider centralized fulfillment of the registration insignia (registration stickers) upon county tax assessor-collector approval of the title and registration application. Centralized fulfillment could eliminate or mitigate county tax assessor-collector staff time for printing and processing, dealer time for travel to retrieve and process, dealer time and/or costs for mailing or contacting purchasers, and purchaser retrieval time, if applicable.

Additionally, if centralized fulfillment is utilized, consideration should be given to not processing the registration insignia until all department checks are satisfied (e.g., NMVTIS). This should eliminate situations where an issue is discovered after the registration insignia has been issued, requiring the registration to be invalidated (e.g., NMVTIS inquiry determines the vehicle is salvage or junk).

However, with this recommendation, it is imperative the department provide enhanced data access via an API or web service integration that facilitates knowledge of the title and registration status, such as through webDEALER. A simple API to allow a VIN-based inquiry for the status is sufficient.

Today, at Carvana's volume, there is no practical mechanism to know a transaction's status. At any given moment, Carvana may have hundreds or even thousands of transactions in various statuses and ultimately cannot determine completion until registration insignia is received. Often, dealers are reliant on customers to alert them to a potential issue. This is often driven by an impending temporary tag expiration visible on their buyer's tag. Once this transition occurs, there will be little incentive for customers to inquire about their sticker status since they will have a metal license plate with no visible expiration date. Additionally, if registration is never issued, an owner may not receive the registration renewal notice that prompts them to renew registration, which is also often a point where issues surface. API inquiry functionality would facilitate Carvana's ability to monitor transactions for issues and ensure title and registration is ultimately finalized for our customers.

Item #4: Carvana acquires tens of thousands of Texas-registered vehicles annually. It is imperative that a more efficient, API-based reporting of the vehicle transfer notification (VTN) is provided by the department than is available today. It is not practical or cost effective for Carvana, or any dealer, to employ staff to manually enter VTN information via webDEALER. Carvana estimates processing a VTN via webDEALER takes about two minutes per VTN, requiring Carvana to allocate the equivalent of one to 1.5 full-time employees to process. Unfortunately, the absence of a human-free solution (e.g., API) would push Carvana to automate the production of paper-based VTNs, requiring the department or its contractor to manually process tens of thousands of Carvana VTNs annually.

Item #5: As a standard part of Carvana's business process, Carvana retitles (title only) all vehicles it acquires into its name outside of the state of Texas. For Texas-registered vehicles, this re-titling process would require voiding associated license plates and reporting their disposition. It is imperative the license plate system include API functionality that facilitates disposition reporting. As with VTNs, it is impractical for Carvana staff to manually take into inventory every Texas license plate and then immediately report it as voided. While the license plate system has not yet been developed for an accurate understanding of time requirements, Carvana estimates that reporting plate disposition manually could take three to five minutes per plate, requiring Carvana to allocate the equivalent of 1.5 to three full-time employees to process. Carvana understands it may be unique in this; however, Carvana's volume is significant, and it wants to ensure good faith compliance with department expectations.

Manual processing, as described by items four and five, would collectively cost Carvana an estimated **\$100,000 to \$170,000** annually in labor at current volume and economics. This estimate is exclusive of ancillary needs, functions, and requirements.

### **For General Consideration**

1. As suggested during the Advisory Committee process, Carvana recommends removing the references to "non-resident" and "out-of-state resident" from sections impacting the issuance of buyer's temporary license plates (§§ 215.132, 215.150(c), 215.151(b), 215.152(c)(2), and 215.155(e)).

As proposed, including these terms may produce unintended consequences. The determination should be based on the vehicle's domicile location, not the buyer's residence. Texas residents, who elect to purchase their vehicle in Texas but register the vehicle in another state, should be allowed to obtain the buyer's temporary license plate no differently than a non-resident. In both scenarios, the vehicle is not being operated or registered in Texas. The inability to issue a buyer's temporary license plate to a Texas resident would subject the Texas resident to Texas title and registration fees despite immediately removing the vehicle from the state. The vehicle owner would then be required to pay title and/or registration fees in the state where the vehicle is ultimately registered. There may also be sales tax implications, as not all

states credit sales tax paid in other jurisdictions or may not assess sales tax in their jurisdiction. Seasonal residents, military personnel, and students could all be impacted if this clarification is not made.

Carvana suggests using language consistent with §215.151(a) by stating “If a buyer purchases a vehicle to be taken out of Texas...” or similar phrasing, and including specificity that the removal must occur before the temporary license plate’s expiration.

Additionally, §215.151(b) includes the term “titled” as a qualification for issuance of a temporary plate. There are situations where a vehicle eligible for registration may not be required to be titled for reasons of age or vehicle type (e.g., trailers). A similar risk may apply when including the term “registered.” For example, a trailer may require registration in Texas but not require registration (or title) in the state the vehicle is being taken to.

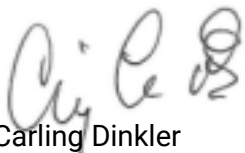
2. Various terms describing the same plate type are used throughout the proposed rules for these chapters. Such terminology interchange is confusing for the untrained eye. These terms include “standard license plate,” “license plate or set of license plates,” “general issue license plate or set of license plates,” “buyer’s license plate or set of license plates,” and “buyer’s general issue license plate or set of plates” and other similar variations. Terminology should be reconciled for consistency to avoid confusion. Carvana recommends the term “buyer’s license plate” as that term is defined in §215.132. The “or set of license plates” is superfluous because “set of license plates” is already included in the definition of “buyer’s license plate.”
3. It appears that many or most sections of the proposed rule, such as §215.156, should apply to both buyer’s license plates and buyer’s temporary license plates; however, only the former is specifically addressed in most cases. For example, in §215.156, a dealer would not be required to print a receipt for a temporary license plate that is issued. Carvana is not sure if this is intentional or an oversight. Carvana suggests a review of terminology to ensure consistent use and encourages uniform rule applicability across the varying plate types.
4. If §215.156 is applicable to buyer’s temporary license plates, it may be prudent to include the expiration date on the receipt to coincide with the expiration date affixed on the plate to mitigate malpractice or fraud.
5. §215.132(J) includes a reference to §215.174(g). It appears the correct reference should be to § 215.74(g).
6. In §215.138(i), replace the words “dealer’s license plate record” with “electronic license plate system designed by the department.”
7. In §215.138(j), include the option of returning voided plates to a county tax assessor-collector’s office for consistency with other sections.
8. §215.151(d) includes a reference to §215.150(d). It appears the correct reference should be to §215.150(f).

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9. In §§ 217.2 and 217.22, the definition of current identification with respect to identification expiration is confusing. Carvana suggests rewording to “or is expired not more than 12 months”.
  10. In §217.4(d)(4), it is assumed that if a vehicle is subject to Transportation Code, Chapter 548, no physical documentation is required, including the Vehicle Inspection Report (VIR). If that is accurate, Carvana requests the department program webDEALER to allow a dealer to electronically self-certify the VIN as one of the “forms.” This would eliminate another physical document from being printed, signed, and imaged for submission through webDEALER. Currently, the certificate of title and VIR are the only two physical documents scanned and uploaded when using webDEALER’s electronic buyer acknowledgment process. Eliminating a document, rather than merely replacing it (i.e., VIR is replaced with a new/existing self-certification form) would be the ideal implementation.
  11. In §217.27(a)(2), consider replacing “the symbol, tab, or other device prescribed by and issued by the department” with “vehicle registration insignia” for consistency with other such changes in the proposed rule amendments since that term is defined in §217.22 and for consistency with §217.27(a)(1).
  12. There may be a conflict between §§ 215.151(d) and 217.53(a). §215.151(d) requires a dealer to provide plates to a buyer or destroy plates if the vehicle is sold to an out-of-state buyer or for export, whereas the 217.53(a) specifies that a dealer shall transfer plates with the motor vehicle without any specified exception. Wholesale auction sales or direct dealer-to-dealer transactions where the buyer is out-of-state would be subject to both of these provisions because they are not retail sales.
  13. §217.71(b)(7) references a system, webLIEN, which does not exist.

Carvana acquired ADESA, a wholesale motor vehicle auction, in 2022. ADESA is a member of the National Auto Auction Association (NAAA). Carvana is aware of and has worked closely with the NAAA on concerns and recommendations that impact all wholesale motor vehicle auctions, including ADESA. Carvana wishes to register its support and concurrence with the NAAA’s comments and recommendations to the proposed rules.

We thank the department for allowing Carvana to contribute its perspective. Additionally, we commend the department for its commitment to collaboration and its ongoing dialogue with impacted stakeholders.

Sincerely,



Carling Dinkler  
Head of Government Affairs,  
West Region and Federal



Tony Hall  
Head of Policy, Title and  
Registration Modernization



**TIADA**  
TEXAS INDEPENDENT AUTOMOBILE  
DEALERS ASSOCIATION

August 12, 2024

Laura Moriaty  
General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Re: Texas Register July 12, 2024

Dear Ms. Moriaty:

The Texas Independent Automobile Dealers Association (TIADA) respectfully submits the following comments in response to the Texas Department of Motor Vehicles (TxDMV) proposed changes to the Texas Administrative Code. TIADA represents over 1,000 independent automobile dealers throughout the state of Texas which range in size from large publicly traded companies to small and micro-businesses.

TIADA after reviewing the purposed rules has the following suggestions:

**The rule should not include a suggestion to report stolen license plates to law enforcement.** The proposed rule states in various places that “A license holder is also encouraged to immediately alert law enforcement by reporting a stolen license plate to a local law enforcement agency.” This statement appears to be merely a suggestion and not a requirement as such TIADA believes it would be best to strike this statement from the proposed rule and instead include it in other guidance issued by the department as it may cause confusion to licensees.

**§215.133 should provide a streamlined process for a dealer renewing a license after being licensed for 10 years.** Dealers currently must provide documents that were previously provided to the TxDMV during prior applications when renewing their applications. TxDMV must then rereview those documents resulting in more time for staff to process applications. TIADA believes eliminating the reevaluation of previously submitted information would allow TxDMV staff to scrutinize new applications more closely without hiring more staff while also ensuring timelier processing of all applications. Therefore, TIADA believes a streamlined process for a dealer renewing their license would benefit both dealers and the public.

**§215.138(h) should be modified to allow a dealer to quickly offer test drives to customers.** Section 215.138 requires a dealer to enter the year, make and VIN number of every vehicle a dealer affixes a dealer license plate to. TIADA believes a dealer reporting who is in control of a plate should provide the department and law enforcement with adequate information to investigate fraud and other illegal activity while still allowing flexibility to a dealer, therefore TIADA recommends eliminating the requirement to identify the vehicle.



TIADA Comments to TxDMV – Texas Register July 12, 2024

January 23, 2024

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**§215.152. Obtaining Dealer-Issued Buyer's License Plates should allow a dealer to request plates at any time.** Section 215.152 (i) requires dealers to use 50 percent of either a quarter or annual allotment before requesting additional plates. While this would work for most dealers, there are circumstances that some dealers may encounter that will require them to make a request prior to using 50 percent. For example, a few dealers have an annual auction that accounts for most of their sales in just three or four days. Therefore, TIADA recommends eliminating the 50 percent requirement by striking (i)(1) and (i)(2) and changing (i) to read as “A dealer may request more general issue license plates or sets of plates or buyer's temporary license plates” as misuse is still able to be prevented as the dealer need to “provide information demonstrating the need for additional license plates.”

**§217.40 should provide a method for a dealer to apply for a 30-day extension of a dealer-issued buyer's license plate in lieu of obtaining a new 30-day tag.** Currently, dealers who are unable to obtain the permanent registration for a customer may apply for a 30-day plate. In lieu of applying for a new plate, TIADA believes it would be easier for the customer to continue to use the same plate while waiting for their permanent registration, therefore TIADA recommends incorporating a 30-day registration by adding a new section 217.40(e) that reads as follows: “a dealer may request a 30-day registration for a buyer's license plate on behalf of the buyer through the department's system”.

**Section 217.74(g) should be stricken.** 217.74(g) requires dealers to complete webDEALER training conducted by the department, but numerous dealers have already completed other training provided by state trade associations, fellow dealers, and their tax offices. Those dealers that did not wait until the last minute would be unfairly penalized for seeking assistance with webDEALER as soon as possible by having to retake training that is provided by the department. Therefore, TIADA recommends striking the webDEALER training requirement.

Respectfully,



Earl Cooke  
Director of Compliance and Business Development  
[earl.cooke@txiada.org](mailto:earl.cooke@txiada.org)



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August 12, 2024

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Sent via email to: [rules@txdmv.gov](mailto:rules@txdmv.gov)

Re: TxDMV Proposed Rules, Published July 12, 2024, *Texas Register*

Dear Ms. Moriarty:

On behalf of the franchised Texas motor vehicle dealers, the Texas Automobile Dealers Association (TADA) submits these comments regarding the proposed rules as published in the July 12, 2024, *Texas Register*, 49 *TexReg* 5030, et seq., and recognizes and thanks the time and effort employed by the many employees at the department in drafting the proposals.

**CHAPTER 215. MOTOR VEHICLE DISTRIBUTION**  
**SUBCHAPTER C.**  
**FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND**  
**CONVERTERS**

**43 TAC §215.102. Application Requirements.**

... The proposed amendment for a manufacturer's or distributor's license seeks information as to where a manufacturer or distributor performs a repair.<sup>1</sup> As this is information that is not a part of the records requirement added by SB 224, 88<sup>th</sup> Leg., R.S., to

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"If applying for a manufacturer's, distributor's, or converter's license: . . .(iv) whether the applicant repairs a motor vehicle with a catalytic converter in Texas, and if so, the physical address where the repair is performed." Proposed 43 TAC §215.102 (e)(1)(K)(iv) (49 *TexReg* 5041).

Chapter 2305, Occupations Code, it is therefore outside the statutory recordkeeping requirements to request a physical address where a repair is performed by a manufacturer or distributor as well as contrary to the warranty repair provisions in Chapter 2301.

TADA requests that 43 TAC §215.102(e)(K)(iv) be amended to comport with Chapter 2305, Subchapter D to state: “the name of the person to whom the catalytic converter was sold or transferred and the date of the transaction.”

The department’s explanation for the new licensing provision for a manufacturer, distributor, or converter is that it will allow the department to obtain the information that is necessary for the department to carry out its responsibilities to inspect a license holder’s records of catalytic converters under SB 224, 88<sup>th</sup> Leg., R.S. (49 *TexReg* 5031, July 12, 2024). However, SB 224 requires information for each transaction in which a manufacturer or distributor sells or transfers to another person, a catalytic converter that is removed from a motor vehicle.

Chapter 2305, Subchapter A records, which is not applicable to a manufacturer or distributor, discusses repair records for an owner of a garage or repair shop.<sup>2</sup>

SB 224 added Subchapter D, Records of Certain Sales or Transfers of Catalytic Converters Removed From Motor Vehicles, specifically §2305.153. This new section requires records for each transaction in which a **sale or transfer** to another person is made of a catalytic converter by a person listed in §1956.123(1)(A) - (G), Occupations Code. A manufacturer, distributor, converter, and dealer are listed in §1956.123(1)(C): “a manufacturer, distributor, converter, or dealer licensed under Chapter 2301, including any department of a dealer or converter that repairs or services motor vehicles.”

A manufacturer’s or distributor’s catalytic converter recordkeeping requirement is identified through their Chapter 2301 license, not as a person repairing or servicing a motor vehicle.

The required record under Subchapter D for each transaction in which the person sells or transfers to another person a catalytic converter that is removed from a motor vehicle contains:

1. A description made in accordance with the custom of the trade for the volume of

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<sup>2</sup>Chapter 2305, Subchapter A applies to those persons who operate a shop or garage that is engaged in the business of repairing a motor vehicle or a person who engages in the business of purchasing or selling used motor vehicles in this state.  
(TEX. OCC. CODE ANN. §2305.002 (Vernon 2022))

catalytic converters **sold or transferred**;

2. The name of the person to whom the catalytic converter was **sold or transferred**;  
and,

3. The date of the transaction.<sup>3</sup>

A record maintained in accordance with a routine business practice or other law that contains this same information, satisfies Subchapter D's recordkeeping requirements.<sup>4</sup>

As the recordkeeping requirements for a manufacturer or distributor in §2305.153 apply only to a sale or a transfer to another of a catalytic converter that is removed from a motor vehicle, the proposed new licensing rule should also be limited to those same records.

TADA again requests that proposed 43 TAC §215.102(e)(K)(iv) be amended to read: the name of the person to whom a catalytic converter was sold or transferred and the date of the transaction.

#### **43 TAC §215.120. Standard License Plates.**

The rule discusses a manufacturer, distributor, or converter in subsections (a) - (f); however, in subsections (g) and (h), the term "license holder" is used when discussing additional standard license plates and returning license plates.

If §215.150 (g) and (h) do not apply to all license holders and apply only to a manufacturer, distributor, or converter, TADA requests that the rules so state for clarification for all license holders.

#### **43 TAC §215.122. Catalytic Converter Record Requirements.**

The requirement proposed in 43 TAC §215.122 discussing the necessary records for a manufacturer, distributor, or converter that "repairs" a motor vehicle, is outside the scope of Chapter 2305, Subchapter D, Occupations Code as added by SB 224 and should be deleted from the proposal.<sup>5</sup>

The Subchapter D record requirements which are applicable to a manufacturer or distributor, require records regarding a sale or transfer transaction to another person.

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<sup>3</sup>*Id.* at §2305.153(a), (b).

<sup>4</sup>*Id.* at §2305.153(c).

<sup>5</sup>Repairs under warranty are limited to a franchised dealer as discussed throughout Chapter 2301, Occupations Code.

TADA requests that §215.122 be amended to track the catalytic converter recordkeeping requirement for a manufacturer or distributor as provided in §2305.153 so that it reads:

A manufacturer, distributor, or converter that sells or transfers to another person a catalytic converter that is removed from a motor vehicle shall maintain a record of the person to whom the catalytic converter was sold or transferred; a description of the catalytic converter; and, the date of the transaction, as required by Occupations Code, Chapter 2305, Subchapter D, and allow the department to inspect these records during business hours.

Also, see the discussion under proposed 43 TAC §215.102, above.

### 43 TAC §215.124. Mobile Warranty and Recall Repair Services.

The recently adopted rule, 43 TAC §215.103, and the July 12<sup>th</sup> proposed rule regarding performing mobile warranty work, are both contrary to Chapter 2301, Occupations Code, and specifically to the statutory definition of “dealership.”<sup>6</sup>

A “dealership” is the physical premises and business facilities on which a franchised dealer operates the dealer's business, including the sale and repair of motor vehicles and also includes the premises or facilities at which a dealer engages in warranty repairs and not new motor vehicle sales. The definition of “franchised dealer”<sup>7</sup> provides where the service or repair of a motor vehicle under warranty is to occur— at a dealer’s established and permanent place of business.

If the Texas Legislature intended for franchised dealers to perform warranty service and repair via a dealership on wheels, it would have so provided in the statute. As written,

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<sup>6</sup>TEX. OCC. CODE ANN. §2301.002(8) (Vernon 2022): “Dealership means the **physical premises and business facilities** on which a franchised dealer operates the dealer’s business, **including** the sale and **repair** of motor vehicles. The term includes premises or facilities at which a person engages only in the repair of a motor vehicle if the repair is performed under a franchise and a motor vehicle manufacturer’s warranty.”(Emphasis added.)

<sup>7</sup>*Id.* at §2301.002(16): “Franchised dealer means a person who: (A) holds a franchised motor vehicle dealer’s license issued by the board under this chapter and Chapter 503, Transportation Code; and (B) is **engaged** in the business of buying, selling, or exchanging new motor vehicles **and servicing or repairing** motor vehicles under a manufacturer’s warranty at an **established and permanent place of business** under a franchise in effect with a manufacturer or distributor.” (Emphasis added.)

the “dealership” and “franchised dealer” requirements do not provide for a mobile warranty service, either to be “managed” from a licensed location or otherwise.

Allowing mobile warranty services to be shoehorned into the required physical premises by arguing they are “managed” from a licensed location ignores the statutory language and usurps the legislature’s domain.

Because there is no ambiguity in the statutory text, the board cannot add a mobile service for warranty work where the statute does not so allow.<sup>8</sup>

The rule as adopted and proposed disregards not only the unambiguous statutory language adopted by the legislature, but ignores the right to protest a “dealership” where warranty work is performed and thus allows a warranty service “dealership on wheels” to move around the state at-will or park beside an established dealership without regard to the statutory protest provisions adopted by the legislature in Subchapter N., Chapter 2301, Occupations Code.

While the board’s objective may be well-intentioned, the unintended consequences of warranty service performed other than at a physical and established place of business and whether such a change should occur, is a topic for the legislature as it should be thoroughly reviewed as to what is in the best interests of the State of Texas.

For example, as dealers have explained some of their concerns in letters regarding mobile service to the department:

- There is a lack of management oversight and quality control with respect to a mobile repair by the franchised dealer.
- A mobile technician does not have access to necessary tools, equipment, and diagnostic information to properly diagnose and repair complex vehicle issues.
- The amount of computer communication needed for new vehicle repairs makes a remote service extremely challenging, especially when on-line service is intermittent in many areas of the state.
- The proposal allows a subcontractor or other franchised dealer to park their mobile dealership service on wheels beside a dealer’s established physical service facility or across the street from the dealership—which is contrary to the protest statutes.
- A simple recall usually leads to additional repairs that most likely cannot be performed except at the dealership.
- Safety, financial, and logistical concerns have not been fully addressed in the proposal.

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<sup>8</sup>Combs v. Health Care Servs. Corp. (401 S.W.3d 623) (Tex. 2013).

- Safety concerns for the public, customers, and technicians are at issue in a mobile service.
  - Quality repairs are a concern.
  - The dearth of quality technicians is a struggle for franchised dealers and recruitment and training and safety as well as costs and insurance need to be thoroughly considered for such a statutory change.
  - It is questionable that a technician will want to perform warranty work via a mobile van, especially if the repair cannot be completed because of a lack of parts or other needed repairs.
  - The ability to obtain adequate insurance and at what cost must be accounted for when mobile service is discussed.
  - A warranty repair that cannot be completed in a mobile manner creates customer discontent and the quality and thoroughness of a mobile repair is questionable.
- (See Attachment 1)

The department's January 5, 2024, Rule Submission Memorandum sent to the Office of the Governor Regulatory Compliance Division states that the department's proposed amendment of §215.103(a) was prompted by stakeholder inquiries regarding whether a franchised dealer could perform warranty repair work through a mobile repair service based at the dealer's licensed location. The department subsequently determined that Chapter 2301, Occupations Code does not require warranty repairs to be performed only at a licensed dealer location so long as the licensee is engaged in the business of buying, selling or exchanging new motor vehicles and servicing or repairing motor vehicles at an established and permanent place of business as the dealer can send out repair trucks from that location to conduct actual repairs.

The department's position is a U-turn from the July 24, 2023, letter from Mr. Daniel Avitia, TxDMV Executive Director as well as the November 20, 2020, letter from Mr. Roland Luna, Sr., Director, Motor Vehicle Division.

(See Attachment 2)

The explanation for the department's changed position is because: "state agencies can change their interpretation of a statute, if they do so through the notice-and-comment rulemaking process in accordance with the Texas Government Code. While the 2020 letter interpreted the statute differently, this proposed rule is based on a new interpretation and was created through the full rulemaking process. As such, this rule will supersede that letter and allow franchised dealers more flexibility and business opportunity."

(See Attachment 3)

A stakeholder inquiry from General Motors (GM) as to mobile service was sent to the

department on March 23, 2023.  
(See Attachment 4)

General Motors later sent a form letter to its Texas dealers in February, 2024, along with a request for the GM dealers to fill out and forward to the department, of which 6 form letters were submitted. (See Attachment 5)

Another concern is the issue of current litigation.<sup>9</sup> The rush by the department to go forward with a rule that discusses warranty work when current litigation places warranty service at issue through a filed complaint alleging that a manufacturer can perform warranty work just as a franchised dealer by arguing that: “Texas law, however, allows motor-vehicle manufacturers like Lucid to undertake many activities commonly performed by new motor-vehicle dealerships. Specifically, such a manufacturer or manufacturer affiliate can: . . .(g) Provide repairs and service, including warranty service, for the manufacturer’s vehicles from an established physical location within Texas.”<sup>10</sup>

The plaintiff’s litigation argues for warranty service and a manufacturer’s ability to perform repairs and service as a franchised dealer. As warranty work is an issue in the litigation, the status quo should be maintained—the first response when any litigation involves an issue, even peripherally, as to an agency’s rule or policy.

The mobile service rule, both adopted and proposed, should be withdrawn. The statute is not ambiguous as it plainly states that repairs are to be performed at a franchised dealer’s licensed dealership and does not allow for a mobile dealership on wheels.

The legislature’s authority as to an unambiguous statute is also discussed in Chairman Terry Canales’s August 8, 2024, letter to Board Chairman Charles Bacarisse.  
(See Attachment 6)

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<sup>9</sup>The status quo should be the first response in a discussion of a rule or policy change when litigation is pending on an issue. The Attorney General of Texas has a policy not to answer a question that is pending in a court. Tex. Att’y Gen. Op. No. GA-0399 (2006) at 3 n. 5; No. GA-0457 at 4 (2006).

<sup>10</sup>Complaint: *Lucid Group USA, Inc. v. Johnston, et al.*, at 10, No. 1:22-cv-1116 (W.D. Tex, filed 11/01/22).



**SUBCHAPTER D.**  
**GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES**

**43 TAC §215.133. GDN Application Requirements for Dealer or a Wholesale Motor Vehicle Auction.**

With respect to the multitude of information required for a dealer's license by the department, including office and site requirements set out in §215.140, the proposal adds a requirement for proof of completion of webDEALER training conducted by the department under §217.174(g) (*sic*) (§217.74(g)).

New §217.74(g) requires webDEALER training for a GDN license and each holder and user accessing webDEALER under the holder's account, must complete the department's training by April 30, 2025. A new user on or after April 30, 2025, must complete the training before being given permission to use webDEALER. A holder who had access to webDEALER for more than 6 months and who submitted more than 100 transactions within the system as of October 1, 2024, is not required to take the webDEALER training.

The department's recent training schedule, according to the TxDMV's online calendar, shows the following webDEALER training schedule:

- February and March—offered once;
- April, May and June—offered twice;
- July—101 once and 102 twice;
- August—101 once and 102 twice.

As the department's licensing process is not only complicated and time-consuming, it is also labor intensive for the department and licensees.

TADA requests that the webDEALER training requirement not be added to the current licensing requirements.

Many dealership employees have been utilizing webDEALER for more than a decade. It is user-friendly for dealership title and registration employees. The department also has two videos currently available, "Getting Started with webDEALER," which is a 12 minute video that provides a general overview and getting started using webDEALER. The department has a second video available, "Using webDEALER," which is an 11:30 minute video that discusses starting, completing, and submitting a title application, a retraction of a title application, and the return of a title application.

The use of webDEALER has been set up in a convenient and understandable format. The available information from the department appears adequate without the need to require

a license applicant to complete training.

If additional training is necessary, the requirement is requested to be satisfied through an online recorded webinar available 24/7 by a user.

Finally, a “holder,” defined as a motor vehicle dealer who holds a general distinguishing number,<sup>11</sup> should not be required to complete webDEALER training when a holder’s user will perform the title and registration of vehicles.

**§215.138. Use of Dealer’s License Plates.**

The proposal requires a dealer to maintain in the department’s designated electronic license plate system,<sup>12</sup> a record of each dealer’s standard, personalized prestige, or temporary license plate issued by the department to the 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 or license plate.

(43 TAC §215.138(h))

The proposal requires a dealer to maintain a record of each dealer’s plate in the department’s designated electronic license plate system rather than in the dealer’s records. The explanation for the requirement that a dealer enter the name of the person in control of the vehicle or license plate, is in order to make it easier for the department and law enforcement to identify and investigate fraud and other illegal activity while allowing a dealer the flexibility to assign a license plate to a vehicle or a driver (49 *TexReg* 5032-5033).

A balance regarding the demands and needs of dealership customers and licensees is requested to be factored in when proposing the information that is required to be recorded into the department’s license plate system.

Customers will not understand the need for such time-consuming electronic entries as the test-drives of vehicles will be encumbered by the additional entering of information

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<sup>11</sup>A “holder” is a motor vehicle dealer who holds a general distinguishing number. (43 TAC §217.74(c)).

<sup>12</sup>License Plate System. A license holder must comply with §215.151 of this title (relating to Buyer’s License Plates General Use Requirements) regarding requirements to enter information into the department-designated electronic system for license plates (*proposed* 43 TAC §215.144(l)(2)).

into the department's license plate system.

TADA requests that the department not require the above information to be entered for a test drive if a dealership employee is in the vehicle that is being test-driven. At most, the license plate number and the name of the dealership employee for a test drive should satisfy law enforcement's and the department's fraud concern.

Another issue is if the department's electronic license plate system is not available for use, such as because of a weather event, by either the department or the dealer, what allowance is given to the dealer?

As an example, proposed 43 TAC §215.157 provides that when the internet is not available to issue a buyer's license plate and receipt, the dealer is to enter the required information the next business day. TADA requests that the rule provide that the information be entered into the license plate system the next business day when the internet is available.

A new sanction added in the proposal allows the board or the department to take an action against a license holder for failure to maintain a record of each dealer license plate as required under §215.138 (43 TAC §215.141(b)(27)). The board's or department's allowable actions under 43 TAC §215.141, Sanctions, include:

1. Denying an application;
2. Revoking a license;
3. Suspending a license;
4. Assessing a civil penalty;
5. Issuing a cease and desist order; or,
6. Taking other authorized action.

If a licensee does not submit a license plate in the department's license plate system, the penalty can be severe, especially if it is compounded. For example, if a customer test drives multiple vehicles, for each vehicle test driven, the salesperson or employee, must enter in the department's electronic license plate system:

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 or license plate.

(43 TAC §215.138(h))

TADA again requests that when a dealership employee is on a test drive that the required information for the license plate system not be required or in the alternative that the required information be satisfied by entering the name of the person in control of the vehicle

and the plate number.

TADA also requests that the department consider allowing that the information in the electronic license plate system be maintained as a secure confidential record. In addition, TADA asks that if the department's electronic plate system is not available for use by the dealer at the time of the test drive, that sanctions not be available for assessment.

**§215.140. Established and Permanent Place of Business.**

TADA thanks the department for allowing a dealer multiple options with respect to the location and means to store the dealer's and buyer's license plates in the dealer's possession in §215.140(6)(E), by allowing a locked and secure room or closet or multiple safes or steel cabinets bolted or affixed to the floor or wall.

**§215.150. Dealer Authorization to Issue License Plates.**

A dealer issues a general issue license plate for a vehicle type the dealer is authorized to sell. According to the proposal, for a used vehicle Texas buyer, if a general issue license plate or set of plates did not come with the vehicle and the buyer does not have a specialty, personalized or other qualifying license plate eligible to be assigned, then the dealer issues a general issue license plate/set of plates (§215.150(a)(2)).

Section 504.901, Transportation Code, effective July 1, 2025, provides in (b-1) that the purchaser may request replacement license plates under §504.007.

Since a used vehicle buyer may obtain a new set of license plates and is not required to accept the plates that were removed from the vehicle when it was traded in or purchased by the dealer, TADA suggests that §215.150 include language whereby a buyer may request new general issue license plates regardless of whether the used vehicle did or did not come with a set of plates when the dealer purchased the vehicle.

If the general issue plates did not come with the vehicle, the buyer is subject to paying a fee for replacement license plates as set forth in Transportation Code §504.007. A buyer is also subject to paying a fee for replacement license plates under §504.007 if the vehicle was traded in with a set of plates but the buyer elects to have a new set of general issue license plates installed on their vehicle.

TADA therefore requests that a reference to §504.007, Replacement License Plates, be included in 43 TAC §215.150 as the statute discusses when an owner may obtain replacement plates as well as the fee.

**§215.151. License Plate General Use Requirements.**

Whereas a buyer of a used vehicle may request replacement license plates under Transportation Code §504.901(b-1), TADA suggests that 43 TAC §215.151(d)(1) state that a dealer who removes and stores the general issue license plates shall offer [provide] the assigned license plates to a Texas buyer that purchases the vehicle; otherwise, the buyer and seller may believe he or she is required to accept the previous owner's plates.

As a buyer is not required to use the previous owner's general issue plates; therefore, the dealer needs the flexibility in the rule to satisfy the buyer's request regarding new plates or the previous owner's license plates.

**§215.152. Obtaining Dealer-Issued Buyer's License Plates.**

A newly licensed dealer is initially allocated 200 general issue license plates and 100 buyer's temporary license plates, unless the dealer provides credible information that a greater number is warranted. (43 TAC §215.152(e)(1) and (g))

Although 200 general issue plates may be adequate for the average dealer for a 3 month period and the number may be more than an annual amount of plates for others; however, dealers in the metropolitan areas may run out of plates quickly, perhaps in two weeks or less if so limited.

TADA is concerned that a "one size fits all" initial allotment may be too narrow in its application and encourages the department to continue to be receptive to a dealer's request for a greater number of buyer's license plates.

**§215.154. Dealer's Temporary License Plate Allocation.**

The maximum number of dealer's temporary license plates issued during the first license term is 200 for a franchised motor vehicle dealer, according to Figure: 43 TAC §215.154(b).

The use of such a plate, primarily outlined in Transportation Code §503.062, includes:

1. For a wholesale transaction, the purchasing dealer uses its own dealer's temporary license plate or the dealer's standard or personalized prestige license plate.  
(43 TAC §215.155(c))
2. To demonstrate or cause to be demonstrated to a prospective buyer or to operate a vehicle temporarily while the customer's vehicle is being repaired.  
(§503.062(b)(2))
3. To convey or cause to be conveyed, a vehicle from one of the dealer's places of business in Texas to another of the dealer's places of business in

Texas. (§503.062(a)(2)(A))

4. To convey a vehicle from the dealer's place of business to a place the vehicle is to be repaired, reconditioned, or serviced. (§503.062(a)(2)(B))

5. For use from the state line or a location in Texas where the vehicle is unloaded to the dealer's place of business. (§503.062(a)(2)(C))

6. For use from the dealer's place of business to a place of business of another dealer. (§503.062(a)(2)(D))

7. For use from the point of purchase by the dealer to the dealer's place of business. (§503.062(a)(2)(E))

8. To road test the vehicle. (§503.062(a)(2)(F))

9. For a vehicle to be used by a charitable organization. (§503.062(a)(3))

Although §503.062(b)(1) allows the use of a dealer's temporary license plate on a vehicle that a prospective buyer is operating while the vehicle is being demonstrated, TADA requests that the above uses be included in the rule and also add a provision for clarification: that a dealer's temporary license plate may be used on a vehicle that is driven under a conditional delivery agreement as provided for in the Finance Code, §348.013.

Even though the Definitions in Subchapter D, 43 TAC §215.132(5), Dealer's Temporary License Plate, reference Transportation Code §503.062, incorporating those uses into the proposed 43 TAC §215.154 and also adding that such plates are used when a conditional delivery agreement is signed, will give everyone a clearer understanding of the allowed uses of a dealer's temporary metal license plate when referencing the rule.

#### **§215.157. Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available.**

If a dealer or governmental agency is not able to access the internet at the time of a sale, the plate issuance is then to be documented on a departmental prescribed receipt form. The required information is subsequently required to be incorporated into the license plate system no later than the close of the next business day.

Unfortunately, internet access may not be available at the close of the next business day for a dealer or for a governmental agency. Weather events, cybersecurity events, as well as government shut downs may foreclose access the "next business day."

TADA requests that the rule be amended by inserting language allowing the required information to be entered into the license plate system when the dealer or governmental agency has access to the internet, but no later than the close of the next business day after internet access is permanently secured.

As internet access may not be available at the close of the next business day, the required information for the license plate system should be required to be entered only when internet access is restored.

## **CHAPTER 217. MOTOR VEHICLE TITLES AND REGISTRATION**

### **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

#### **§217.36. Refusal to Register by Local Government and Record Notation.**

As the rules track much of the language in Transportation Code §702.003 and to prevent a misunderstanding, TADA requests that the rule also include a reference to subsection (f) which provides that a county assessor-collector's or the department's refusal to register a motor vehicle for an outstanding warrant for a failure to appear or failure to pay a fine, does not apply to the registration of a motor vehicle under §501.0234.

### **SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS**

#### **§217.74. WebDEALER Access, Use, and Training.**

The department's webDEALER system is a web-based titling and registration system that dealers use to submit title applications to a county tax assessor-collector and the department. The term also includes webSALVAGE, eTITLE, and webLIEN and any other web-based system to facilitate electronic submissions of title applications. (43 TAC §217.71(b)(7))

The importance of webDEALER throughout the years has shown that it is vital in the titling and registering of a vehicle by a licensed dealer and its significance has been demonstrated when tax offices have been unavailable because of (1.) a lack of personnel, (2.) during COVID, and, (3.) through weather-related events.

TADA applauds the department on its foresight and for being on the forefront for all states in its web-based system.

A proposed new requirement mandates webDEALER training for each holder who is a vehicle dealer and who holds a general distinguishing number.<sup>13</sup> Each user accessing webDEALER under the holder's account must also complete webDEALER training conducted by the department by April 30, 2025. A new user created on or after April 30, 2025, must complete webDEALER training before being given webDEALER permission.

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<sup>13</sup> A "holder" is a motor vehicle dealer who holds a general distinguishing number (holder). (43 TAC §217.74(c)).

(43 TAC §217.74(g))

A holder who has had access to webDEALER for more than 6 months and submitted more than 100 transactions within the system as of October 1, 2024, is not required to take the webDEALER training under this section. (43 TAC §217.74(g)(2))

A holder or user will be denied access to webDEALER if the holder and user “under the holder’s account” fail to complete the required training “as outlined in this section.” (43 TAC §217.74(g)(3))

TADA again requests that webDEALER training not be required of either a dealer or a user as holders/licensees have been accessing webDEALER for many years, upwards to ten years and more; thus, the training requirement to access webDEALER does not appear to be necessary.

Going forward, TADA requests that training not be a condition to obtaining a license or to the use of the webDEALER system as dealers have been utilizing it for many years without the mandated training; thus, the subsections 43 TAC §217.74(g)(1) - (3) should be deleted from the proposal.

Currently, two videos are available regarding webDEALER, “Getting Started With webDEALER” and “Using webDEALER.” If additional training is determined to be a necessity, TADA requests that the department provide an additional webinar course or expand the ones that are currently available to satisfy the training need so that it may be accessed 24/7.

## **SUBCHAPTER H. DEPUTIES**

### **§217.166. Dealer Deputies.**

As has been necessary during COVID and when the tax assessor-collector’s offices are challenged because of staffing, the use of webDEALER has been of utmost importance to the dealers in order to timely title and register a vehicle and not be penalized. Although dealers have had to increase their bond with a county at times because of the number of transactions a dealer has in the webDEALER system, the use of webDEALER has become essential to the franchised dealer.

The new proposed language in (h) allows a county tax assessor-collector to set a maximum number of webDEALER transactions for a dealer deputy, and the maximum



number must be based on the bond amount.<sup>14</sup>

As emergencies arise and continue for an unforeseen amount of time, a dealer's use of the webDEALER system is imperative. An accommodation for a dealer who uses the webDEALER system is requested as the dealer should not be penalized by either being cut-off from webDEALER use or having continually to increase their bond if the tax assessor-collector is not able to process the applications submitted through webDEALER in a timely manner because of unforeseen circumstances, such as occurred during COVID and during various weather events.

TADA requests that a tax assessor-collector not limit the number of webDEALER transactions nor require a bond increase if a dealer's transaction have been in the system for 72 hours or more without processing by the tax assessor-collector.

Section 501.023(b), Transportation Code, provides that the tax assessor-collector **shall** send the application to the department or enter it into the department's titling system within 72 hours after receipt of the application.

If the 72 hours is not met, the dealer should not be punished by having the number of transactions submitted into webDEALER limited by the number of transactions that have not been processed over the 72-hour time period nor should a bond increase be required for an increase in transactions that have not been processed over the 72-hour period.

If a cybersecurity event or a weather event prevents a tax assessor-collector from meeting the 72-hour requirement, TADA also requests that the length of time to process the dealer's webDEALER transactions without a penalty assessed on the dealer for failure to obtain title within the statutory time period be extended by the same amount of time that a tax assessor-collector's system is down.

## **CHAPTER 224. ADJUDICATIVE PRACTICE AND PROCEDURE**

### **SUBCHAPTER B. MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRY ENFORCEMENT**

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<sup>14</sup>Proposed new 43 TAC §217.161(h): "To be eligible to serve as a dealer deputy, a person must post a bond payable to the county tax assessor-collector consistent with §217.167 of this title (relating to Bonding Requirements) with the bond conditioned on the persons proper accounting and remittance of the fees the person collects. The county tax assessor-collector may set a maximum number of webDEALER transactions for a dealer deputy, and the maximum number must be based on the bond amount."

**§224.58. Denial of Dealer Access to License Plate System.**

As the state mandates the use of metal license plates, this proposal allows for the department to deny access to the state's license plate system if a plate has been obtained or issued fraudulently.

Included within the department's determination of a fraudulently issued plate is an account user who issues:

1. An excessive number of license plates relative to the dealer's sales.
2. A license plate for a vehicle/vehicles not in the dealer's inventory. A vehicle is presumed not to be in the dealer's inventory if the vehicle is not listed in the dealer's monthly Vehicle Inventory Tax Statement.
3. Access to the license plate system for a fictitious user or person using a false identity.
4. A license plate for a motor vehicle when a dealer is no longer operating at a licensed location.
5. A license plate for a motor vehicle not located at the dealer's licensed location or storage lot.
6. A license plate for a vehicle that is not titled or permitted by law to be operated on a public highway.

With respect to Numbers 1. and 2., there are multiple reasons why a dealership may issue more plates than the number of vehicles a dealer sells or that are listed on the dealer's monthly Vehicle Inventory Tax Statement and which do not rise to a "fraud" occurrence.

Buyer's do bring back vehicles after their purchase and a dealer will make an effort to accommodate the needs or desires of the buyer. Examples of such "come-backs" include:

- A spouse who does not like the vehicle model or the color chosen by the other spouse.
- The vehicle does not fit in the garage.
- The vehicle's driver's or passenger's seat is now uncomfortable after driving for "X" miles.
- Not enough leg room in the back seat.
- The baby seat is too difficult to get in and out of the car.
- The monthly payment is too high.
- The insurance is too costly.
- A buyer elects to add a co-buyer.
- A buyer decides to change lienholder.

For a dealer to satisfy a buyer's request may require the use of multiple plates, paper (currently) or metal, to be issued when there is no fraud involved in the tag or plate issuance.

When a dealer accommodates a buyer because of buyer's remorse or otherwise, what will be the protocol regarding the return of the metal plate on the vehicle that was delivered to the customer? Is it to be destroyed or re-issued?

TADA requests the department to adopt a rule in the "come-back" scenario or issue guidance such as allowing the dealer to void the transaction and permit the use of the same plates from the voided transaction to be placed on the replacement vehicle, or some other stated protocol to be provided for in the rule.

### CONCLUSION

TADA again thanks the many employees who engaged in the drafting of the proposed rules as published in the July 12, 2024, *Texas Register*.

Although difficult because of the magnitude of the proposals, TADA requests, if possible, a consistent usage of terms in order to avoid confusion. An example is the use of multiple terms for the same type of plate: "general issue license plate" in 43 TAC §215.150; a "buyer's general issue license plate" in §215.155; and, a "buyer's license plate" also used in §215.155.

If there are any questions regarding the requests and comments, please let me know.

Sincerely,



Karen Phillips  
GC/EVP

#### Enclosures:

- Attachment 1—Letters from dealers in response to the Mobile Service Repair proposed rule.
- Attachment 2—July 24, 2023, letter from Mr. Daniel Avitia to General Motors personnel, Mr. Andrew Hager and Ms. Jean Hoglund, and November 24, 2020, letter to Karen Phillips.
- Attachment 3—March 28, 2024, Email from Ms. Laura Moriarty to Karen Phillips.
- Attachment 4—March 21, 2023, letter from GM personnel, Mr. Andrew Hager and Ms. Jean Hoglund, to Mr. Daniel Avitia.
- Attachment 5—General Motors form letter for dealers to send to TxDMV and 6 signed form letters.
- Attachment 6—August 8, 2024, letter from Chairman Terry Canales, House District 40, to Mr. Charles Bacarisse, Chairman, TxDMV Board.

# **ATTACHMENT 1**

# Seguin Chevrolet

509 W. IH 10  
Seguin, Texas 78155

July 30, 2024  
Seguin / Metro  
(830) 303-4381

FAX (830) 303-0811

Outside / SA Metro  
1-800-925-3980

Office of General Counsel

Texas Department of Motor Vehicles

4000 Jackson Avenue

Austin, Texas 78731

Re: Vehicle Mobile Warranty Service

Dear Office of General Counsel and Director Avitia:

I am writing to express my concern over the proposed rule being considered that would allow for mobile warranty and recall repair services to be offered by a franchised auto dealer. It is even more concerning that the proposed new rule would allow for the mobile work to be performed by a subcontractor. The proposed rule change is clearly counter to the legislative intent of the original statute, as written, that explicitly states that warranty and recall work is to be performed at the physical location of the dealership. It was not contemplated in the legislative intent as permitting for the mobile service "if these services are managed from a licensed location." That verbiage is not included in the original legislation or in the final rule, and it therefore should not be interpreted otherwise by this agency.

There are several reasons why I am opposed to this proposed rule:

1. Mobile service presents many safety, financial, and logistic concerns that need to be addressed for all affected by this: the customer, dealer, and technician.
2. A simple recall repair usually leads to additional repairs that in most cases will not be able to be performed off-site and away from the dealership facility. This situation would not be good for the customer nor the dealer.
3. This proposed new rule would allow for any other franchised dealer, subcontracted or otherwise, to come into my backyard and work on my customer's vehicles. This scenario is contrary to the intent of the existing rule, which states intentionally that warranty and recall work is to be performed at the physical location of the dealership.

This proposed rule will clearly only benefit a few dealers at the expense of the vast majority of the dealers, being detrimental to the public and to the industry as well as anti-competitive. Accordingly, I respectfully request the board to reconsider their proposed and adopted mobile service rules and defer to the Texas Legislature for its consideration, which is where the issue appropriately belongs so that the many concerns encompassing mobile warranty service may be addressed.

Respectfully submitted,

  
Thomas "T" Harper

**FIND NEW ROADS™**





August 1<sup>st</sup>, 2014

To Whom It May Concern:

This letter is in regards to franchised dealer mobile warranty service. We are against this practice as it violates current state statutes. The statutes governing the franchised dealers have been carefully drafted and the plain language adopted by the Legislature states that the repair of a motor vehicle under warranty is to be conducted at a licensed, established, physical premises and business facility subject to protest—not via a mobile unit. Under the Code, the performance of warranty work is required to be performed by a franchised dealer and carried out at an established, permanent, and licensed physical facility. The Legislature makes this clear in the adopted language of the statutes by defining “dealership,” “franchised dealer,” and “warranty work.” It cannot be argued that there is any ambiguity in the Texas Occupations Code as to where warranty work is required to be performed.

The proposed rule goes far beyond the plain text of the statute, and creates a myriad of concerns regarding enforcement of the current statute. Any revisions allowing for mobile service in Texas should be review and discussed by the Texas Legislature only after careful consideration of the proposal and appropriate safeguards implemented to ensure Texas consumers and dealers are not harmed. Further, there is significant liability not assumed by a property owner, business owner or city etc. where these services would be taking place along with the environmental impact these services could cause to the environment in regards to spills and disposal of hazardous waste with policies and procedures set forth by the Texas Commission on Environmental Quality.

I am formally requesting the board to withdraw the changes made by the Texas Department of Motor Vehicles regarding where warranty work is to be performed

Sincerely,



David Zwiacher

Vice President/General Manager

Scoggin-Dickey Chevrolet Buick Subaru Chrysler Dodge Jeep Ram Isuzu

Texas Automobile Dealers Association-Board Member

davidz@scoggin-dickey.com

806-798-4000

**Karen Phillips**

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**From:** Charlie Gilchrist <cgilchrist@gilchristautomotive.com>  
**Sent:** Friday, July 19, 2024 3:34 PM  
**To:** rules@txdmv.gov  
**Subject:** Mobile Service for Warranty and Recall Work

My family and I own 16 dealerships in North Texas and I am writing to request the board to withdraw the changes made by the DMV regarding where and how warranty work and recalls can be performed. This rule creates many problematic areas of concerns regarding enforcement and the current statute is very plain, understandable and enforceable. Any revisions allowing for mobile service should be promulgated by the Texas Legislature. Changing the statute should be done only after careful consideration to ensure proper safeguards are implemented to protect Texas consumers and dealers.

We dealers are participating in mobile service not because it is a profitable business model and it ensures consumer satisfaction with the dealer, but because the OEM's have tied significant financial incentives to these programs. In many cases, the incentives mask the quality issues our customers are faced with. Without the incentives, most dealers would not invest significant resources in this business. We are also concerned with safety concerns for both our technicians and our customer. We are concerned with the quality of the repair when performed at a customers home or business. We are concerned about the technical and social skills that are required for the technician that will be visiting someones home to complete the repairs. Frankly, we are struggling to find qualified technicians. Insurance is another issue. I am not so sure our insurance company understands or covers.

The current statute is clear and understandable. Warranty work is to be performed at a licensed physical facility. This protects both the consumer and the dealer who has invested in facilities, tools, technician recruitment and training so that our customers have the most efficient and effective repairs when warranty or recall issues arise.

Thank you

*Charlie Gilchrist*  
Gilchrist Automotive

Direct: 817-597-4201  
[cgilchrist@gilchristautomotive.com](mailto:cgilchrist@gilchristautomotive.com)  
[www.gilchristautomotive.com](http://www.gilchristautomotive.com)

  
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## Karen Phillips

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**From:** Tim Capps <timc@gabrieljordan.com>  
**Sent:** Friday, July 26, 2024 1:46 PM  
**To:** rules@txdmv.gov  
**Subject:** Texas Department of Motor Vehicles: Mobile Service

Daniel Avitia

Executive Director

Texas Department of Motor Vehicles

Respected Mr. Avitia,

I am writing to formally request the withdrawal of the recent changes proposed by the Texas Department of Motor Vehicles (TxDMV) concerning the location where warranty work is to be performed.

The Texas Occupations Code clearly stipulates that warranty work must be conducted at an established, permanent, and licensed physical facility, not via mobile units. This requirement is unambiguous as outlined in the statutes:

- **Dealership:** Defined as the physical premises where a franchised dealer operates, including facilities where repairs are made under a manufacturer's warranty. (Occupations Code §2301.002(8))
- **Franchised Dealer:** An individual holding a franchised motor vehicle dealer's license, engaged in selling and servicing vehicles at a permanent location. (Occupations Code §2301.002(16))
- **Warranty Work:** Includes all expenses incurred by a franchised dealer under a manufacturer's warranty. (Occupations Code §2301.002(37))

The language of the Texas Occupations Code leaves no room for interpretation regarding the location of warranty work. As such, any rule changes permitting mobile warranty services would contradict the statutory requirements and potentially lead to widespread violations.

Several key concerns regarding mobile service include:

- **Safety:** Risks to both vehicle owners and technicians performing repairs in non-standard environments.
- **Quality of Service:** Potential issues with the thoroughness and effectiveness of repairs made in mobile settings.
- **Technician Willingness:** Uncertainties about technicians' willingness to perform warranty repairs using mobile units.
- **Insurance:** Questions about the availability and adequacy of insurance coverage for mobile service operations.
- **Statutory Protections:** Impact on existing statutes that safeguard dealership operations and the implications of removing these protections for consumer and dealer interests.

Given these concerns, it is evident that the proposed rule changes extend beyond the scope of the current statutory framework. Addressing the feasibility and implications of mobile warranty services requires legislative

action. The Texas Legislature should thoroughly examine this issue, considering potential exceptions and implementing necessary safeguards to protect consumers and dealers.

I urge the board to withdraw the proposed rule changes and defer any decisions on mobile warranty services until the Texas Legislature has had the opportunity to review and address these issues comprehensively.

Thank you for your attention to this matter.

Sincerely,

Tim Capps



**Tim Capps**

Managing Partner

Gabriel/Jordan Buick GMC  
Levelland Chevrolet Buick GMC  
Brownfield Ford  
Brownfield CDJR

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**Elswick Automotive Group**  
4701 I-10 East Freeway  
Baytown, TX 77521  
281-839-7700

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**Community Toyota**  
4701 I-10 East Freeway  
Baytown, TX 77521  
281-839-7700

**Community Honda**  
5700 I-10 East Freeway  
Baytown, TX 77521  
281-839-0500

**Community Kia**  
4141 I-10 East Freeway  
Baytown, TX 77521  
281-421-3737

**Community Honda Lafayette**  
1407 Surrey Street  
Lafayette, LA 70501  
337-235-9086

**Holmes Honda**  
1331 E Bert Kouns Industrial Loop  
Shreveport, LA 71105  
318-408-2420

**Holmes Honda Bossier City**  
1040 Innovation Drive  
Bossier City, LA 71111  
318-408-2410

**Community Cartopia**  
4221 I-10 East Freeway  
Baytown, TX 77521  
281-849-8959

July 31, 2024

via email:rules@txdmv.gov

Texas Department of Motor Vehicles  
4000 Jackson Ave  
Austin Tx 78731

Re: TxDMV Proposed Rule on Mobile Service

The TxDMV has proposed rule §215.124 Mobile Warranty and Recall Repair Services and the agency has certified that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

In my review of the proposed rule, I would strongly disagree with that assessment. The Texas Legislature has specifically defined within §2301.002 under (8)(16) and (37) the statutes defining "dealership," "franchised dealer," and "warranty work." It is clear in the Texas Occupations Code as to where warranty work is to be performed. Any deviation from this language which the proposed rule suggests would be against the current code and beyond the authority of this agency. There are many concerns why this rule should not be adopted regarding safety, quality concerns, insurance coverage and specifically whose customer and who is performing the repair on that customer. All these concerns should only be addressed by the Texas Legislature. Any change related to this rule must be addressed, as it is contrary to existing state law.

As you are probably aware, at the Federal level the Supreme Court, in the "Chevron" case, the Court ruled that agencies must act within their statutory authority in issuing rules and regulations and the agency cannot defer to their interpretation of the law. In this instance, the plain text of the current law is clear, and the agency has no authority to issue this proposed rule. I would urge the agency to not publish this rule and to let all the concerns that this rule could impose to be addressed by the Texas Legislature.

Sincerely,



Roger A Elswick  
President

**Karen Phillips**

---

**From:** mark stevenson <bighammernb@yahoo.com>  
**Sent:** Friday, August 2, 2024 11:15 AM  
**To:** rules@txdmv.gov  
**Subject:** Opposition to Mobile Service



**To:** Texas DMV

**From:** Mark V. Stevenson V.P.  
ValMark Chevrolet  
New Braunfels, TX 78130

**RE:** Opposition to Mobile Service

I am concerned and opposed, as a medium size Franchise Chevrolet Dealer, that mobile service will hurt our business and essentially affect customers. Having any dealer from any location come into local areas will create additional confusion for the customer. Per warranty agreements, repairs not completed or unable to be completed, will create a sense of discontent with retail customers concerning where and with whom their vehicle will be serviced. The mobile dealer would be responsible for completing repairs per OEM standards. Any

additional repairs, if not completed satisfactorily, would be the responsibility of the mobile dealer.

The statutes governing the franchised dealers have been carefully drafted and the plain language adopted by the Legislature states that the repair of a motor vehicle under warranty is to be conducted at a licensed, established, physical premises and business facility subject to protest—not via a mobile unit.

Under the Code, the performance of warranty work is required to be performed by a franchised dealer and carried out at an established, permanent, and licenced physical facility. The Legislature makes this clear in the adopted language of the statutes by defining “dealership,” “franchised dealer,” and “warranty work.” It cannot be argued that there is any ambiguity in the Texas Occupations Code as to where warranty work is required to be performed.

Dealership means the physical premises and business facilities on which a franchised dealer operates the dealer’s business, including the sale and repair of motor vehicles. The term includes premises or facilities at which a person engages only in the repair of a motor vehicle if the repair is performed under a franchise and a motor vehicle manufacturer’s warranty. (Occupations Code §2301.002(8); Emphasis added.)

Franchised dealer means a person who: (A) holds a franchised motor vehicle dealer’s license issued by the board under this chapter and Chapter 503, Transportation Code; and (B) is engaged in the business of buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a manufacturer’s warranty at an established and permanent place of business under a franchise in effect with a manufacturer or distributor. (Occupations Code §2301.002(16); Emphasis added.)

Warranty work means parts, labor, and any other expenses incurred by a franchised dealer in complying with the terms of a manufacturer's or distributor's warranty.

(Occupations Code §2301.002(37))

The fact that the Texas Occupations Code is not ambiguous means that the Texas Legislature needs to change the statute to allow for mobile service to occur.

As you know, current law sets out mileage requirements under which intra-brand dealers can challenge other dealers that violate those standards. These challenges are then subject to review and a final determination. This proposed change has the very real likelihood of wholesale violations of this protected area and could potentially result in wholesale violations of these requirements in clear violation of the statute.

The Texas Department of Motor Vehicles has adopted these rules, but can see no forethought regarding numerous concerns including:

- Safety concerns for both the vehicle owner and the technician;
- The quality and thoroughness of a repair that may be performed at a remote location;
- The willingness of a technician to be perform a repair utilizing a mobile unit;
- Whether insurance can be obtained to cover such mobile service; and
- The implications on the current statute which provides a level of protection for dealership operations (including warrant and recall services) and how eliminating this protection ultimately impacts services to customers.

The Texas Legislature is charged with making statutory revisions to allow for the expansion of providing mobile service. There may be circumstances in which mobile service is warranted, but these

exceptions need to be explored and ultimately decided by the Texas Legislature.

I am formally requesting the board to withdraw the changes made by the Texas Department of Motor Vehicles regarding where warranty work is to be performed. The proposed rule goes far beyond the plain text of the statute, and creates a myriad of concerns regarding enforcement of the current statute. Any revisions allowing for mobile service in Texas should be reviewed and discussed by the Texas Legislature only after careful consideration of the proposal and appropriate safeguards implemented to ensure Texas consumers and dealers are not harmed.

Warmest Regards,  
Mark V. Stevenson V.P.  
ValMark Chevrolet New Braunfels  
(830) 606-3451

**Karen Phillips**

---

**From:** Rick Wallace <rrw@missionchevrolet.com>  
**Sent:** Tuesday, August 6, 2024 1:46 PM  
**To:** rules@txdmv.gov  
**Cc:** Karen Phillips; Darren Whitehurst  
**Subject:** Letter to DMV - El Paso

To whom it may concern,

As a representative of the automotive dealer body I have observed a growing interest of mobile technicians performing warranty work on vehicles outside of our traditional dealership settings. While the convenience of mobile services may seem appealing to consumers, it poses significant challenges for dealers and the automotive industry as a whole.

One of the main issues with mobile warranty work is the lack of oversight and quality control. Mobile technicians may not have access to the necessary tools, equipment, and training to properly diagnose and repair complex vehicle issues. The amount of computer communication needed for new vehicle repairs makes remote servicing extremely challenging. The struggle of customer data security in a mobile setting is very complex and costly. Service repairs inherently come with safety risk, that must be mitigated by insurance coverage both for the dealer and consumer. Putting vehicle repairs in mobile settings with tools and lifts needed to perform those tasks leads to greater exposure for accidents and injuries to occur. These types of repairs in the field will result in subpar workmanship, incomplete repairs, and potential safety hazards for consumers. Additionally, mobile technicians may not be held to the same standards and regulations as authorized dealerships, leading to inconsistencies in service quality and warranty compliance.

The rise of mobile warranty repairs threatens the livelihood of authorized dealerships and their employees. By diverting warranty work away from on site dealership service centers, mobile technicians will undermine the business model of traditional automotive service providers. This not only impacts dealership revenue and profitability but also jeopardizes the jobs of skilled technicians who do not feel comfortable working off-site and support staff who rely on dealership operations for employment.

Thank you for your attention to this important issue. I look forward to discussing this matter further and exploring potential solutions to safeguard the interests of automotive dealers and consumers alike.

Rick Wallace  
El Paso, TX





5802 N Navarro St., Suite 100  
Victoria, TX 77904  
(361) 485-0569

August 6, 2024

VIA EMAIL: rules@txdmv.gov

Daniel Avitia  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Re: TxDMV Proposed Rule on Mobile Service

Dear Mr. Avitia,

I own and am actively involved in the operation of 30 different retail automotive dealerships in Texas. All of my operations are in Texas where we employ over 2300 Texans. We represent 16 different manufacturers.

I am only in Texas, because it is a great place to do business. This is for many reasons, but one big one is the strong franchise laws the state has developed and refined over the years.

My goal in this business is to take care of the customer and if mobile service is what the customer wants, then it is something I want to provide. However, I am incredibly concerned about protecting the franchise laws we have in Texas and how we move forward to both take care of customers and protect such laws.

There are many issues that arise from the expansion of mobile service and I would request that the TxDMV commit to working with the legislature as it evolves over time. The code cannot be ambiguous where it can allow a manufacturer to skirt around the retail dealer for warranty work. Additionally, I don't think anyone wants a "fly-by-night" vendor to be able to go knocking door to door looking for mobile service clients without proper training, proper equipment, and proper facilities.

I could go on and on with all the little concerns that may arise if we lose focus on maintaining the legislature's intent regarding the state's franchise laws, but I think you get the point. I am all for some rules and code concerning mobile service; however, I just ask that any such changes or exceptions to the current rules be explored and ultimately decided by the Texas legislature to ensure they align with the protections afforded by our franchise laws.

Sincerely,

  
Benjamin Keating



# **ATTACHMENT 2**

**Texas Department of Motor Vehicles**

HELPING TEXANS GO. HELPING TEXAS GROW.

July 24, 2023

Andrew Hager, Regional Manager Business Operations  
Jean Hoglund, Director – EV Service and Parts  
General Motors LLC  
GM South Central Region  
3501 Olympus Blvd, Suite 280  
Dallas, Texas 75019

Dear Mr. Hager and Ms. Hoglund,

Thank you for your letter requesting clarification regarding 43 Texas Administrative Code (TAC) §215.103 and whether it allows franchised dealers in Texas to do mobile warranty repair work at customers' homes.

The current rule does not allow franchised dealers to perform mobile repair work. It stipulates in 43 TAC §215.103(a) that "warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility."

However, the Texas Department of Motor Vehicles (Department) is aware of the increased demand for mobile repair services that you note in your letter. In the coming year, the Department plans to undertake a review of its rules in 43 TAC Chapter 215 and will consider whether a change to 43 TAC §215.103(a) to allow franchised dealers the ability to conduct mobile repair is necessary or appropriate. As part of the rule review process, the Department will take into consideration General Motors' expressed desire to offer mobile warranty repair services that are deployed from the licensed dealership or licensed service-only facility but conducted at the customer's location. General Motors will be able to offer further comment and input both during the rule review process and before adoption of any rule amendments that result from the rule review.

Thank you for helping us understand the perspective of the field. I look forward to working with you as we undertake the rule review of 43 TAC Chapter 215.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Avitia".

Daniel Avitia  
Executive Director

November 24, 2020

Karen Phillips  
General Counsel, Executive Vice-President  
Texas Automobile Dealers Association  
1108 Lavaca, Suite 800  
Austin, Texas 78701

RE: Rulemaking and Protests

Dear Ms. Phillips:

Please allow this correspondence to serve as the Texas Department of Motor Vehicles' (the department) response to the inquires raised during our recent discussions on rulemaking and protests. This response is intended just as guidance related to those discussions, and does not establish any requirement, provide legal advice, or determine any law or fact.

**1. Question: Can TxDMV define "all costs incurred by the dealer as required by the manufacturer" by rule?**

No. The scope is clear from the plain language of Occupations Code §2301.469 and anything more than restating the statute could amend the requirement.

Specifically, reimbursement is required:

- for all costs;
- incurred by the dealer;
- as required by the manufacture.

The statute does not state that those requirements are subject to further department determination by rule. Compare to Occupations Code §2301.604(c).

The example provided in your June 29, 2020 letter states this fact question: A dealer may provide a loaner vehicle in a recall situation. The manufacturer may require the dealer to provide a loaner vehicle. Reimbursement under §2301.469 would be based on the determination of those facts. Questions of fact are best determined through protests, contested cases, or the courts.

**2. Question: Can TxDMV require, by rule, the rate for warranty work reimbursement in Occupations Code Section 2301.402 to include a dealer's retail parts markup?**

No. The plain language of Occupations Code §2301.402(b) sets both:

- the minimum amount that dealer must be reimbursed by the manufacturer or distributor;  
and
- the maximum amount that the manufacturer or distributor must reimburse the dealer.

The legislature did not authorize the department to, by rule:

- define or alter the statutory requirement; or
- interfere with or set franchise contractual terms and relationships on reimbursements.

Further, a rule could not result in requiring an amount more or less than the statutory required amount.

However, being that a rule is a one-size-fits-all requirement of statewide application, a rule would almost certainly alter the requirement (maybe higher or lower depending of the facts).

Again, these are questions of fact to be determined through protests, contested case hearings, or the courts. Changes to the statutory requirements would need to come from the legislature.

### 3. Can TxDMV just use their general rulemaking authority?

The Texas Automobile Dealers Association (TADA) has suggested that the department's general rule authority in Occupations Code §2301.155 and Transportation Code §1002.001 is sufficient to adopt rules defining terms and creating a parts-markup scheme under Occupations Code §2301.402 and §2301.469. The department agrees that the board's authorization in those two statutes is broad, but as addressed in the department's August 20, 2020, letter, the department must also consider guidance from the courts.

For an agency's administrative rule to survive a challenge to its validity it (1) must not be contrary to specific statutory language, (2) nor impose additional burdens or conditions in excess of or inconsistent with the relevant statutory language. *Tex. State Board of Examiners of Marriage and Family Therapists v. Tex. Med. Assn.*, 511 S.W. 3d 28 (Tex. 2017) In other words, through its rulemaking process an administrative agency may not impose or create requirements or conditions in *excess* of the authority given to the agency by the legislature in its enabling statute. *Id.*

The department must follow the plain language of each statute. Administrative rules may not impose additional burdens, conditions, or restrictions in excess of the statutory provisions. See. OAG Op GA-0008 (2003) (citing *Hollywood Calling v. Public Utility Comm'n of Tex.*, 805 S.W. 2d 618, 620 (Tex. App.—Austin 1991, no writ); KP-0193 (2018) (citing *Tex. State Bd. Of Exam'rs of Marriage and Family Therapists v. Tex. Med. Ass'n*, 511 S.W. 3d 28,33 (Tex. 2017); and KP-0198 (2018) (citing *Harlingen Family Dentistry, P.C. v. Tex. Health & Human Servs. Comm'n*, 452 S.W. 3d 479,486 (Tex. App.—Austin 2014, pet. dism'd).

It is suggested by TADA that the department also consider SB 1250 (76R1999) and three Texas Attorney general opinions that address general authority: KP-0080 (5/3/16); JM-561 (10/15/86); and KP-0202 (5/16/18). The department is aware of the opinions and notes that each refers to licensing persons that are performing regulated acts. In each case the agency is granted the authority to issue and terminate license.

The authority sought here differs from licensing because the department is not authorized to determine how or what amount a dealer can claim for warranty work reimbursements. Statute prescribes it. If a dealer believes that they are not being reimbursed as required under §2301.402 or §2301.469, the dealer can initiate a protest and present evidence to prove the deficiency of the payment under the statute.

The department is also aware of SB 1250. The introduced version of the bill and its house companion HB 3092 included language related to a price for warranty parts. The house companion ultimately passed

with language similar to the current statute. As the current statute is not ambiguous, neither bill has any effect on the plain language analysis of the current statute. In reviewing statutes, the courts have been clear:

If the "language is unambiguous, we interpret the statute according to its plain meaning," and "[w]e presume the Legislature included each word in the statute for a purpose and that words not included were purposefully omitted."

Jenkins v. Crosby Indep. Sch. Dist., 537 S.W.3d 142, 150–51 (Tex. App. 2017) (internal citations omitted)

Or in other words as described in Attorney General opinion KP-0198

Like the courts, when construing a statute our "chief objective is effectuating the Legislature's intent, and ordinarily, the truest manifestation of what lawmakers intended is what they enacted. This voted-on language is what constitutes the law, and when a statute's words are unambiguous and yield but one interpretation, the judge's inquiry is at an end." Combs v. Roark Amusement & Vending, L.P., 422 S.W.3d 632,635 (Tex. 2013) (quotation marks omitted).

Occupations Code §2301.402(a) states that "A manufacturer or distributor shall fairly and adequately compensate its dealers for warranty work." Occupations Code §2301.402(b) goes on to define the reimbursement amount as "[A] manufacturer or distributor may not pay or reimburse a dealer an amount of money for warranty work that is less than the amount the dealer charges a retail customer for similar non-warranty work." As such, subsection (b) appears to set both the reimbursement amount the dealer is entitled to, but also the amount that the manufacturer is required to pay. The legislature did not authorize the department to adjust that calculation. Defining terms such as "similar" or establishing a parts markup would not be consistent with the statutory language; and further could have an unforeseen effect in some cases of reducing the dealer's reimbursement or imposing additional burdens on the manufacturer.

Occupations Code §2301.469 provides

Notwithstanding the terms of any franchise, a manufacturer, distributor, or representative shall compensate a franchised dealer for all costs incurred by the dealer as required by the manufacturer in complying with a product recall by the manufacturer or distributor, including any costs incurred by the dealer in notifying vehicle owners of the existence of the recall.

In considering the plain language of this statute, the legislature appears to have established the costs that can be reimbursed and when the cost can be reversed. These are, notwithstanding any terms in the franchise agreement

- (1) all costs;
- (2) incurred by the dealer; and
- (3) as required by the manufacturer.

Government Code §311.005(13) (Code Construction Act) definition of "including" indicates that the final statement concerning notices does not limit the proceeding requirements. Occupations Code §2301.469 does not authorize the department to further define what "all costs incurred by the dealer as required by the manufacturer in complying with a product recall by the manufacturer or distributor." As with Occupations Code §2301.402, defining reimbursable costs in this section would not be consistent

with the statutory language; and further could have an unforeseen effect in some cases of reducing the dealer's reimbursement or imposing additional burdens on the manufacturer.

Further, the department also notes that courts have determined that a legislative authority to adopt rules granted in one section, does not convey the same authority in a separate section. For example, Occupations Code §2301.604(c) authorizes the department to define costs reimbursements payable to owners, but does not necessarily indicate an authority to define reimbursable warranty and recall costs in other sections. You might consider different application across statutes as discussed by the Texas Supreme Court:

First, chapter 35 lacks the clear language the Legislature used in chapter 36—nowhere does chapter 35 give the Commission the explicit power to “establish and regulate rates.” Nor does chapter 35 contain any detail comparable to chapter 36's provisions regarding the factors to be considered in setting wholesale transmission rates. The Commission asserts that the Legislature did not need to repeat such language in chapter 35, because it need not restate in each new statutory section all powers already bestowed on the Commission. While this may be true, the powers bestowed in chapter 36 do not extend to municipally owned utilities. And section 35.001 says that “electric utility” includes municipally owned utilities for Subchapter A of chapter 35 only. Consequently, chapter 35 does not sweep municipally owned utilities into chapter 36's scheme.

Pub. Util. Comm'n of Texas v. City Pub. Serv. Bd. of San Antonio, 53 S.W.3d 310, 318–19 (Tex. 2001)

Finally, TADA suggests that an example of the department's authority to promulgate rules relying on its general rulemaking authority in Occupations Code §2301.155 can be found in the department's advertising rules. TADA suggests that Occupations Code §2301.456 does not provide the department with specific rulemaking authority, yet the board adopted advertising rules. See. 43 TAC §215.241 et seq. §2301. 456 provides:

A manufacturer, distributor, or representative may not:

- (1) Use any false, deceptive, or misleading advertising; or
- (2) Notwithstanding the terms of any franchise, require that a franchise dealer join, contribute to, or affiliate with, directly or indirectly, any advertising association.

While the department agrees that no rulemaking authority is provided in §2301.456, the board relied upon the language found in §2301.155 in promulgating advertising rules as the board determined that such rules were “necessary” to administer the chapter. The board found it necessary to establish rules that govern advertising to avoid unfair and deceptive practices by dealers and manufacturers alike. This is because in contrast to Occupations Code §2301.402 and §2301.469, the plain language of the statute prohibiting “any false, deceptive, or misleading advertising” does establish a means for the manufacturers and dealers to determine what constitutes false, deceptive, or misleading advertising that will be acted upon by the department. Such an exercise of general rulemaking authority was necessary and appropriate to ensure the sound system of distributing and selling motor vehicles.

**4. Question: Why could TxDMV define by rule the rates for reimbursement in lemon law cases, but not in warranty work reimbursement under Occupations Code Section 2301.402?**

The legislature authorized the department to establish “incidental” costs by rule in Occupations Code §2301.603(c)(1). These are identified in rule 43 TAC §215.209.

Authorization in one statute does not bestow the same authorization in a different statute or for a different purpose. Pub. Util. Comm'n of Texas v. City Pub. Serv. Bd. of San Antonio, 53 S.W.3d 310, 318--19 (Tex. 2001)

- Subchapter M and §2301.604 apply to owner recoveries; and
- Subchapter I and §2301.402 apply to dealer reimbursement.

**5. Question: Can TxDMV give an advisory opinion to the public regarding whether the matters identified in the redacted receipts received from TADA constitutes a violation of the Occupations Code, or initiate a protest case based on the redacted receipts?**

No, the department cannot issue an advisory opinion and the submission is not a proper protest.

Information concerning advisory opinions:

- An agency is limited to the authority that it has been granted by the legislature; and must follow the plain language of the statute.
- The board and department are not expressly authorized to issue advisory opinions.
- Transportation Code §1003.001 states that the department is subject to the Administrative Procedures Act, Government Code Chapter 2001, which defines and regulates the adoption of rules and contested case processes.
- Courts have determined that an illegal ad hoc rule may result from a department statement of general applicability beyond verbatim restatement of the law, that:
  - (i) implements, interprets, or prescribes law or policy; or
  - (ii) describes the procedure or practice requirements of a state agency; and
  - (iii) indicates the intent to enforce that statement.Teladoc, Inc. v. Texas Med. Bd., 453 S.W.3d 606, 616 (Tex. App. 2014)  
. 2014)

**6. Can TADA initiate a protest on behalf of a dealer?**

Yes, Title 43 TAC §206.63, *Filing a Petition*, provides TADA with a legal mechanism to file a protest on behalf of a franchised dealer:

An individual, representative, partnership, corporation, association, governmental subdivision, or public or private organization, the department, or any other entity may seek to initiate a contested case by filing an original, and one copy of a petition, with the executive director at the department's headquarters building in Austin.

Additionally, 43 TAC §206.65(a) provides that the Executive Director will examine a petition and make a preliminary determination whether the petition states a claim that entitles the petitioner to initiate a contested case and whether the petition meets the procedural requirements of this subchapter and Government Code, Chapter 2001.



A protest is a means to initiate a contested case and must comply with statutes and rules necessary for that purpose, which includes determining the rights and obligations of the true interested parties.

Thank you for your inquiry. The department hopes that you find this correspondence responsive to your questions. Should you have further questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Roland D. Luna, Sr.", written in a cursive style.

Roland D. Luna, Sr., Director  
Motor Vehicle Division

# **ATTACHMENT 3**

## Karen Phillips

---

**From:** Moriaty, Laura <Laura.Moriaty@txdmv.gov>  
**Sent:** Thursday, March 28, 2024 1:49 PM  
**To:** Karen Phillips  
**Cc:** Avitia, Daniel  
**Subject:** TxDMV Staff Recommendations in Response to TADA's Public Comments

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Karen—

Thank you for TADA's comments on the recent rule amendment proposals for 43 Texas Administrative Code Chapters 206, 215 and 221 and new Chapter 224. I wanted to respond to your comments ahead of the board meeting, to give us an opportunity to discuss further if necessary. Here is a summary of TADA's comments and TxDMV's responses:

- Chapter 215
  - §215.102
    - TADA comment: It is unclear what the term "authorized" means in §215.102(e)(2)(E)(i).
    - TxDMV response: Proposing modified language.
      - The goal of §215.102(e)(2)(E)(i) is to allow TxDMV to identify and consider denying licensure to manufacturers and distributors who use a sales model that involves out-of-state sales through dealers who are not in good standing in the state in which they are licensed.
      - This is an AAMVA-recommended best practice, and reflects the department's current practice—TxDMV has requested and received this information from recent manufacturer and distributor licensure applicants.
      - In response to this comment and to concerns raised by advisory committees, TxDMV added clarifying language: "(i) a list of each franchised dealer in Texas including the dealer's name and physical address, or if motor vehicle sales offers and sales to Texas residents will solely be over the internet, a list of each out-of-state person authorized by the manufacturer or distributor to sell a new motor vehicle online to a Texas resident including the person's dealer's name, physical address, and dealer's license number issued by the state in which the person dealer is located;"
  - §215.103
    - TADA comment: Recommends striking the proposed amendments to §215.103(a) and (d).
    - TxDMV response: Disagree.
      - Texas Occupations Code §2301.002(16)(B) defines a franchised dealer as "engaged in the business of buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a manufacturer's warranty at an established and permanent place of business under a franchise in effect with a manufacturer or distributor."
      - In a 2020 letter to TADA, the department focused entirely on the "at an established and permanent place of business" clause, and said that any repair made offsite would not be at an established and permanent place of business. In doing so, the department disregarded the fact that the root of the clause in (16)(B) is "engaged in the business," and the examples that come after ("buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a

- manufacturer's warranty") are all modifying and describing "engaged in the business."
- The department's new interpretation of §2301.002(16)(B) is that as long as the franchised dealer is engaged in business at an established and permanent licensed location and the mobile repair fleets are managed from that location, the franchised dealer can deliver the warranty repairs at a customer's location, just as a dealer could deliver a purchased car to a customer's location.
  - State agencies can change their interpretation of statute, if they do so through the notice-and-comment rulemaking process in accordance with the Texas Government Code. While the 2020 letter interpreted the statute differently, this proposed rule is based on a new interpretation and was created through the full rulemaking process. As such, this rule will supersede that letter and allow franchised dealers more flexibility and business opportunity.
  - All the individual franchised dealers who commented on this proposed rule supported it and are interested in offering mobile warranty services.
- §215.111
    - TADA comment: Require the franchise termination notice from the manufacturer or distributor to state that a dealer has at least 60 days to protest a termination.
    - TxDMV response: Agree. Language added to the end of §215.111(b): "which must not be less than 60 days after the franchised dealer receives the notice of termination or discontinuance"
  - §215.112
    - TADA comment: Do not repeal rule until a broader replacement rule is proposed.
    - TxDMV response: Disagree.
      - The Legislature removed the statutory authority for §215.112 in 2019, and the rule has been unenforceable and unenforced since then. The department cannot put off completing a rule review of Chapter 215 any longer—it has been overdue for rule review since 2021. This provision must be repealed to prepare for proposing a new and much broader replacement rule. Its repeal will have no impact on the status quo because it is unenforceable and has not been enforced for five years.
      - The department has engaged with TADA and TRVA to understand your concerns and to draft new rule language. TxDMV has drafted language for a new rule that is currently being circulated and reviewed internally. I plan to send over that new draft rule language to you in a separate email hopefully next week, and definitely before the April board meeting. If there is support for the draft language, the board could propose the new rule language as soon as the June 2024 board meeting.
  - §215.140
    - TADA comment: Dealers should not be required to report and update temporary storage lots as an application requirement.
    - TxDMV response: Agree. Removed the proposed requirement to disclose all storage lots as an application requirement and replaced it with "must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department."
  - §215.160:
    - TADA comment: Required changes to forms necessitate that license holders be allowed adequate time to reprint forms and reprogram systems to minimize financial impact.
    - TxDMV response: Agree. Changed the effective date for the rules to June 1, 2024, which is as far out as it can go while still allowing the board to propose the rules necessary to implement HB 718 and HB 3297 at the June board meeting. To adopt rules by the December 1, 2024, statutory deadline for HB 718, the department must propose those rules in June 2024.
  - §§215.102, 215.103, 215.171 and §§215.173-215.180:

- TADA comment: The proposed amendments to these rules should be withdrawn because of litigation.
- TxDMV response: Disagree. The proposed rules do not impact what a manufacturer can do in Texas, or change the balance of power between manufacturers and dealers. After conferring with our attorneys at the AG's office, TxDMV has determined that none of the rules proposed for amendment are implicated in any ongoing litigation, aside from routine enforcement matters.

TxDmv appreciates TADA's input on the proposed rules, and is committed to continuing to work with you to address the concerns of franchised dealers. Please let me know if you have any questions or would like to discuss further.

Thanks,  
Laura

Laura Moriaty || General Counsel  
**Texas Department of Motor Vehicles**  
**Office of General Counsel**  
Email: [laura.moriaty@TxDMV.gov](mailto:laura.moriaty@TxDMV.gov) Phone: 512-465-4160

# **ATTACHMENT 4**



---

General Motors Company  
3501 Olympus Blvd  
Suite 280  
Coppell, TX 75019

**Date:** March 21, 2023

**To:** Daniel Avitia, Executive Director  
Texas Department of Motor Vehicles  
4000 Jackson Ave, Austin, TX 78731

**Fm:** Andrew Hager, Regional Manager Business Operations  
Jean Hoglund, Director – EV Service and Parts  
General Motors LLC, GM South Central Region  
3501 Olympus Blvd, Suite 280, Dallas, Texas 75019

**Re:** Request for Clarification – 43 TAC §215.103

General Motors (GM) is requesting clarification from the Texas Department of Motor Vehicles (Department) regarding the application of 43 TAC §215.103 to mobile repair services offered to customers by Texas motor vehicle dealers.

The past several years have seen a dramatic and rapid increase in the popularity of vehicle shopping, purchasing, and servicing facilitated through an exclusively online experience. With respect to vehicle service, to accommodate this clear customer demand, a significant number of non-GM dealerships in Texas are currently offering mobile services to customers in the state. Specifically, service vehicles are deployed from their licensed dealership sales and service facilities to customer locations (homes, businesses, etc.) where licensed dealer technicians subsequently perform vehicle inspections and, if necessary, warranty and non-warranty repairs.

GM maintains a similar interest in accommodating this significant demand for flexibility and convenience demonstrated by Texas consumers. However, GM first seeks confirmation from the Department that such mobile services currently offered by non-GM dealers in Texas are permissible under 43 TAC §215.103 (reproduced below) given that, in relevant part: (i) the mobile service vehicles are deployed from and return to dealership sales and service facilities that are already properly licensed under the Texas Administrative Code; (ii) these mobile services are conducted by properly trained and



GENERAL MOTORS

licensed dealership technicians; and (iii) these dealerships have received prior written approval from their manufacturer(s).

Based on the foregoing, we ask that the Department confirm that the mobile service activities described above comport with 43 TAC §215.103. Should you have questions or comments, please feel free to contact either Julie Shafer (615/785-1702, [REDACTED]) or Jeff Perry (248/321-2246, [REDACTED]). Thank you for your consideration.



GENERAL MOTORS



## TITLE 43. TRANSPORTATION

### PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

#### CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

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

### SECTION 215.103. Service-only Facility

---

(a) A service-only facility is a location occupied and operated by a franchised dealer that is a completely separate, noncontiguous site, from the franchised dealer's new motor vehicle sales and service or sales only location, where the franchised dealer will only perform warranty and nonwarranty repair services. Except as allowed in subsection (d) of this section, warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility.

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

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

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



GENERAL MOTORS

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





July 24, 2023

Andrew Hager, Regional Manager Business Operations  
Jean Hoglund, Director – EV Service and Parts  
General Motors LLC  
GM South Central Region  
3501 Olympus Blvd, Suite 280  
Dallas, Texas 75019

Dear Mr. Hager and Ms. Hoglund,

Thank you for your letter requesting clarification regarding 43 Texas Administrative Code (TAC) §215.103 and whether it allows franchised dealers in Texas to do mobile warranty repair work at customers' homes.

The current rule does not allow franchised dealers to perform mobile repair work. It stipulates in 43 TAC §215.103(a) that "warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility."

However, the Texas Department of Motor Vehicles (Department) is aware of the increased demand for mobile repair services that you note in your letter. In the coming year, the Department plans to undertake a review of its rules in 43 TAC Chapter 215 and will consider whether a change to 43 TAC §215.103(a) to allow franchised dealers the ability to conduct mobile repair is necessary or appropriate. As part of the rule review process, the Department will take into consideration General Motors' expressed desire to offer mobile warranty repair services that are deployed from the licensed dealership or licensed service-only facility but conducted at the customer's location. General Motors will be able to offer further comment and input both during the rule review process and before adoption of any rule amendments that result from the rule review.

Thank you for helping us understand the perspective of the field. I look forward to working with you as we undertake the rule review of 43 TAC Chapter 215.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Avitia", is written over a light blue horizontal line.

Daniel Avitia  
Executive Director

# **ATTACHMENT 5**

**Karen Phillips**

---

**From:** Karen Phillips  
**Sent:** Friday, August 9, 2024 11:39 AM  
**Subject:** ACTION REQUESTED for Texas Team - Mobil Service Dealer Letter to TX legislature  
**Attachments:** TX Mobile Service draft support letter.docx

----- Forwarded Message -----

**Subject:**FW: ACTION REQUESTED for Texas Team - Mobil Service Dealer Letter to TX legislature  
**Date:**Thu, 22 Feb 2024 22:23:55 +0000  
**From:**Elliott Martin <[william.2.martin@gm.com](mailto:william.2.martin@gm.com)>  
**CC:**Johnny Putnam Jr <[john.putnam@chevrolet.com](mailto:john.putnam@chevrolet.com)>

Good Afternoon Everyone,

Please see attached documents regarding Mobile Service in Texas. Attached are some word documents to fill out to submit to work towards changing the state laws regarding Mobile service. See the note below.

Thanks,

**W. Elliott Martin**

**GM District Service Manager  
Chevrolet- Lafayette, LA area**

[William.E.Martin@gm.com](mailto:William.E.Martin@gm.com)

913-333-1149

 **general motors**

[Your Name] [Your Title]  
[Your Dealership]  
[Address]  
[City, State, ZIP]

[Date]

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Subject: Letter of Support for Proposed Rule Change - Mobile Service under 43 TAC §215.103

Dear Ms. Moriaty,

I am writing this letter to express my full support for the proposed rule change regarding mobile service under 43 TAC §215.103. As a motor vehicle dealer, I believe that this rule change will bring numerous benefits to both dealerships and customers in the state of Texas.

Mobile service offers a convenient and efficient solution for vehicle maintenance and repairs. It allows dealerships to extend their services beyond the traditional brick-and-mortar locations, reaching customers who may have difficulty visiting a physical dealership due to various reasons such as distance, time constraints, or mobility issues. By allowing mobile service, the Texas Department of Motor Vehicles will enable dealerships to provide a higher level of customer service and enhance the overall ownership experience.

Furthermore, mobile service can significantly reduce downtime for customers, as repairs and maintenance can be performed at their preferred location, whether it be their home, workplace, or any other convenient spot. This flexibility not only saves valuable time for customers but also contributes to their satisfaction and loyalty towards the dealership.

I firmly believe that the proposed rule change to allow mobile service under 43 TAC §215.103 aligns with the evolving needs and expectations of customers in today's fast-paced world. It will foster innovation, improve customer satisfaction, and contribute to the growth and success of motor vehicle dealerships in Texas.

Thank you for considering this letter of support. I trust that the Texas Department of Motor Vehicles will carefully evaluate the benefits of mobile service and make a decision that will positively impact the automotive industry and the customers it serves.

Sincerely,

[Your Name] [Your Title]

[Your Dealership]

Trent Polk - CEO  
Glenn Polk Chevy Buick GMC of Gainesville  
1608 West Hwy 82  
Gainesville, TX 76240

January 23, 2024

2024 JAN 29 AM 10:25  
**RECEIVED**

JAN 29 2024

TxDMV  
OFFICE OF GENERAL COUNSEL

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Subject: Letter of Support for Proposed Rule Change - Mobile Service under 43 TAC §215.103

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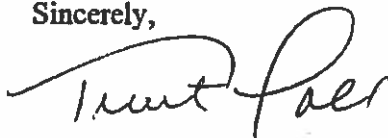
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Sincerely,



Trent Polk - CEO

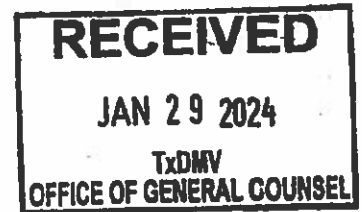
Glenn Polk Chevy Buick GMC of Gainesville

no money

Monte Hall GM  
Hall Chevrolet GMC  
385 West Dallas Street  
Canton, TX 75103

1/23/24

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731



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Sincerely,

A handwritten signature in black ink, appearing to read "Monte Hall". The signature is stylized and cursive.

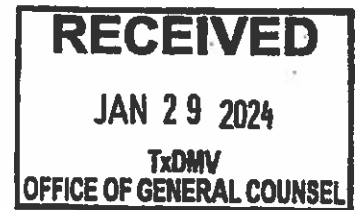
Monte Hall  
General Manger  
Hall Chevrolet GMC



Pam Hall President/Owner  
Hall Chevrolet GMC  
385 West Dallas Street  
Canton, TX 75103

1/23/24

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731



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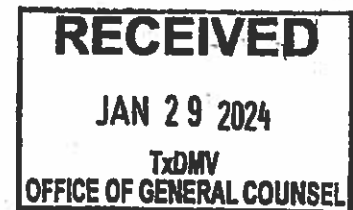
A handwritten signature in black ink that reads "Pam Hall". The signature is written in a cursive style with a large, sweeping initial "P".

Pam Hall  
President/Owner  
Hall Chevrolet GMC

Shawn Polk – Owner & COO  
Glenn Polk Chevrolet of Sanger  
1405 North Stemmons St  
Sanger, TX 76266

1-23-2024

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731



Subject: Letter of Support for Proposed Rule Change - Mobile Service under 43 TAC §215.103

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Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Polk". The signature is fluid and cursive.

Shawn Polk – Owner & COO

Glenn Polk Chevrolet of Sanger

Bill Owens, General Manager  
Jay Hodge Chevrolet  
478 Wildcat Way  
Sulphur Springs, TX 75482

RECEIVED

1-26-2024

FEB 02 2024

TxDMV  
OFFICE OF GENERAL COUNSEL

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Subject: Letter of Support for Proposed Rule Change - Mobile Service under 43 TAC §215.103

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Thank you for considering this letter of support. I trust that the Texas Department of Motor Vehicles will carefully evaluate the benefits of mobile service and make a decision that will positively impact the automotive industry and the customers it serves.

Sincerely,

Bill Owens, General Manager

Jay Hodge Chevrolet



Nick Zorn, General Manager  
Classic Chevrolet Buick GMC of Cleburne  
822 Walter Holiday Dr.  
Cleburne, TX 76033

January 23, 2024

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Subject: Letter of Support for Proposed Rule Change - Mobile Service under 43 TAC §215.103

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Sincerely,



Nick Zorn, General Manager  
Classic Chevrolet Buick GMC of Cleburne



P.O. Box 2677  
CLEBURNE, TX 76033

NORTH TEXAS TX 750

7 FEB 2024 PM 11:58

FIRST CLASS

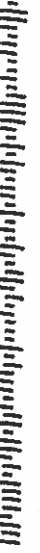


US POSTAGE PAID PITNEY BOWES

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TxDMV  
2024 FEB 12 AM 9:08

Office of General Counsel  
Texas Department of Motor Vehicles  
4500 Jackson Avenue  
Austin, TX 78731



78731-606099

# **ATTACHMENT 6**

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# COMMITTEE ON TRANSPORTATION

---

TERRY CANALES  
*Chair*



JOHN RANEY  
*Vice Chair*

## TEXAS HOUSE OF REPRESENTATIVES

P.O. BOX 2910 · AUSTIN, TEXAS 78768-2910  
CAPITOL EXTENSION E2.122 · (512) 463-0818

August 8, 2024

Mr. Charles Bacarisse  
Chairman, Texas Motor Vehicle Board  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Re: Amended 43 TAC §215.103 and Proposed 43 TAC §215.124

Dear Chairman Bacarisse:

As the Chairman of the House Transportation Committee, I recently reviewed the April 26, 2024, *Texas Register* and the rule adoptions by the board which impact the State of Texas and the licensees over which the board is charged.

In addition, I am also aware of the proposed rules published in the July 12, 2024, *Texas Register*, which include the department's continued advancement of rules governing mobile warranty and recall service.

I am formally requesting the board to withdraw the recently adopted amendments to 43 TAC §215.103 and to withdraw the proposed rule, 43 TAC §215.124, as it is my opinion that the Texas Occupations Code, Chapter 2301, is not ambiguous as to where warranty work is to be performed and the adopted rule amendments and the proposed rule go beyond the plain text of the statute as passed by the Texas Legislature.

## **Texas Occupations Code Is Not Ambiguous**

Under the Code, the performance of warranty work is required to be performed by a franchised dealer and carried out at an established, permanent, and licenced physical facility. The Legislature makes this clear in the adopted language of the statutes by defining “dealership,” “franchised dealer,” and “warranty work.” It cannot be argued that there is any ambiguity in the Texas Occupations Code as to where warranty work is required to be performed.

**Dealership** means the **physical premises** and business facilities on which a franchised dealer operates the dealer’s business, including the **sale and repair of motor vehicles**. The term includes **premises or facilities** at which a person engages only in the repair of a motor vehicle if the repair is performed under a franchise and a motor vehicle manufacturer’s warranty.

(Occupations Code §2301.002(8); Emphasis added.)

**Franchised dealer** means a person who:

(A) **holds** a franchised motor vehicle dealer’s **license** issued by the board under this chapter and Chapter 503, Transportation Code; and

(B) is engaged in the business of buying, selling, or exchanging new motor vehicles and **servicing or repairing motor vehicles** under a manufacturer’s warranty at an **established and permanent place of business** under a franchise in effect with a manufacturer or distributor.

(Occupations Code §2301.002(16); Emphasis added.)

**Warranty work** means parts, labor, and any other expenses incurred by a franchised dealer in complying with the terms of a manufacturer’s or distributor’s warranty.

(Occupations Code §2301.002(37))

In addition, it is my understanding that all franchised dealers are licensed to do business by the TxDMV for a specific location. With respect to that specific licensed location, a new dealership as well as a dealership relocation is subject to protest by another same line-make franchised dealer under §2301.652, Occupations Code.



The administratively adopted amended mobile service rule and the proposal suggest either a disregard for the statutory protest rights by a same line-make dealer by allowing mobile vans for warranty work or a misunderstanding of the need to critically review and evaluate the issue to determine if or how best to allow for mobile service for warranty and recall work to satisfy the needs of all parties while maintaining the safest and best service for the public and licensees.

The Texas Legislature determined that warranty work is performed at a licensed and established permanent place of business and to make such a substantive change as to allow mobile warranty service, which is contrary to the statutory language, requires a thorough discussion and evaluation by the Legislature.

### **43 TAC §215.103. Service Only Facility.**

The proposal published in the *Texas Register*, 48 *TexReg* 8222, December 29, 2023, and adopted by the board and published in the April 26, 2024, *Texas Register*, effective June 1, 2024, provides:

#### *§215.103. Service Only Facility.*

- (a) A service-only facility is a location occupied and operated by a franchised dealer that is a completely separate, noncontiguous site, from the franchised dealer's new motor vehicle sales and service or sales only location, where the franchised dealer performs ~~[will only perform]~~ warranty ~~[and nonwarranty]~~ repair services and not new motor vehicle sales. ~~[Except as allowed in subsection (d) of this section, warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility,]~~
- (b) A franchised dealer must obtain a license to operate a service-only facility. A dealer may not obtain a service-only facility license to service a ~~[particular]~~ line-make ~~[line]~~ of new motor vehicles, unless that dealer is franchised and licensed to sell that line-make.
- (c) A service-only facility is a dealership subject to protest under Occupations Code, Chapter 2301.
- (d) Upon the manufacturer's or distributor's prior written approval, which cannot be unreasonably withheld, ~~[only]~~ a franchised dealer of the manufacturer or distributor may contract with another person as a subcontractor to perform warranty repair services

that the dealer is authorized to perform under a franchise agreement with a manufacturer or distributor. Payment shall be made by the franchised dealer to the subcontractor and not by the manufacturer or distributor to the subcontractor.

The agency's explanation for the §215.103 amendments states at 48 *TexReg* 8205 that "Chapter 2301 does not require warranty repair services to be performed only at a licensed dealer location."

This explanation runs contrary to the statutes that require that warranty work be performed at the franchised dealership, not merely "managed" at the dealership. If the Legislature had intended that mobile warranty service be allowed, the definitions of "dealership" and "franchised dealer" would have so provided.

I also understand that there is a November 20, 2020, letter from Mr. Roland Luna, Director, Motor Vehicle Division, with the TxDMV, that contradicts the new rule amendments and proposed rule as the issue was previously discussed as to whether a franchised dealer could perform mobile repair services.

Mr. Luna quoted §2301.251(a) and §2301.002(16)(B), Occupations Code, and concluded that:

A mobile repair service would have to demonstrate that it meets the **established and permanent** location requirement to be licensed to perform warranty repair services. In other words, if a franchised dealer is prohibited from performing warranty repair services at any location other than its established and permanent (licensed) location, it is unclear how a mobile repair service unit qualifies to be licensed.

As the agency has now adopted a new interpretation of the same statutes as relied upon in the 2020 Luna letter, I have also been told that the rule change explanation is because: (1.) a state agency can change its interpretation of a statute as long as it is done through the notice-and-comment rulemaking process in accordance with the Texas Government Code; (2.) while the 2020 [Luna] letter interpreted the statute differently, the proposed rule is based on a new interpretation and was created through the full rulemaking process; and, (3.) the rule [change] will supersede the [Luna] letter and allow franchised dealers more flexibility and

business opportunity.

However, the statute's text is plain, not ambiguous, and the rule as published in the April 26, 2024, *Texas Register*, is outside the plain statutory language. Unless ambiguous, the department does not have license to change its interpretation simply because the proposal went through a notice and comment process.

Repairs by a franchised dealer are to be performed at a permanent, licensed, and established location under the existing code unless the Legislature determines otherwise.

**Proposed 43 TAC §215.124. Mobile Warranty and Recall Services.**

The July 12, 2024, *Texas Register*, includes a proposed rule that again discusses mobile warranty work. This proposal states:

§215.124. Mobile Warranty and Recall Repair Services

(a) A franchised dealer may offer mobile warranty or recall repair services under a manufacturer's or distributor's warranty if these services are managed from a licensed location, which may be either a licensed sales and service location or a licensed service-only facility as described in §215.103 of this title (relating to Service-only Facility).

(b) The department considers mobile warranty or recall repair services to be managed from a licensed location if a franchised dealer at a licensed location:

(1) authorizes a mobile warranty or recall repair;

(2) dispatches personnel, parts, or tools to perform a warranty or recall repair at the location of a motor vehicle under warranty; or

(3) maintains warranty or recall records.

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

(d) A person with whom a franchised dealer contracts to perform

mobile warranty or recall repair services is not eligible to obtain a service-only facility license and may not advertise the performance of warranty repair or recall services to the public.

The department is giving itself the authority to provide that a mobile warranty service is allowable if “it is managed” from a licensed dealership. There is no provision in Chapter 2301, Occupations Code, that mobile service is allowable if “managed” from a licensed dealership.

The Board has the authority to adopt rules that are necessary or convenient to administer Chapter 2301, Occupations Code and to govern the practice and procedure before the board. The statute is not ambiguous, inexact, or vague in stating that warranty repairs are to be performed at a franchised dealer’s dealership—not on the side of the road or in a driveway.

### **Texas Agency Deference**

The Texas Supreme Court, when analyzing an agency’s interpretation of a statute it is charged with enforcing, discusses the Court’s “serious consideration” inquiry, *R.R. Comm’n of Tex. v. Tex. Citizens for a Safe Future & Clean Water*, 336 S.W.3d 619 (Tex. 2011). In this case, the court stated it will generally uphold an agency’s interpretation of a statute it is charged by the Legislature with enforcing, so long as the construction is reasonable and does not contradict the plain language of the statute.

Agency deference in Texas comes with the following caveats:

1. An agency regulation containing a reasonable interpretation of an **ambiguous** statute is given some deference if it applies to a formal opinion adopted after formal proceedings.
2. **The language at issue must be ambiguous.**
3. **An agency’s opinion cannot change plain language.**
4. An agency’s construction must be reasonable.
5. Alternative **unreasonable** constructions do not make a policy ambiguous. (*Id.*, at 625; Emphasis added.)

Consideration as to the duration of the interpretation is also recognized in Attorney General Opinion No. KP-0115.

An agency’s interpretation cannot contradict the statute. An agency will only

be deferred to when the text of a statute is ambiguous. When the statute's wording is clear, a court will apply the common meaning without any other rules of construction or extrinsic aids. Attorney General Opinion KP-0115, quoting *Combs v. Roark Amusement & Vending, L.P.* (422 S.W.3d 632, 635 (Tex. 2013)); *City of Rockwall v. Hughes*, 246 S.W.3d 621, 626 (Tex. 2008).

“An agency's opinion cannot change plain language.” *Fiess v. State Farm Lloyds*, 202 S.W.3d 744, 747 (Tex. 2006); KP-0115. As in this instance, the language is concise and not subject to misinterpretation or augmentation.

Since 1971, the statutes governing the franchised dealers have been carefully drafted and the plain language adopted by the Legislature states that the repair of a motor vehicle under warranty is to be conducted at a licensed, established, physical premises and business facility subject to protest—not via a mobile unit.

The statute is neither ambiguous nor in need of explanation. I believe the department was correct in 2020 when Mr. Luna wrote that a mobile repair service must demonstrate that it meets the established and permanent location requirement to be licensed to perform warranty repair services—which it cannot.

## **Conclusion**

The interplay of the statutes regarding the location of a franchised dealer's sales and repair facilities are written in plain text with no ambiguity.

The performance of warranty service and repair of a motor vehicle at other than the licensed, established, permanent, and physical premises of a franchised dealer and whether the statute should be amended to allow mobile service, is for the Legislature to determine.

As the statute is clearly written and unambiguous, it is the Legislature who is charged with making statutory amendments. The determination allowing warranty or recall work to be performed other than at the franchised dealer's physical, established, and licensed facility is a usurpation of the Legislature.

I am requesting the department to withdraw its amendments to 43 TAC §215.103 and to withdraw proposed 43 TAC §215.124. Whether the statute should be amended to allow mobile warranty or recall work requires a thorough discussion at the Texas Legislature regarding:

1. Safety concerns for both the vehicle owner and the technician;
  2. Whether a quality and thorough repair may be conducted other than at a physical licensed location;
  3. The limited scope of services that may be performed from a mobile unit and the understanding by the vehicle owner as to such limitations;
  4. Whether a technician can be engaged to conduct a repair from a mobile unit;
  5. Whether insurance can be obtained to cover such mobile service;
- and,
6. Other issues that may be brought to bear by stakeholders.

I am available to discuss this issue with all stakeholders. In the meantime, I reiterate my request for the board to withdraw 43 TAC §215.103, as amended and published in the April 26, 2024, *Texas Register* and 43 TAC §215.124, as published in the July 12, 2024, *Texas Register*.

Sincerely,



Representative Terry Canales  
Chair, House Transportation  
House District 40

c: Vice Chair Tammy McRae  
Christian Alvarado  
Stacey Gillman  
Brett Graham  
Sharla Omumu  
John Prewitt  
Darren Schlosser  
Executive Director Daniel Avitia

**Board Meeting Date: 10/24/2024**  
**ACTION ITEM**

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**To:** Texas Department of Motor Vehicles Board  
**From:** Corrie Thompson, Enforcement Division Director  
**Agenda Item:** 9  
**Subject:** Chapter 221, Salvage Vehicle Dealers  
Amendments: §221.54  
(Relating to HB 718)

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**RECOMMENDATION**

Action Item. Adopt proposed amendments to 43 Texas Administrative Code §221.54 with an effective date of July 1, 2025.

**PURPOSE AND EXECUTIVE SUMMARY**

Amendments to §221.54 add criteria related to the failure of a salvage dealer to remove, report, or destroy void license plates to criteria currently used in prioritizing site visits to these license holders in support of House Bill (HB) 718, 88th Legislature, Regular Session (2023).

**FINANCIAL IMPACT**

N/A

**BACKGROUND AND DISCUSSION**

The amendments to §221.54 expand the list of criteria that the department considers in determining whether to conduct a site visit to include whether a salvage vehicle dealer has:

- failed to remove a license plate or registration insignia from a scrapped or destroyed vehicle,
- failed to timely or accurately report to the department a license plate from a scrapped or destroyed vehicle, or
- failed to scrap or destroy license plates and registration insignia from a scrapped or destroyed vehicle.

These amendments allow the department to prioritize potential license plate-related misuse or fraud consistent with the department's enforcement responsibilities under HB 718.

**Comments**

The proposed amendments to §221.54 were published for comment in the July 12, 2024, issue of the *Texas Register*. The comment period closed on August 12, 2024. The department received no public comment.

If the Board adopts these amendments during its October 24, 2024, open meeting, staff anticipates publication in the November 8, 2024, issue of the *Texas Register*.

**ADOPTION OF REVISIONS TO****SUBCHAPTER C. LICENSED OPERATIONS****43 TAC §221.54**

**INTRODUCTION.** The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Subchapter C, Licensed Operations, §221.54, concerning criteria for site visits, effective July 1, 2025. These amendments are necessary to implement House Bill (HB) 718, enacted during the 88th Legislature, Regular Session (2023). HB 718 amended Transportation Code, Chapter 503 to eliminate the use of temporary tags when purchasing a motor vehicle and replaced these tags with categories of license plates, effective July 1, 2025. HB 718 requires the department to determine new distribution methods, systems, and procedures, and to set certain fees. Section 34 of HB 718 grants the department authority to adopt rules necessary to implement or administer these changes in law and requires the department to adopt related rules by December 1, 2024. Beginning July 1, 2025, when a motor vehicle is sold to a Texas resident, a Texas dealer will assign a license plate to the vehicle unless the buyer has a specialty or other qualifying license plate, and the assigned license plate will stay with the vehicle if the vehicle is later sold to a buyer, including a salvage dealer. These adopted amendments add new criteria to the site visit criteria currently used by the Enforcement Division to include the failure of a salvage dealer to remove, report, or destroy void license plates. These adopted amendments will allow the department to prioritize potential license plate-related misuse or fraud consistent with the department's enforcement obligations under HB 718. Amended §221.54 is being adopted without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5137) and is not being republished.



**1 REASONED JUSTIFICATION.**

2           Adopted amendments to §221.54 add new paragraphs (6)–(8). These adopted amendments  
3 expand the list of criteria that the department will consider in determining whether to conduct a site visit  
4 to include whether a licensed salvage vehicle dealer has: 1) failed to remove a license plate or registration  
5 insignia from a scrapped or destroyed vehicle; 2) failed to timely or accurately report to the department  
6 or enter information about a license plate from a scrapped or destroyed vehicle into the system  
7 designated by the department; or 3) failed to scrap or destroy void license plates and registration insignias  
8 from a scrapped or destroyed vehicle. These adopted amendments will ensure that violations of the  
9 statutes and rules relating to license plates are factors that the department considers when deciding the  
10 priority of conducting a site visit to a salvage vehicle dealer. An adopted amendment also changed the  
11 punctuation from a period to a semicolon in §221.54(5) to accommodate the addition of the new  
12 paragraphs.

**13 SUMMARY OF COMMENTS.**

14 The department did not receive any written public comments.



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## Chapter 221- Salvage Vehicle Dealers

- 1 (1) failed to respond to a records request;
- 2 (2) failed to operate from the license location;
- 3 (3) an enforcement history that reveals failed compliance inspections or multiple
- 4 complaints with administrative sanctions being taken by the department;
- 5 (4) a business location that fails to meet premises or operating requirements under this
- 6 chapter; [e]
- 7 (5) records that require further investigation by the department; [-]
- 8 (6) failed to remove a license plate or registration insignia from a scrapped or destroyed
- 9 vehicle;
- 10 (7) failed to timely or accurately report to the department or enter in the system
- 11 designated by the department, a void license plate from a scrapped or destroyed vehicle; or
- 12 (8) failed to scrap, recycle, or destroy license plates and registration insignia from a
- 13 scrapped or destroyed vehicle.
- 14

**Board Meeting Date: 10/24/2024**  
**ACTION ITEM**

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**To:** Texas Department of Motor Vehicles Board  
**From:** Corrie Thompson, Enforcement Division Director  
**Agenda Item:** 10  
**Subject:** Chapter 224, Adjudicative Practice and Procedure  
Amendments: §§224.27, 224.54, and 224.58  
(Relating to HB 718 Legislative Implementation)

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**RECOMMENDATION**

Action Item. Adopt proposed amendments in 43 Texas Administrative Code (TAC) Chapter 224 with an effective date of July 1, 2025.

**PURPOSE AND EXECUTIVE SUMMARY**

This rule item would adopt amendments to Chapter 224, Adjudicative Practice and Procedure, to implement and conform rules with House Bill (HB) 718, 88th Legislature, Regular Session (2023).

**FINANCIAL IMPACT**

No significant impact.

**BACKGROUND AND DISCUSSION**

Amendments to §224.58, concerning denial of access to the license plate system, implement HB 718 enacted during the 88th Legislature, Regular Session (2023). Effective July 1, 2025, Transportation Code, §503.0633 requires the department to monitor the number of license plates obtained by a dealer and to deny access to the license plate database if the department determines that a dealer is acting fraudulently. These amendments implement Transportation Code, §503.0633(f).

Amendments to the title of §224.58 delete “or Converter” and add “License Plate System” because a converter may not issue a temporary tag or license plate effective July 1, 2025, and that the purpose of the database will change from the tracking and issuance of temporary tags to the tracking and issuing of license plates on July 1, 2025.

Amendments throughout §224.58 substitute “license plates” for “temporary tags” and delete references to converters. Proposed amendments also delete a statutory reference to Transportation Code, §503.0626, which will no longer exist, and add references to §503.063 and §503.065. These Transportation Code provisions authorize a dealer to issue a buyer’s license plate or set of license plates to the purchaser of a motor vehicle in Texas under certain circumstances and to issue a buyer’s temporary license plate to an out-of-state buyer.

An amendment adds “or issue” to clarify that a dealer misuses the license plate system by fraudulently issuing a license plate.

An amendment defines license plate system misuse to include obtaining or issuing a license plate for a vehicle that is not titled or permitted by law to be operated on a public highway. This new language addresses situations such as a dealer who issues a license plate for a rebuilt vehicle that is not titled for highway use or issues a license plate for a vehicle that has not passed a required emissions inspection in a non-attainment county. Nonsubstantive amendments also add additional clarity to §224.58.

Transportation Code, Chapter 503, as amended by HB 718, eliminates dealer's and converter's use of temporary tags and replaces these tags with categories of dealer-issued license plates. Amendments to §224.27 and §224.54 make minor conforming changes by deleting "temporary tag database" and substituting "license plate system" and by deleting references to temporary tags, internet down tags, and converters, and correcting missing punctuation.

### **Comments**

The proposed amendments to §224.58 were published for comment in the July 12, 2024, issue of the *Texas Register*. The comment period closed on August 12, 2024. The proposed amendments to §224.27 and §224.54 were published on August 23, 2024, and the comment period closed on September 23, 2024.

The department received two written comments (attached). The department received one comment from the Texas Automobile Dealers Association (TADA), and one comment from an individual. The department considered all written comments and did not recommend changes to the rule text at adoption in response.

If the board adopts these amendments during its October 24, 2024, open meeting, staff anticipates publication in the November 8, 2024, issue of the *Texas Register*.



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## Chapter 224 – Adjudicative Practice and Procedure

1 Amendments to §224.27 are being adopted with a change to the proposed text as published in the August  
2 23, 2024, issue of the Texas Register (49 TexReg 6439) and are being republished. Amendments to §224.54  
3 are being adopted without changes to the proposed text as published in the August 23, 2024, issue of the  
4 Texas Register (49 TexReg 6439) and are not being republished.

5

**6 REASONED JUSTIFICATION.**

7 Subchapter A. General Provisions.

8 Adopted amendments to §224.27(d) delete the phrase "temporary tag database" and substitute  
9 the phrase "license plate system." This adopted amendment recognizes that under HB 718, the purpose of  
10 the database will change from the tracking and issuance of temporary tags to the tracking and issuing of  
11 license plates on July 1, 2025. At adoption the phrase "or converter" is being deleted in §224.27(d) because  
12 converters will not have access to the license plate system because they are not authorized to issue license  
13 plates under HB 718.

14 Subchapter B. Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement.

15 An adopted amendment to §224.54(b)(5)(C) deletes the phrase "or temporary tags" because  
16 effective July 1, 2025, a dealer may only issue a license plate or set of license plates, rather than a temporary  
17 tag, under Transportation Code, Chapter 503, as amended by HB 718. Adopted amendments to  
18 §224.54(c)(4) delete the phrases "or temporary tags" and "use an internet down tag to" because effective  
19 July 1, 2025, a dealer may only issue a license plate or set of license plates, rather than a temporary tag or  
20 internet down tag, under Transportation Code, Chapter 503, as amended by HB 718. An adopted  
21 nonsubstantive amendment to §224.54(c)(6) adds a period to the end of the sentence to correct missing  
22 punctuation.

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## Chapter 224 – Adjudicative Practice and Procedure

1           Adopted amendments to the title of §224.58 delete the phrase "or Converter" and substitute the  
2 phrase "License Plate System" for "Temporary Tag System". These adopted amendments recognize that  
3 under HB 718, a converter may not issue a temporary tag or license plate effective July 1, 2025, and that  
4 the purpose of the database will change from the tracking and issuance of temporary tags to the tracking  
5 and issuing of license plates on July 1, 2025.     Adopted amendments throughout §§224.58(a)-(f)  
6 substitute the phrase "license plates" for "temporary tags" because effective July 1, 2025, a dealer may only  
7 issue a license plate or set of license plates, and not a temporary tag under Transportation Code, Chapter  
8 503, as amended by HB 718. Adopted amendments throughout §§224.58(a) - (f) substitute the phrase  
9 "license plate system" for the terms "temporary tag database", "a database", and "database" because the  
10 purpose of the system will be to issue and track license plates effective July 1, 2025. Adopted amendments  
11 throughout §224.58(a) - (f) delete the phrases "or converter" and "or converter's" because a converter may  
12 not issue a temporary tag or license plate effective July 1, 2025, under Transportation Code, Chapter 503,  
13 as amended by HB 718.

14           Adopted amendments to §224.58(a) delete a statutory reference to Transportation Code,  
15 §503.0626 which was repealed by HB 718 and will no longer exist on July 1, 2025, and add references to  
16 §503.063 and §503.065. These two Transportation Code provisions authorize a dealer to issue a buyer's  
17 license plate or set of license plates to the purchaser of a motor vehicle in Texas under certain circumstances  
18 and to issue a buyer's temporary license plate to an out-of-state buyer. An adopted amendment to  
19 §224.58(a) adds "or issue" to clarify that a dealer misuses the license plate system by fraudulently obtaining  
20 or issuing a license plate. An adopted amendment to §224.58(a)(4) deletes "or" and adopted amendments  
21 to §215.58(a)(5) delete a period and add a semicolon and "or" because a new paragraph is adopted to be  
22 added as §215.58(a)(6). Adopted nonsubstantive changes to §224.58(a)(5) delete a redundant "issued," add  
23 "the dealer's" before "licensed location," and delete an unnecessary "a" before "storage lot" to clarify that



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## Chapter 224 – Adjudicative Practice and Procedure

1 license plate misuse includes a dealer obtaining or issuing a license plate for a vehicle or motor vehicle not  
2 located at the dealer’s licensed location or storage lot. An adopted amendment adds new §215.58(a)(6),  
3 which defines license plate system misuse to include obtaining or issuing a license plate for a vehicle that is  
4 not titled or permitted by law to be operated on a public highway. This adopted new language addresses  
5 situations such as a dealer obtaining or issuing a license plate for a rebuilt vehicle that is not titled, or  
6 obtaining or issuing a license plate for a vehicle that has not passed a required emissions inspection in a  
7 nonattainment county and prevents the associated public harm.

8 An adopted amendment to §224.58(b) substitutes the phrase “or issued a license plate in the license  
9 plate system” for “temporary tags from the temporary tag database” to implement the change from  
10 temporary tags to license plates mandated by HB 718.

11 An adopted nonsubstantive change to §224.58(c) adds “address” after “email” to clarify that a  
12 notice under this section will be sent to the license holder’s last known email address in the department-  
13 designated licensing system.

#### 14 SUMMARY OF COMMENTS.

15 The department received two written comments from the Texas Automobile Dealers Association (TADA)  
16 and an individual.

17 **Comment:** TADA requests that a dealer not be denied access to the license plate system when a buyer  
18 returns a vehicle with an assigned license plate and the dealer later sells the same vehicle to another  
19 customer. TADA further requests the department adopt a rule to address what the dealer should do with a  
20 license plate that was assigned to a vehicle if a customer decides to return the vehicle to the dealer.

21 **Response:** The department disagrees with this comment. A dealer will not be denied access to the license  
22 plate system if the dealer documents the return of the vehicle and the assigned license plate in the  
23 department’s designated system. The department denies access to the license plate system only when data

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## Chapter 224 – Adjudicative Practice and Procedure

1 suggests a dealer is committing fraud and a dealer may request a hearing prior to the decision becoming  
2 final.

3           The department will be providing system training to dealers which will include examples of how to  
4 properly void license plate assignments.

5 **Comment:** An individual comments that our temporary tag and license plate systems have become  
6 increasingly cumbersome and complex and reliant on the internet which can have outages, and that the  
7 department should improve related technology management or simplify the process.

8 **Response:** The department disagrees with this comment as the comment is not within the scope of this  
9 rule proposal. The department agrees that the new license plate management system must be built on a  
10 reliable technology platform and designed to be easy to use and is working with vendors to find and  
11 implement such a solution.

12

13

14



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## Chapter 224 – Adjudicative Practice and Procedure

1 implement and manage the department's database of dealer-issued buyer's license plates; Transportation  
2 Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of  
3 license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065;  
4 Transportation Code, §504.0011, which authorizes the board to adopt rules to implement and administer  
5 Chapter 504; Transportation Code, §520.003, which authorizes the department to adopt rules to administer  
6 Chapter 520; Transportation Code, §520.021, which allows the department to adopt rules and policies for the  
7 maintenance and use of the department's automated registration and titling system; and Transportation  
8 Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement  
9 the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

10 The department also adopts amendments under the authority of Government Code, §2001.004 and  
11 §2001.054, in addition to the statutory authority referenced throughout this preamble. Government Code,  
12 §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all  
13 available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding  
14 the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

15 **CROSS REFERENCE TO STATUTE.** These adopted revisions implement Government Code, Chapter 2001;  
16 Occupations Code, Chapter 2301; and Transportation Code, Chapters 501-504, 520, 1001, and 1002.

17

18 Text.

19 §224.27. Final Order; Motion for Rehearing.

20 (a) The provisions of Government Code, Chapter 2001, Subchapter F, govern the issuance of a final  
21 order issued under this subchapter and a motion for rehearing filed in response to a final order.

22 (b) Except as provided by subsection (c) of this section and §224.29 of this title (relating to  
23 Delegation of Final Order Authority), the board has final order authority in a contested case filed under

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1 Occupations Code, Chapters 2301 or 2302, or under Transportation Code, Chapters 502, 503, 621-623, 643,  
2 645, and 1001-1005.

3 (c) The hearings examiner has final order authority in a contested case filed under Occupations  
4 Code, §2301.204 or Occupations Code Chapter 2301, Subchapter M.

5 (d) A department determination and action denying access to the license plate system [~~temporary~~  
6 ~~tag database~~] becomes final within 26 days of the date of the notice denying access to a database, unless  
7 the dealer [~~or converter~~]:

8 (1) requests a hearing regarding the denial of access, or

9 (2) enters into a settlement agreement with the department.

10 (e) Unless a timely motion for rehearing is filed with the appropriate final order authority as  
11 provided by law, an order shall be deemed final and binding on all parties. All administrative remedies are  
12 deemed to be exhausted as of the effective date of the final order.

13 (f) If a timely motion for rehearing is not filed, the final order shall be deemed final and binding in  
14 accordance with the provisions of Government Code, §2001.144.

15 (g) If a final and binding order includes an action on a license, the department may act on the license  
16 on the date the final order is deemed final and binding, unless the action is stayed by a court order.

17

18 **SUBCHAPTER B. MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRY ENFORCEMENT**

19 **43 TAC §224.54 and §224.58**

20 **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
21 department adopts amendments to Chapter 224 under Occupations Code, §2301.151, which gives the board  
22 authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action  
23 that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the

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1 board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor  
2 vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination,  
3 impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce  
4 and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code,  
5 §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations  
6 Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651,  
7 which gives the board authority to deny an application for a license, revoke or suspend a license, place on  
8 probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material  
9 misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles,  
10 willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle;  
11 Transportation Code, §501.0041, which authorizes the department to adopt rules to administer  
12 Transportation Code, Chapter 501; Transportation Code, §502.0021, which authorizes the department to  
13 adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §503.002, which authorizes  
14 the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code,  
15 §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code,  
16 §503.061, as amended by HB 718, which allows the board to adopt rules regulating the issuance and use of  
17 dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to  
18 implement and manage the department's database of dealer-issued buyer's license plates; Transportation  
19 Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of  
20 license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065;  
21 Transportation Code, §504.0011, which authorizes the board to adopt rules to implement and administer  
22 Chapter 504; Transportation Code, §520.003 which authorizes the department to adopt rules to administer  
23 Chapter 520; Transportation Code, §520.021, which allows the department to adopt rules and policies for the

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1 maintenance and use of the department’s automated registration and titling system; and Transportation  
2 Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement  
3 the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

4 The department also adopts amendments under the authority of Government Code, §2001.004 and  
5 §2001.054, in addition to the statutory authority referenced throughout this preamble. Government Code,  
6 §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all  
7 available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding  
8 the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

9 **CROSS REFERENCE TO STATUTE.** These adopted revisions implement Government Code, Chapter 2001;  
10 Occupations Code, Chapter 2301; and Transportation Code, Chapters 501 - 504, 520, 1001, and 1002.

11

12 Text.

13 §224.54. Civil Penalty and Revocation Assessment.

14 (a) Occupations Code, §2301.801 and §2302.354, and Transportation Code, §503.095 govern the  
15 amount of a civil penalty that may be assessed by the department against a license holder.

16 (b) In determining the amount of civil penalty to assess the department will consider the following  
17 aggravating factors:

18 (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity  
19 of any prohibited act, and the harm or potential harm to the safety of the public;

20 (2) the economic damage to the public caused by the violation;

21 (3) any history of previous violations including whether the license holder previously  
22 entered into an agreed order with the department or otherwise received a warning or reduced penalty;

23 (4) the amount necessary to deter a future violation; and

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1 (5) any other matter that justice may require, including:

2 (A) the number of violations or number of consumers harmed by violation(s);

3 (B) whether the consumer received a title;

4 (C) whether the license holder misused license plates [~~or temporary tags~~];

5 (D) whether the license holder attempted to conceal a violation;

6 (E) whether the act constituting the violation was intentional, premeditated,

7 knowing, or grossly negligent; and

8 (F) whether an order issued by the department was violated.

9 (c) In determining whether license revocation is appropriate, the department will consider the  
10 following factors:

11 (1) whether the license holder is unfit under standards governing the occupation, including  
12 qualifications for a license;

13 (2) whether the license holder made a material misrepresentation in any written  
14 communication or information provided to the department;

15 (3) whether the license holder willfully defrauded a purchaser;

16 (4) whether the license holder misused license plates [~~or temporary tags~~], including whether  
17 the license holder attempted to [~~use an internet down tag to~~] avoid inspection requirements;

18 (5) whether the license holder failed to fulfill a written agreement with a retail purchaser of  
19 a vehicle or motor vehicle; and

20 (6) whether the license holder failed to attend an approved dealer training seminar as  
21 ordered in an agreed final order.

22 (d) The department will consider the following mitigating factors in determining the amount of civil  
23 penalty to assess or whether license revocation is appropriate:



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1 (1) acknowledgment by the licensee of any wrongdoing;

2 (2) willingness to cooperate with the department; and

3 (3) efforts to correct a violation.

4 (e) The department will publish a disciplinary matrix on the department website to provide guidance

5 to license holders on the administrative penalties and other sanctions that may be assessed for the most

6 common violations. The department will consider the disciplinary matrix published at the time of the

7 violation; however, the disciplinary matrix does not prevent the department from seeking administrative

8 penalties and other sanctions above or below the recommended ranges listed in the disciplinary matrix.

9 Also, the disciplinary matrix does not prevent the board or the board's delegate from ordering

10 administrative penalties and other sanctions above or below the recommended ranges listed in the

11 disciplinary matrix.

12

13 §224.58. Denial of Dealer [~~or Converter~~] Access to License Plate System [~~Temporary Tag System~~].

14 (a) In this section "fraudulently obtained license plates [~~temporary tags~~] from the license plate

15 system [~~temporary tag database~~]" means misuse by a dealer [~~or converter~~] account user of the license plate

16 system [~~temporary tag database~~] authorized under Transportation Code, §503.063, [~~§503.0626 or~~]

17 §503.0631, or §503.065 to obtain or issue:

18 (1) an excessive number of license plates [~~temporary tags~~] relative to dealer sales;

19 (2) a license plate [~~temporary tags~~] for a vehicle or vehicles not in the dealer's [~~or~~

20 ~~converter's~~] inventory (a vehicle is presumed not to be in the dealer's [~~or converter's~~] inventory if the vehicle

21 is not listed in the relevant monthly Vehicle Inventory Tax Statement);

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1 (3) access to the license plate system [~~temporary tag database~~] for a fictitious user or person  
2 using a false identity;

3 (4) a license plate [~~temporary tags~~] for a vehicle or a motor vehicle when a dealer is no  
4 longer operating at a licensed location; [~~or~~]

5 (5) a license plate [~~temporary tags issued~~] for a vehicle or a motor vehicle not located at the  
6 dealer's [a] licensed location or [a] storage lot; or [-]

7 (6) a license plate for a vehicle or motor vehicle that is not titled or permitted by law to be  
8 operated on a public highway.

9 (b) The department shall deny a dealer [~~or converter~~] access to the license plate system [~~temporary~~  
10 ~~tag database~~] effective on the date the department sends notice electronically and by certified mail to the  
11 dealer [~~or converter~~] that the department has determined, directly or through an account user, that the  
12 dealer [~~or converter~~] has fraudulently obtained or issued a license plate in the license plate system  
13 [~~temporary tags from the temporary tag database~~]. A dealer [~~or converter~~] may seek a negotiated resolution  
14 with the department by demonstrating the dealer [~~or converter~~] took corrective action or that the  
15 department's determination was incorrect.

16 (c) Notice shall be sent to the dealer's [~~or converter's~~] last known mailing address and last known  
17 email address in the department-designated licensing system.

18 (d) A dealer [~~or converter~~] may request a hearing on the denial of access to the license plate system  
19 [~~temporary tag database~~], as provided by Subchapter O, Chapter 2301, Occupations Code. The request must  
20 be in writing and the dealer [~~or converter~~] must request a hearing under this section. The department must  
21 receive the written request for a hearing within 26 days of the date of the notice denying access to the

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1 license plate system [database]. The request for a hearing does not stay the denial of access under  
2 subsection (b) of this section. A dealer [~~or converter~~] may continue to seek a negotiated resolution with the  
3 department after a request for hearing has been submitted under this subsection by demonstrating the  
4 dealer [~~or converter~~] took corrective action or that the department's determination was incorrect.

5 (e) The department may also issue a Notice of Department Decision stating administrative violations  
6 as provided in §224.56 of this title (relating to Notice of Department Decision) concurrently with the notice  
7 of denial of access under this section. A Notice of Department Decision may include notice of any violation,  
8 including a violation listed under subsection (a) of this section.

9 (f) A department determination and action denying access to the license plate system [~~temporary~~  
10 ~~tag database~~] becomes final if the dealer [~~or converter~~] does not request a hearing or enter into a settlement  
11 agreement with the department within 26 days of the date of the notice denying access to the license plate  
12 system [a database].



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August 12, 2024

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Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Sent via email to: [rules@txdmv.gov](mailto:rules@txdmv.gov)

Re: TxDMV Proposed Rules, Published July 12, 2024, *Texas Register*

Dear Ms. Moriarty:

On behalf of the franchised Texas motor vehicle dealers, the Texas Automobile Dealers Association (TADA) submits these comments regarding the proposed rules as published in the July 12, 2024, *Texas Register*, 49 *TexReg* 5030, et seq., and recognizes and thanks the time and effort employed by the many employees at the department in drafting the proposals.

**CHAPTER 215. MOTOR VEHICLE DISTRIBUTION**  
**SUBCHAPTER C.**  
**FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND**  
**CONVERTERS**

**43 TAC §215.102. Application Requirements.**

... The proposed amendment for a manufacturer's or distributor's license seeks information as to where a manufacturer or distributor performs a repair.<sup>1</sup> As this is information that is not a part of the records requirement added by SB 224, 88<sup>th</sup> Leg., R.S., to

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"If applying for a manufacturer's, distributor's, or converter's license: . . .(iv) whether the applicant repairs a motor vehicle with a catalytic converter in Texas, and if so, the physical address where the repair is performed." Proposed 43 TAC §215.102 (e)(1)(K)(iv) (49 *TexReg* 5041).

Chapter 2305, Occupations Code, it is therefore outside the statutory recordkeeping requirements to request a physical address where a repair is performed by a manufacturer or distributor as well as contrary to the warranty repair provisions in Chapter 2301.

TADA requests that 43 TAC §215.102(e)(K)(iv) be amended to comport with Chapter 2305, Subchapter D to state: “the name of the person to whom the catalytic converter was sold or transferred and the date of the transaction.”

The department’s explanation for the new licensing provision for a manufacturer, distributor, or converter is that it will allow the department to obtain the information that is necessary for the department to carry out its responsibilities to inspect a license holder’s records of catalytic converters under SB 224, 88<sup>th</sup> Leg., R.S. (49 *TexReg* 5031, July 12, 2024). However, SB 224 requires information for each transaction in which a manufacturer or distributor sells or transfers to another person, a catalytic converter that is removed from a motor vehicle.

Chapter 2305, Subchapter A records, which is not applicable to a manufacturer or distributor, discusses repair records for an owner of a garage or repair shop.<sup>2</sup>

SB 224 added Subchapter D, Records of Certain Sales or Transfers of Catalytic Converters Removed From Motor Vehicles, specifically §2305.153. This new section requires records for each transaction in which a **sale or transfer** to another person is made of a catalytic converter by a person listed in §1956.123(1)(A) - (G), Occupations Code. A manufacturer, distributor, converter, and dealer are listed in §1956.123(1)(C): “a manufacturer, distributor, converter, or dealer licensed under Chapter 2301, including any department of a dealer or converter that repairs or services motor vehicles.”

A manufacturer’s or distributor’s catalytic converter recordkeeping requirement is identified through their Chapter 2301 license, not as a person repairing or servicing a motor vehicle.

The required record under Subchapter D for each transaction in which the person sells or transfers to another person a catalytic converter that is removed from a motor vehicle contains:

1. A description made in accordance with the custom of the trade for the volume of

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<sup>2</sup>Chapter 2305, Subchapter A applies to those persons who operate a shop or garage that is engaged in the business of repairing a motor vehicle or a person who engages in the business of purchasing or selling used motor vehicles in this state.  
(TEX. OCC. CODE ANN. §2305.002 (Vernon 2022))

catalytic converters **sold or transferred**;

2. The name of the person to whom the catalytic converter was **sold or transferred**;  
and,

3. The date of the transaction.<sup>3</sup>

A record maintained in accordance with a routine business practice or other law that contains this same information, satisfies Subchapter D's recordkeeping requirements.<sup>4</sup>

As the recordkeeping requirements for a manufacturer or distributor in §2305.153 apply only to a sale or a transfer to another of a catalytic converter that is removed from a motor vehicle, the proposed new licensing rule should also be limited to those same records.

TADA again requests that proposed 43 TAC §215.102(e)(K)(iv) be amended to read: the name of the person to whom a catalytic converter was sold or transferred and the date of the transaction.

#### **43 TAC §215.120. Standard License Plates.**

The rule discusses a manufacturer, distributor, or converter in subsections (a) - (f); however, in subsections (g) and (h), the term "license holder" is used when discussing additional standard license plates and returning license plates.

If §215.150 (g) and (h) do not apply to all license holders and apply only to a manufacturer, distributor, or converter, TADA requests that the rules so state for clarification for all license holders.

#### **43 TAC §215.122. Catalytic Converter Record Requirements.**

The requirement proposed in 43 TAC §215.122 discussing the necessary records for a manufacturer, distributor, or converter that "repairs" a motor vehicle, is outside the scope of Chapter 2305, Subchapter D, Occupations Code as added by SB 224 and should be deleted from the proposal.<sup>5</sup>

The Subchapter D record requirements which are applicable to a manufacturer or distributor, require records regarding a sale or transfer transaction to another person.

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<sup>3</sup>*Id.* at §2305.153(a), (b).

<sup>4</sup>*Id.* at §2305.153(c).

<sup>5</sup>Repairs under warranty are limited to a franchised dealer as discussed throughout Chapter 2301, Occupations Code.

TADA requests that §215.122 be amended to track the catalytic converter recordkeeping requirement for a manufacturer or distributor as provided in §2305.153 so that it reads:

A manufacturer, distributor, or converter that sells or transfers to another person a catalytic converter that is removed from a motor vehicle shall maintain a record of the person to whom the catalytic converter was sold or transferred; a description of the catalytic converter; and, the date of the transaction, as required by Occupations Code, Chapter 2305, Subchapter D, and allow the department to inspect these records during business hours.

Also, see the discussion under proposed 43 TAC §215.102, above.

### 43 TAC §215.124. Mobile Warranty and Recall Repair Services.

The recently adopted rule, 43 TAC §215.103, and the July 12<sup>th</sup> proposed rule regarding performing mobile warranty work, are both contrary to Chapter 2301, Occupations Code, and specifically to the statutory definition of “dealership.”<sup>6</sup>

A “dealership” is the physical premises and business facilities on which a franchised dealer operates the dealer's business, including the sale and repair of motor vehicles and also includes the premises or facilities at which a dealer engages in warranty repairs and not new motor vehicle sales. The definition of “franchised dealer”<sup>7</sup> provides where the service or repair of a motor vehicle under warranty is to occur— at a dealer’s established and permanent place of business.

If the Texas Legislature intended for franchised dealers to perform warranty service and repair via a dealership on wheels, it would have so provided in the statute. As written,

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<sup>6</sup>TEX. OCC. CODE ANN. §2301.002(8) (Vernon 2022): “Dealership means the **physical premises and business facilities** on which a franchised dealer operates the dealer’s business, **including** the sale and **repair** of motor vehicles. The term includes premises or facilities at which a person engages only in the repair of a motor vehicle if the repair is performed under a franchise and a motor vehicle manufacturer’s warranty.”(Emphasis added.)

<sup>7</sup>*Id.* at §2301.002(16): “Franchised dealer means a person who: (A) holds a franchised motor vehicle dealer’s license issued by the board under this chapter and Chapter 503, Transportation Code; and (B) is **engaged** in the business of buying, selling, or exchanging new motor vehicles **and servicing or repairing** motor vehicles under a manufacturer’s warranty at an **established and permanent place of business** under a franchise in effect with a manufacturer or distributor.” (Emphasis added.)

the “dealership” and “franchised dealer” requirements do not provide for a mobile warranty service, either to be “managed” from a licensed location or otherwise.

Allowing mobile warranty services to be shoehorned into the required physical premises by arguing they are “managed” from a licensed location ignores the statutory language and usurps the legislature’s domain.

Because there is no ambiguity in the statutory text, the board cannot add a mobile service for warranty work where the statute does not so allow.<sup>8</sup>

The rule as adopted and proposed disregards not only the unambiguous statutory language adopted by the legislature, but ignores the right to protest a “dealership” where warranty work is performed and thus allows a warranty service “dealership on wheels” to move around the state at-will or park beside an established dealership without regard to the statutory protest provisions adopted by the legislature in Subchapter N., Chapter 2301, Occupations Code.

While the board’s objective may be well-intentioned, the unintended consequences of warranty service performed other than at a physical and established place of business and whether such a change should occur, is a topic for the legislature as it should be thoroughly reviewed as to what is in the best interests of the State of Texas.

For example, as dealers have explained some of their concerns in letters regarding mobile service to the department:

- There is a lack of management oversight and quality control with respect to a mobile repair by the franchised dealer.
- A mobile technician does not have access to necessary tools, equipment, and diagnostic information to properly diagnose and repair complex vehicle issues.
- The amount of computer communication needed for new vehicle repairs makes a remote service extremely challenging, especially when on-line service is intermittent in many areas of the state.
- The proposal allows a subcontractor or other franchised dealer to park their mobile dealership service on wheels beside a dealer’s established physical service facility or across the street from the dealership—which is contrary to the protest statutes.
- A simple recall usually leads to additional repairs that most likely cannot be performed except at the dealership.
- Safety, financial, and logistical concerns have not been fully addressed in the proposal.

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<sup>8</sup>Combs v. Health Care Servs. Corp. (401 S.W.3d 623) (Tex. 2013).



- Safety concerns for the public, customers, and technicians are at issue in a mobile service.
  - Quality repairs are a concern.
  - The dearth of quality technicians is a struggle for franchised dealers and recruitment and training and safety as well as costs and insurance need to be thoroughly considered for such a statutory change.
  - It is questionable that a technician will want to perform warranty work via a mobile van, especially if the repair cannot be completed because of a lack of parts or other needed repairs.
  - The ability to obtain adequate insurance and at what cost must be accounted for when mobile service is discussed.
  - A warranty repair that cannot be completed in a mobile manner creates customer discontent and the quality and thoroughness of a mobile repair is questionable.
- (See Attachment 1)

The department's January 5, 2024, Rule Submission Memorandum sent to the Office of the Governor Regulatory Compliance Division states that the department's proposed amendment of §215.103(a) was prompted by stakeholder inquiries regarding whether a franchised dealer could perform warranty repair work through a mobile repair service based at the dealer's licensed location. The department subsequently determined that Chapter 2301, Occupations Code does not require warranty repairs to be performed only at a licensed dealer location so long as the licensee is engaged in the business of buying, selling or exchanging new motor vehicles and servicing or repairing motor vehicles at an established and permanent place of business as the dealer can send out repair trucks from that location to conduct actual repairs.

The department's position is a U-turn from the July 24, 2023, letter from Mr. Daniel Avitia, TxDMV Executive Director as well as the November 20, 2020, letter from Mr. Roland Luna, Sr., Director, Motor Vehicle Division.

(See Attachment 2)

The explanation for the department's changed position is because: "state agencies can change their interpretation of a statute, if they do so through the notice-and-comment rulemaking process in accordance with the Texas Government Code. While the 2020 letter interpreted the statute differently, this proposed rule is based on a new interpretation and was created through the full rulemaking process. As such, this rule will supersede that letter and allow franchised dealers more flexibility and business opportunity."

(See Attachment 3)

A stakeholder inquiry from General Motors (GM) as to mobile service was sent to the

department on March 23, 2023.  
(See Attachment 4)

General Motors later sent a form letter to its Texas dealers in February, 2024, along with a request for the GM dealers to fill out and forward to the department, of which 6 form letters were submitted. (See Attachment 5)

Another concern is the issue of current litigation.<sup>9</sup> The rush by the department to go forward with a rule that discusses warranty work when current litigation places warranty service at issue through a filed complaint alleging that a manufacturer can perform warranty work just as a franchised dealer by arguing that: “Texas law, however, allows motor-vehicle manufacturers like Lucid to undertake many activities commonly performed by new motor-vehicle dealerships. Specifically, such a manufacturer or manufacturer affiliate can: . . .(g) Provide repairs and service, including warranty service, for the manufacturer’s vehicles from an established physical location within Texas.”<sup>10</sup>

The plaintiff’s litigation argues for warranty service and a manufacturer’s ability to perform repairs and service as a franchised dealer. As warranty work is an issue in the litigation, the status quo should be maintained—the first response when any litigation involves an issue, even peripherally, as to an agency’s rule or policy.

The mobile service rule, both adopted and proposed, should be withdrawn. The statute is not ambiguous as it plainly states that repairs are to be performed at a franchised dealer’s licensed dealership and does not allow for a mobile dealership on wheels.

The legislature’s authority as to an unambiguous statute is also discussed in Chairman Terry Canales’s August 8, 2024, letter to Board Chairman Charles Bacarisse.  
(See Attachment 6)

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<sup>9</sup>The status quo should be the first response in a discussion of a rule or policy change when litigation is pending on an issue. The Attorney General of Texas has a policy not to answer a question that is pending in a court. Tex. Att’y Gen. Op. No. GA-0399 (2006) at 3 n. 5; No. GA-0457 at 4 (2006).

<sup>10</sup>Complaint: *Lucid Group USA, Inc. v. Johnston, et al.*, at 10, No. 1:22-cv-1116 (W.D. Tex, filed 11/01/22).

**SUBCHAPTER D.**  
**GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES**

**43 TAC §215.133. GDN Application Requirements for Dealer or a Wholesale Motor Vehicle Auction.**

With respect to the multitude of information required for a dealer's license by the department, including office and site requirements set out in §215.140, the proposal adds a requirement for proof of completion of webDEALER training conducted by the department under §217.174(g) (*sic*) (§217.74(g)).

New §217.74(g) requires webDEALER training for a GDN license and each holder and user accessing webDEALER under the holder's account, must complete the department's training by April 30, 2025. A new user on or after April 30, 2025, must complete the training before being given permission to use webDEALER. A holder who had access to webDEALER for more than 6 months and who submitted more than 100 transactions within the system as of October 1, 2024, is not required to take the webDEALER training.

The department's recent training schedule, according to the TxDMV's online calendar, shows the following webDEALER training schedule:

- February and March—offered once;
- April, May and June—offered twice;
- July—101 once and 102 twice;
- August—101 once and 102 twice.

As the department's licensing process is not only complicated and time-consuming, it is also labor intensive for the department and licensees.

TADA requests that the webDEALER training requirement not be added to the current licensing requirements.

Many dealership employees have been utilizing webDEALER for more than a decade. It is user-friendly for dealership title and registration employees. The department also has two videos currently available, "Getting Started with webDEALER," which is a 12 minute video that provides a general overview and getting started using webDEALER. The department has a second video available, "Using webDEALER," which is an 11:30 minute video that discusses starting, completing, and submitting a title application, a retraction of a title application, and the return of a title application.

The use of webDEALER has been set up in a convenient and understandable format. The available information from the department appears adequate without the need to require

a license applicant to complete training.

If additional training is necessary, the requirement is requested to be satisfied through an online recorded webinar available 24/7 by a user.

Finally, a “holder,” defined as a motor vehicle dealer who holds a general distinguishing number,<sup>11</sup> should not be required to complete webDEALER training when a holder’s user will perform the title and registration of vehicles.

**§215.138. Use of Dealer’s License Plates.**

The proposal requires a dealer to maintain in the department’s designated electronic license plate system,<sup>12</sup> a record of each dealer’s standard, personalized prestige, or temporary license plate issued by the department to the 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 or license plate.

(43 TAC §215.138(h))

The proposal requires a dealer to maintain a record of each dealer’s plate in the department’s designated electronic license plate system rather than in the dealer’s records. The explanation for the requirement that a dealer enter the name of the person in control of the vehicle or license plate, is in order to make it easier for the department and law enforcement to identify and investigate fraud and other illegal activity while allowing a dealer the flexibility to assign a license plate to a vehicle or a driver (49 *TexReg* 5032-5033).

A balance regarding the demands and needs of dealership customers and licensees is requested to be factored in when proposing the information that is required to be recorded into the department’s license plate system.

Customers will not understand the need for such time-consuming electronic entries as the test-drives of vehicles will be encumbered by the additional entering of information

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<sup>11</sup>A “holder” is a motor vehicle dealer who holds a general distinguishing number. (43 TAC §217.74(c)).

<sup>12</sup>License Plate System. A license holder must comply with §215.151 of this title (relating to Buyer’s License Plates General Use Requirements) regarding requirements to enter information into the department-designated electronic system for license plates (*proposed* 43 TAC §215.144(l)(2)).

into the department's license plate system.

TADA requests that the department not require the above information to be entered for a test drive if a dealership employee is in the vehicle that is being test-driven. At most, the license plate number and the name of the dealership employee for a test drive should satisfy law enforcement's and the department's fraud concern.

Another issue is if the department's electronic license plate system is not available for use, such as because of a weather event, by either the department or the dealer, what allowance is given to the dealer?

As an example, proposed 43 TAC §215.157 provides that when the internet is not available to issue a buyer's license plate and receipt, the dealer is to enter the required information the next business day. TADA requests that the rule provide that the information be entered into the license plate system the next business day when the internet is available.

A new sanction added in the proposal allows the board or the department to take an action against a license holder for failure to maintain a record of each dealer license plate as required under §215.138 (43 TAC §215.141(b)(27)). The board's or department's allowable actions under 43 TAC §215.141, Sanctions, include:

1. Denying an application;
2. Revoking a license;
3. Suspending a license;
4. Assessing a civil penalty;
5. Issuing a cease and desist order; or,
6. Taking other authorized action.

If a licensee does not submit a license plate in the department's license plate system, the penalty can be severe, especially if it is compounded. For example, if a customer test drives multiple vehicles, for each vehicle test driven, the salesperson or employee, must enter in the department's electronic license plate system:

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 or license plate.

(43 TAC §215.138(h))

TADA again requests that when a dealership employee is on a test drive that the required information for the license plate system not be required or in the alternative that the required information be satisfied by entering the name of the person in control of the vehicle

and the plate number.

TADA also requests that the department consider allowing that the information in the electronic license plate system be maintained as a secure confidential record. In addition, TADA asks that if the department's electronic plate system is not available for use by the dealer at the time of the test drive, that sanctions not be available for assessment.

**§215.140. Established and Permanent Place of Business.**

TADA thanks the department for allowing a dealer multiple options with respect to the location and means to store the dealer's and buyer's license plates in the dealer's possession in §215.140(6)(E), by allowing a locked and secure room or closet or multiple safes or steel cabinets bolted or affixed to the floor or wall.

**§215.150. Dealer Authorization to Issue License Plates.**

A dealer issues a general issue license plate for a vehicle type the dealer is authorized to sell. According to the proposal, for a used vehicle Texas buyer, if a general issue license plate or set of plates did not come with the vehicle and the buyer does not have a specialty, personalized or other qualifying license plate eligible to be assigned, then the dealer issues a general issue license plate/set of plates (§215.150(a)(2)).

Section 504.901, Transportation Code, effective July 1, 2025, provides in (b-1) that the purchaser may request replacement license plates under §504.007.

Since a used vehicle buyer may obtain a new set of license plates and is not required to accept the plates that were removed from the vehicle when it was traded in or purchased by the dealer, TADA suggests that §215.150 include language whereby a buyer may request new general issue license plates regardless of whether the used vehicle did or did not come with a set of plates when the dealer purchased the vehicle.

If the general issue plates did not come with the vehicle, the buyer is subject to paying a fee for replacement license plates as set forth in Transportation Code §504.007. A buyer is also subject to paying a fee for replacement license plates under §504.007 if the vehicle was traded in with a set of plates but the buyer elects to have a new set of general issue license plates installed on their vehicle.

TADA therefore requests that a reference to §504.007, Replacement License Plates, be included in 43 TAC §215.150 as the statute discusses when an owner may obtain replacement plates as well as the fee.

**§215.151. License Plate General Use Requirements.**

Whereas a buyer of a used vehicle may request replacement license plates under Transportation Code §504.901(b-1), TADA suggests that 43 TAC §215.151(d)(1) state that a dealer who removes and stores the general issue license plates shall offer [~~provide~~] the assigned license plates to a Texas buyer that purchases the vehicle; otherwise, the buyer and seller may believe he or she is required to accept the previous owner's plates.

As a buyer is not required to use the previous owner's general issue plates; therefore, the dealer needs the flexibility in the rule to satisfy the buyer's request regarding new plates or the previous owner's license plates.

**§215.152. Obtaining Dealer-Issued Buyer's License Plates.**

A newly licensed dealer is initially allocated 200 general issue license plates and 100 buyer's temporary license plates, unless the dealer provides credible information that a greater number is warranted. (43 TAC §215.152(e)(1) and (g))

Although 200 general issue plates may be adequate for the average dealer for a 3 month period and the number may be more than an annual amount of plates for others; however, dealers in the metropolitan areas may run out of plates quickly, perhaps in two weeks or less if so limited.

TADA is concerned that a "one size fits all" initial allotment may be too narrow in its application and encourages the department to continue to be receptive to a dealer's request for a greater number of buyer's license plates.

**§215.154. Dealer's Temporary License Plate Allocation.**

The maximum number of dealer's temporary license plates issued during the first license term is 200 for a franchised motor vehicle dealer, according to Figure: 43 TAC §215.154(b).

The use of such a plate, primarily outlined in Transportation Code §503.062, includes:

1. For a wholesale transaction, the purchasing dealer uses its own dealer's temporary license plate or the dealer's standard or personalized prestige license plate.  
(43 TAC §215.155(c))
2. To demonstrate or cause to be demonstrated to a prospective buyer or to operate a vehicle temporarily while the customer's vehicle is being repaired.  
(§503.062(b)(2))
3. To convey or cause to be conveyed, a vehicle from one of the dealer's places of business in Texas to another of the dealer's places of business in

Texas. (§503.062(a)(2)(A))

4. To convey a vehicle from the dealer's place of business to a place the vehicle is to be repaired, reconditioned, or serviced. (§503.062(a)(2)(B))

5. For use from the state line or a location in Texas where the vehicle is unloaded to the dealer's place of business. (§503.062(a)(2)(C))

6. For use from the dealer's place of business to a place of business of another dealer. (§503.062(a)(2)(D))

7. For use from the point of purchase by the dealer to the dealer's place of business. (§503.062(a)(2)(E))

8. To road test the vehicle. (§503.062(a)(2)(F))

9. For a vehicle to be used by a charitable organization. (§503.062(a)(3))

Although §503.062(b)(1) allows the use of a dealer's temporary license plate on a vehicle that a prospective buyer is operating while the vehicle is being demonstrated, TADA requests that the above uses be included in the rule and also add a provision for clarification: that a dealer's temporary license plate may be used on a vehicle that is driven under a conditional delivery agreement as provided for in the Finance Code, §348.013.

Even though the Definitions in Subchapter D, 43 TAC §215.132(5), Dealer's Temporary License Plate, reference Transportation Code §503.062, incorporating those uses into the proposed 43 TAC §215.154 and also adding that such plates are used when a conditional delivery agreement is signed, will give everyone a clearer understanding of the allowed uses of a dealer's temporary metal license plate when referencing the rule.

#### **§215.157. Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available.**

If a dealer or governmental agency is not able to access the internet at the time of a sale, the plate issuance is then to be documented on a departmental prescribed receipt form. The required information is subsequently required to be incorporated into the license plate system no later than the close of the next business day.

Unfortunately, internet access may not be available at the close of the next business day for a dealer or for a governmental agency. Weather events, cybersecurity events, as well as government shut downs may foreclose access the "next business day."

TADA requests that the rule be amended by inserting language allowing the required information to be entered into the license plate system when the dealer or governmental agency has access to the internet, but no later than the close of the next business day after internet access is permanently secured.



As internet access may not be available at the close of the next business day, the required information for the license plate system should be required to be entered only when internet access is restored.

## **CHAPTER 217. MOTOR VEHICLE TITLES AND REGISTRATION**

### **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

#### **§217.36. Refusal to Register by Local Government and Record Notation.**

As the rules track much of the language in Transportation Code §702.003 and to prevent a misunderstanding, TADA requests that the rule also include a reference to subsection (f) which provides that a county assessor-collector's or the department's refusal to register a motor vehicle for an outstanding warrant for a failure to appear or failure to pay a fine, does not apply to the registration of a motor vehicle under §501.0234.

### **SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS**

#### **§217.74. WebDEALER Access, Use, and Training.**

The department's webDEALER system is a web-based titling and registration system that dealers use to submit title applications to a county tax assessor-collector and the department. The term also includes webSALVAGE, eTITLE, and webLIEN and any other web-based system to facilitate electronic submissions of title applications. (43 TAC §217.71(b)(7))

The importance of webDEALER throughout the years has shown that it is vital in the titling and registering of a vehicle by a licensed dealer and its significance has been demonstrated when tax offices have been unavailable because of (1.) a lack of personnel, (2.) during COVID, and, (3.) through weather-related events.

TADA applauds the department on its foresight and for being on the forefront for all states in its web-based system.

A proposed new requirement mandates webDEALER training for each holder who is a vehicle dealer and who holds a general distinguishing number.<sup>13</sup> Each user accessing webDEALER under the holder's account must also complete webDEALER training conducted by the department by April 30, 2025. A new user created on or after April 30, 2025, must complete webDEALER training before being given webDEALER permission.

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<sup>13</sup> A "holder" is a motor vehicle dealer who holds a general distinguishing number (holder). (43 TAC §217.74(c)).

(43 TAC §217.74(g))

A holder who has had access to webDEALER for more than 6 months and submitted more than 100 transactions within the system as of October 1, 2024, is not required to take the webDEALER training under this section. (43 TAC §217.74(g)(2))

A holder or user will be denied access to webDEALER if the holder and user “under the holder’s account” fail to complete the required training “as outlined in this section.” (43 TAC §217.74(g)(3))

TADA again requests that webDEALER training not be required of either a dealer or a user as holders/licensees have been accessing webDEALER for many years, upwards to ten years and more; thus, the training requirement to access webDEALER does not appear to be necessary.

Going forward, TADA requests that training not be a condition to obtaining a license or to the use of the webDEALER system as dealers have been utilizing it for many years without the mandated training; thus, the subsections 43 TAC §217.74(g)(1) - (3) should be deleted from the proposal.

Currently, two videos are available regarding webDEALER, “Getting Started With webDEALER” and “Using webDEALER.” If additional training is determined to be a necessity, TADA requests that the department provide an additional webinar course or expand the ones that are currently available to satisfy the training need so that it may be accessed 24/7.

## **SUBCHAPTER H. DEPUTIES**

### **§217.166. Dealer Deputies.**

As has been necessary during COVID and when the tax assessor-collector’s offices are challenged because of staffing, the use of webDEALER has been of utmost importance to the dealers in order to timely title and register a vehicle and not be penalized. Although dealers have had to increase their bond with a county at times because of the number of transactions a dealer has in the webDEALER system, the use of webDEALER has become essential to the franchised dealer.

The new proposed language in (h) allows a county tax assessor-collector to set a maximum number of webDEALER transactions for a dealer deputy, and the maximum

number must be based on the bond amount.<sup>14</sup>

As emergencies arise and continue for an unforeseen amount of time, a dealer's use of the webDEALER system is imperative. An accommodation for a dealer who uses the webDEALER system is requested as the dealer should not be penalized by either being cut-off from webDEALER use or having continually to increase their bond if the tax assessor-collector is not able to process the applications submitted through webDEALER in a timely manner because of unforeseen circumstances, such as occurred during COVID and during various weather events.

TADA requests that a tax assessor-collector not limit the number of webDEALER transactions nor require a bond increase if a dealer's transaction have been in the system for 72 hours or more without processing by the tax assessor-collector.

Section 501.023(b), Transportation Code, provides that the tax assessor-collector **shall** send the application to the department or enter it into the department's titling system within 72 hours after receipt of the application.

If the 72 hours is not met, the dealer should not be punished by having the number of transactions submitted into webDEALER limited by the number of transactions that have not been processed over the 72-hour time period nor should a bond increase be required for an increase in transactions that have not been processed over the 72-hour period.

If a cybersecurity event or a weather event prevents a tax assessor-collector from meeting the 72-hour requirement, TADA also requests that the length of time to process the dealer's webDEALER transactions without a penalty assessed on the dealer for failure to obtain title within the statutory time period be extended by the same amount of time that a tax assessor-collector's system is down.

## **CHAPTER 224. ADJUDICATIVE PRACTICE AND PROCEDURE**

### **SUBCHAPTER B. MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRY ENFORCEMENT**

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<sup>14</sup>Proposed new 43 TAC §217.161(h): "To be eligible to serve as a dealer deputy, a person must post a bond payable to the county tax assessor-collector consistent with §217.167 of this title (relating to Bonding Requirements) with the bond conditioned on the persons proper accounting and remittance of the fees the person collects. The county tax assessor-collector may set a maximum number of webDEALER transactions for a dealer deputy, and the maximum number must be based on the bond amount."

**§224.58. Denial of Dealer Access to License Plate System.**

As the state mandates the use of metal license plates, this proposal allows for the department to deny access to the state's license plate system if a plate has been obtained or issued fraudulently.

Included within the department's determination of a fraudulently issued plate is an account user who issues:

1. An excessive number of license plates relative to the dealer's sales.
2. A license plate for a vehicle/vehicles not in the dealer's inventory. A vehicle is presumed not to be in the dealer's inventory if the vehicle is not listed in the dealer's monthly Vehicle Inventory Tax Statement.
3. Access to the license plate system for a fictitious user or person using a false identity.
4. A license plate for a motor vehicle when a dealer is no longer operating at a licensed location.
5. A license plate for a motor vehicle not located at the dealer's licensed location or storage lot.
6. A license plate for a vehicle that is not titled or permitted by law to be operated on a public highway.

With respect to Numbers 1. and 2., there are multiple reasons why a dealership may issue more plates than the number of vehicles a dealer sells or that are listed on the dealer's monthly Vehicle Inventory Tax Statement and which do not rise to a "fraud" occurrence.

Buyer's do bring back vehicles after their purchase and a dealer will make an effort to accommodate the needs or desires of the buyer. Examples of such "come-backs" include:

- A spouse who does not like the vehicle model or the color chosen by the other spouse.
- The vehicle does not fit in the garage.
- The vehicle's driver's or passenger's seat is now uncomfortable after driving for "X" miles.
- Not enough leg room in the back seat.
- The baby seat is too difficult to get in and out of the car.
- The monthly payment is too high.
- The insurance is too costly.
- A buyer elects to add a co-buyer.
- A buyer decides to change lienholder.

For a dealer to satisfy a buyer's request may require the use of multiple plates, paper (currently) or metal, to be issued when there is no fraud involved in the tag or plate issuance.

When a dealer accommodates a buyer because of buyer's remorse or otherwise, what will be the protocol regarding the return of the metal plate on the vehicle that was delivered to the customer? Is it to be destroyed or re-issued?

TADA requests the department to adopt a rule in the "come-back" scenario or issue guidance such as allowing the dealer to void the transaction and permit the use of the same plates from the voided transaction to be placed on the replacement vehicle, or some other stated protocol to be provided for in the rule.

### CONCLUSION

TADA again thanks the many employees who engaged in the drafting of the proposed rules as published in the July 12, 2024, *Texas Register*.

Although difficult because of the magnitude of the proposals, TADA requests, if possible, a consistent usage of terms in order to avoid confusion. An example is the use of multiple terms for the same type of plate: "general issue license plate" in 43 TAC §215.150; a "buyer's general issue license plate" in §215.155; and, a "buyer's license plate" also used in §215.155.

If there are any questions regarding the requests and comments, please let me know.

Sincerely,



Karen Phillips  
GC/EVP

#### Enclosures:

- Attachment 1—Letters from dealers in response to the Mobile Service Repair proposed rule.
- Attachment 2—July 24, 2023, letter from Mr. Daniel Avitia to General Motors personnel, Mr. Andrew Hager and Ms. Jean Hoglund, and November 24, 2020, letter to Karen Phillips.
- Attachment 3—March 28, 2024, Email from Ms. Laura Moriarty to Karen Phillips.
- Attachment 4—March 21, 2023, letter from GM personnel, Mr. Andrew Hager and Ms. Jean Hoglund, to Mr. Daniel Avitia.
- Attachment 5—General Motors form letter for dealers to send to TxDMV and 6 signed form letters.
- Attachment 6—August 8, 2024, letter from Chairman Terry Canales, House District 40, to Mr. Charles Bacarisse, Chairman, TxDMV Board.

# **ATTACHMENT 1**

# Sequin Chevrolet

509 W. IH 10  
Sequin, Texas 78155

July 30, 2024  
Seguin / Metro  
(830) 303-4381

FAX (830) 303-0811

Outside / SA Metro  
1-800-925-3980

Office of General Counsel

Texas Department of Motor Vehicles

4000 Jackson Avenue

Austin, Texas 78731

Re: Vehicle Mobile Warranty Service

Dear Office of General Counsel and Director Avitia:

I am writing to express my concern over the proposed rule being considered that would allow for mobile warranty and recall repair services to be offered by a franchised auto dealer. It is even more concerning that the proposed new rule would allow for the mobile work to be performed by a subcontractor. The proposed rule change is clearly counter to the legislative intent of the original statute, as written, that explicitly states that warranty and recall work is to be performed at the physical location of the dealership. It was not contemplated in the legislative intent as permitting for the mobile service "if these services are managed from a licensed location." That verbiage is not included in the original legislation or in the final rule, and it therefore should not be interpreted otherwise by this agency.

There are several reasons why I am opposed to this proposed rule:

1. Mobile service presents many safety, financial, and logistic concerns that need to be addressed for all affected by this: the customer, dealer, and technician.
2. A simple recall repair usually leads to additional repairs that in most cases will not be able to be performed off-site and away from the dealership facility. This situation would not be good for the customer nor the dealer.
3. This proposed new rule would allow for any other franchised dealer, subcontracted or otherwise, to come into my backyard and work on my customer's vehicles. This scenario is contrary to the intent of the existing rule, which states intentionally that warranty and recall work is to be performed at the physical location of the dealership.

This proposed rule will clearly only benefit a few dealers at the expense of the vast majority of the dealers, being detrimental to the public and to the industry as well as anti-competitive. Accordingly, I respectfully request the board to reconsider their proposed and adopted mobile service rules and defer to the Texas Legislature for its consideration, which is where the issue appropriately belongs so that the many concerns encompassing mobile warranty service may be addressed.

Respectfully submitted,

  
Thomas "T" Harper

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August 1<sup>st</sup>, 2014

To Whom It May Concern:

This letter is in regards to franchised dealer mobile warranty service. We are against this practice as it violates current state statutes. The statutes governing the franchised dealers have been carefully drafted and the plain language adopted by the Legislature states that the repair of a motor vehicle under warranty is to be conducted at a licensed, established, physical premises and business facility subject to protest—not via a mobile unit. Under the Code, the performance of warranty work is required to be performed by a franchised dealer and carried out at an established, permanent, and licensed physical facility. The Legislature makes this clear in the adopted language of the statutes by defining “dealership,” “franchised dealer,” and “warranty work.” It cannot be argued that there is any ambiguity in the Texas Occupations Code as to where warranty work is required to be performed.

The proposed rule goes far beyond the plain text of the statute, and creates a myriad of concerns regarding enforcement of the current statute. Any revisions allowing for mobile service in Texas should be review and discussed by the Texas Legislature only after careful consideration of the proposal and appropriate safeguards implemented to ensure Texas consumers and dealers are not harmed. Further, there is significant liability not assumed by a property owner, business owner or city etc. where these services would be taking place along with the environmental impact these services could cause to the environment in regards to spills and disposal of hazardous waste with policies and procedures set forth by the Texas Commission on Environmental Quality.

I am formally requesting the board to withdraw the changes made by the Texas Department of Motor Vehicles regarding where warranty work is to be performed

Sincerely,



David Zwiacher

Vice President/General Manager

Scoggin-Dickey Chevrolet Buick Subaru Chrysler Dodge Jeep Ram Isuzu

Texas Automobile Dealers Association-Board Member

davidz@scoggin-dickey.com

806-798-4000



**Karen Phillips**

---

**From:** Charlie Gilchrist <cgilchrist@gilchristautomotive.com>  
**Sent:** Friday, July 19, 2024 3:34 PM  
**To:** rules@txdmv.gov  
**Subject:** Mobile Service for Warranty and Recall Work

My family and I own 16 dealerships in North Texas and I am writing to request the board to withdraw the changes made by the DMV regarding where and how warranty work and recalls can be performed. This rule creates many problematic areas of concerns regarding enforcement and the current statute is very plain, understandable and enforceable. Any revisions allowing for mobile service should be promulgated by the Texas Legislature. Changing the statute should be done only after careful consideration to ensure proper safeguards are implemented to protect Texas consumers and dealers.

We dealers are participating in mobile service not because it is a profitable business model and it ensures consumer satisfaction with the dealer, but because the OEM's have tied significant financial incentives to these programs. In many cases, the incentives mask the quality issues our customers are faced with. Without the incentives, most dealers would not invest significant resources in this business. We are also concerned with safety concerns for both our technicians and our customer. We are concerned with the quality of the repair when performed at a customers home or business. We are concerned about the technical and social skills that are required for the technician that will be visiting someones home to complete the repairs. Frankly, we are struggling to find qualified technicians. Insurance is another issue. I am not so sure our insurance company understands or covers.

The current statute is clear and understandable. Warranty work is to be performed at a licensed physical facility. This protects both the consumer and the dealer who has invested in facilities, tools, technician recruitment and training so that our customers have the most efficient and effective repairs when warranty or recall issues arise.

Thank you

*Charlie Gilchrist*  
Gilchrist Automotive

Direct: 817-597-4201  
[cgilchrist@gilchristautomotive.com](mailto:cgilchrist@gilchristautomotive.com)  
[www.gilchristautomotive.com](http://www.gilchristautomotive.com)

  
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**Karen Phillips**

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**From:** Tim Capps <timc@gabrieljordan.com>  
**Sent:** Friday, July 26, 2024 1:46 PM  
**To:** rules@txdmv.gov  
**Subject:** Texas Department of Motor Vehicles: Mobile Service

Daniel Avitia

Executive Director

Texas Department of Motor Vehicles

Respected Mr. Avitia,

I am writing to formally request the withdrawal of the recent changes proposed by the Texas Department of Motor Vehicles (TxDMV) concerning the location where warranty work is to be performed.

The Texas Occupations Code clearly stipulates that warranty work must be conducted at an established, permanent, and licensed physical facility, not via mobile units. This requirement is unambiguous as outlined in the statutes:

- **Dealership:** Defined as the physical premises where a franchised dealer operates, including facilities where repairs are made under a manufacturer's warranty. (Occupations Code §2301.002(8))
- **Franchised Dealer:** An individual holding a franchised motor vehicle dealer's license, engaged in selling and servicing vehicles at a permanent location. (Occupations Code §2301.002(16))
- **Warranty Work:** Includes all expenses incurred by a franchised dealer under a manufacturer's warranty. (Occupations Code §2301.002(37))

The language of the Texas Occupations Code leaves no room for interpretation regarding the location of warranty work. As such, any rule changes permitting mobile warranty services would contradict the statutory requirements and potentially lead to widespread violations.

Several key concerns regarding mobile service include:

- **Safety:** Risks to both vehicle owners and technicians performing repairs in non-standard environments.
- **Quality of Service:** Potential issues with the thoroughness and effectiveness of repairs made in mobile settings.
- **Technician Willingness:** Uncertainties about technicians' willingness to perform warranty repairs using mobile units.
- **Insurance:** Questions about the availability and adequacy of insurance coverage for mobile service operations.
- **Statutory Protections:** Impact on existing statutes that safeguard dealership operations and the implications of removing these protections for consumer and dealer interests.

Given these concerns, it is evident that the proposed rule changes extend beyond the scope of the current statutory framework. Addressing the feasibility and implications of mobile warranty services requires legislative

action. The Texas Legislature should thoroughly examine this issue, considering potential exceptions and implementing necessary safeguards to protect consumers and dealers.

I urge the board to withdraw the proposed rule changes and defer any decisions on mobile warranty services until the Texas Legislature has had the opportunity to review and address these issues comprehensively.

Thank you for your attention to this matter.

Sincerely,

Tim Capps



**Tim Capps**

Managing Partner

Gabriel/Jordan Buick GMC  
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**Holmes Honda**  
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318-408-2420

**Holmes Honda Bossier City**  
1040 Innovation Drive  
Bossier City, LA 71111  
318-408-2410

**Community Cartopia**  
4221 I-10 East Freeway  
Baytown, TX 77521  
281-849-8959

July 31, 2024

via email:rules@txdmv.gov

Texas Department of Motor Vehicles  
4000 Jackson Ave  
Austin Tx 78731

Re: TxDMV Proposed Rule on Mobile Service

The TxDMV has proposed rule §215.124 Mobile Warranty and Recall Repair Services and the agency has certified that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

In my review of the proposed rule, I would strongly disagree with that assessment. The Texas Legislature has specifically defined within §2301.002 under (8)(16) and (37) the statutes defining "dealership," "franchised dealer," and "warranty work." It is clear in the Texas Occupations Code as to where warranty work is to be performed. Any deviation from this language which the proposed rule suggests would be against the current code and beyond the authority of this agency. There are many concerns why this rule should not be adopted regarding safety, quality concerns, insurance coverage and specifically whose customer and who is performing the repair on that customer. All these concerns should only be addressed by the Texas Legislature. Any change related to this rule must be addressed, as it is contrary to existing state law.

As you are probably aware, at the Federal level the Supreme Court, in the "Chevron" case, the Court ruled that agencies must act within their statutory authority in issuing rules and regulations and the agency cannot defer to their interpretation of the law. In this instance, the plain text of the current law is clear, and the agency has no authority to issue this proposed rule. I would urge the agency to not publish this rule and to let all the concerns that this rule could impose to be addressed by the Texas Legislature.

Sincerely,



Roger A Elswick  
President

**Karen Phillips**

---

**From:** mark stevenson <bighammernb@yahoo.com>  
**Sent:** Friday, August 2, 2024 11:15 AM  
**To:** rules@txdmv.gov  
**Subject:** Opposition to Mobile Service



**To:** Texas DMV

**From:** Mark V. Stevenson V.P.  
ValMark Chevrolet  
New Braunfels, TX 78130

**RE:** Opposition to Mobile Service

I am concerned and opposed, as a medium size Franchise Chevrolet Dealer, that mobile service will hurt our business and essentially affect customers. Having any dealer from any location come into local areas will create additional confusion for the customer. Per warranty agreements, repairs not completed or unable to be completed, will create a sense of discontent with retail customers concerning where and with whom their vehicle will be serviced. The mobile dealer would be responsible for completing repairs per OEM standards. Any

additional repairs, if not completed satisfactorily, would be the responsibility of the mobile dealer.

The statutes governing the franchised dealers have been carefully drafted and the plain language adopted by the Legislature states that the repair of a motor vehicle under warranty is to be conducted at a licensed, established, physical premises and business facility subject to protest—not via a mobile unit.

Under the Code, the performance of warranty work is required to be performed by a franchised dealer and carried out at an established, permanent, and licenced physical facility. The Legislature makes this clear in the adopted language of the statutes by defining “dealership,” “franchised dealer,” and “warranty work.” It cannot be argued that there is any ambiguity in the Texas Occupations Code as to where warranty work is required to be performed.

Dealership means the physical premises and business facilities on which a franchised dealer operates the dealer’s business, including the sale and repair of motor vehicles. The term includes premises or facilities at which a person engages only in the repair of a motor vehicle if the repair is performed under a franchise and a motor vehicle manufacturer’s warranty. (Occupations Code §2301.002(8); Emphasis added.)

Franchised dealer means a person who: (A) holds a franchised motor vehicle dealer’s license issued by the board under this chapter and Chapter 503, Transportation Code; and (B) is engaged in the business of buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a manufacturer’s warranty at an established and permanent place of business under a franchise in effect with a manufacturer or distributor. (Occupations Code §2301.002(16); Emphasis added.)

Warranty work means parts, labor, and any other expenses incurred by a franchised dealer in complying with the terms of a manufacturer's or distributor's warranty.

(Occupations Code §2301.002(37))

The fact that the Texas Occupations Code is not ambiguous means that the Texas Legislature needs to change the statute to allow for mobile service to occur.

As you know, current law sets out mileage requirements under which intra-brand dealers can challenge other dealers that violate those standards. These challenges are then subject to review and a final determination. This proposed change has the very real likelihood of wholesale violations of this protected area and could potentially result in wholesale violations of these requirements in clear violation of the statute.

The Texas Department of Motor Vehicles has adopted these rules, but can see no forethought regarding numerous concerns including:

- Safety concerns for both the vehicle owner and the technician;
- The quality and thoroughness of a repair that may be performed at a remote location;
- The willingness of a technician to be perform a repair utilizing a mobile unit;
- Whether insurance can be obtained to cover such mobile service; and
- The implications on the current statute which provides a level of protection for dealership operations (including warrant and recall services) and how eliminating this protection ultimately impacts services to customers.

The Texas Legislature is charged with making statutory revisions to allow for the expansion of providing mobile service. There may be circumstances in which mobile service is warranted, but these



exceptions need to be explored and ultimately decided by the Texas Legislature.

I am formally requesting the board to withdraw the changes made by the Texas Department of Motor Vehicles regarding where warranty work is to be performed. The proposed rule goes far beyond the plain text of the statute, and creates a myriad of concerns regarding enforcement of the current statute. Any revisions allowing for mobile service in Texas should be reviewed and discussed by the Texas Legislature only after careful consideration of the proposal and appropriate safeguards implemented to ensure Texas consumers and dealers are not harmed.

Warmest Regards,  
Mark V. Stevenson V.P.  
ValMark Chevrolet New Braunfels  
(830) 606-3451

**Karen Phillips**

---

**From:** Rick Wallace <rrw@missionchevrolet.com>  
**Sent:** Tuesday, August 6, 2024 1:46 PM  
**To:** rules@txdmv.gov  
**Cc:** Karen Phillips; Darren Whitehurst  
**Subject:** Letter to DMV - El Paso

To whom it may concern,

As a representative of the automotive dealer body I have observed a growing interest of mobile technicians performing warranty work on vehicles outside of our traditional dealership settings. While the convenience of mobile services may seem appealing to consumers, it poses significant challenges for dealers and the automotive industry as a whole.

One of the main issues with mobile warranty work is the lack of oversight and quality control. Mobile technicians may not have access to the necessary tools, equipment, and training to properly diagnose and repair complex vehicle issues. The amount of computer communication needed for new vehicle repairs makes remote servicing extremely challenging. The struggle of customer data security in a mobile setting is very complex and costly. Service repairs inherently come with safety risk, that must be mitigated by insurance coverage both for the dealer and consumer. Putting vehicle repairs in mobile settings with tools and lifts needed to perform those tasks leads to greater exposure for accidents and injuries to occur. These types of repairs in the field will result in subpar workmanship, incomplete repairs, and potential safety hazards for consumers. Additionally, mobile technicians may not be held to the same standards and regulations as authorized dealerships, leading to inconsistencies in service quality and warranty compliance.

The rise of mobile warranty repairs threatens the livelihood of authorized dealerships and their employees. By diverting warranty work away from on site dealership service centers, mobile technicians will undermine the business model of traditional automotive service providers. This not only impacts dealership revenue and profitability but also jeopardizes the jobs of skilled technicians who do not feel comfortable working off-site and support staff who rely on dealership operations for employment.

Thank you for your attention to this important issue. I look forward to discussing this matter further and exploring potential solutions to safeguard the interests of automotive dealers and consumers alike.

Rick Wallace  
El Paso, TX



5802 N Navarro St., Suite 100  
Victoria, TX 77904  
(361) 485-0569

August 6, 2024

VIA EMAIL: rules@txdmv.gov

Daniel Avitia  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Re: TxDMV Proposed Rule on Mobile Service

Dear Mr. Avitia,

I own and am actively involved in the operation of 30 different retail automotive dealerships in Texas. All of my operations are in Texas where we employ over 2300 Texans. We represent 16 different manufacturers.

I am only in Texas, because it is a great place to do business. This is for many reasons, but one big one is the strong franchise laws the state has developed and refined over the years.

My goal in this business is to take care of the customer and if mobile service is what the customer wants, then it is something I want to provide. However, I am incredibly concerned about protecting the franchise laws we have in Texas and how we move forward to both take care of customers and protect such laws.

There are many issues that arise from the expansion of mobile service and I would request that the TxDMV commit to working with the legislature as it evolves over time. The code cannot be ambiguous where it can allow a manufacturer to skirt around the retail dealer for warranty work. Additionally, I don't think anyone wants a "fly-by-night" vendor to be able to go knocking door to door looking for mobile service clients without proper training, proper equipment, and proper facilities.

I could go on and on with all the little concerns that may arise if we lose focus on maintaining the legislature's intent regarding the state's franchise laws, but I think you get the point. I am all for some rules and code concerning mobile service; however, I just ask that any such changes or exceptions to the current rules be explored and ultimately decided by the Texas legislature to ensure they align with the protections afforded by our franchise laws.

Sincerely,

  
Benjamin Keating



# **ATTACHMENT 2**

**Texas Department of Motor Vehicles**

HELPING TEXANS GO. HELPING TEXAS GROW.

July 24, 2023

Andrew Hager, Regional Manager Business Operations  
Jean Hoglund, Director – EV Service and Parts  
General Motors LLC  
GM South Central Region  
3501 Olympus Blvd, Suite 280  
Dallas, Texas 75019

Dear Mr. Hager and Ms. Hoglund,

Thank you for your letter requesting clarification regarding 43 Texas Administrative Code (TAC) §215.103 and whether it allows franchised dealers in Texas to do mobile warranty repair work at customers' homes.

The current rule does not allow franchised dealers to perform mobile repair work. It stipulates in 43 TAC §215.103(a) that "warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility."

However, the Texas Department of Motor Vehicles (Department) is aware of the increased demand for mobile repair services that you note in your letter. In the coming year, the Department plans to undertake a review of its rules in 43 TAC Chapter 215 and will consider whether a change to 43 TAC §215.103(a) to allow franchised dealers the ability to conduct mobile repair is necessary or appropriate. As part of the rule review process, the Department will take into consideration General Motors' expressed desire to offer mobile warranty repair services that are deployed from the licensed dealership or licensed service-only facility but conducted at the customer's location. General Motors will be able to offer further comment and input both during the rule review process and before adoption of any rule amendments that result from the rule review.

Thank you for helping us understand the perspective of the field. I look forward to working with you as we undertake the rule review of 43 TAC Chapter 215.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Avitia".

Daniel Avitia  
Executive Director

November 24, 2020

Karen Phillips  
General Counsel, Executive Vice-President  
Texas Automobile Dealers Association  
1108 Lavaca, Suite 800  
Austin, Texas 78701

RE: Rulemaking and Protests

Dear Ms. Phillips:

Please allow this correspondence to serve as the Texas Department of Motor Vehicles' (the department) response to the inquires raised during our recent discussions on rulemaking and protests. This response is intended just as guidance related to those discussions, and does not establish any requirement, provide legal advice, or determine any law or fact.

**1. Question: Can TxDMV define "all costs incurred by the dealer as required by the manufacturer" by rule?**

No. The scope is clear from the plain language of Occupations Code §2301.469 and anything more than restating the statute could amend the requirement.

Specifically, reimbursement is required:

- for all costs;
- incurred by the dealer;
- as required by the manufacture.

The statute does not state that those requirements are subject to further department determination by rule. Compare to Occupations Code §2301.604(c).

The example provided in your June 29, 2020 letter states this fact question: A dealer may provide a loaner vehicle in a recall situation. The manufacturer may require the dealer to provide a loaner vehicle. Reimbursement under §2301.469 would be based on the determination of those facts. Questions of fact are best determined through protests, contested cases, or the courts.

**2. Question: Can TxDMV require, by rule, the rate for warranty work reimbursement in Occupations Code Section 2301.402 to include a dealer's retail parts markup?**

No. The plain language of Occupations Code §2301.402(b) sets both:

- the minimum amount that dealer must be reimbursed by the manufacturer or distributor;  
and
- the maximum amount that the manufacturer or distributor must reimburse the dealer.

The legislature did not authorize the department to, by rule:

- define or alter the statutory requirement; or
- interfere with or set franchise contractual terms and relationships on reimbursements.

Further, a rule could not result in requiring an amount more or less than the statutory required amount.

However, being that a rule is a one-size-fits-all requirement of statewide application, a rule would almost certainly alter the requirement (maybe higher or lower depending of the facts).

Again, these are questions of fact to be determined through protests, contested case hearings, or the courts. Changes to the statutory requirements would need to come from the legislature.

### 3. Can TxDMV just use their general rulemaking authority?

The Texas Automobile Dealers Association (TADA) has suggested that the department's general rule authority in Occupations Code §2301.155 and Transportation Code §1002.001 is sufficient to adopt rules defining terms and creating a parts-markup scheme under Occupations Code §2301.402 and §2301.469. The department agrees that the board's authorization in those two statutes is broad, but as addressed in the department's August 20, 2020, letter, the department must also consider guidance from the courts.

For an agency's administrative rule to survive a challenge to its validity it (1) must not be contrary to specific statutory language, (2) nor impose additional burdens or conditions in excess of or inconsistent with the relevant statutory language. *Tex. State Board of Examiners of Marriage and Family Therapists v. Tex. Med. Assn.*, 511 S.W. 3d 28 (Tex. 2017) In other words, through its rulemaking process an administrative agency may not impose or create requirements or conditions in *excess* of the authority given to the agency by the legislature in its enabling statute. *Id.*

The department must follow the plain language of each statute. Administrative rules may not impose additional burdens, conditions, or restrictions in excess of the statutory provisions. See. OAG Op GA-0008 (2003) (citing *Hollywood Calling v. Public Utility Comm'n of Tex.*, 805 S.W. 2d 618, 620 (Tex. App.—Austin 1991, no writ); KP-0193 (2018) (citing *Tex. State Bd. Of Exam'rs of Marriage and Family Therapists v. Tex. Med. Ass'n*, 511 S.W. 3d 28,33 (Tex. 2017); and KP-0198 (2018) (citing *Harlingen Family Dentistry, P.C. v. Tex. Health & Human Servs. Comm'n*, 452 S.W. 3d 479,486 (Tex. App.—Austin 2014, pet. dism'd).

It is suggested by TADA that the department also consider SB 1250 (76R1999) and three Texas Attorney general opinions that address general authority: KP-0080 (5/3/16); JM-561 (10/15/86); and KP-0202 (5/16/18). The department is aware of the opinions and notes that each refers to licensing persons that are performing regulated acts. In each case the agency is granted the authority to issue and terminate license.

The authority sought here differs from licensing because the department is not authorized to determine how or what amount a dealer can claim for warranty work reimbursements. Statute prescribes it. If a dealer believes that they are not being reimbursed as required under §2301.402 or §2301.469, the dealer can initiate a protest and present evidence to prove the deficiency of the payment under the statute.

The department is also aware of SB 1250. The introduced version of the bill and its house companion HB 3092 included language related to a price for warranty parts. The house companion ultimately passed

with language similar to the current statute. As the current statute is not ambiguous, neither bill has any effect on the plain language analysis of the current statute. In reviewing statutes, the courts have been clear:

If the “language is unambiguous, we interpret the statute according to its plain meaning,” and “[w]e presume the Legislature included each word in the statute for a purpose and that words not included were purposefully omitted.”

Jenkins v. Crosby Indep. Sch. Dist., 537 S.W.3d 142, 150–51 (Tex. App. 2017) (internal citations omitted)

Or in other words as described in Attorney General opinion KP-0198

Like the courts, when construing a statute our “chief objective is effectuating the Legislature’s intent, and ordinarily, the truest manifestation of what lawmakers intended is what they enacted. This voted-on language is what constitutes the law, and when a statute’s words are unambiguous and yield but one interpretation, the judge’s inquiry is at an end.” Combs v. Roark Amusement & Vending, L.P., 422 S.W.3d 632,635 (Tex. 2013) (quotation marks omitted).

Occupations Code §2301.402(a) states that “A manufacturer or distributor shall fairly and adequately compensate its dealers for warranty work.” Occupations Code §2301.402(b) goes on to define the reimbursement amount as “[A] manufacturer or distributor may not pay or reimburse a dealer an amount of money for warranty work that is less than the amount the dealer charges a retail customer for similar non-warranty work.” As such, subsection (b) appears to set both the reimbursement amount the dealer is entitled to, but also the amount that the manufacturer is required to pay. The legislature did not authorize the department to adjust that calculation. Defining terms such as “similar” or establishing a parts markup would not be consistent with the statutory language; and further could have an unforeseen effect in some cases of reducing the dealer’s reimbursement or imposing additional burdens on the manufacturer.

Occupations Code §2301.469 provides

Notwithstanding the terms of any franchise, a manufacturer, distributor, or representative shall compensate a franchised dealer for all costs incurred by the dealer as required by the manufacturer in complying with a product recall by the manufacturer or distributor, including any costs incurred by the dealer in notifying vehicle owners of the existence of the recall.

In considering the plain language of this statute, the legislature appears to have established the costs that can be reimbursed and when the cost can be reversed. These are, notwithstanding any terms in the franchise agreement

- (1) all costs;
- (2) incurred by the dealer; and
- (3) as required by the manufacturer.

Government Code §311.005(13) (Code Construction Act) definition of “including” indicates that the final statement concerning notices does not limit the proceeding requirements. Occupations Code §2301.469 does not authorize the department to further define what “all costs incurred by the dealer as required by the manufacturer in complying with a product recall by the manufacturer or distributor.” As with Occupations Code §2301.402, defining reimbursable costs in this section would not be consistent



with the statutory language; and further could have an unforeseen effect in some cases of reducing the dealer's reimbursement or imposing additional burdens on the manufacturer.

Further, the department also notes that courts have determined that a legislative authority to adopt rules granted in one section, does not convey the same authority in a separate section. For example, Occupations Code §2301.604(c) authorizes the department to define costs reimbursements payable to owners, but does not necessarily indicate an authority to define reimbursable warranty and recall costs in other sections. You might consider different application across statutes as discussed by the Texas Supreme Court:

First, chapter 35 lacks the clear language the Legislature used in chapter 36—nowhere does chapter 35 give the Commission the explicit power to “establish and regulate rates.” Nor does chapter 35 contain any detail comparable to chapter 36's provisions regarding the factors to be considered in setting wholesale transmission rates. The Commission asserts that the Legislature did not need to repeat such language in chapter 35, because it need not restate in each new statutory section all powers already bestowed on the Commission. While this may be true, the powers bestowed in chapter 36 do not extend to municipally owned utilities. And section 35.001 says that “electric utility” includes municipally owned utilities for Subchapter A of chapter 35 only. Consequently, chapter 35 does not sweep municipally owned utilities into chapter 36's scheme.

Pub. Util. Comm'n of Texas v. City Pub. Serv. Bd. of San Antonio, 53 S.W.3d 310, 318–19 (Tex. 2001)

Finally, TADA suggests that an example of the department's authority to promulgate rules relying on its general rulemaking authority in Occupations Code §2301.155 can be found in the department's advertising rules. TADA suggests that Occupations Code §2301.456 does not provide the department with specific rulemaking authority, yet the board adopted advertising rules. See. 43 TAC §215.241 et seq. §2301. 456 provides:

A manufacturer, distributor, or representative may not:

- (1) Use any false, deceptive, or misleading advertising; or
- (2) Notwithstanding the terms of any franchise, require that a franchise dealer join, contribute to, or affiliate with, directly or indirectly, any advertising association.

While the department agrees that no rulemaking authority is provided in §2301.456, the board relied upon the language found in §2301.155 in promulgating advertising rules as the board determined that such rules were “necessary” to administer the chapter. The board found it necessary to establish rules that govern advertising to avoid unfair and deceptive practices by dealers and manufacturers alike. This is because in contrast to Occupations Code §2301.402 and §2301.469, the plain language of the statute prohibiting “any false, deceptive, or misleading advertising” does establish a means for the manufacturers and dealers to determine what constitutes false, deceptive, or misleading advertising that will be acted upon by the department. Such an exercise of general rulemaking authority was necessary and appropriate to ensure the sound system of distributing and selling motor vehicles.

**4. Question: Why could TxDMV define by rule the rates for reimbursement in lemon law cases, but not in warranty work reimbursement under Occupations Code Section 2301.402?**

The legislature authorized the department to establish “incidental” costs by rule in Occupations Code §2301.603(c)(1). These are identified in rule 43 TAC §215.209.

Authorization in one statute does not bestow the same authorization in a different statute or for a different purpose. Pub. Util. Comm'n of Texas v. City Pub. Serv. Bd. of San Antonio, 53 S.W.3d 310, 318–19 (Tex. 2001)

- Subchapter M and §2301.604 apply to owner recoveries; and
- Subchapter I and §2301.402 apply to dealer reimbursement.

**5. Question: Can TxDMV give an advisory opinion to the public regarding whether the matters identified in the redacted receipts received from TADA constitutes a violation of the Occupations Code, or initiate a protest case based on the redacted receipts?**

No, the department cannot issue an advisory opinion and the submission is not a proper protest.

Information concerning advisory opinions:

- An agency is limited to the authority that it has been granted by the legislature; and must follow the plain language of the statute.
- The board and department are not expressly authorized to issue advisory opinions.
- Transportation Code §1003.001 states that the department is subject to the Administrative Procedures Act, Government Code Chapter 2001, which defines and regulates the adoption of rules and contested case processes.
- Courts have determined that an illegal ad hoc rule may result from a department statement of general applicability beyond verbatim restatement of the law, that:
  - (i) implements, interprets, or prescribes law or policy; or
  - (ii) describes the procedure or practice requirements of a state agency; and
  - (iii) indicates the intent to enforce that statement.Teladoc, Inc. v. Texas Med. Bd., 453 S.W.3d 606, 616 (Tex. App. 2014) . 2014)

**6. Can TADA initiate a protest on behalf of a dealer?**

Yes, Title 43 TAC §206.63, *Filing a Petition*, provides TADA with a legal mechanism to file a protest on behalf of a franchised dealer:

An individual, representative, partnership, corporation, association, governmental subdivision, or public or private organization, the department, or any other entity may seek to initiate a contested case by filing an original, and one copy of a petition, with the executive director at the department's headquarters building in Austin.

Additionally, 43 TAC §206.65(a) provides that the Executive Director will examine a petition and make a preliminary determination whether the petition states a claim that entitles the petitioner to initiate a contested case and whether the petition meets the procedural requirements of this subchapter and Government Code, Chapter 2001.

A protest is a means to initiate a contested case and must comply with statutes and rules necessary for that purpose, which includes determining the rights and obligations of the true interested parties.

Thank you for your inquiry. The department hopes that you find this correspondence responsive to your questions. Should you have further questions, please do not hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Roland D. Luna, Sr.", written in a cursive style.

Roland D. Luna, Sr., Director  
Motor Vehicle Division

# **ATTACHMENT 3**

## Karen Phillips

---

**From:** Moriaty, Laura <Laura.Moriaty@txdmv.gov>  
**Sent:** Thursday, March 28, 2024 1:49 PM  
**To:** Karen Phillips  
**Cc:** Avitia, Daniel  
**Subject:** TxDMV Staff Recommendations in Response to TADA's Public Comments

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Karen—

Thank you for TADA's comments on the recent rule amendment proposals for 43 Texas Administrative Code Chapters 206, 215 and 221 and new Chapter 224. I wanted to respond to your comments ahead of the board meeting, to give us an opportunity to discuss further if necessary. Here is a summary of TADA's comments and TxDMV's responses:

- Chapter 215
  - §215.102
    - TADA comment: It is unclear what the term "authorized" means in §215.102(e)(2)(E)(i).
    - TxDMV response: Proposing modified language.
      - The goal of §215.102(e)(2)(E)(i) is to allow TxDMV to identify and consider denying licensure to manufacturers and distributors who use a sales model that involves out-of-state sales through dealers who are not in good standing in the state in which they are licensed.
      - This is an AAMVA-recommended best practice, and reflects the department's current practice—TxDMV has requested and received this information from recent manufacturer and distributor licensure applicants.
      - In response to this comment and to concerns raised by advisory committees, TxDMV added clarifying language: "(i) a list of each franchised dealer in Texas including the dealer's name and physical address, or if motor vehicle sales offers and sales to Texas residents will solely be over the internet, a list of each out-of-state person authorized by the manufacturer or distributor to sell a new motor vehicle online to a Texas resident including the person's dealer's name, physical address, and dealer's license number issued by the state in which the person dealer is located;"
  - §215.103
    - TADA comment: Recommends striking the proposed amendments to §215.103(a) and (d).
    - TxDMV response: Disagree.
      - Texas Occupations Code §2301.002(16)(B) defines a franchised dealer as "engaged in the business of buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a manufacturer's warranty at an established and permanent place of business under a franchise in effect with a manufacturer or distributor."
      - In a 2020 letter to TADA, the department focused entirely on the "at an established and permanent place of business" clause, and said that any repair made offsite would not be at an established and permanent place of business. In doing so, the department disregarded the fact that the root of the clause in (16)(B) is "engaged in the business," and the examples that come after ("buying, selling, or exchanging new motor vehicles and servicing or repairing motor vehicles under a

- manufacturer's warranty") are all modifying and describing "engaged in the business."
- The department's new interpretation of §2301.002(16)(B) is that as long as the franchised dealer is engaged in business at an established and permanent licensed location and the mobile repair fleets are managed from that location, the franchised dealer can deliver the warranty repairs at a customer's location, just as a dealer could deliver a purchased car to a customer's location.
  - State agencies can change their interpretation of statute, if they do so through the notice-and-comment rulemaking process in accordance with the Texas Government Code. While the 2020 letter interpreted the statute differently, this proposed rule is based on a new interpretation and was created through the full rulemaking process. As such, this rule will supersede that letter and allow franchised dealers more flexibility and business opportunity.
  - All the individual franchised dealers who commented on this proposed rule supported it and are interested in offering mobile warranty services.
- §215.111
    - TADA comment: Require the franchise termination notice from the manufacturer or distributor to state that a dealer has at least 60 days to protest a termination.
    - TxDMV response: Agree. Language added to the end of §215.111(b): "which must not be less than 60 days after the franchised dealer receives the notice of termination or discontinuance"
  - §215.112
    - TADA comment: Do not repeal rule until a broader replacement rule is proposed.
    - TxDMV response: Disagree.
      - The Legislature removed the statutory authority for §215.112 in 2019, and the rule has been unenforceable and unenforced since then. The department cannot put off completing a rule review of Chapter 215 any longer—it has been overdue for rule review since 2021. This provision must be repealed to prepare for proposing a new and much broader replacement rule. Its repeal will have no impact on the status quo because it is unenforceable and has not been enforced for five years.
      - The department has engaged with TADA and TRVA to understand your concerns and to draft new rule language. TxDMV has drafted language for a new rule that is currently being circulated and reviewed internally. I plan to send over that new draft rule language to you in a separate email hopefully next week, and definitely before the April board meeting. If there is support for the draft language, the board could propose the new rule language as soon as the June 2024 board meeting.
  - §215.140
    - TADA comment: Dealers should not be required to report and update temporary storage lots as an application requirement.
    - TxDMV response: Agree. Removed the proposed requirement to disclose all storage lots as an application requirement and replaced it with "must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department."
  - §215.160:
    - TADA comment: Required changes to forms necessitate that license holders be allowed adequate time to reprint forms and reprogram systems to minimize financial impact.
    - TxDMV response: Agree. Changed the effective date for the rules to June 1, 2024, which is as far out as it can go while still allowing the board to propose the rules necessary to implement HB 718 and HB 3297 at the June board meeting. To adopt rules by the December 1, 2024, statutory deadline for HB 718, the department must propose those rules in June 2024.
  - §§215.102, 215.103, 215.171 and §§215.173-215.180:

- TADA comment: The proposed amendments to these rules should be withdrawn because of litigation.
- TxDMV response: Disagree. The proposed rules do not impact what a manufacturer can do in Texas, or change the balance of power between manufacturers and dealers. After conferring with our attorneys at the AG's office, TxDMV has determined that none of the rules proposed for amendment are implicated in any ongoing litigation, aside from routine enforcement matters.

TxDmv appreciates TADA's input on the proposed rules, and is committed to continuing to work with you to address the concerns of franchised dealers. Please let me know if you have any questions or would like to discuss further.

Thanks,  
Laura

Laura Moriaty || General Counsel  
**Texas Department of Motor Vehicles**  
**Office of General Counsel**  
Email: [laura.moriaty@TxDMV.gov](mailto:laura.moriaty@TxDMV.gov) Phone: 512-465-4160

# **ATTACHMENT 4**





---

General Motors Company  
3501 Olympus Blvd  
Suite 280  
Coppell, TX 75019

**Date:** March 21, 2023

**To:** Daniel Avitia, Executive Director  
Texas Department of Motor Vehicles  
4000 Jackson Ave, Austin, TX 78731

**Fm:** Andrew Hager, Regional Manager Business Operations  
Jean Hoggund, Director – EV Service and Parts  
General Motors LLC, GM South Central Region  
3501 Olympus Blvd, Suite 280, Dallas, Texas 75019

**Re:** Request for Clarification – 43 TAC §215.103

General Motors (GM) is requesting clarification from the Texas Department of Motor Vehicles (Department) regarding the application of 43 TAC §215.103 to mobile repair services offered to customers by Texas motor vehicle dealers.

The past several years have seen a dramatic and rapid increase in the popularity of vehicle shopping, purchasing, and servicing facilitated through an exclusively online experience. With respect to vehicle service, to accommodate this clear customer demand, a significant number of non-GM dealerships in Texas are currently offering mobile services to customers in the state. Specifically, service vehicles are deployed from their licensed dealership sales and service facilities to customer locations (homes, businesses, etc.) where licensed dealer technicians subsequently perform vehicle inspections and, if necessary, warranty and non-warranty repairs.

GM maintains a similar interest in accommodating this significant demand for flexibility and convenience demonstrated by Texas consumers. However, GM first seeks confirmation from the Department that such mobile services currently offered by non-GM dealers in Texas are permissible under 43 TAC §215.103 (reproduced below) given that, in relevant part: (i) the mobile service vehicles are deployed from and return to dealership sales and service facilities that are already properly licensed under the Texas Administrative Code; (ii) these mobile services are conducted by properly trained and



licensed dealership technicians; and (iii) these dealerships have received prior written approval from their manufacturer(s).

Based on the foregoing, we ask that the Department confirm that the mobile service activities described above comport with 43 TAC §215.103. Should you have questions or comments, please feel free to contact either Julie Shafer (615/785-1702, [REDACTED]) or Jeff Perry (248/321-2246, [REDACTED]). Thank you for your consideration.



## TITLE 43. TRANSPORTATION

### PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

#### CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

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

### SECTION 215.103. Service-only Facility

---

(a) A service-only facility is a location occupied and operated by a franchised dealer that is a completely separate, noncontiguous site, from the franchised dealer's new motor vehicle sales and service or sales only location, where the franchised dealer will only perform warranty and nonwarranty repair services. Except as allowed in subsection (d) of this section, warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility.

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

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

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



GENERAL MOTORS

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





July 24, 2023

Andrew Hager, Regional Manager Business Operations  
Jean Hoglund, Director – EV Service and Parts  
General Motors LLC  
GM South Central Region  
3501 Olympus Blvd, Suite 280  
Dallas, Texas 75019

Dear Mr. Hager and Ms. Hoglund,

Thank you for your letter requesting clarification regarding 43 Texas Administrative Code (TAC) §215.103 and whether it allows franchised dealers in Texas to do mobile warranty repair work at customers' homes.

The current rule does not allow franchised dealers to perform mobile repair work. It stipulates in 43 TAC §215.103(a) that "warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility."

However, the Texas Department of Motor Vehicles (Department) is aware of the increased demand for mobile repair services that you note in your letter. In the coming year, the Department plans to undertake a review of its rules in 43 TAC Chapter 215 and will consider whether a change to 43 TAC §215.103(a) to allow franchised dealers the ability to conduct mobile repair is necessary or appropriate. As part of the rule review process, the Department will take into consideration General Motors' expressed desire to offer mobile warranty repair services that are deployed from the licensed dealership or licensed service-only facility but conducted at the customer's location. General Motors will be able to offer further comment and input both during the rule review process and before adoption of any rule amendments that result from the rule review.

Thank you for helping us understand the perspective of the field. I look forward to working with you as we undertake the rule review of 43 TAC Chapter 215.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Avitia", is written over a light blue horizontal line.

Daniel Avitia  
Executive Director

# **ATTACHMENT 5**

**Karen Phillips**

---

**From:** Karen Phillips  
**Sent:** Friday, August 9, 2024 11:39 AM  
**Subject:** ACTION REQUESTED for Texas Team - Mobil Service Dealer Letter to TX legislature  
**Attachments:** TX Mobile Service draft support letter.docx

----- Forwarded Message -----

**Subject:**FW: ACTION REQUESTED for Texas Team - Mobil Service Dealer Letter to TX legislature  
**Date:**Thu, 22 Feb 2024 22:23:55 +0000  
**From:**Elliott Martin <[william.2.martin@gm.com](mailto:william.2.martin@gm.com)>  
**CC:**Johnny Putnam Jr <[john.putnam@chevrolet.com](mailto:john.putnam@chevrolet.com)>

Good Afternoon Everyone,

Please see attached documents regarding Mobile Service in Texas. Attached are some word documents to fill out to submit to work towards changing the state laws regarding Mobile service. See the note below.

Thanks,

W. Elliott Martin

GM District Service Manager  
Chevrolet- Lafayette, LA area

[William.E.Martin@gm.com](mailto:William.E.Martin@gm.com)

913-333-1149

 general motors

[Your Name] [Your Title]  
[Your Dealership]  
[Address]  
[City, State, ZIP]

[Date]

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Subject: Letter of Support for Proposed Rule Change - Mobile Service under 43 TAC §215.103

Dear Ms. Moriarty,

I am writing this letter to express my full support for the proposed rule change regarding mobile service under 43 TAC §215.103. As a motor vehicle dealer, I believe that this rule change will bring numerous benefits to both dealerships and customers in the state of Texas.

Mobile service offers a convenient and efficient solution for vehicle maintenance and repairs. It allows dealerships to extend their services beyond the traditional brick-and-mortar locations, reaching customers who may have difficulty visiting a physical dealership due to various reasons such as distance, time constraints, or mobility issues. By allowing mobile service, the Texas Department of Motor Vehicles will enable dealerships to provide a higher level of customer service and enhance the overall ownership experience.

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Thank you for considering this letter of support. I trust that the Texas Department of Motor Vehicles will carefully evaluate the benefits of mobile service and make a decision that will positively impact the automotive industry and the customers it serves.

Sincerely,

[Your Name] [Your Title]

[Your Dealership]



Trent Polk - CEO  
Glenn Polk Chevy Buick GMC of Gainesville  
1608 West Hwy 82  
Gainesville, TX 76240

January 23, 2024

2024 JAN 29 AM 10:25  
**RECEIVED**

JAN 29 2024

TxDMV  
OFFICE OF GENERAL COUNSEL

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

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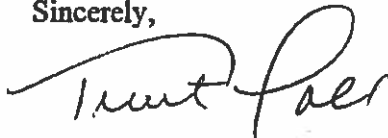
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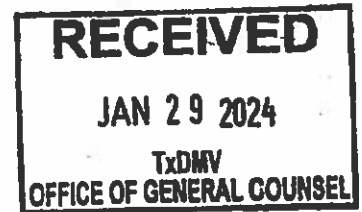
Glenn Polk Chevy Buick GMC of Gainesville

no money

Monte Hall GM  
Hall Chevrolet GMC  
385 West Dallas Street  
Canton, TX 75103

1/23/24

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731



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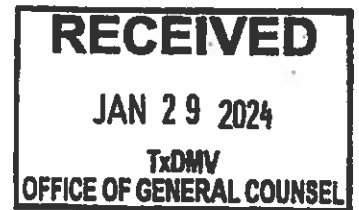
A handwritten signature in black ink, appearing to read "Monte Hall".

Monte Hall  
General Manger  
Hall Chevrolet GMC

Pam Hall President/Owner  
Hall Chevrolet GMC  
385 West Dallas Street  
Canton, TX 75103

1/23/24

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731



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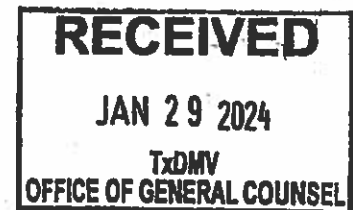
A handwritten signature in black ink that reads "Pam Hall". The signature is written in a cursive style with a large, sweeping initial "P".

Pam Hall  
President/Owner  
Hall Chevrolet GMC

Shawn Polk – Owner & COO  
Glenn Polk Chevrolet of Sanger  
1405 North Stemmons St  
Sanger, TX 76266

1-23-2024

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731



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Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Polk". The signature is fluid and cursive.

Shawn Polk – Owner & COO

Glenn Polk Chevrolet of Sanger

Bill Owens, General Manager  
Jay Hodge Chevrolet  
478 Wildcat Way  
Sulphur Springs, TX 75482

RECEIVED

1-26-2024

FEB 02 2024

TxDMV  
OFFICE OF GENERAL COUNSEL

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

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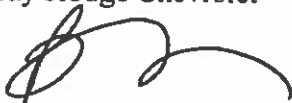
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Sincerely,

Bill Owens, General Manager

Jay Hodge Chevrolet



Nick Zorn, General Manager  
Classic Chevrolet Buick GMC of Cleburne  
822 Walter Holiday Dr.  
Cleburne, TX 76033

January 23, 2024

Office of General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

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Sincerely,



Nick Zorn, General Manager  
Classic Chevrolet Buick GMC of Cleburne



P.O. Box 2677  
CLEBURNE, TX 76033

NORTH TEXAS TX 750

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FIRST CLASS



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TxDMV  
2024 FEB 12 AM 9:08

Office of General Counsel  
Texas Department of Motor Vehicles  
4500 Jackson Avenue  
Austin, TX 78731



78731-606099

# **ATTACHMENT 6**



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# COMMITTEE ON TRANSPORTATION

---

TERRY CANALES  
*Chair*



JOHN RANEY  
*Vice Chair*

## TEXAS HOUSE OF REPRESENTATIVES

P.O. BOX 2910 · AUSTIN, TEXAS 78768-2910  
CAPITOL EXTENSION E2.122 · (512) 463-0818

August 8, 2024

Mr. Charles Bacarisse  
Chairman, Texas Motor Vehicle Board  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, Texas 78731

Re: Amended 43 TAC §215.103 and Proposed 43 TAC §215.124

Dear Chairman Bacarisse:

As the Chairman of the House Transportation Committee, I recently reviewed the April 26, 2024, *Texas Register* and the rule adoptions by the board which impact the State of Texas and the licensees over which the board is charged.

In addition, I am also aware of the proposed rules published in the July 12, 2024, *Texas Register*, which include the department's continued advancement of rules governing mobile warranty and recall service.

I am formally requesting the board to withdraw the recently adopted amendments to 43 TAC §215.103 and to withdraw the proposed rule, 43 TAC §215.124, as it is my opinion that the Texas Occupations Code, Chapter 2301, is not ambiguous as to where warranty work is to be performed and the adopted rule amendments and the proposed rule go beyond the plain text of the statute as passed by the Texas Legislature.

## **Texas Occupations Code Is Not Ambiguous**

Under the Code, the performance of warranty work is required to be performed by a franchised dealer and carried out at an established, permanent, and licenced physical facility. The Legislature makes this clear in the adopted language of the statutes by defining “dealership,” “franchised dealer,” and “warranty work.” It cannot be argued that there is any ambiguity in the Texas Occupations Code as to where warranty work is required to be performed.

**Dealership** means the **physical premises** and business facilities on which a franchised dealer operates the dealer’s business, including the **sale and repair of motor vehicles**. The term includes **premises or facilities** at which a person engages only in the repair of a motor vehicle if the repair is performed under a franchise and a motor vehicle manufacturer’s warranty.

(Occupations Code §2301.002(8); Emphasis added.)

**Franchised dealer** means a person who:

(A) **holds** a franchised motor vehicle dealer’s **license** issued by the board under this chapter and Chapter 503, Transportation Code; and

(B) is engaged in the business of buying, selling, or exchanging new motor vehicles and **servicing or repairing motor vehicles** under a manufacturer’s warranty at an **established and permanent place of business** under a franchise in effect with a manufacturer or distributor.

(Occupations Code §2301.002(16); Emphasis added.)

**Warranty work** means parts, labor, and any other expenses incurred by a franchised dealer in complying with the terms of a manufacturer’s or distributor’s warranty.

(Occupations Code §2301.002(37))

In addition, it is my understanding that all franchised dealers are licensed to do business by the TxDMV for a specific location. With respect to that specific licensed location, a new dealership as well as a dealership relocation is subject to protest by another same line-make franchised dealer under §2301.652, Occupations Code.

The administratively adopted amended mobile service rule and the proposal suggest either a disregard for the statutory protest rights by a same line-make dealer by allowing mobile vans for warranty work or a misunderstanding of the need to critically review and evaluate the issue to determine if or how best to allow for mobile service for warranty and recall work to satisfy the needs of all parties while maintaining the safest and best service for the public and licensees.

The Texas Legislature determined that warranty work is performed at a licensed and established permanent place of business and to make such a substantive change as to allow mobile warranty service, which is contrary to the statutory language, requires a thorough discussion and evaluation by the Legislature.

### **43 TAC §215.103. Service Only Facility.**

The proposal published in the *Texas Register*, 48 *TexReg* 8222, December 29, 2023, and adopted by the board and published in the April 26, 2024, *Texas Register*, effective June 1, 2024, provides:

#### *§215.103. Service Only Facility.*

- (a) A service-only facility is a location occupied and operated by a franchised dealer that is a completely separate, noncontiguous site, from the franchised dealer's new motor vehicle sales and service or sales only location, where the franchised dealer performs ~~[will only perform]~~ warranty ~~[and nonwarranty]~~ repair services and not new motor vehicle sales. ~~[Except as allowed in subsection (d) of this section, warranty repair services may only be performed at either a licensed dealership or a licensed service-only facility,]~~
- (b) A franchised dealer must obtain a license to operate a service-only facility. A dealer may not obtain a service-only facility license to service a ~~[particular]~~ line-make ~~[line]~~ of new motor vehicles, unless that dealer is franchised and licensed to sell that line-make.
- (c) A service-only facility is a dealership subject to protest under Occupations Code, Chapter 2301.
- (d) Upon the manufacturer's or distributor's prior written approval, which cannot be unreasonably withheld, ~~[only]~~ a franchised dealer of the manufacturer or distributor may contract with another person as a subcontractor to perform warranty repair services

that the dealer is authorized to perform under a franchise agreement with a manufacturer or distributor. Payment shall be made by the franchised dealer to the subcontractor and not by the manufacturer or distributor to the subcontractor.

The agency's explanation for the §215.103 amendments states at 48 *TexReg* 8205 that "Chapter 2301 does not require warranty repair services to be performed only at a licensed dealer location."

This explanation runs contrary to the statutes that require that warranty work be performed at the franchised dealership, not merely "managed" at the dealership. If the Legislature had intended that mobile warranty service be allowed, the definitions of "dealership" and "franchised dealer" would have so provided.

I also understand that there is a November 20, 2020, letter from Mr. Roland Luna, Director, Motor Vehicle Division, with the TxDMV, that contradicts the new rule amendments and proposed rule as the issue was previously discussed as to whether a franchised dealer could perform mobile repair services.

Mr. Luna quoted §2301.251(a) and §2301.002(16)(B), Occupations Code, and concluded that:

A mobile repair service would have to demonstrate that it meets the **established and permanent** location requirement to be licensed to perform warranty repair services. In other words, if a franchised dealer is prohibited from performing warranty repair services at any location other than its established and permanent (licensed) location, it is unclear how a mobile repair service unit qualifies to be licensed.

As the agency has now adopted a new interpretation of the same statutes as relied upon in the 2020 Luna letter, I have also been told that the rule change explanation is because: (1.) a state agency can change its interpretation of a statute as long as it is done through the notice-and-comment rulemaking process in accordance with the Texas Government Code; (2.) while the 2020 [Luna] letter interpreted the statute differently, the proposed rule is based on a new interpretation and was created through the full rulemaking process; and, (3.) the rule [change] will supersede the [Luna] letter and allow franchised dealers more flexibility and

business opportunity.

However, the statute's text is plain, not ambiguous, and the rule as published in the April 26, 2024, *Texas Register*, is outside the plain statutory language. Unless ambiguous, the department does not have license to change its interpretation simply because the proposal went through a notice and comment process.

Repairs by a franchised dealer are to be performed at a permanent, licensed, and established location under the existing code unless the Legislature determines otherwise.

**Proposed 43 TAC §215.124. Mobile Warranty and Recall Services.**

The July 12, 2024, *Texas Register*, includes a proposed rule that again discusses mobile warranty work. This proposal states:

§215.124. Mobile Warranty and Recall Repair Services

(a) A franchised dealer may offer mobile warranty or recall repair services under a manufacturer's or distributor's warranty if these services are managed from a licensed location, which may be either a licensed sales and service location or a licensed service-only facility as described in §215.103 of this title (relating to Service-only Facility).

(b) The department considers mobile warranty or recall repair services to be managed from a licensed location if a franchised dealer at a licensed location:

(1) authorizes a mobile warranty or recall repair;

(2) dispatches personnel, parts, or tools to perform a warranty or recall repair at the location of a motor vehicle under warranty; or

(3) maintains warranty or recall records.

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

(d) A person with whom a franchised dealer contracts to perform

mobile warranty or recall repair services is not eligible to obtain a service-only facility license and may not advertise the performance of warranty repair or recall services to the public.

The department is giving itself the authority to provide that a mobile warranty service is allowable if “it is managed” from a licensed dealership. There is no provision in Chapter 2301, Occupations Code, that mobile service is allowable if “managed” from a licensed dealership.

The Board has the authority to adopt rules that are necessary or convenient to administer Chapter 2301, Occupations Code and to govern the practice and procedure before the board. The statute is not ambiguous, inexact, or vague in stating that warranty repairs are to be performed at a franchised dealer’s dealership—not on the side of the road or in a driveway.

### **Texas Agency Deference**

The Texas Supreme Court, when analyzing an agency’s interpretation of a statute it is charged with enforcing, discusses the Court’s “serious consideration” inquiry, *R.R. Comm’n of Tex. v. Tex. Citizens for a Safe Future & Clean Water*, 336 S.W.3d 619 (Tex. 2011). In this case, the court stated it will generally uphold an agency’s interpretation of a statute it is charged by the Legislature with enforcing, so long as the construction is reasonable and does not contradict the plain language of the statute.

Agency deference in Texas comes with the following caveats:

1. An agency regulation containing a reasonable interpretation of an **ambiguous** statute is given some deference if it applies to a formal opinion adopted after formal proceedings.
2. **The language at issue must be ambiguous.**
3. **An agency’s opinion cannot change plain language.**
4. An agency’s construction must be reasonable.
5. Alternative **unreasonable** constructions do not make a policy ambiguous. (*Id.*, at 625; Emphasis added.)

Consideration as to the duration of the interpretation is also recognized in Attorney General Opinion No. KP-0115.

An agency’s interpretation cannot contradict the statute. An agency will only

be deferred to when the text of a statute is ambiguous. When the statute's wording is clear, a court will apply the common meaning without any other rules of construction or extrinsic aids. Attorney General Opinion KP-0115, quoting *Combs v. Roark Amusement & Vending, L.P.* (422 S.W.3d 632, 635 (Tex. 2013)); *City of Rockwall v. Hughes*, 246 S.W.3d 621, 626 (Tex. 2008).

“An agency's opinion cannot change plain language.” *Fiess v. State Farm Lloyds*, 202 S.W.3d 744, 747 (Tex. 2006); KP-0115. As in this instance, the language is concise and not subject to misinterpretation or augmentation.

Since 1971, the statutes governing the franchised dealers have been carefully drafted and the plain language adopted by the Legislature states that the repair of a motor vehicle under warranty is to be conducted at a licensed, established, physical premises and business facility subject to protest—not via a mobile unit.

The statute is neither ambiguous nor in need of explanation. I believe the department was correct in 2020 when Mr. Luna wrote that a mobile repair service must demonstrate that it meets the established and permanent location requirement to be licensed to perform warranty repair services—which it cannot.

## **Conclusion**

The interplay of the statutes regarding the location of a franchised dealer's sales and repair facilities are written in plain text with no ambiguity.

The performance of warranty service and repair of a motor vehicle at other than the licensed, established, permanent, and physical premises of a franchised dealer and whether the statute should be amended to allow mobile service, is for the Legislature to determine.

As the statute is clearly written and unambiguous, it is the Legislature who is charged with making statutory amendments. The determination allowing warranty or recall work to be performed other than at the franchised dealer's physical, established, and licensed facility is a usurpation of the Legislature.

I am requesting the department to withdraw its amendments to 43 TAC §215.103 and to withdraw proposed 43 TAC §215.124. Whether the statute should be amended to allow mobile warranty or recall work requires a thorough discussion at the Texas Legislature regarding:

1. Safety concerns for both the vehicle owner and the technician;
  2. Whether a quality and thorough repair may be conducted other than at a physical licensed location;
  3. The limited scope of services that may be performed from a mobile unit and the understanding by the vehicle owner as to such limitations;
  4. Whether a technician can be engaged to conduct a repair from a mobile unit;
  5. Whether insurance can be obtained to cover such mobile service;
- and,
6. Other issues that may be brought to bear by stakeholders.

I am available to discuss this issue with all stakeholders. In the meantime, I reiterate my request for the board to withdraw 43 TAC §215.103, as amended and published in the April 26, 2024, *Texas Register* and 43 TAC §215.124, as published in the July 12, 2024, *Texas Register*.

Sincerely,



Representative Terry Canales  
Chair, House Transportation  
House District 40

c: Vice Chair Tammy McRae  
Christian Alvarado  
Stacey Gillman  
Brett Graham  
Sharla Omumu  
John Prewitt  
Darren Schlosser  
Executive Director Daniel Avitia



**Board Meeting Date: 10/24/2024**  
**ACTION ITEM**

---

**To:** Texas Department of Motor Vehicles Board  
**From:** Glenna Bowman, Chief Financial Officer  
**Agenda Item:** 11  
**Subject:** Chapter 209, Finance  
Amendments: Subchapters A, B, and C  
Repeal: §209.34  
(Relating to Cleanup)

---

### RECOMMENDATION

Action Item. Adopt proposed revisions to sections in 43 Texas Administrative Code (TAC) Chapter 209.

### PURPOSE AND EXECUTIVE SUMMARY

The amendments and repeal are necessary to clean up the rule text.

### FINANCIAL IMPACT

There will be no significant fiscal implications due to the adopted amendments and repeal.

### BACKGROUND AND DISCUSSION

The amendments are necessary to do the following:

1. make the rules consistent with statute;
2. comply with statutory requirements;
3. remove unnecessary language;
4. add context or authority for certain rules;
5. clarify the rules; and
6. make the rules consistent with current processes, procedures, and terminology.

The repeal of §209.34, and the addition of language from §209.34 into §209.33 will consolidate the language regarding donations and contributions into one rule.

The adopted amendments and repeal will not change any current department accounting practices.

The proposed amendments and repeal were published for comment in the July 12, 2024, issue of the *Texas Register*. The department did not receive any comments on the proposal.

If the board adopts the amendments and repeal during its October 24, 2024, open meeting, staff anticipates:

- Publication in the November 8, 2024, issue of the *Texas Register*; and
- An effective date of November 14, 2024.

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**ADOPTION OF REVISIONS TO**

**SUBCHAPTER A. COLLECTION OF DEBTS**

**43 TAC §209.1 AND §209.2**

**SUBCHAPTER B. PAYMENT OF FEES FOR DEPARTMENT GOODS AND SERVICES**

**43 TAC §209.23**

**SUBCHAPTER C. DONATIONS AND CONTRIBUTIONS**

**43 TAC §209.33**

**REPEAL OF**

**43 TAC §209.34**

**INTRODUCTION.** The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 209, Subchapter A, Collection of Debts, §209.1 and §209.2; Subchapter B, Payment of Fees for Department Goods and Services, §209.23; and Subchapter C, Donations and Contributions, §209.33. The department adopts §209.23 without changes to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5021) and the text will not be republished. The department adopts §§209.1, 209.2, and 209.33 with changes at adoption to the proposed text as published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5021) and those sections will be republished. The changes to §§209.1, 209.2, and 209.33 are described in the Reasoned Justification section below. In conjunction with this adoption, the department adopts the repeal of 43 TAC §209.34, which is also published in this issue of the *Texas Register*.

The department adopts amendments to make the rules consistent with statute; to comply with statute; to remove unnecessary language; to add context or authority for certain rules; to clarify the rules; and to make the rules consistent with current processes, procedures, and terminology. In addition, the

## TITLE 43. TRANSPORTATION

Adopted Sections

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## Chapter 209 - Finance

1 department adopts amendments that renumber subdivisions within the rules due to the addition or  
2 deletion of subdivisions.

3 **REASONED JUSTIFICATION.**

4 Subchapter A. Collection of Debts

5 An adopted amendment to §209.1 adds a new subsection (a) to state the purpose of the section.  
6 The department adopts §209.1(a) with a change at adoption to delete the unnecessary second sentence  
7 in the proposed text, which incorporated by reference any requirements in 1 TAC §59.2 that were not  
8 addressed in §209.1 to the extent that Government Code, §2107.002 requires a state agency to include  
9 the requirements in rule. Government Code, §2107.002 requires a state agency that collects delinquent  
10 obligations owed to the state agency to establish procedures by rule for collecting a delinquent obligation  
11 and a reasonable period for collection. Government Code, §2107.002 also requires such rules to conform  
12 to the “uniform guidelines” established by the attorney general. The Office of the Attorney General  
13 adopted 1 TAC §59.2 (Collection Process: Uniform Guidelines and Referral of Delinquent Collections), and  
14 §59.2(b) expressly contains the “uniform guidelines,” which are referenced in Government Code,  
15 §2107.002. Adopted §209.1 complies with Government Code, §2107.002 because it contains the  
16 procedures for collecting a delinquent obligation and a reasonable period for collection in conformance  
17 with the uniform guidelines contained in 1 TAC §59.2(b), as well as the relevant definitions contained in 1  
18 TAC §59.2(a). The language in 1 TAC §59.2(c) governs the referral of a delinquent obligation to an attorney,  
19 and already expressly applies to a state agency that refers a delinquent obligation to the attorney general  
20 or another attorney for collection under the “referral guidelines” referenced in Government Code,  
21 §2107.003. For these reasons, the department adopts new §209.1(a) with a change at adoption to delete  
22 the second proposed sentence as it was unnecessary. Due to the adoption of new §209.1(a), an adopted  
23 amendment to §209.1 re-letters the subsection for definitions to subsection (b).

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1 An adopted amendment deletes the definition for the word “person” in re-lettered §209.1(b)  
2 because the word is already defined in Government Code, §311.005, which applies to administrative rules  
3 under Government Code, §311.002(4). An adopted amendment also renumbers the last definition in re-  
4 lettered §209.1(b) due to the deletion of the definition for the word “person.” Adopted amendments to  
5 the definition for the word “security” in re-lettered §209.1(b) delete references to an “entity” because  
6 the definition for the word “person” in Government Code, §311.005 includes “any other legal entity.”

7 An adopted amendment to §209.1 deletes prior subsection (b) regarding collection from  
8 contractors for the following reasons: 1) this issue is already addressed in §209.1(f)(2) regarding the  
9 warrant hold procedures of the Texas Comptroller of Public Accounts that are authorized by Government  
10 Code, §403.055 for any debtor to the state; and 2) the language in prior §209.1(b) did not reference the  
11 due process requirements under Government Code, §403.055.

12 Adopted amendments to §209.1(c)(1) through (3) change the words “will” and “should” to “shall”  
13 for consistency and to clarify that the department has a duty to take the actions regarding the notice and  
14 demand letters to the debtor. These adopted amendments to §209.1(c)(1) through (3), as well as other  
15 adopted amendments to change the words “will” or “should” to “shall” in this adoption order, were  
16 necessary to make the rule text consistent with Government Code, §311.016(2), which defines the word  
17 “shall” to mean “imposes a duty,” unless the context in which the word or phrase appears necessarily  
18 requires a different construction or unless a different construction is expressly provided by statute.  
19 Government Code, §311.002(4) states that Government Code, Chapter 311 applies to each rule adopted  
20 under a code. The Chapter 209 rules were adopted under various codes, including the Government Code  
21 and the Transportation Code.

22 Adopted amendments to §209.1(c)(4) change certain instances of the word “will” to “must” to  
23 indicate that it is a condition precedent for each letter to comply with certain requirements before the

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## Chapter 209 - Finance

1 letter becomes a demand letter under 1 TAC §59.2(a)(4), which defines the term “demand letter” within  
2 the definition for the term “make demand.” Government Code, §311.016(3) defines the word “must” to  
3 mean “creates or recognizes a condition precedent,” unless the context in which the word or phrase  
4 appears necessarily requires a different construction or unless a different construction is expressly  
5 provided by statute. Adopted amendments to §209.1(c)(4) also clarify that the department shall include  
6 the notation “Return Service Requested” on the envelope for each demand letter, and shall resend the  
7 demand letter if the United States Postal Service (USPS) provides the department with an address  
8 correction. Although 1 TAC §59.2(b)(3) states that all demand letters should be mailed in an envelope  
9 bearing the notation “address correction requested” in conformity with a citation to a section in an  
10 appendix to the Code of Federal Regulations, the cited section does not currently contain the notation or  
11 mailer endorsement called “address correction requested.” Also, the USPS published a document called  
12 “507 Quick Service Guide | Postal Explorer” in which the USPS stated that for first-class mail, the USPS  
13 action on the mailer endorsement “Return Service Requested” is to return the “mailpiece” with the new  
14 address or the reason for non-delivery attached at no charge. Therefore, “Return Service Requested” is  
15 the appropriate notation to include on the envelope to ensure that USPS provides the department with  
16 any new address for the recipient, so that the department can resend the demand letter.

17       Adopted amendments to §209.1(d)(1) replace a clause with the word “debtor” because the clause  
18 repeats a portion of the definition for the word “debtor” in re-lettered §209.1(b). Adopted amendments  
19 to §209.1(d)(2) and (3) add the word “correct” to be consistent with 1 TAC §59.2(b)(2). An adopted  
20 amendment to §209.1(d) also adds a new paragraph (4) to be consistent with 1 TAC §59.2(b)(2), which  
21 requires that the department’s records contain an accurate physical address when a fiduciary or trust  
22 relationship exists between the agency as principal and the debtor as trustee. Due to the addition of new  
23 paragraph (4), adopted amendments renumber the remaining paragraphs in §209.1(d). Adopted

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## Chapter 209 - Finance

1 amendments to renumbered §209.1(d)(5), (10) and (12) add a reference to the debtor for clarity. An  
2 adopted amendment to renumbered §209.1(d)(13) replaces the word “account” with the word  
3 “obligation” because the word “obligation” is defined in re-lettered §209.1(b).

4 An adopted amendment to §209.1(e)(1)(D) deletes the language that said the department is not  
5 required to prepare and file a proof of claim in a bankruptcy case when the department is represented by  
6 the attorney general. According to 1 TAC §59.2(b)(6)(C)(i), the attorney general will assist the state agency  
7 with the preparation of a proof of claim, but clause (i) does not say the attorney general will file the proof  
8 of claim. Also, an adopted amendment to §209.1(e)(1)(D) clarifies that the department shall prepare and  
9 file a proof of claim in the bankruptcy case when appropriate based on advice from the attorney general.  
10 When the department receives a bankruptcy notice, the department first determines whether the person  
11 owes an obligation to the department and whether the bankruptcy notice instructs creditors to not file a  
12 claim because no property appears to be available to pay creditors. If the person owes an obligation to  
13 the department and the bankruptcy notice does not instruct creditors to not file a proof of claim, the  
14 department consults with the attorney general regarding whether to file a proof of claim in the case. The  
15 adopted amendments to §209.1(e)(1)(D) reflect the department’s current practice with regard to filing  
16 proofs of claim.

17 Adopted amendments to §209.1(e)(1)(E) modify the language to be consistent with 1 TAC  
18 §59.2(b)(6)(C)(v), which says the state agency should file a claim in each probate proceeding administering  
19 the decedent’s estate, and does not provide any exception for agencies that are represented by the  
20 attorney general.

21 Adopted amendments to §209.1(e)(2) change the word “will” to “shall” for consistency and to  
22 indicate the department has a duty regarding the actions listed in paragraph (2). Adopted amendments  
23 to §209.1(e)(2) also clarify that the list of uncollectible obligations is illustrative, rather than exhaustive,

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## Chapter 209 - Finance

1 and includes obligations that are not legally collectible or are uncollectible as a practical matter. These  
2 amendments make §209.1(e)(2) consistent with 1 TAC §59.2(b)(6).

3 An adopted amendment to §209.1(e)(2)(A) deletes the words “dismissed or” because the term  
4 “discharged in bankruptcy” is used to refer to an obligation that a creditor is legally prohibited from  
5 collecting. *See* 11 U.S.C. §524. Adopted amendments to §209.1(e)(2)(B) make the language consistent  
6 with 1 TAC §59.2(b)(6)(C)(ii) regarding a limitation provision in a lawsuit.

7 An adopted amendment to §209.1(e)(2) deletes prior subparagraph (C) because §209.1(e)(2) is a  
8 list of delinquent obligations the department shall consider to be uncollectible and shall make no further  
9 efforts to collect, consistent with 1 TAC §59.2(b)(6)(C). Although 1 TAC §59.2(b)(6)(C)(iii) provides an  
10 exception for when circumstances indicate that the account is clearly uncollectible, clause (iii) provides  
11 the general rule that the obligation should be referred to the attorney general if a corporation has been  
12 dissolved, has been in liquidation under Chapter 7 of the United States Bankruptcy Code, or has forfeited  
13 its corporate privileges or charter; or if a foreign corporation had its certificate of authority revoked. The  
14 language in prior §209.1(e)(2)(C) implied the opposite of what 1 TAC §59.2(b)(6)(C)(iii) provides by stating  
15 the general rule is that the delinquent obligation is uncollectible in these situations unless the  
16 circumstances indicate that the account is nonetheless collectible or that fraud was involved. If a  
17 corporation described in 1 TAC §59.2(b)(6)(C)(iii) owes a delinquent obligation to the department, the  
18 department shall refer the obligation to the attorney general unless the circumstances indicate that the  
19 obligation is clearly uncollectible or another exception under §209.1 or 1 TAC 59.2 applies. For example,  
20 the obligation might be legally uncollectible under Business Organizations Code, Chapter 11 regarding the  
21 termination of a domestic entity. The list of uncollectible obligations in §209.1(e)(2) is illustrative, rather  
22 than exhaustive. Adopted amendments to §209.1(e)(2) re-letter the subsequent subparagraphs due to  
23 the deletion of prior §209.1(e)(2)(C).

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## Chapter 209 - Finance

1           Adopted amendments to re-lettered §209.1(e)(2)(D) make the language consistent with 1 TAC  
2 §59.2(b)(6)(C)(v). If the debtor is deceased, 1 TAC §59.2(b)(6)(C)(v) says state agencies should file a claim  
3 in each probate proceeding administering the debtor's estate and that the delinquent obligation should  
4 be classified as uncollectible if such probate proceeding has concluded and there are no remaining assets  
5 of the decedent available for distribution.

6           An adopted amendment to §209.1(e)(3) adds a reasonable tolerance below which the  
7 department shall not refer a delinquent obligation to the attorney general as required by 1 TAC  
8 §59.2(b)(8). The adopted amendment to §209.1(e)(3) expressly includes the department's current  
9 reasonable tolerance practice, which is to only refer a delinquent obligation to the attorney general if the  
10 delinquent obligation exceeds \$2,500 or the attorney general advises otherwise. Adopted amendments  
11 to §209.1(e)(3) also delete the factors that 1 TAC §59.2(b)(8) requires state agencies to consider in  
12 establishing the reasonable tolerance, as well as "policy reasons or other good cause," which was a factor  
13 the department previously added to §209.1(e)(3) to consider when making a determination of whether  
14 to refer a delinquent obligation to the attorney general. With the adoption of the specific dollar threshold  
15 for referral established in rule, as well as the exception based on advice from the attorney general, the  
16 deleted factors and the complex case-by-case analysis they implied are no longer necessary.

17           Adopted amendments to §209.1(e)(4) change the words "will" and "should" to "shall" for  
18 consistency and to indicate the department has a duty to refer a delinquent obligation to the attorney  
19 general for collection efforts if the department determines that the delinquent obligation shall be  
20 referred.

21           Adopted amendments to §209.1(f)(1) make the language consistent with 1 TAC §59.2(b)(4)  
22 regarding the filing of a lien to secure an obligation.



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1           The department adopts §209.1(f)(2) with a change at adoption to change the catchline from  
2 “Warrants” to “Warrant Holds” to accurately describe the contents of paragraph (2). An adopted  
3 amendment to §209.1(f)(2) also changes the word “will” to “shall” for consistency and to clarify that the  
4 department has a duty to comply with the “warrant hold” procedures of the Texas Comptroller of Public  
5 Accounts that are authorized by Government Code, §403.055. Although state employees at the Texas  
6 Comptroller of Public Accounts and other Texas state agencies refer to the “warrant hold” procedures,  
7 the procedures also apply to the issuance of electronic funds transfers. Government Code, §403.055  
8 ensures that no payments in the form of a warrant or an electronic funds transfer are made to a person  
9 who is indebted to the state or has a tax delinquency, unless an exception applies. In addition, adopted  
10 amendments to §209.1(f)(2) make the language consistent with Government Code, §403.055 by  
11 referencing electronic funds transfers and the fact that there are certain exceptions that authorize the  
12 Texas Comptroller of Public Accounts to issue a warrant or initiate an electronic funds transfer to a debtor.  
13 Lastly, adopted amendments to §209.1(f)(2) clarify that the “warrant hold” procedures apply to each  
14 individual debtor.

15           An adopted amendment to the title of §209.2 and adopted amendments to the text throughout  
16 §209.2 change the words “check” or “checks” to “payment device” to be consistent with the terminology  
17 in Business and Commerce Code, §3.506, which authorizes the holder of a dishonored payment device to  
18 charge the drawer or indorser a processing fee not to exceed \$30 when seeking to collect the face value  
19 of the payment device. An adopted amendment to the title of §209.2 and adopted amendments to  
20 §209.2(a) and (c) also clarify that §209.2 applies even if there is one instance of a dishonored payment  
21 device by changing the rule terminology from the plural to the singular regarding the payment device. In  
22 addition, adopted amendments to the text throughout §209.2 replace the word “endorser” with  
23 “indorser” to be consistent with the terminology in Business and Commerce Code, §3.506.

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1           Adopted amendments to §209.2(b) clarify that the definitions in Business and Commerce Code,  
2 Chapter 3 govern §209.2 and control to the extent of a conflict with the definitions in §209.2(b). Adopted  
3 amendments to §209.2(b)(2) modify the definition for “dishonored payment device” by replacing the  
4 word “instrument” with the term “payment device” because Business and Commerce Code, §3.506 uses  
5 the term “payment device.” Adopted amendments to §209.2(b)(2) also modify the definition for  
6 “dishonored payment device” to delete the portion of the definition that defined a check because adopted  
7 new §209.2(b)(3) adds the definition for the term “payment device” from Business and Commerce Code,  
8 §3.506. In addition, adopted amendments to §209.2(b)(2) correct a grammatical error and modify the  
9 definition for “dishonored payment device” to clarify that the listed reasons for the dishonor of the  
10 payment device are examples.

11           An adopted amendment to the first sentence in §209.2(c) changes the word “will” to “shall” to  
12 indicate that the department has a duty to process a dishonored payment device using the procedures  
13 outlined in §209.2. An adopted amendment to the first sentence in §209.2(c) also replaces the term  
14 “returned check” with the term “dishonored payment device,” which is a defined term in §209.2(b). In  
15 addition, an adopted amendment to the first sentence in §209.2(c) clarifies that the department shall not  
16 charge a processing fee to the drawer or indorser if the department is prohibited from doing so under  
17 Business and Commerce Code, §3.506, which prohibits a person from charging a processing fee to a  
18 drawer or indorser if a reimbursement fee has been collected under Article 102.007(e) of the Code of  
19 Criminal Procedure.

20           Adopted amendments throughout §209.2(c) change the word “will” to “shall” for consistency and  
21 to impose a duty on the person to whom the language applies. Adopted amendments to §209.2(c)(2) and  
22 (3) replace the term “payment processor charges” with a reference to any service charge under §209.23  
23 of this title for clarity. The department adopts §209.2(c)(3) with a change at adoption to keep the comma

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1 after the word “title” for consistency. An adopted amendment to §209.2(c)(3) also clarifies that the  
2 reference to the processing fee is a reference to the \$30 processing fee.

3 An adopted amendment to §209.2(c)(4) clarifies that the fee that is referenced in §209.23 of this  
4 title is a service charge. An adopted amendment to §209.2(c)(4) also replaces the word “chapter” with  
5 “title” for consistency. In addition, the department adopts §209.2(c)(4) with a change at adoption to  
6 remove “(relating to Methods of Payment)” because an adopted amendment to §209.2(c)(2) adds this  
7 language, which is only required to be included the first time that §209.23 is referenced in §209.2.

8 An adopted amendment to §209.2(d) adds a reference to this title to correctly reference §209.1,  
9 which is contained in Title 43. An adopted amendment to §209.2(d) also replaces the term “payment  
10 processor charges” with the clause “service charge under §209.23 of this title” for clarity. In addition, an  
11 adopted amendment to §209.2(d) clarifies that the reference to the processing fee is a reference to the  
12 \$30 processing fee. Lastly, an adopted amendment to §209.2(d) breaks the sentence into two separate  
13 sentences for clarity and readability.

14 An adopted amendment to §209.2(e) changes the word “will” to “shall” for consistency and to  
15 impose a duty on the department regarding the order in which the drawer’s or indorser’s payment to the  
16 department shall be applied. An adopted amendment to §209.2(e) also clarifies that the reference to the  
17 processing fee is a reference to the \$30 processing fee. In addition, adopted amendments to §209.2(e)  
18 clarify that after the drawer’s or indorser’s payment is applied to the \$30 processing fee, the balance  
19 would first be applied to any service charge required by §209.23 of this title, and then to the face amount  
20 of the dishonored payment device.

21

22 Subchapter B. Payment of Fees [~~for Department Goods and Services~~]

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1 An adopted amendment to the title of Subchapter B of Chapter 209 deletes the words “for  
2 Department Goods and Services” to clarify that Subchapter B is not limited to payment of fees for  
3 department goods and services. For example, §209.23 applies to a payment for administrative penalties  
4 that are due under an administrative enforcement case, such as the penalties under Transportation Code,  
5 §643.251.

6 An adopted amendment to §209.23(a) states that the purpose of §209.23 is to establish the  
7 methods of payment that the department may accept and to make the public aware of a potential service  
8 charge for certain methods of payment. Although §209.23 lists many different methods of payment that  
9 the department may accept, the transaction itself dictates the methods of payment that the department  
10 will accept for that particular transaction. For example, when the department’s enforcement attorneys  
11 send a Notice of Department Decision (NODD) to an alleged violator of certain Texas laws, the NODD tells  
12 the person to pay the administrative penalties with a check, cashier’s check, or money order. Another  
13 example is the department’s website, which provides information regarding the methods of payment that  
14 are accepted for certain transactions, such as the purchase of an oversize/overweight permit. An adopted  
15 amendment to §209.23(a) also deletes a reference to the point of sale because the reference to the “point  
16 of sale” may confuse a person who is paying an administrative penalty to the department.

17 An adopted amendment to §209.23(a)(3) deletes the language that says a personal or business  
18 check is not an acceptable method of payment of fees under Transportation Code, §502.094 to clarify that  
19 this exception is not the only exception for certain methods of payment. For example, §209.2(c)(3)  
20 dictates the methods of payment that the department will accept when a person is required to make  
21 certain payments to the department after the person’s payment device is not honored upon presentment  
22 to a bank or other financial institution upon which the payment device is drawn or made. Adopted  
23 amendments to §209.23(b) also clarify that a person paying by debit card or electronic funds transfer has

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1 a duty to pay any applicable service charge per transaction, which is already required under current law.  
2 In addition, an adopted amendment to §209.23(b) deletes a reference to a payment made by Automated  
3 Clearing House (ACH) because the Texas Department of Information Resources (DIR) does not currently  
4 charge a service fee under Government Code, §2054.2591 when a payment is made by ACH through DIR's  
5 payment engine.

6

7 Subchapter C. Donations or ~~and~~ Contributions

8 An adopted amendment to the title of Subchapter C of Chapter 209 and the title of §209.33  
9 changes the "and" to "or," so the title is "Donations or Contributions" because adopted new §209.33(b)  
10 defines the term "donation or contribution." An adopted amendment to the title of §209.33 also deletes  
11 the words "Acceptance of" because adopted amendments to §209.33 expand the scope of the rule to  
12 include other topics, such as the standards of conduct governing the relationship between board  
13 members, department employees, and donors.

14 Adopted new §209.33(a) and (b) clarify that §209.33 provides uniform criteria and procedures  
15 regarding donations or contributions, as well as standards of conduct governing the relationship between  
16 the board, the department's employees, and donors, regardless of the type or value of the donation or  
17 contribution and regardless of whether the donor is a private donor.

18 Adopted new §209.33(a) adds language regarding the purpose of §209.33 because adopted  
19 amendments to §209.33 address criteria and procedures regarding donations or contributions under  
20 Transportation Code, §1001.008 and Government Code, Chapter 575, as well as standards of conduct that  
21 state agencies are required to address in rule under Government Code, §2255.001. As described below,  
22 the citations to the applicable statutes in adopted new §209.33(a) clarify that §209.33 applies, even

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1 though some of the cited statutes use different terminology and apply to certain kinds of donations or  
2 contributions.

3           Adopted new §209.33(b) adds definitions for clarity, including the definitions for the terms  
4 “board,” “department,” and “executive director,” which are found in Transportation Code, §1001.001.  
5 Adopted new §209.33(b) also defines the term “donation or contribution” as anything of value in any  
6 form, including real or personal property, money, materials, or services, given by a donor to the board, as  
7 authorized by Transportation Code, §1001.008. Although Transportation Code, §1001.008 refers to both  
8 donations or contributions, a contribution is also a donation, and both are also gifts. The new definition  
9 for the term “donation or contribution” in adopted new §209.33(b) clarifies that §209.33 applies to any  
10 donation or contribution, even if the donation or contribution does not fall within the scope of  
11 Government Code, Chapter 575 because the donation or contribution does not fall within the definition  
12 of the word “gift” under Government Code, §575.001 or does not trigger the dollar threshold for a gift  
13 under Government Code, §575.002, which states that Government Code, Chapter 575 only applies to a  
14 gift that has a value of \$500 or more. Although Government Code, Chapter 575 uses the term “gift” rather  
15 than “donation or contribution,” Government Code, §575.001 defines “gift” to mean a donation of money  
16 or property.

17           In addition, adopted new §209.33(b) defines the word “donor” as a person who makes a donation  
18 or contribution to the board, as authorized by Transportation Code, §1001.008. According to Government  
19 Code, §311.002(4), Chapter 311 of the Government Code applies to administrative rules such as §209.33,  
20 which are adopted under a code, such as the Government Code or the Transportation Code. Government  
21 Code, §311.005 defines the word “person” to include a corporation, organization, government or  
22 governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other  
23 legal entity. The new definition for “donor” in adopted new §209.33(b) clarifies that §209.33 applies to a

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1 donation or contribution from any donor, even if the donation or contribution is from a public donor, such  
2 as another governmental agency, and does not fall within the scope of Government Code, §2255.001,  
3 which only applies to a donation or contribution of money from a private donor.

4 Due to the addition of adopted new §209.33(a) and (b), adopted amendments to §209.33 re-letter  
5 prior subsections (a) and (b) to become subsections (c) and (d). Adopted amendments to re-lettered  
6 §209.33(c) and (d) clarify that subsections (c) and (d) apply to the donation or contribution, even if it is a  
7 single donation or contribution. An adopted amendment to re-lettered §209.33(d) also clarifies that the  
8 records of the board meeting shall include the name of the donor. Although Government Code, §575.004  
9 does not apply to a gift that has a value of less than \$500, the second sentence in adopted re-lettered  
10 §209.33(d) applies to that donation or contribution if the board accepts the donation or contribution  
11 because it is a good practice to include the required information under re-lettered §209.33(d) in the  
12 records of the board meeting for transparency. Government Code, §575.004 requires a state agency that  
13 accepts a gift that has a value of \$500 or more to record the name of the donor, a description of the gift,  
14 and a statement of the purpose of the gift in the minutes of the meeting for the state agency's governing  
15 board.

16 Adopted new §209.33(e) requires the department to use the donation or contribution for the  
17 purpose specified by the donor to the extent the stated purpose complies with Transportation Code,  
18 §1001.008. Transportation Code, §1001.008 only authorizes the board to accept a donation or  
19 contribution for the purposes of carrying out the board's functions and duties. In addition, Transportation  
20 Code, §1001.008 prohibits the board from accepting a donation or contribution from an entity or  
21 association of entities that the board regulates.

22 Adopted new §209.33(f) adds language from repealed §209.34, which said the department may  
23 document terms or conditions relating to a donation or contribution through a donation agreement with

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1 the donor. Adopted new §209.33(f) also amends the language incorporated from repealed §209.34 by  
2 changing the clause “terms or conditions” to “terms and conditions,” to correct the terminology, and by  
3 using the term “donation or contribution” as defined by adopted new §209.33(b). In conjunction with the  
4 repeal of §209.34, adopted new §209.33(f) consolidates the language regarding donations or  
5 contributions into one rule.

6       Adopted new §209.33(g) states that board members and department employees shall comply  
7 with the standards of conduct under Government Code, Chapter 572 and any other law regulating the  
8 ethical conduct of state officers and employees when interacting with a donor or potential donor.  
9 Government Code, §2255.001(a) and (b)(2), (3), and (4) require each state agency that is authorized by  
10 statute to accept money from a private donor to adopt rules that govern all aspects of conduct of the  
11 state agency in the relationship between the donor, the state agency, and the state agency’s employees,  
12 including the donor’s “use” of the state agency’s employee or property, service by the state agency’s  
13 officer or employee as an officer or director of the donor, and the donor’s monetary enrichment of the  
14 state agency’s officer or employee. Although Government Code, §2255.001 only applies to a donation or  
15 contribution of money from a private donor, adopted amendments to §209.33 apply to a donation or  
16 contribution from any donor, including another governmental agency, because a conflict of interest could  
17 exist for any donation or contribution. Even though Transportation Code, §1005.001 already says the  
18 board and department employees are subject to the standards of conduct under Government Code,  
19 Chapter 572 and any other law regulating the ethical conduct of state officers and employees, adopted  
20 new §209.33(g) repeats the language from Transportation Code, §1005.001 with some modifications  
21 because Government Code, §2255.001 requires each state agency that is authorized by statute to accept  
22 money from a private donor to adopt rules governing the relationship between the donor, the state  
23 agency, the state agency’s officers, and the state agency’s employees. The provisions in Government



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1 Code, §2255.001 regarding a private organization that exists to further the purposes and duties of a state  
2 agency do not apply to the department because there is no such private organization for the department;  
3 therefore, the department is not adopting a rule regarding such a private organization.

4 The department adopts §209.33(h) and (i) with changes at adoption to clarify that the subsections  
5 apply to a proposal or decision pending before a potential donor to the board, rather than a proposal or  
6 decision pending before the board regarding a potential donor's offer to make a donation or contribution  
7 to the board. Adopted new §209.33(h) states that a board member who serves as an officer or director of  
8 a potential donor to the board shall not vote on a proposal or decision pending before the potential donor  
9 to make a donation or contribution to the board. Adopted new §209.33(i) states that if the department's  
10 executive director serves as an officer or director of a potential donor to the board, the executive director  
11 shall not vote on a proposal or decision pending before the potential donor to make a donation or  
12 contribution to the board. Government Code, §2255.001(b)(3) requires each state agency that is  
13 authorized by statute to accept money from a private donor to adopt rules that govern all aspects of  
14 conduct of the state agency in the relationship between the donor, the state agency, and the state  
15 agency's employees, including service by the state agency's officer or employee as an officer or director  
16 of the donor. Adopted new §209.33(h) and (i) help to prevent a conflict of interest regarding a proposed  
17 donation or contribution to the board under Transportation Code, §1001.008.

18 Adopted new §209.33(j) prohibits a board member or a department employee from authorizing  
19 a donor to use department property unless the following requirements are met: 1) the board member or  
20 the department, as applicable, have statutory authority to do so; 2) the property shall only be used for a  
21 state purpose; and 3) the property shall be used in accordance with a contract between the department  
22 and the donor that complies with Texas law. Most of these requirements spell out current law; however,  
23 Government Code, §2255.001(b)(2) requires each state agency that is authorized by statute to accept

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1 money from a private donor to adopt rules that govern all aspects of conduct of the state agency in the  
2 relationship between the donor, the state agency, and the state agency's employees, including the  
3 donor's use of the state agency's property.

4       Only the legislature may grant power to board members and the department regarding the use  
5 of the department's property; therefore, a board member or a department employee is prohibited from  
6 authorizing a donor to use department property unless there is statutory authority to do so. Also,  
7 Government Code, §2203.004 says that state property may only be used for state purposes and that a  
8 person may not entrust state property to a person if the property will not be used for state purposes. In  
9 addition, if the department is not sufficiently compensated for the use of the department's property, the  
10 transaction must comply with Article III, §51 of the Texas Constitution, which prohibits the legislature  
11 from granting, or authorizing a state agency to grant, public money to a private individual or entity.  
12 Attorneys general have construed Article III, §51 to also apply to the granting of public property to a  
13 private individual or entity. See Tex. Att'y Gen. Op. Nos. GA-0894 (2011) at 1, MW-373 (1981) at 9.  
14 Attorneys general have also stated that Article III, §51 does not prevent the state from making an  
15 expenditure of public money or providing public property that benefits a private individual or entity if the  
16 following requirements are met: 1) the transaction serves a legitimate public purpose; and 2) the  
17 appropriate governing body places sufficient controls on the transaction to ensure that the public purpose  
18 is carried out. See Tex. Att'y Gen. Op. Nos. GA-0894 (2011) at 2, JC-0244 (2000) at 5, JC-0146 (1999) at 3,  
19 MW-373 (1981) at 9. A contract is a general method of placing sufficient controls on the transaction to  
20 ensure that the public purpose is carried out.

21       If the department is sufficiently compensated for the use of the department's property, the  
22 transaction is not a gratuity. See Tex. Att'y Gen. Op. No. GA-0894 (2011) at 2. For transparency, adopted  
23 new §209.33(j) requires the property to be used in accordance with a contract between the department

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1 and the donor that complies with Texas law, even if Article III, §51 of the Texas Constitution does not  
2 apply to the transaction.

3 The department adopts the repeal of prior §209.34 regarding a donation agreement, in  
4 conjunction with the adopted amendment to incorporate the language from prior §209.34 into §209.33,  
5 with minor amendments, to consolidate the language regarding donations or contributions into one rule.

6

**7 SUMMARY OF COMMENTS.**

8 The department did not receive any written public comments on the proposed amendments or  
9 repeal.

10



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1            (a) Purpose. The purpose of this section is to comply with Government Code, §2107.002, which  
2 requires a state agency that collects delinquent obligations owed to the state agency to establish  
3 procedures by rule for collecting a delinquent obligation.

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

6                    (1) Attorney general--The Office of the Attorney General of Texas.

7                    (2) Debtor--Any person liable or potentially liable for an obligation owed to the  
8 department or against whom a claim or demand for payment has been made.

9                    (3) Delinquent--Payment is past due by law or by customary business practice, and all  
10 conditions precedent to payment have occurred or been performed.

11                   (4) Department--The Texas Department of Motor Vehicles.

12                   (5) Obligation--A debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan,  
13 charge, or grant.

14                   ~~[(6) Person--An individual, corporation, organization, business trust, estate, trust,~~  
15 ~~partnership, association, and any other legal entity.]~~

16                   (6) [(7)] Security--Any right to have property owned by a person [or an entity] with an  
17 obligation to the department sold or forfeited in satisfaction of the obligation, and any instrument  
18 granting a cause of action in favor of the department against a person[, another entity,] or a person's [or  
19 entity's] property, such as a bond, letter of credit, or other collateral that has been pledged to the  
20 department to secure an obligation.

21                   ~~[(b) Collection from contractors. If an obligation of a contractor of the department is delinquent~~  
22 ~~and the department owes payment to that contractor, the department will subtract the amount of the~~  
23 ~~obligation from the payment if practical.]~~

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1 (c) Notification of obligation and demand letters.

2 (1) The department shall ~~[will]~~ send to the debtor written notice of the obligation, such  
3 as an administrative enforcement order that imposes a penalty or fine.

4 (2) If no satisfactory response is received within 30 days after the date that the notice is  
5 sent under paragraph (1) of this subsection, the obligation becomes delinquent on the 31st day after the  
6 date that notice is sent, unless the department's notice, the law, or a department rule imposes a  
7 different deadline for payment. The department shall ~~[will]~~ send the first demand letter not later than  
8 the 30th day after the date on which the obligation becomes delinquent.

9 (3) If no satisfactory response is received within 30 days after the day on which the first  
10 demand letter was sent, the department shall ~~[will]~~ send the final demand letter no later than 60 days  
11 after the date on which the first demand letter was sent. The final demand letter shall ~~[will]~~ include a  
12 deadline by which the debtor must respond and, if the department determines in accordance with  
13 subsection (e) of this section that the obligation shall ~~[should]~~ be referred to the attorney general, a  
14 statement that the obligation, if not paid, shall ~~[will]~~ be referred to the attorney general.

15 (4) Each demand letter must ~~[will]~~ set forth the nature and amount of the obligation  
16 owed to the department and must ~~[will]~~ be mailed by first class United States mail, in an envelope that  
17 shall bear ~~[bearing]~~ the notation "Return Service Requested." [~~"address correction requested."~~] If an  
18 address correction is provided by the United States Postal Service, the department shall ~~[will]~~ resend the  
19 demand letter to that address prior to referral to the attorney general.

20 (d) Records. When practicable, the department shall retain a record of a delinquent obligation. A  
21 record shall contain documentation of the following information:

22 (1) the identity of each debtor ~~[person liable on all or any part of the obligation];~~

23 (2) the correct physical address of the debtor's place of business;

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- 1 (3) the correct physical address of the debtor's residence, where applicable;
- 2 (4) an accurate physical address for the trustee when a fiduciary or trust relationship
- 3 exists between the department as principal and the debtor as trustee;
- 4 (5) ~~[(4)]~~ a post office box address when it is impractical to obtain a physical address, or
- 5 when the post office box address is in addition to a correct physical address for the debtor;
- 6 (6) ~~[(5)]~~ attempted contacts with the debtor;
- 7 (7) ~~[(6)]~~ the substance of communications with the debtor;
- 8 (8) ~~[(7)]~~ efforts to locate the debtor and the assets of the debtor;
- 9 (9) ~~[(8)]~~ state warrants that may be issued to the debtor;
- 10 (10) ~~[(9)]~~ current contracts the debtor has with the department;
- 11 (11) ~~[(10)]~~ security interests that the department has against any assets of the debtor;
- 12 (12) ~~[(11)]~~ notices of bankruptcy, proofs of claim, dismissals and discharge orders
- 13 received from the United States bankruptcy courts regarding the debtor; and
- 14 (13) ~~[(12)]~~ other information relevant to collection of the delinquent obligation
- 15 [account].
- 16 (e) Referrals of a delinquent obligation to the attorney general.
- 17 (1) Prior to referral of a delinquent obligation to the attorney general, the department
- 18 shall:
- 19 (A) verify the debtor's address and telephone number;
- 20 (B) send a first and final demand letter to the debtor in accordance with
- 21 subsection (c) of this section;
- 22 (C) verify that the obligation is not considered uncollectible under paragraph (2)
- 23 of this subsection;

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1 (D) prepare and file a proof of claim in the case of a bankruptcy when  
2 appropriate based on advice from the attorney general; [~~unless the department is represented by the~~  
3 ~~attorney general;~~] and

4 (E) file a claim in each [~~the~~] probate proceeding administering the decedent's  
5 estate if the debtor is deceased [~~, unless the department is represented by the attorney general~~].

6 (2) The department shall [~~will~~] consider a delinquent obligation uncollectible and shall  
7 [~~will~~] make no further effort to collect if the obligation is not legally collectible or is uncollectible as a  
8 practical matter. Examples of an obligation that is not legally collectible or is uncollectible as a practical  
9 matter include an obligation, which:

10 (A) has been [~~dismissed or~~] discharged in bankruptcy;

11 (B) is subject to an applicable limitations provision that would prevent a lawsuit  
12 [~~collection~~] as a matter of law, unless circumstances indicate that the applicable limitations provision  
13 has been tolled or is otherwise inapplicable;

14 [~~(C) is owed by a corporation which has been dissolved, is in liquidation under~~  
15 ~~Chapter 7 of the United States Bankruptcy Code, has forfeited its corporate privileges or charter, or, in~~  
16 ~~the case of a foreign corporation, had its certificate of authority revoked unless circumstances indicate~~  
17 ~~that the account is nonetheless collectible or that fraud was involved;~~]

18 (C) [(D)] is owed by an individual who is located out-of-state, or outside the  
19 United States, unless a determination is made that the domestication of a Texas judgment in the foreign  
20 forum would more likely than not result in collection of the obligation, or that the expenditure of  
21 department funds to retain foreign counsel to domesticate the judgment and proceed with collection  
22 attempts is justified;



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1                           (D) [(E)] is owed by a debtor who is deceased, where each probate proceeding  
2 has [have] concluded, and where there are no remaining assets available for distribution; or

3                           (E) [(F)] is owed by a debtor whose circumstances demonstrate a permanent  
4 inability to pay or make payments toward the obligation.

5                           (3) Except as advised otherwise by the attorney general, the department shall not refer  
6 a delinquent obligation to the attorney general unless the delinquent obligation exceeds \$2,500. [H  
7 making a determination of whether to refer a delinquent obligation to the attorney general, the  
8 department will consider:]

9                           [(A) the expense of further collection procedures;]

10                           [(B) the size of the debt;]

11                           [(C) the existence of any security;]

12                           [(D) the likelihood of collection through passive means such as the filing of a  
13 lien;]

14                           [(E) the availability of resources to collect the obligation; and]

15                           [(F) policy reasons or other good cause.]

16                           (4) The department shall [will] refer a delinquent obligation to the attorney general for  
17 further collection efforts if the department determines, in accordance with this subsection, that the  
18 delinquent obligation shall [should] be referred.

19                           (f) Supplemental and alternative collection procedures.

20                           (1) Liens. Where state law allows a state agency to record a lien securing the obligation,  
21 the [The] department shall file the [, unless represented by the attorney general, will record a] lien  
22 [securing the delinquent obligation] in the appropriate records of the county where the debtor's  
23 principal place of business, or, where appropriate, the debtor's residence, is located or in such county as

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1 may be required by law as soon as the obligation becomes delinquent or as soon as is practicable.

2 Unless the delinquent obligation has been paid in full, any lien securing the indebtedness may not be  
3 released without the approval of the attorney representing the department after the matter has been  
4 referred to the attorney general.

5 (2) Warrant Holds. [~~Warrants.~~] The department shall [~~will~~] utilize the "warrant hold"  
6 procedures of the Comptroller of Public Accounts authorized by Government Code, §403.055, to ensure  
7 that no treasury warrants are issued to a debtor [~~debtors~~] and no electronic funds transfers are made to  
8 a debtor until the debt is paid, unless an exception applies.

9  
10 §209.2. Charges for Dishonored Payment Device. [~~Checks.~~]

11 (a) Purpose. Business and Commerce Code, §3.506, authorizes the holder of a dishonored  
12 payment device [~~check~~], seeking collection of the face value of the payment device [~~check~~], to charge  
13 the drawer or indorser [~~endorser~~] of the payment device [~~check~~] a reasonable processing fee, not to  
14 exceed \$30. This section prescribes policies and procedures for the processing of a dishonored payment  
15 device [~~checks~~] made payable to the department and the collection of fees because of the dishonor of a  
16 payment device [~~check~~] made payable to the department.

17 (b) Definitions. The definitions contained in Business and Commerce Code, Chapter 3 govern this  
18 section and control to the extent of a conflict with the following definitions in this subsection. The  
19 following words and terms, when used in this section, shall have the following meanings, unless the  
20 context clearly indicates otherwise.

21 (1) Department--The Texas Department of Motor Vehicles.

22 (2) Dishonored payment device [~~check~~]-A [~~check, draft, order, electronic payment, or~~  
23 ~~other~~] payment device that is drawn or made upon a bank or other financial institution, and that is not

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1 honored upon presentment for reasons including, but not limited to, [because] the account upon which  
2 the payment device [instrument] has been drawn or made does not exist, ~~[or]~~ is closed, or does not  
3 have sufficient funds or credit for payment of the payment device [instrument] in full.

4 (3) Payment device--A check, item, paper or electronic payment, or other device used as  
5 a medium for payment.

6 (c) Processing of a dishonored payment device [checks]. Upon receipt of notice from a bank or  
7 other financial institution of refusal to honor a payment device [check] made payable to the  
8 department, the department shall [will] process the dishonored payment device [returned check] using  
9 the following procedures; however, the department shall not charge a \$30 processing fee to the drawer  
10 or indorser if the department is prohibited from doing so under Business and Commerce Code, §3.506.

11 (1) The department shall [will] send a written notice by certified mail, return receipt  
12 requested, to the drawer or indorser [endorser] at the drawer or indorser's [endorser's] address as  
13 shown on:

14 (A) the dishonored payment device [check];

15 (B) the records of the bank or other financial institution; or

16 (C) the records of the department.

17 (2) The written notice shall [will] notify the drawer or indorser [endorser] of the  
18 dishonored payment device [check] and shall [will] request payment of the face amount of the payment  
19 device, any service charge under §209.23 of this title (relating to Methods of Payment) [check, any  
20 payment processor charges], and a \$30 processing fee no later than 10 days after the date of receipt of  
21 the notice. The written notice shall [will] also contain the statement required by Penal Code,  
22 §32.41(c)(3).

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1 (3) The face amount of the payment device, any service charge under §209.23 of this  
2 title [~~check, any payment processor charges~~], and the \$30 processing fee must be paid to the  
3 department:

4 (A) with a cashier's check or money order, made payable to the Texas  
5 Department of Motor Vehicles; or

6 (B) with a valid credit card, approved by the department, and issued by a  
7 financial institution chartered by a state or the United States, or a nationally recognized credit  
8 organization.

9 (4) Payments made by credit card must include the service charge [~~fee~~] required by  
10 §209.23 of this title [~~chapter (relating to Methods of Payment)~~].

11 (5) If payment is not received within 10 days after the date of receipt of the notice, the  
12 obligation shall [~~will~~] be considered delinquent and shall [~~will~~] be processed in accordance with §209.1  
13 of this title (relating to Collection of Debts).

14 (d) Supplemental collection procedures. In addition to the procedures described in §209.1 of  
15 this title, the department may notify appropriate credit bureaus or agencies if the drawer or indorser  
16 [~~endorser~~] fails to pay the face amount of a dishonored payment device, [~~check~~], any service charge  
17 required under §209.23 of this title [~~payment processor charges~~], and the \$30 processing fee. In  
18 addition, the department [~~or~~] may refer the matter for criminal prosecution.

19 (e) Any payment to the department from the drawer or indorser [~~endorser~~] of a dishonored  
20 payment device [~~check~~] shall [~~will~~] be applied first to the \$30 processing fee, then to any service charge  
21 required by §209.23 of this title, and then to the face amount of the dishonored payment device.

22

23 **SUBCHAPTER B. PAYMENT OF FEES [~~FOR DEPARTMENT GOODS AND SERVICES~~]**



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1 card payment in addition to the fee; Government Code, §2054.1115, which authorizes a state agency that  
2 uses the state electronic internet portal to use electronic payment methods for point-of-sale transactions  
3 (including in-person transactions), telephone transactions, and mail transactions; Government Code,  
4 §2054.2591, which authorizes the Texas Department of Information Resources (DIR) to set fees that a  
5 state agency may charge for a transaction that uses the state electronic Internet portal project;  
6 Transportation Code, §§501.176, 502.191, and 520.003, which authorize the department to collect the  
7 fees that DIR sets under Government Code, §2054.2591; Transportation Code, §1002.001, which provides  
8 the board with the authority to adopt rules that are necessary and appropriate to implement the powers  
9 and the duties of the department; and the statutory authority referenced throughout the preamble and  
10 in the rule text, which is incorporated by reference.

11 **CROSS REFERENCE TO STATUTE.** The adopted amendments implement Transportation Code, §§501.176,  
12 502.094, 502.191, 520.003, 621.356, 623.076, 643.004, 645.002, 646.003, 1001.009, and 1002.001; and  
13 Government Code, §2054.1115 and §2054.2591.

14

15 Text.

16 §209.23. Methods of Payment.

17 (a) The purpose of this section is to establish the methods of payment that the Texas  
18 Department of Motor Vehicles may accept, depending on the transaction, and to make the public aware  
19 of a potential service charge for certain methods of payment. All fees for department goods and services  
20 and any fees required in the administration of any department program shall be paid to the department  
21 with a method of payment accepted by the department [~~at the point of sale~~], which may be:

22 (1) a valid debit or credit card, approved by the department, and issued by a financial  
23 institution chartered by a state or the United States, or a nationally recognized credit organization;

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- 1 (2) electronic funds transfer;
- 2 (3) a personal check, business check, cashier's check, or money order, payable to the
- 3 Texas Department of Motor Vehicles [~~except that a personal or business check is not an acceptable~~
- 4 ~~method of payment of fees under Transportation Code, §502.094~~];
- 5 (4) cash in United States currency, paid in person; or
- 6 (5) by an escrow account, established with the department for the specific purpose of
- 7 paying fees.
- 8 (b) Persons paying the department by credit card, debit card, or electronic funds transfer [~~or~~
- 9 ~~Automated Clearing House (ACH)~~] shall pay any applicable service charge per transaction.

10

11

**SUBCHAPTER C. DONATIONS OR [AND] CONTRIBUTIONS**

12

**§209.33 and §209.34**

13

14 **STATUTORY AUTHORITY.** The amendments are adopted under Transportation Code, §1001.008, which

15 authorizes the board to accept a donation or contribution in any form and to delegate to the executive

16 director the authority to accept a donation or contribution that is under \$500 or that is not otherwise

17 required to be acknowledged in an open meeting; Transportation Code, §1005.001, which says the board,

18 the executive director, and each employee of the department is subject to the standards of conduct

19 imposed by Government Code, Chapter 572, and any other law regulating the ethical conduct of state

20 officers and employees; Government Code, Chapter 575, which governs a state agency's acceptance of a

21 gift, which is defined as a donation of money or property that has a value of \$500 or more; Government

22 Code, §2255.001, which requires a state agency that is authorized by statute to accept money from a

23 private donor to adopt rules governing the relationship between the donor, the state agency, and the

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1 state agency's employees; Transportation Code, §1002.001, which provides the board with the authority  
2 to adopt rules that are necessary and appropriate to implement the powers and the duties of the  
3 department; and the statutory authority referenced throughout the preamble and in the rule text, which  
4 is incorporated by reference.

5 **CROSS REFERENCE TO STATUTE.** The adopted amendments implement Transportation Code, §§1001.008,  
6 1002.001, and 1005.001; and Government Code, Chapters 572, 575, and 2255.

7

8 Text.

9 §209.33. ~~Acceptance of~~ Donations or ~~and~~ Contributions.

10 (a) The purpose of this section is to establish the criteria and procedures regarding donations or  
11 contributions under Transportation Code, §1001.008 and Government Code, Chapter 575, as well as the  
12 standards of conduct governing the relationship between the board, the department's employees, and  
13 donors under Government Code, Chapter 2255.

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

16 (1) Board--The board of the Texas Department of Motor Vehicles.17 (2) Department--The Texas Department of Motor Vehicles.

18 (3) Donation or contribution--Anything of value in any form, including real or personal  
19 property, money, materials, or services, given by a donor to the board, as authorized by Transportation  
20 Code, §1001.008.

21 (4) Donor--A person who makes a donation or contribution to the board, as authorized  
22 by Transportation Code, §1001.008.



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1                   (5) Executive director--The executive director of the Texas Department of Motor  
2 Vehicles.

3                   (c) [(a)] The executive director may accept a donation or contribution [donations and  
4 contributions] valued under \$500.

5                   (d) [(b)] Board acceptance of a donation or contribution [donations and contributions] shall be  
6 made in an open meeting. The records of the meeting shall identify the name of the donor and describe  
7 the donation or contribution and its purpose.

8                   (e) If a donor specifies the purpose of the donation or contribution, the department shall use  
9 the donation or contribution for that purpose to the extent the specified purpose complies with  
10 Transportation Code, §1001.008.

11                   (f) The department may document terms and conditions relating to a donation or contribution  
12 through a donation or contribution agreement with the donor.

13                   (g) Pursuant to Transportation Code, §1005.001 and Government Code, §2255.001, board  
14 members and department employees shall comply with the standard of conduct imposed by  
15 Government Code, Chapter 572 and any other law regulating the ethical conduct of state officers and  
16 employees when interacting with a donor or potential donor.

17                   (h) A board member who serves as an officer or director of a potential donor to the board shall  
18 not vote on a proposal or decision pending before the potential donor to make a donation or  
19 contribution to the board.

20                   (i) If the department's executive director serves as an officer or director of a potential donor to  
21 the board, the executive director shall not vote on a proposal or decision pending before the potential  
22 donor to make a donation or contribution to the board.

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1           (j) A board member or a department employee shall not authorize a donor to use department  
2 property unless the following requirements are met:

3                   (1) the board member or the department, as applicable, must have statutory authority  
4 to do so;

5                   (2) the property shall only be used for a state purpose; and

6                   (3) the property shall be used in accordance with a contract between the department  
7 and the donor that complies with Texas law.

8  
9   **STATUTORY AUTHORITY.** The repeal is adopted under Transportation Code, §1001.008, which authorizes  
10 the board to accept a donation or contribution in any form and to delegate to the executive director the  
11 authority to accept a donation or contribution that is under \$500 or that is not otherwise required to be  
12 acknowledged in an open meeting; Government Code, §2255.001, which requires a state agency that is  
13 authorized by statute to accept money from a private donor to adopt rules governing the relationship  
14 between the donor, the state agency, and the state agency's employees; Transportation Code, §1002.001,  
15 which provides the board with the authority to adopt rules that are necessary and appropriate to  
16 implement the powers and the duties of the department; and the statutory authority referenced  
17 throughout the preamble and in the rule text, which is incorporated by reference.

18   **CROSS REFERENCE TO STATUTE.** The adopted repeal implements Transportation Code, §1001.008 and  
19 §1002.001; and Government Code, Chapter 2255.

20  
21 Text.

22 [~~§209.34. Donation Agreement.~~]

TITLE 43. TRANSPORTATION

Adopted Sections

Part 10. Texas Department of Motor Vehicles

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Chapter 209 - Finance

- 1           ~~[The department may document terms or conditions relating to the donation or contribution~~
- 2 ~~through a donation agreement with the donor.]~~

**Board Meeting Date: 10/24/2024**  
**ACTION ITEM**

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**To:** Texas Department of Motor Vehicles Board  
**From:** Laura Moriaty, General Counsel  
**Agenda Item:** 12  
**Subject:** Rule Review Adoption under Government Code, §2001.039: Chapter 209,  
Finance

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**RECOMMENDATION**

Action Item. Approval to publish the notice of readoption of 43 Texas Administrative Code (TAC) Chapter 209, Finance in the *Texas Register*.

**PURPOSE AND EXECUTIVE SUMMARY**

The department conducted a review of 43 TAC Chapter 209 in compliance with Government Code, §2001.039.

**FINANCIAL IMPACT**

N/A

**BACKGROUND AND DISCUSSION**

Government Code, §2001.039 requires state agencies to review their rules every four years and to readopt, readopt with amendments, or repeal the current rules. The department has determined that the reasons for initially adopting the rules in 43 TAC Chapter 209 continue to exist.

The notice of the department's intention to review was published in the *Texas Register* on July 12, 2024 (49 TexReg 5183). The comment period closed on August 12, 2024. No comments were received on the rule review.

As a result of the review, the department identified necessary amendments and a repeal in Chapter 209. Those amendments and the repeal are also presented to the board at this meeting for consideration to adopt.

## TITLE 43. TRANSPORTATION

## Adopted Rule Review

## Part 10. Texas Department of Motor Vehicles

## Chapter 209 – Finance

## Chapter 217 – Vehicle Titles and Registration

**Notice of Readoption**

The Texas Department of Motor Vehicles (department) files this notice of readoption of Title 43 Texas Administrative Code (TAC), Part 10, Chapter 209, Finance; and 43 TAC Chapter 217, Vehicle Titles and Registration, Subchapter A; Subchapter B, §§217.21 - 217.26 and 217.28 - 217.64; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; Subchapter H; Subchapter I; Subchapter J; Subchapter K; and Subchapter L that were published in the *Texas Register*. The review was conducted pursuant to Government Code, §2001.039. The department will review §217.27 separately in the future.

Notice of the department's intention to review was published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5183). The department did not receive any comments on the rule review for either Chapter 209 or the reviewed sections of Chapter 217.

As a result of the review, the department readopts Chapter 209 with amendments and a repeal in accordance with the requirements of Government Code, §2001.039. The department has determined that the reasons for initially adopting the readopted rules continue to exist. In this issue of the *Texas Register*, the department adopts amendments and a repeal in Chapter 209 resulting from the rule review.

As a result of the review, the department readopts Chapter 217 Subchapter A; Subchapter B, §§217.21 - 217.26 and 217.28 - 217.64; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; Subchapter H; Subchapter I; Subchapter J; Subchapter K; and Subchapter L with amendments and repeals in accordance with the requirements of Government Code, §2001.039. The department has determined that the reasons for initially adopting the readopted rules continue to exist. In this issue of the *Texas Register*, the department adopts amendments and repeals in Chapter 217 resulting from the rule review.

This concludes the review of Chapter 209, Finance; and Chapter 217, Vehicle Titles and Registration, Subchapter A; Subchapter B, §§217.21 - 217.26 and 217.28 - 217.64; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; Subchapter H; Subchapter I; Subchapter J; Subchapter K; and Subchapter L.

**Board Meeting Date: 10/24/2024**  
**ACTION ITEM**

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**To:** Texas Department of Motor Vehicles Board  
**From:** Laura Moriaty, General Counsel  
**Agenda Item:** 13  
**Subject:** Rule Review Adoption under Government Code, §2001.039:  
Chapter 217, Vehicle Titles and Registration

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**RECOMMENDATION**

Action Item. Approval to publish the notice of readoption of 43 Texas Administrative Code (TAC) Chapter 217, Vehicle Titles and Registration, Subchapter A; Subchapter B, §§217.21–217.26 and 217.28–217.64; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; Subchapter H; Subchapter I; Subchapter J; Subchapter K; and Subchapter L in the *Texas Register*. The department will review §217.27 separately in the future.

The department has determined that the reasons for initially adopting the rules continue to exist for 43 TAC Chapter 217 Subchapter A; Subchapter B, §§217.21–217.26 and 217.28–217.64; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; Subchapter H; Subchapter I; Subchapter J; Subchapter K; and Subchapter L.

**PURPOSE AND EXECUTIVE SUMMARY**

In compliance with Government Code §2001.039, the department conducted a review of 43 TAC Chapter 217 Subchapter A; Subchapter B, §§217.21–217.26 and 217.28–217.64; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; Subchapter H; Subchapter I; Subchapter J; Subchapter K; and Subchapter L.

**FINANCIAL IMPACT**

There will be no significant fiscal implications due to the proposed amendments and repeals.

**BACKGROUND AND DISCUSSION**

Government Code §2001.039 requires state agencies to review their rules every four years and to readopt, readopt with amendments, or repeal the current rules.

The notice of the department's intention to review was published in the *Texas Register* on July 12, 2024, (49 TexReg 5183). The comment period closed on August 12, 2024. The department did not receive any public comments on the rule review.

As a result of the review, the department identified necessary amendments, a new section, and repeal in Chapter 217. Those amendments and repeals are also presented to the board at this meeting for consideration to adopt.

## TITLE 43. TRANSPORTATION

## Adopted Rule Review

## Part 10. Texas Department of Motor Vehicles

## Chapter 209 – Finance

## Chapter 217 – Vehicle Titles and Registration

**Notice of Readoption**

The Texas Department of Motor Vehicles (department) files this notice of readoption of Title 43 Texas Administrative Code (TAC), Part 10, Chapter 209, Finance; and 43 TAC Chapter 217, Vehicle Titles and Registration, Subchapter A; Subchapter B, §§217.21 - 217.26 and 217.28 - 217.64; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; Subchapter H; Subchapter I; Subchapter J; Subchapter K; and Subchapter L that were published in the *Texas Register*. The review was conducted pursuant to Government Code, §2001.039. The department will review §217.27 separately in the future.

Notice of the department's intention to review was published in the July 12, 2024, issue of the *Texas Register* (49 TexReg 5183). The department did not receive any comments on the rule review for either Chapter 209 or the reviewed sections of Chapter 217.

As a result of the review, the department readopts Chapter 209 with amendments and a repeal in accordance with the requirements of Government Code, §2001.039. The department has determined that the reasons for initially adopting the readopted rules continue to exist. In this issue of the *Texas Register*, the department adopts amendments and a repeal in Chapter 209 resulting from the rule review.

As a result of the review, the department readopts Chapter 217 Subchapter A; Subchapter B, §§217.21 - 217.26 and 217.28 - 217.64; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; Subchapter H; Subchapter I; Subchapter J; Subchapter K; and Subchapter L with amendments and repeals in accordance with the requirements of Government Code, §2001.039. The department has determined that the reasons for initially adopting the readopted rules continue to exist. In this issue of the *Texas Register*, the department adopts amendments and repeals in Chapter 217 resulting from the rule review.

This concludes the review of Chapter 209, Finance; and Chapter 217, Vehicle Titles and Registration, Subchapter A; Subchapter B, §§217.21 - 217.26 and 217.28 - 217.64; Subchapter C; Subchapter D; Subchapter E; Subchapter F; Subchapter G; Subchapter H; Subchapter I; Subchapter J; Subchapter K; and Subchapter L.

**Board Meeting Date: 10/24/2024**  
**ACTION ITEM**

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**To:** Texas Department of Motor Vehicles Board  
**From:** Laura Moriaty, General Counsel  
**Agenda Item:** 14  
**Subject:** Rule Review Proposals under Government Code, §2001.039: Chapter 210, Contract Management; Chapter 211, Criminal History Offense and Action on License

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**RECOMMENDATION**

Action Item. Approval to publish the proposed rule reviews in the *Texas Register* for public comment.

**PURPOSE AND EXECUTIVE SUMMARY**

The department proposes to review 43 Texas Administrative Code (TAC), Chapter 210, Contract Management and Chapter 211, Criminal History Offense and Action on License. This review is being conducted under Texas Government Code, §2001.039.

**FINANCIAL IMPACT**

N/A

**BACKGROUND AND DISCUSSION**

Texas Government Code, §2001.039 requires the department to review and consider for readoption each of its rules every four years.

The Texas Government Code requires the department to determine through the rule review whether the reasons for initially adopting these rules continue to exist and whether these rules should be repealed, readopted, or readopted with amendments. Necessary repeals and amendments identified during the review of these rules will be presented to the board separately for proposal and publication in the *Texas Register* in accordance with the Administrative Procedure Act, Texas Government Code, Chapter 2001.

Chapter 210 includes provisions related to department procurement and contract management practices. Chapter 211 includes the criminal history guidelines used by the department to determine license eligibility.



## TITLE 43. TRANSPORTATION

## Proposed Rule Review

Part 10. Texas Department of Motor Vehicles

Chapter 210 – Contract Management

Chapter 211 – Criminal History Offense and Action on License

**Intention to Review**

The Texas Department of Motor Vehicles (department) will review and consider whether to readopt, readopt with amendments, or repeal 43 Texas Administrative Code, Chapter 210, Contract Management, and Chapter 211, Criminal History Offense and Action on License. This review is being conducted pursuant to Government Code, §2001.039.

The board of the Texas Department of Motor Vehicles will assess whether the reasons for initially adopting these rules continue to exist and whether the rules should be repealed, readopted, or readopted with amendments.

If you want to comment on this rule review proposal, submit your written comments by 5:00 p.m. Central Standard Time on December 9, 2024. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to [rules@txdmv.gov](mailto:rules@txdmv.gov) or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

Proposed changes to sections of Chapter 210 and Chapter 211 are published in the Proposed Rules section of this issue of the *Texas Register* and are open for a 30-day public comment period.

**Board Meeting Date: 10/24/2024**  
**ACTION ITEM**

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**To:** Texas Department of Motor Vehicles Board  
**From:** Chris Hayden, Deputy Chief Financial Officer  
**Agenda Item:** 15  
**Subject:** Chapter 210, Contract Management  
New: Subchapters A and C  
Repeal: Subchapter A  
(Relating to Cleanup)

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**RECOMMENDATION**

Action Item. Approval to publish the proposed revisions to 43 Texas Administrative Code (TAC) Chapter 210 in the *Texas Register* for public comment.

**PURPOSE AND EXECUTIVE SUMMARY**

The department is conducting a review of its rules under 43 TAC Chapter 210 in compliance with Government Code, §2001.039. The department proposes to retitle Chapter 210. The department also proposes new Subchapters A and C, as well as the repeal of current Subchapter A. The proposed revisions would clean up the language in Chapter 210.

**FINANCIAL IMPACT**

There will be no significant fiscal implications due to the proposed revisions.

**BACKGROUND AND DISCUSSION**

The proposed revisions are necessary to do the following:

1. make the rules consistent with statute;
2. remove unnecessary language;
3. organize the rules in a clear manner; and
4. make the rules consistent with current processes, procedures, and terminology.

1

2

**PROPOSAL OF REPEAL OF**

3

**SUBCHAPTER A. PURCHASE CONTRACTS**

4

**43 TAC §§210.1 - 210.3**

5

**NEW**

6

**SUBCHAPTER A. GENERAL PROVISIONS**

7

**43 TAC §210.1 AND §210.2**

8

9

**NEW**

10

**SUBCHAPTER C. CONTRACT MANAGEMENT**

11

**43 TAC §§210.41 - 210.43**

12

13 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) proposes the repeal of 43 Texas  
14 Administrative Code (TAC) §§210.1, 210.2, and 210.3; and proposes new Subchapter A, General  
15 Provisions, §210.1 and §210.2, and new Subchapter C, Contract Management, §§210.41, 210.42, and  
16 210.43. The proposed repeals and new sections are necessary as a part of the department's rule review  
17 to organize the rules to begin with the generally applicable provisions, to organize subsequent  
18 subchapters by subject matter, to delete duplicative language, to add a delegation of signature authority,  
19 and to bring the department's protest, claims and contract monitoring rules into alignment with statute,  
20 with the current rules of the Texas Comptroller of Public Accounts (Comptroller) in 34 TAC, Part 1, and  
21 with current department practices.

22 The proposed revisions to 43 TAC Chapter 210 would repeal all of Subchapter A, Purchase  
23 Contracts, concerning claims, protests and enhanced contract monitoring, to incorporate and reorganize  
24 the sections into proposed new Subchapters A and C. Proposed new Subchapter A, General Provisions,  
25 would provide definitions applicable to the entire chapter and contract signature authority applicable to

## TITLE 43. TRANSPORTATION

Proposed Sections

## Part 10. Texas Department of Motor Vehicles

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## Chapter 210 – Contract Management

1 all contracts. Proposed new Subchapter C, Contract Management, would incorporate language currently  
2 found in Subchapter A regarding claims, protests, and contract monitoring.

3 **EXPLANATION.** The department is conducting a review of its rules in Chapter 210 in compliance with  
4 Government Code, §2001.039. Notice of the department’s intention to conduct this review is also  
5 published in this issue of the *Texas Register*. As a part of the review, the department is proposing  
6 necessary amendments, repeals, and new sections to update and streamline the rule text, bringing it into  
7 compliance with statute and with current department procedure.

8 Chapter 210 is proposed to be retitled “Procurement and Contracting” to more accurately reflect  
9 the scope of the chapter and to avoid any confusion with proposed new Subchapter C, Contract  
10 Management.

#### 11 Repeal of Subchapter A. Purchase Contracts

12 The proposed repeal of §§210.1, 210.2 and 210.3 would allow for the reorganization of the  
13 chapter for clarity and ease of reference. Language from these sections is proposed to be incorporated  
14 into proposed new Subchapter C, Contract Management, §§210.41 - 210.43.

#### 15 New Subchapter A. General Provisions

16 Proposed new Subchapter A would be titled General Provisions, consistent with the organization  
17 and naming conventions found in Chapters 215 and 221 of this title. It would include information that is  
18 generally applicable to the remainder of the chapter.

19 Proposed new §210.1 would add definitions to be applicable to the entire chapter. Definitions in  
20 Chapter 210 are currently set out for each section separately, creating confusion and inconsistency. The  
21 chapter-wide definitions proposed in new §210.1 would improve clarity, consistency, and readability for  
22 the entire chapter.

## TITLE 43. TRANSPORTATION

Proposed Sections

## Part 10. Texas Department of Motor Vehicles

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## Chapter 210 – Contract Management

1 Proposed new §210.1(a) would add an interpretation provision and references to the State  
2 General Services and Purchasing Act and the Code Construction Act. It would provide that terms found in  
3 this chapter have the definitions set forth in those statutes unless otherwise specified or unless the  
4 context clearly requires a different meaning. This would allow for consistency and clarity among the  
5 department’s rules and other relevant sources of authority.

6 Proposed new §210.1(b) would list specific definitions for words and terms used in Chapter 210.

7 Proposed new §210.1(b)(1) would define “Act” as Government Code, Chapters 2151 - 2177, otherwise  
8 known as the State Purchasing and General Services Act, which governs purchases made by state agencies.

9 Proposed new §210.1(b)(2) would add the same definition for “board” that currently appears in §210.2,  
10 which is proposed for repeal. Proposed new §210.1(b)(3) would add a new definition for “contract,” which

11 is more expansive and inclusive of the various types of contracts the department uses. Proposed new

12 §210.1(b)(4) would similarly add a new definition for “contractor” to replace the definition of “vendor” in  
13 current §210.1(b)(5) for clarity and consistency, and to align with current department contract

14 terminology. Proposed new §210.1(b)(5) would add a definition for “days” to clarify that throughout the  
15 chapter, “days” means calendar days rather than business or working days, to be consistent with how

16 days are calculated in the Comptroller’s procurement rules in 34 TAC, Part 1. Proposed new §210.1(b)(6)  
17 would define “department” for the whole chapter to create consistency and clarity. Proposed new

18 §210.1(b)(7) would add a definition for “executive director” to identify the individual responsible for  
19 certain duties and authorities in this chapter. Proposed new §§210.1(b)(8), 210.1(b)(9), and 210.1(b)(10)

20 would add definitions for “historically underutilized business,” “interagency contract or agreement,” and  
21 “interlocal contract or agreement” respectively, citing to the relevant defining statutes for clarity and

22 consistency. “Purchase,” is currently defined with slightly different wording in both §210.1(b)(4) and  
23 §210.1(b)(7), which are both proposed for repeal; proposed new proposed new §210.1(b)(11) would

## TITLE 43. TRANSPORTATION

Proposed Sections

## Part 10. Texas Department of Motor Vehicles

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## Chapter 210 – Contract Management

1 define “purchase” for the whole chapter to create consistency and clarity. Proposed new §210.1(b)(12)  
2 would add a new definition for “respondent” to replace the current definition of “interested party” in  
3 current §210.2(b)(6), because the proposed definition is more specific and in better alignment with  
4 current procurement terminology and department contract language.

5 Proposed new §210.2 would create a new delegation of signature authority. The department’s  
6 board currently delegates contract approval and signature authority through action and a board  
7 resolution that incorporates department contract procedures. Proposed new §210.2 would eliminate the  
8 need for yearly board action on that item and reduce risk by providing a consistent standard that is  
9 transparent and readily accessible. It would also satisfy the requirement found in Government Code,  
10 §2261.254, that the governing body of a state agency must either sign or delegate signature authority for  
11 those contracts exceeding \$1,000,000. The delegation would be applicable to all types of contracts and  
12 agreements and would allow the executive director to delegate authority further, as authorized by  
13 statute.

14 New Subchapter C. Contract Management.

15 Proposed new Subchapter C would incorporate and modify language from current §§210.1 -  
16 210.3.

17 Proposed new §210.41 would incorporate language from current §210.1, concerning claims for  
18 purchase contracts. Proposed new §210.41 would not incorporate the definitions in current §210.1,  
19 because definitions are proposed to be reorganized into proposed new §210.1. Additionally, as compared  
20 to the language in current §210.1, proposed new §§210.41-42 would replace the word “vendor” with  
21 either “contractor” or “respondent” depending on which is appropriate under the new definitions of those  
22 terms in proposed new §210.1(b), for consistency with agency contracting terminology. Proposed new  
23 §210.42 would also change the term “interested parties” in current §210.1 to “respondent,” as defined in

## TITLE 43. TRANSPORTATION

Proposed Sections

## Part 10. Texas Department of Motor Vehicles

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## Chapter 210 – Contract Management

1 proposed new §210.1(b), for consistency and clarity. Proposed new §210.41 would include other non-  
2 substantive punctuation, grammatical, and organizational changes to the language in current §210.1. In  
3 proposed new §210.41 the word “mediation” is assigned the meaning set forth in Civil Practice and  
4 Remedies Code §152.023 and in §210.41(d)(3) the qualifications of the mediator are updated to be  
5 consistent with the Attorney General’s model rule. Additionally, in proposed new §210.41(d)(4) additional  
6 potential mediation costs are addressed to be consistent with the Attorney General’s model rules. In  
7 proposed new §210.41(e)(2), which incorporates language from current §210.1(f)(2), the word “shall”  
8 would be changed to “must” for clarity and consistency. Government Code, §311.016 defines the word  
9 “must” as “creates or recognizes a condition precedent,” which is the intended meaning in proposed new  
10 §210.41(e)(2). The definitions in Government Code, §311.016 apply to Chapter 210 according to  
11 Government Code, §311.002(4).

12 Proposed new §210.42 would incorporate language concerning protests from current §210.2,  
13 except for the definitions, which are proposed to be reorganized into proposed new §210.1. Proposed  
14 new §210.42 would update language from current §210.2 to more accurately describe the department’s  
15 procedures for protests of department purchases, and to make non-substantive punctuation, grammatical  
16 and organizational improvements. Proposed new §210.42(a) incorporates language from current §210.2,  
17 but updates the term “vendor” to “respondent” for clarity and consistency with the new definitions in  
18 proposed new §210.1.

19 Proposed new §210.42(b) would update the department’s protest rules to be consistent with the  
20 Comptroller’s current rules in 34 TAC Chapter 20, as Government Code, §2155.076 requires. Proposed  
21 new §210.42(b)(1) would only authorize vendors who have submitted a response to a department  
22 solicitation to file a protest. This aligns with the Comptroller’s rules in 34 TAC Chapter 20, and limits  
23 protests to those who have proper standing. Proposed new §210.42(b) would describe the requirements

## TITLE 43. TRANSPORTATION

Proposed Sections

## Part 10. Texas Department of Motor Vehicles

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## Chapter 210 – Contract Management

1 for a properly filed protest, which is consistent with the language used in the Comptroller’s rule, 34 TAC  
2 §20.535 regarding filing requirements for a protest.

3 Proposed new §210.42(c) would add deadlines for a protest to be filed timely, which would vary  
4 depending on the type of protest. This proposed language would replace current §210.2(c)(1), which has  
5 the same filing deadline regardless of protest type. The proposed new deadlines would be easier to  
6 determine and calculate accurately because they are based on the specific solicitation and award dates,  
7 whereas current §210.2(c)(1) is based on when the protestor “knew or should have known” an action had  
8 occurred. This change would align proposed new §210.42 with the Comptroller’s rule, 34 TAC §20.535,  
9 and would provide certainty and transparency in the protest process.

10 Proposed new §§210.42(d), (f), and (g) would incorporate language from current §§210.2(d), (e),  
11 and (f) but would only authorize the department’s executive director or procurement director to move  
12 forward with a contract award or performance under a contract while a protest is pending, and would  
13 only authorize the department’s procurement director to informally resolve a protest, or issue a written  
14 determination on a protest. Current §§210.2(d), (e), and (f) authorize the department’s executive  
15 director’s designee to take such actions. The procurement director is the department staff member with  
16 the most visibility into the procurement process by virtue of supervising the department’s Purchasing  
17 Section, and is therefore in the best position to make initial decisions on matters involving purchasing  
18 decisions. Proposed new §§210.42(d), (f), and (g) would ensure that protest decisions are made by those  
19 with the most knowledge of and authority over the matter.

20 Proposed new §210.42(e) would address the actions the department may take on a protest,  
21 including the dismissal of an untimely protest or a protest that does not meet the filing requirements. This  
22 would allow the department increased efficiency in disposing of improper protests, so that it could focus  
23 its time and resources on resolving the protests that comply with the filing requirements.



## TITLE 43. TRANSPORTATION

Proposed Sections

## Part 10. Texas Department of Motor Vehicles

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## Chapter 210 – Contract Management

1 Proposed new §210.42(g) would incorporate language from current §210.2(f), but would replace  
2 the term “interested parties” with the word “respondents” to align with the new definitions in proposed  
3 new §210.1 for clarity and consistency.

4 Proposed new §210.42(h) would update the department’s protest rule to be consistent with the  
5 Comptroller’s current rule, 34 TAC §20.538, as Government Code, §2155.076 requires. Proposed new  
6 §210.42(h) would require that appeals of a written determination be filed with the general counsel and  
7 that the general counsel may either make the final determination or refer it to the executive director for  
8 final determination. Additionally, proposed new §210.42(h) would replace the term “interested parties”  
9 in current §210.2(g) with the word “respondent” and would delete the word “working” before the word  
10 “days” to align with the new definitions proposed in new §210.1 for clarity and consistency.

11 Proposed new §210.43 would incorporate language from current §210.3 concerning enhanced  
12 contract monitoring. Proposed new §210.43 would be titled “Enhanced Contract or Performance  
13 Monitoring” to align with statutory language in Government Code, §2261.253. Proposed new §210.43  
14 would replace the word “vendor” from current §210.3 with the word “contractor” throughout to align  
15 with the new definitions in proposed new §210.1. Additionally, as compared to the current language of  
16 §210.3, the language of proposed new §210.43(a) would add two additional factors to the risk assessment  
17 to determine which contracts require enhanced contract or performance monitoring: proposed new  
18 §210.43(a)(5) would add “special circumstances of the project,” and proposed new §210.43(a)(6) would  
19 add “the scope of the goods, products or services provided under the contract.” These additions would  
20 align with the current risk assessment tool used by the department’s Purchasing Section.

21 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,  
22 has determined that for each year of the first five years the new sections and repeals will be in effect,  
23 there will be no significant fiscal impact to state or local governments as a result of the enforcement or

## TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

Page 8 of 9

## Chapter 210 – Contract Management

1 administration of the proposal. Brad Payne, Director of the Purchasing Section, has determined that there  
2 will be no significant impact on local employment or the local economy as a result of the proposal.

3 **PUBLIC BENEFIT AND COST NOTE.** Mr. Payne has also determined that, for each year of the first five years  
4 new and repealed sections are in effect, there are several anticipated public benefits.

5 Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include  
6 increased transparency, readability and clarity surrounding agency contracting processes and procedures.

7 Anticipated Costs to Comply with The Proposal. Mr. Payne anticipates that there will be no costs  
8 to comply with these rules.

9 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government  
10 Code, §2006.002, the department has determined that the proposed new sections and repeals will not  
11 have an adverse economic effect on small businesses, micro-businesses, and rural communities because  
12 they do not make any changes affecting such entities. Also, many of the changes the department proposes  
13 in new §210.42 are required by Government Code, §2155.076, which requires state agencies to adopt  
14 rules that are consistent with the Comptroller's rules regarding protest procedures for resolving a vendor  
15 protest relating to purchasing issues. Therefore, the department is not required to prepare a regulatory  
16 flexibility analysis under Government Code, §2006.002.

17 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests  
18 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property  
19 that would otherwise exist in the absence of government action and, therefore, does not constitute a  
20 taking or require a takings impact assessment under Government Code, §2007.043.

21 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the  
22 first five years the proposed new sections and repeals are in effect, no government program would be  
23 created or eliminated. Implementation of the proposed new sections and repeals would not require the

## TITLE 43. TRANSPORTATION

Proposed Sections

Part 10. Texas Department of Motor Vehicles

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## Chapter 210 – Contract Management

1 creation of new employee positions or elimination of existing employee positions. Implementation would  
2 not require an increase or decrease in future legislative appropriations to the department or an increase  
3 or decrease of fees paid to the department. The proposed new sections §§210.1, 210.2, 210.41, 210.42,  
4 and 210.43 create new regulations, and the proposed repealed provisions, §§210.1, 210.2, and 210.3  
5 repeal regulations. The proposed new sections and repeals do not expand or limit an existing regulation.  
6 Lastly, the proposed new sections and repeals do not affect the number of individuals subject to the  
7 applicability of the rules and will not affect this state's economy.

8 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written  
9 comments by 5:00 p.m. CST on December 9, 2024. A request for a public hearing must be sent  
10 separately from your written comments. Send written comments or hearing requests by email to  
11 *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000  
12 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written  
13 comments and public testimony presented at the hearing.

14

1 **SUBCHAPTER A. GENERAL PROVISIONS**

2 **43 TAC §210.1 AND §210.2**

3 **STATUTORY AUTHORITY.** The department proposes new Subchapter A, §210.1 and §210.2 in Chapter  
4 210 under Transportation Code, §1001.0411(b), which authorizes the executive director of the Texas  
5 Department of Motor Vehicles (department) to delegate duties or responsibilities; Transportation Code,  
6 §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) with the  
7 authority to adopt rules that are necessary and appropriate to implement the powers and the duties of  
8 the department; Government Code, §2001.004, which requires state agencies to adopt rules of practice  
9 stating the nature and requirements of all available formal and informal procedures; Government Code,  
10 §2260.052(c), which requires state agencies to develop rules to govern negotiation and mediation of  
11 contract claims; Government Code, §2161.003, which requires state agencies to adopt the Texas  
12 Comptroller of Public Accounts' historically underutilized business rules as their own rules; Government  
13 Code, §2261.254(d), which authorizes the board to delegate approval and signature authority for  
14 contracts; and the statutory authority referenced throughout the preamble and in the rule text, which is  
15 incorporated herein by reference.

16 **CROSS REFERENCE TO STATUTE.** The proposed new sections would implement Government Code, Title  
17 10, Subtitle D, and Chapters 771 and 791; and Transportation Code, Chapters 1001 and 1002.

18  
19 Text.

20 210.1. Definitions.

21 (a) As used throughout this chapter, the words and terms defined in the State Purchasing and  
22 General Services Act, Government Code, Title 10, Subtitle D, and the Code Construction Act,  
23 Government Code, Chapter 311 will have the same meaning defined therein, and each word or term

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Chapter 210 – Procurement and Contracting [~~Contract Management~~]

1 listed in this chapter will have the meaning set forth herein, unless:

2 (1) its use clearly requires a different meaning; or

3 (2) a different definition is prescribed in this section, or for a particular section of this

4 chapter or portion thereof.

5 (b) The following words and terms, when used in this chapter, will have the following meaning

6 unless the context clearly indicates otherwise:

7 (1) Act--Government Code, Chapters 2151-2177, the State Purchasing and General

8 Services Act.

9 (2) Board--The Board of the Texas Department of Motor Vehicles.

10 (3) Contract--A legally enforceable written agreement, including a purchase order,

11 between the department and a contractor for goods, products, or services.

12 (4) Contractor--An individual or business entity that has a contract to provide goods,

13 products, or services to the department.

14 (5) Days--Calendar days.

15 (6) Department--The Texas Department of Motor Vehicles.

16 (7) Executive director--The executive director of the department.

17 (8) Historically underutilized business (HUB)--A business as defined in Government

18 Code, §2161.001(2).

19 (9) Interagency contract or Interagency agreement-- An agreement entered into under

20 the Interagency Cooperation Act, Government Code, Chapter 771.

21 (10) Interlocal contract or Interlocal agreement-- An agreement entered into under the

22 Interlocal Cooperation Act, Government Code, Chapter 791.

23 (11) Purchase--Any form of acquisition for goods, products, or services, including by

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1 lease or revenue contract, under the Act.

2 (12) Respondent--An individual or business entity that has submitted a bid, proposal, or  
3 other expression of interest in response to a specific solicitation for goods, products, or services.

4  
5 210.2. Delegation of Approval and Signature Authority.

6 (a) Purpose. The purpose of this section is to establish the approval authority and  
7 responsibilities for executing contracts required by the department.

8 (b) Applicability. This section applies to all contracts, interagency contracts, interlocal contracts,  
9 as well as informal letters of agreement, memoranda, and agreements.

10 (c) Board Delegation. The board delegates the following duties and authorities to the executive  
11 director of the department:

12 (1) the duty and authority to execute contracts, to include approving and signing  
13 contracts on behalf of the department;

14 (2) the authority to further delegate contract approval and signature authority to the  
15 executive director's designees for contracts with a dollar value up to and including \$1,000,000; and

16 (3) the authority to further delegate contract approval and signature authority to a  
17 deputy executive director of the department for contracts with a dollar value exceeding \$1,000,000 as  
18 allowed by Government Code, §2261.254.

19

20 **[SUBCHAPTER A. PURCHASE CONTRACTS]**

21 **STATUTORY AUTHORITY.** The department proposes the repeal of Chapter 210, Subchapter A, Purchase  
22 Contracts, under Transportation Code, §1002.001, which provides the board of the Texas Department of  
23 Motor Vehicles (board) with the authority to adopt rules that are necessary and appropriate to

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1 implement the powers and the duties of the department; Government Code, §2001.004, which requires  
2 state agencies to adopt rules of practice stating the nature and requirements of all available formal and  
3 informal procedures; Government Code, §2155.076, which requires state agencies, by rule, to develop  
4 and adopt protest procedures for resolving vendor protests relating to purchasing issues; Government  
5 Code, §2260.052(c), which requires state agencies to develop rules to govern negotiation and mediation  
6 of contract claims; Government Code, §2261.253(c), which requires state agencies, by rule, to establish  
7 a procedure to identify each contract that requires enhanced contract monitoring; and the statutory  
8 authority referenced throughout the preamble, which is incorporated herein by reference.

9 **CROSS REFERENCE TO STATUTE.** The proposed repeals would implement Government Code, Title 10,  
10 Subtitle D; and Transportation Code, Chapters 1001 and 1002.

11

12 Text.

13 [~~§210.1. Claims for Purchase Contracts.~~]

14 [(a) Purpose. Government Code, Chapter 2260, provides a resolution process for certain  
15 contract claims against the state. Chapter 2260 applies to purchase contracts of the Texas Department  
16 of Motor Vehicles entered into under the State Purchasing and General Services Act. This section  
17 governs the filing, negotiation, and mediation of a claim.]

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

20 [(1) Claim—A claim for breach of a purchase contract between a vendor and the  
21 department.]

22 [(2) Department—Texas Department of Motor Vehicles.]

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1                   ~~[(3) Executive director—The executive director of the department or the director's~~  
2 ~~designee not below the level of division director.]~~

3                   ~~[(4) Purchase—A procurement action under Government Code, Title 10, Subtitle D, for~~  
4 ~~commodities or non-professional services.]~~

5                   ~~[(5) Vendor—An individual, partnership, corporation, or other business entity that is a~~  
6 ~~party to a written contract for a purchase with the department.]~~

7                   ~~[(c) Filing of claim. A vendor may file a notice of claim with the executive director within 180~~  
8 ~~days after the date of the event giving rise to the claim. The claim must contain the:]~~

9                   ~~[(1) nature of the alleged breach;]~~

10                   ~~[(2) amount the vendor seeks as damages; and]~~

11                   ~~[(3) legal theory of recovery.]~~

12                   ~~[(d) Negotiation:]~~

13                   ~~[(1) The executive director will begin negotiations with the vendor to resolve the claim.~~  
14 ~~The negotiations will begin no later than the 120th day after the date the claim is received.]~~

15                   ~~[(2) The negotiation may be written or oral. The executive director may afford the~~  
16 ~~vendor an opportunity for a meeting to informally discuss the disputed matters and provide the vendor~~  
17 ~~an opportunity to present relevant information.]~~

18                   ~~[(e) Mediation:]~~

19                   ~~[(1) The department and the vendor may agree to nonbinding mediation. The~~  
20 ~~department will agree to mediation if the executive director determines that the mediation may speed~~  
21 ~~resolution of the claim or otherwise benefit the department.]~~



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1           ~~[(2) The executive director will appoint a department employee as mediator. The~~  
2     ~~employee must not have had any previous involvement or participation in the administration of the~~  
3     ~~contract or the resolution of the claim.]~~

4           ~~[(3) If the vendor objects to the appointment of a department employee as mediator,~~  
5     ~~the department will select and hire a private mediator from outside the department. The costs for the~~  
6     ~~services of a private mediator will be apportioned equally between the department and the vendor.]~~

7           ~~[(4) The role of a mediator is limited to assisting the parties in attempting to reach an~~  
8     ~~agreed resolution of the issues.]~~

9           ~~[(f) Final offer.]~~

10           ~~[(1) The executive director will make a final offer to the vendor within 90 days of~~  
11     ~~beginning negotiations.]~~

12           ~~[(2) If the disposition is acceptable to the vendor, the vendor shall advise the executive~~  
13     ~~director in writing within 20 days of the date of the final offer. The department will forward an agreed~~  
14     ~~disposition involving payment to the vendor for a final and binding order on the claim.]~~

15           ~~[(g) Contested case hearing. If the vendor is dissatisfied with the final offer, or if the claim is not~~  
16     ~~resolved before the 270th day after the claim is filed with the department, the vendor may petition the~~  
17     ~~executive director for an administrative hearing before the State Office of Administrative Hearings to~~  
18     ~~litigate the unresolved issues in the claim under the provisions of Government Code, Chapter 2260,~~  
19     ~~Subchapter C.]~~

20  
21     ~~[\$210.2. Protest of Department Purchases under the State Purchasing and General Services Act.]~~

22           ~~[(a) Purpose. The purpose of this section is to provide a procedure for vendors to protest~~  
23     ~~purchases made by the department. Purchases made by the Texas Procurement and Support Services~~

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1 division of the Comptroller of Public Accounts office on behalf of the department are addressed in 34  
2 TAC Chapter 20.]

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

5 [(1) Act – Government Code, Chapters 2151-2177, the State Purchasing and General  
6 Services Act.]

7 [(2) Board – Board of the Texas Department of Motor Vehicles.]

8 [(3) Department – Texas Department of Motor Vehicles.]

9 [(4) Division – An organizational unit in the department.]

10 [(5) Executive director – The executive director of the department.]

11 [(6) Interested party – A vendor that has submitted a bid, proposal, or other expression  
12 of interest for the purchase involved.]

13 [(7) Purchase – A procurement action for commodities or non-professional services  
14 under the Act.]

15 [(c) Filing of protest.]

16 [(1) An actual, prospective bidder, or offeror who is aggrieved in connection with the  
17 solicitation, evaluation, or award of a purchase, may file a written protest. The protest must be  
18 addressed to the attention of the executive director. The protest must be received in the office of the  
19 executive director within 10 working days after such aggrieved person knows, or should have known, of  
20 the action.]

21 [(2) The protest must be sworn and contain:]

22 [(A) the provision of or rule adopted under the Act that the action is alleged to  
23 have violated;]

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1                                   ~~[(B) a specific description of the alleged violation;]~~

2                                   ~~[(C) a precise statement of the relevant facts;]~~

3                                   ~~[(D) the issue to be resolved;]~~

4                                   ~~[(E) argument and authorities in support of the protest; and]~~

5                                   ~~[(F) a statement that copies of the protest have been mailed or delivered to~~

6 ~~other identifiable interested parties.]~~

7                   ~~[(d) Suspension of award or performance. If a protest or appeal of a protest has been filed, then~~

8 ~~the department will not proceed with the solicitation or the award of the purchase unless the executive~~

9 ~~director's designee, not below the level of division director, makes a written determination that the~~

10 ~~award of the purchase should be made without delay to protect substantial interests of the department.~~

11 ~~If the purchase has already been awarded, then the department will not allow the vendor to continue~~

12 ~~performance under the contract unless the executive director makes a written determination that~~

13 ~~continued vendor performance is necessary to protect substantial interests of the department.]~~

14                   ~~[(e) Informal resolution. The executive director's designee may informally resolve the dispute,~~

15 ~~including:]~~

16                                   ~~[(1) soliciting written responses to the protest from other interested parties; and]~~

17                                   ~~[(2) resolving the dispute by mutual agreement.]~~

18                   ~~[(f) Written determination. If the protest is not resolved by agreement, the executive director's~~

19 ~~designee will issue a written determination to the protesting party and interested parties which sets~~

20 ~~forth the reason of the determination. The designee may determine that:]~~

21                                   ~~[(1) no violation has occurred; or]~~

22                                   ~~[(2) a violation has occurred and it is necessary to take remedial action as appropriate to~~

23 ~~the circumstances, which may include:]~~

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1                                   ~~[(A) declaring the purchase void;]~~

2                                   ~~[(B) reversing the award; or]~~

3                                   ~~[(C) re-advertising the purchase using revised specifications.]~~

4                   ~~[(g) Appeal.]~~

5                                   ~~[(1) An interested party may appeal the determination to the executive director. The~~  
6 ~~written appeal must be received in the executive director's office no later than 10 working days after the~~  
7 ~~date of the determination. The appeal is limited to a review of the determination.]~~

8                                   ~~[(2) The appealing party must mail or deliver copies of the appeal to the executive~~  
9 ~~director's designee and other interested parties with an affidavit that such copies have been provided.]~~

10                                   ~~[(3) The general counsel of the department shall review the protest, the determination,~~  
11 ~~the appeal, and prepare a written opinion with recommendation to the executive director.]~~

12                                   ~~[(4) The executive director may:]~~

13                                   ~~[(A) issue a final written determination; or]~~

14                                   ~~[(B) refer the matter to the board for its consideration at a regularly scheduled~~  
15 ~~open meeting.]~~

16                                   ~~[(5) The board may consider oral presentations and written documents presented by the~~  
17 ~~department and interested parties. The board chairman shall set the order and the amount of time~~  
18 ~~allowed for presentation. The board's determination of the appeal shall be adopted by order and~~  
19 ~~reflected in the minutes of the meeting.]~~

20                                   ~~[(6) The decision of the board or executive director shall be final.]~~

21                                   ~~[(h) Filing deadline. Unless the board determines that the appealing party has demonstrated~~  
22 ~~good cause for delay or that a protest or appeal raises issues significant to procurement practices or~~  
23 ~~procedures, a protest or appeal that is not filed timely will not be considered.]~~

1           ~~[(i) Document retention. The department shall maintain all documentation on the purchasing~~  
2 ~~process that is the subject of a protest or appeal in accordance with the retention schedule of the~~  
3 ~~department.]~~

4

5 ~~[\$210.3. Enhanced Contract Monitoring Program.]~~

6           ~~[(a) The department will apply risk assessment factors to agency contracts as defined in~~  
7 ~~Government Code, §2261.253 to identify those contracts that require enhanced contract or~~  
8 ~~performance monitoring. The risk assessment will consider the following factors:]~~

9                   ~~[(1) dollar amount of contract;]~~

10                   ~~[(2) total contract duration;]~~

11                   ~~[(3) vendor past performance;]~~

12                   ~~[(4) risk of fraud, abuse or waste;]~~

13                   ~~[(5) business process impact of failure or delay; and]~~

14                   ~~[(6) board or executive director's request for enhanced contract or performance~~  
15 ~~monitoring.]~~

16           ~~[(b) The department will notify the board of the results of the risk assessment and present~~  
17 ~~information to the board resulting from the enhanced contract or performance monitoring.]~~

18           ~~[(c) The chief financial officer or procurement manager shall immediately notify the~~  
19 ~~department's governing body of any serious issue or risk that is identified under this section.]~~

20

21

### **SUBCHAPTER C. CONTRACT MANAGEMENT**

22

#### **43 TAC §§210.41, 210.42, AND 210.43**

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1 **STATUTORY AUTHORITY.** The department proposes new §§210.41, 210.42, and 210.43 in Chapter 210  
2 under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor  
3 Vehicles (board) with the authority to adopt rules that are necessary and appropriate to implement the  
4 powers and the duties of the department; Government Code, §2001.004, which requires state agencies  
5 to adopt rules of practice stating the nature and requirements of all available formal and informal  
6 procedures; Government Code, §2155.076, which requires state agencies, by rule, to develop and adopt  
7 protest procedures for resolving vendor protests relating to purchasing issues; Government Code,  
8 §2260.052(c), which requires state agencies to develop rules to govern negotiation and mediation of  
9 contract claims; Government Code, §2261.253(c), which requires state agencies, by rule, to establish a  
10 procedure to identify each contract that requires enhanced contract monitoring; and the statutory  
11 authority referenced throughout the preamble and in the rule text, which is incorporated herein by  
12 reference.

13 **CROSS REFERENCE TO STATUTE.** The proposed new sections would implement Government Code, Title  
14 10, Subtitle D; and Transportation Code, Chapters 1001 and 1002.

15

16 Text.

17 §210.41. Claims for Purchase Contracts.

18 (a) Purpose. Government Code, Chapter 2260, provides a resolution process for certain contract  
19 claims against the state. Chapter 2260 applies to contracts of the department entered into under the  
20 State Purchasing and General Services Act. This section governs the filing, negotiation, and mediation of  
21 a claim. When used in this section, the terms “contract” and “contractor” are defined in Government  
22 Code, §2260.001.

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1           (b) Filing of claim. A contractor may file a notice of claim with the executive director within 180  
2 days after the date of the event giving rise to the claim. The claim must contain:

3                   (1) the nature of the alleged breach;

4                   (2) any amount the contractor seeks as damages; and

5                   (3) the legal theory supporting recovery.

6           (c) Negotiation.

7                   (1) The executive director shall negotiate with the contractor to resolve the claim;

8                   (2) Negotiations will begin no later than the 120th day after the date the claim is  
9 received by the department;

10                  (3) Negotiations may be written or oral; and

11                  (4) The executive director may afford the contractor an opportunity for a meeting to  
12 informally discuss the claim and provide the contractor with an opportunity to present relevant  
13 information.

14           (d) Mediation. The parties may agree to mediate a claim through an impartial party. For the  
15 purposes of this subchapter, “mediation” is assigned the meaning set forth in the Civil Practice and  
16 Remedies Code, §154.023. The mediation is subject to the provisions of the Governmental Dispute  
17 Resolution Act, Government Code, Chapter 2009. The parties may be assisted in the mediation by legal  
18 counsel or other individual.

19                   (1) The department and the contractor may agree to nonbinding mediation;

20                   (2) The department will agree to mediation if the executive director determines that  
21 mediation may speed resolution of the claim or otherwise benefit the department;

22                   (3) The mediator shall possess the qualifications required under Civil Practice and  
23 Remedies Code §154.022;

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1  
2                   (4) Unless otherwise agreed in writing, each party shall be responsible for its own costs  
3 incurred in connection with a mediation, including without limitation, costs of document reproduction,  
4 attorney’s fees, consultant fees and expert fees, and the cost of the mediator shall be divided equally  
5 between the parties.

6                   (e) Final offer.

7                   (1) The executive director will make a final offer to the contractor within 90 days of  
8 beginning negotiations; and

9                   (2) If the final offer is acceptable to the contractor, the contractor must advise the  
10 executive director in writing within 20 days of the date of the final offer. The department will forward a  
11 settlement agreement to the contractor for signature to resolve the claim.

12                   (f) Contested case hearing. If the contractor is dissatisfied with the final offer, or if the claim is  
13 not resolved before the 270th day after the claim is filed with the department, then, unless the parties  
14 agree in writing to an extension of time, the contractor may file a request with the executive director for  
15 an administrative hearing before the State Office of Administrative Hearings to resolve the unresolved  
16 issues of the claim under the provisions of Government Code, Chapter 2260, Subchapter C.

17  
18 §210.42. Protest of Department Purchases under the State Purchasing and General Services Act.

19                   (a) Purpose. The purpose of this section is to provide a procedure for respondents to protest  
20 purchases made by the department. Purchases made by the Texas Procurement and Support Services  
21 division of the Texas Comptroller of Public Accounts’ office on behalf of the department are addressed  
22 in 34 TAC, Part 1, Chapter 20.

23                   (b) Filing of protest.



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- 1                   (1) A respondent who has submitted a written response to a department solicitation  
2 may file a written protest.
- 3                   (2) The protest must contain:
- 4                           (A) the specific statutory or regulatory provision the protestant alleges the  
5 solicitation, contract award or tentative award violated;
- 6                           (B) a specific description of each action by the department that the protestant  
7 alleges violated the identified statutory or regulatory provision;
- 8                           (C) a precise statement of the relevant facts, including:
- 9                                   (i) sufficient documentation to establish that the protest has been  
10 timely filed; and
- 11                                   (ii) a description of the resulting adverse impact to the protestant,  
12 department and the state;
- 13                           (D) a statement of any issues of law or fact that the protestant contends must  
14 be resolved;
- 15                           (E) a statement of the protestant’s argument and authorities that the protestant  
16 offers in support of the protest;
- 17                           (F) an explanation of the subsequent action the protestant is requesting; and  
18                           (G) a statement that copies of the protest have been mailed or delivered to  
19 other identifiable respondents.
- 20                   (3) The protest must be signed by an authorized representative of the protestant and  
21 the signature to the protest must be notarized.
- 22                   (4) The protest must be filed in the time period specified in this section.

1                   (5) The protest must be mailed or delivered to the department, to the attention of the  
2 procurement director.

3                   (c) Timeliness. To be considered timely, the protest must be filed:

4                   (1) by the end of the posted solicitation period, if the protest concerns the solicitation  
5 documents or actions associated with the publication of solicitation documents;

6                   (2) by the day of the award of a contract resulting from the solicitation, if the protest  
7 concerns the evaluation or method of evaluation for a response to the solicitation; or

8                   (3) no later than 10 days after the notice of award, if the protest concerns the award.

9                   (d) Suspension of contract award or performance. If a protest or appeal of a protest has been  
10 filed, then the department will not proceed with the contract award or performance under the contract  
11 resulting from the solicitation unless the executive director or procurement director makes a written  
12 determination that the contract award should be made or performance under the contract should  
13 proceed without delay to protect the best interests of the state and department.

14                   (e) Action by department.

15                   (1) Upon receipt of a protest, the department may:

16                   (A) dismiss the protest if:

17                   (i) it is not timely; or

18                   (ii) it does not meet the requirements of subsection (b) of this section;

19 or

20                   (B) consider the protest under the procedures in this section.

21                   (f) Informal resolution. The procurement director may solicit written responses to the protest  
22 from other affected vendors and attempt to settle and resolve the protest by mutual agreement.

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1           (g) Written determination. If the protest is not resolved by agreement, the procurement director  
2 will issue a written determination to the protesting party and other respondents, setting forth the  
3 reason for the determination. The procurement director may determine that:

4                   (1) no violation has occurred; or

5                   (2) a violation has occurred and it is necessary to take remedial action as appropriate to  
6 the circumstances, which may include:

7                           (A) declare the purchase void;

8                           (B) reverse the contract award; or

9                           (C) re-advertise the purchase using revised specifications.

10           (h) Appeal.

11                   (1) A protestant may appeal the determination of a protest, to the general counsel. An  
12 appeal must be in writing and received in the office of general counsel not later than 10 days after the  
13 date the procurement director sent written notice of their determination. The scope of the appeal shall  
14 be limited to review of the procurement director's determination.

15                   (2) The general counsel may:

16                           (A) refer the matter to the executive director for consideration and a final  
17 written decision that resolves the protest; or

18                           (B) may issue a written decision that resolves the protest.

19                   (3) An appeal that is not filed in a timely manner may not be considered unless good  
20 cause for delay is shown or the executive director determines that an appeal raises issues that are  
21 significant to agency procurement practices or procedures in general.

22                   (4) A written decision of the executive director or general counsel shall be the final  
23 administrative action of the department.

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1

2 §210.43. Enhanced Contract and Performance Monitoring.

3 (a) The department will apply risk assessment factors to its contracts as defined in Government  
4 Code, §2261.253 to identify those contracts that require enhanced contract or performance monitoring.

5 The risk assessment may consider the following factors:6 (1) dollar amount of the contract;7 (2) total contract duration;8 (3) contractor past performance;9 (4) risk of fraud, abuse or waste;10 (5) special circumstances of the project;11 (6) the scope of the goods, products, or services provided under the contract;12 (7) business process impact of failure or delay; and13 (8) the board or executive director's request for enhanced contract or performance14 monitoring.

15 (b) The department's contract management office or procurement director will notify the board  
16 of the results of the risk assessment and present information to the board resulting from the enhanced  
17 contract or performance monitoring.

18 (c) The department's contract management office or procurement director must immediately  
19 notify the board of any serious issue or risk that is identified under this section.

**Board Meeting Date: 10/24/2024**  
**ACTION ITEM**

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**To:** Texas Department of Motor Vehicles Board  
**From:** Monique Johnston, Motor Vehicle Division Director  
**Agenda Item:** 16  
**Subject:** Chapter 11, Criminal History Offense and Action on License  
Amendments, Subchapter A  
Repeal §§211.3-211.6  
New Subchapter B. Criminal History Evaluation Guidelines and Procedures §§211.10-211.13

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**RECOMMENDATION**

Action Item. Approval to publish proposed rule amendments, new sections, and repeals in the *Texas Register* for public comment.

**PURPOSE AND EXECUTIVE SUMMARY**

The department is conducting a review of its rules under 43 Texas Administrative Code (TAC) Chapter 211 in compliance with Government Code, §2001.039. The proposed amendments, new sections, and repeals would make the rules consistent with statute; remove unnecessary language; add context or authority for certain rules; clarify the rules; and make the rules consistent with current processes, procedures, and terminology.

**FINANCIAL IMPACT**

N/A

**BACKGROUND AND DISCUSSION**

The department is conducting a review of its rules under Chapter 211 in compliance with Government Code, §2001.039. The Notice of the department's plan to conduct this review will be published in the same issue of the *Texas Register*. As a part of the review, the department is proposing necessary amendments, repeals, and new sections as detailed in the following paragraphs.

This rule item proposes revisions to Chapter 211, Criminal History and Offense and Action on License to organize the rules into two subchapters for consistency with other chapters in TAC Title 43, to clarify the types of licenses to which the chapter applies, to clarify which crimes relate to the duties and responsibilities of these license holders, to delete duplicative language found in statute, to conform rule language with statutory changes, to clarify existing requirements, and to modernize language and improve readability. Proposed language also conforms with Senate Bill (SB) 224, 88th Legislature, Regular Session (2023), which amended the Penal Code to add felony offenses involving damage to motor vehicles during the removal or attempted removal of a catalytic converter.

The proposed new language would also expand listed offenses under new Subchapter B. Criminal History Evaluation Guidelines and Procedures to clarify which offenses the department considers to be directly related to the licensed occupation and therefore potentially disqualifying.

Additionally, the proposed new language clarifies when the department will deny a pending application if an applicant or an applicant's representative is imprisoned. The proposed new language also clarifies that when a trust applies for a new license, license amendment to a change in ownership, or license renewal, a trust beneficiary, along with the trustee, may be required by the department to submit a set of fingerprints to the Texas Department of Public Safety as part of the application process for those license types designated in Chapter 215 or 221 as requiring fingerprints for licensure. Beneficiaries may be designated for fingerprinting because they are the equitable owners of a trust's assets.

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**PROPOSAL OF REVISIONS TO**

**SUBCHAPTER A. CRIMINAL OFFENSE AND ACTION ON LICENSE**

**43 TAC §211.1 AND §211.2**

**REPEAL OF**

**SUBCHAPTER A. CRIMINAL OFFENSE AND ACTION ON LICENSE**

**43 TAC §§211.3-211.6**

**NEW**

**SUBCHAPTER B. CRIMINAL HISTORY EVALUATION GUIDELINES AND PROCEDURES**

**43 TAC §§211.10-211.13**

**INTRODUCTION.** The Texas Department of Motor Vehicles (department) proposes amendments to 43 Texas Administrative Code, (TAC) §211.1 and §211.2; repeal of §§211.3, 211.4, 211.5, and 211.6; and new sections §§211.10, 211.11, 211.12, and 211.13. The proposed amendments, repeals, and new sections are necessary to organize the rules into two subchapters for consistency with other chapters in TAC Title 43, to clarify the types of licenses to which the chapter applies, to clarify which crimes relate to the duties and responsibilities of these license holders, to delete duplicative language found in statute, to conform rule language with statutory changes; to clarify existing requirements, and to modernize language and improve readability. Proposed language also conforms with Senate Bill (SB) 224, 88th Legislature, Regular Session (2023), which amended the Penal Code to add felony offenses involving damage to motor vehicles during the removal or attempted removal of a catalytic converter.

**EXPLANATION.** The department is conducting a review of its rules under Chapter 211 in compliance with Government Code, §2001.039. Notice of the department’s plan to conduct this review is also published

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## Chapter 211 – Criminal History Offense and Action on License

1 in this issue of the *Texas Register*. As a part of the review, the department is proposing necessary  
2 amendments, repeals, and new sections as detailed in the following paragraphs.

3 Occupations Code, Chapter 53 and §§2301.651, 2302.104, 2301.105, and 2302.108, and  
4 Transportation Code, §503.034 and §503.038 authorize the department and its board to investigate and  
5 act on a license application, or on a license, when a person has committed a criminal offense. Chapter 211  
6 allows the department to maintain fitness standards for license holders with prior criminal convictions  
7 while implementing the legislature’s stated statutory intent in Occupations Code, §53.003 to enhance  
8 opportunities for a person to obtain gainful employment after the person has been convicted of an offense  
9 and discharged the sentence for the offense.

10 The department must follow the requirements of Occupations Code, Chapter 53 to determine  
11 whether a person’s past criminal history can be considered in evaluating the person’s fitness for licensing.  
12 Occupations Code, §53.021 gives a licensing authority the power to suspend or revoke a license, to  
13 disqualify a person from receiving a license, or to deny a person the opportunity to take a licensing  
14 examination on the grounds that the person has been convicted of: (1) an offense that directly relates to  
15 the duties and responsibilities of the licensed occupation; (2) an offense listed in Article 42A.054, Code of  
16 Criminal Procedure; or (3) a sexually violent offense, as defined by Article 62.001, Code of Criminal  
17 Procedure. The department’s evaluation of past criminal history applies to all license applications. Under  
18 Occupations Code, §53.021(a)(1), the department is responsible for determining which offenses directly  
19 relate to the duties and responsibilities of a particular licensed occupation.

20 Occupations Code, §53.022 sets out criteria for consideration in determining whether an offense  
21 directly relates to the duties and responsibilities of the licensed occupation. Based on those criteria, the  
22 department has determined that certain offenses directly relate to the duties and responsibilities of an  
23 occupation licensed by the department. However, conviction of an offense that directly relates to the



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## Chapter 211 – Criminal History Offense and Action on License

1 duties and responsibilities of the licensed occupation or is listed in Occupations Code, §53.021(a)(2) and  
2 (3) is not an automatic bar to licensing; the department must consider the factors listed under Occupations  
3 Code, §53.023 in making its fitness determination. The factors include, among other things, the person's  
4 age when the crime was committed, rehabilitative efforts, and overall criminal history. The department is  
5 required to publish guidelines relating to its practice under this chapter in accordance with Occupations  
6 Code, §53.025.

7

**8 Proposed New Subchapter A, General Provisions**

9 Chapter 211 currently contains only one subchapter. The proposed amendments would divide  
10 Chapter 211 into two subchapters. A proposed amendment would retitle Subchapter A "General  
11 Provisions," consistent with the organization and naming conventions found in Chapters 215 and 221 of  
12 this title. This proposed amendment would provide consistency and improve readability because Chapter  
13 211 applies to the same applicants and license holders as Chapters 215 and 221. Sections 211.1 and 211.2  
14 are proposed for inclusion in retitled Subchapter A for consistency and ease of reference.

15 A proposed amendment to the title of §211.1 would add "Purpose and" to the section title to  
16 indicate that proposed amendments to this section include the purpose for the chapter in addition to  
17 definitions. This proposed change would place the chapter purpose description in the same subchapter  
18 and in the same order as similar language in Chapters 215 and 221 of this title for improved understanding  
19 and readability. Proposed new §211.1(a) would describe the purpose of Chapter 211 by incorporating  
20 existing language in current §211.3(a). The proposed amendments would add at the end of the paragraph  
21 the obligation for the department to review criminal history of license applicants before issuing a new or  
22 renewal license and the option for the department to act on the license of an existing license holder who  
23 commits an offense during the license period, consistent with Occupations Code, Chapter 53 and

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## Chapter 211 – Criminal History Offense and Action on License

1 §§2301.651, 2302.104, 2302.105, and 2302.108, and Transportation Code, §503.034 and §503.038, and  
2 existing department procedures.

3 A proposed amendment to §211.1 would reorganize the current definitions into a subsection (b).  
4 Proposed amendments to §211.1(2) would delete references to “registration, or authorization,” add an  
5 “or” to §211.1(2)(B), delete an “or” and add sentence punctuation in §211.1(2)(C), and delete  
6 §211.1(2)(D). These proposed amendments would clarify that Chapter 211 only applies to licenses issued  
7 by the department under Transportation Code, Chapter 503 and Occupations Code, Chapters 2301 and  
8 2302, and does not apply to registrations the department may issue under the authority of another  
9 Transportation Code chapter. Registrations or permits that the department issues under other  
10 Transportation Code chapters do not currently require a review of an applicant’s criminal history.  
11 Proposed amendments to §211.1(3) would delete the current list of specific retail license types and define  
12 the term “retail” by listing only those license types that are not considered to be retail. This proposed  
13 amendment would shorten the sentence to improve readability without changing the meaning or scope  
14 of the definition. Additionally, this proposed amendment would eliminate the need to update the rule if  
15 a future statutory change created a new type of vehicle or changed the name of an existing vehicle type.

16 A proposed amendment to the title of §211.2 would substitute “Chapter” for “Subchapter” for  
17 consistency with the rule text. A proposed amendment in §211.2(b) would add a comma after Occupations  
18 Code for consistency in punctuation.

19 The remaining sections in Subchapter A are proposed for repeal as each of these sections are  
20 proposed for inclusion in new Subchapter B.

**21 Proposed New Subchapter B, Criminal History Evaluation**

22 A proposed amendment would add a new subchapter, Subchapter B. Criminal History Evaluation  
23 Guidelines and Procedures. Proposed for inclusion in new Subchapter B are new sections §§211.10-

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## Chapter 211 – Criminal History Offense and Action on License

1 211.13. These new proposed sections would contain the guidelines and procedures rule language  
2 currently found in §§211.3-211.6 with the addition of the proposed changes described below.

3 Proposed new §211.10 would include the rule text of current §211.3 with changes as  
4 follows. Current §211.3(a) would be deleted because that language has been incorporated into proposed  
5 new §211.1(a), which describes the purpose of Chapter 211. Proposed new §211.10(a) would incorporate  
6 the language of current §211.3(b), except for the two paragraphs at the end of that subsection which  
7 duplicate a statutory requirement in Occupations Code, §53.022 and do not need to be repeated in rule.  
8 Proposed new §211.10(b) would recodify language that is currently in §211.3(c), except for §§211.3(c)(1)  
9 and (2), which are redundant and unnecessary statutory references.

10 Proposed new §211.10(c) would incorporate §211.3(d) with the following changes. Proposed new  
11 §211.10(c) would add a comma to correct missing punctuation after “Occupations Code” and would  
12 delete three sentences that specify which offenses apply to a license type. Proposed new §211.10(c)  
13 would include clarifying paragraph numbers: paragraph (1) would identify offenses that apply to all license  
14 types, and paragraph (2) would separate and identify additional offenses that apply only to retail license  
15 types. The proposed new language would add clarity and improve readability. Proposed new language  
16 would divide the offense categories currently in §211.3(d)(1) – (16) between the new paragraphs as  
17 relettered subparagraphs of §§211.10(c)(1) and (2).

18 Proposed new §211.10(c)(1)(B), would incorporate language currently in §211.3(d)(2) and add  
19 language to clarify that offenses involving forgery, falsification of records, or perjury include the  
20 unauthorized sale, manufacturing, alteration, issuance, or distribution of a license plate or temporary tag.  
21 This proposed clarifying language provide additional notice to applicants and license holders that the

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## Chapter 211 – Criminal History Offense and Action on License

1 department considers forging or falsification of license plates or temporary tags to be a serious and  
2 potentially disqualifying offense.

3 Proposed new §211.10(c)(1)(E) would incorporate language currently in §211.3(d)(5) and add  
4 possession and dismantling of motor vehicles to the list of felony offenses under a state or federal statute  
5 or regulation that could potentially be disqualifying. Proposed new §211.10(c)(1)(E) would also include  
6 “motor vehicle parts” to clarify that disqualifying felony offenses include crimes related to motor vehicle  
7 parts as well as to motor vehicles. These proposed clarifications are important due to the increasing  
8 frequency of motor vehicle parts theft, including catalytic converters, tailgates, batteries, and wheel rims  
9 and tires.

10 Proposed new §211.10(c)(1)(G) would incorporate language currently in §211.3(d)(7) and would  
11 clarify that an offense committed while engaged in a licensed activity or on a licensed premises includes  
12 falsification of a motor vehicle inspection required by statute. This clarification is important because  
13 emissions inspections in certain counties are required by law and harm the health and safety of Texas  
14 citizens if not performed.

15 Proposed new §211.10(c)(1)(I) would add that offenses of attempting or conspiring to commit any  
16 of the foregoing offenses are potentially disqualifying offenses because the person intended to commit  
17 an offense. This proposed new language incorporates language from current §211.3(d)(16) and is  
18 necessary to add because the offenses that apply to all license holders and the additional offenses that  
19 only apply to retail license types are proposed to be reorganized into separate paragraphs to improve  
20 readability, so the language regarding conspiracies or attempts to commit the offenses must be repeated  
21 in each paragraph to provide notice of these potentially disqualifying offenses.

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## Chapter 211 – Criminal History Offense and Action on License

1 Proposed new §211.10(c)(2)(E) would make felony offenses under Penal Code, §28.03 potentially  
2 disqualifying when a motor vehicle is damaged, destroyed, or tampered with during the removal or  
3 attempted removal of a catalytic converter. This new amendment aligns with Senate Bill (SB) 224, 88th  
4 Legislature, Regular Session (2023), which amended Penal Code, §28.03 to create a state jail felony for  
5 damage to a motor vehicle because of removal or attempted removal of the catalytic converter.

6 Proposed new §211.10(c)(2)(D) would incorporate §211.3(d)(12) and would add two additional  
7 offenses against the family: Penal Code, §25.04 and §25.08. Penal Code, §25.04 includes offenses  
8 involving the enticement of a child away from the parent or other responsible person, and Penal Code,  
9 §25.08 includes offenses related to the sale or purchase of a child. These offenses are relevant to the retail  
10 professions licensed by the department because parents frequently bring children to a dealership when  
11 considering a vehicle purchase, and a retail license holder may have unsupervised access to a child while  
12 a parent test-drives a vehicle or is otherwise engaged in viewing or inspecting a vehicle offered for sale.  
13 License holders also have access to the parent's motor vehicle records, including the family's home  
14 address. A person with a predisposition to commit these types of crimes would have the opportunity to  
15 engage in further similar conduct.

16 Proposed new §211.10(c)(2)(F) would incorporate the language of current §211.3(d)(13), and  
17 clarify that the department would consider any offense against the person to be potentially be  
18 disqualifying, would add a reference to Penal Code, Title 5, and would further clarify that an offense in  
19 which use of a firearm resulted in fear, intimidation, or harm of another person would be included in the  
20 list of potentially disqualifying crimes. Additionally, proposed new §211.10(c)(2)(F) would clarify that a  
21 felony offense of driving while intoxicated which resulted in harm to another person may also be  
22 potentially disqualifying. The department considers these offenses to be related to the occupations of

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## Chapter 211 – Criminal History Offense and Action on License

1 retail license holders because these license holders have direct contact with members of the public during  
2 vehicle test drives or other settings in which no one else is present, and retail license holders have access  
3 to an individual's motor vehicle records, including the individual's home address. A person with a  
4 predisposition for violence would have the opportunity in these situations to engage in further similar  
5 conduct. These proposed amendments would further clarify which offenses against a person the  
6 department considers directly related to the licensed occupation and therefore potentially disqualifying.  
7 The department's consideration of these crimes is subject to certain limitations in Occupations Code,  
8 Chapter 53.

9 Proposed new §211.11 would incorporate language from current §211.4, with the addition of  
10 proposed new §211.11(a), which would clarify that the department will deny a pending application if an  
11 applicant or an applicant's representative as defined in §211.2(a)(2) is imprisoned. Occupations Code,  
12 §53.021(b) requires an agency to revoke a license holder's license on the license holder's imprisonment  
13 following a felony conviction, felony community supervision revocation, revocation of parole, or  
14 revocation of mandatory supervision. Because the department also determines licensure eligibility based  
15 on individuals serving as representatives for the license holder, the department also considers the effect  
16 of imprisonment of those persons on a license holder. Because the revocation for a felony conviction is  
17 mandatory in Occupations Code, §53.021(b), the department must also deny a pending application. An  
18 applicant who is imprisoned may reapply once the applicant is no longer imprisoned and an applicant  
19 whose application is denied based on an imprisoned individual serving in a representative capacity may  
20 choose a different representative and reapply for licensure. Proposed new §211.11(b) would substitute  
21 "of" for "or" to correct a typographical error made at adoption of §211.4. Proposed new §211.11(c)  
22 incorporates language from current §211.4(d). Proposed new §211.11(d) incorporates language from  
23 current §211.4(c).

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## Chapter 211 – Criminal History Offense and Action on License

1 Proposed new §211.12 would incorporate without change the language in current §211.5 that  
2 addresses the procedure for a person to obtain a criminal history evaluation letter from the department.  
3 This process allows a person to request an evaluation prior to applying for a license if the person so  
4 desires.

5 Proposed new §211.13(a) would incorporate the current language of §211.6(a) and would clarify  
6 that fingerprint requirements apply to “an applicant for a new or renewal license” to improve readability  
7 without changing meaning. Proposed new §211.13(b)(1) would incorporate the language of current  
8 §211.6(b)(1) and would clarify that a trust beneficiary is a person who may be required by the department  
9 to submit a set of fingerprints to the Texas Department of Public Safety as part of the application process  
10 for those license types. This is a clarification rather than an extension of the existing requirements for the  
11 fingerprinting of owner applicants, because a trust beneficiary is an equitable owner of the trust’s assets.  
12 It is necessary for the department to fingerprint trust beneficiaries along with other owners because doing  
13 so will prevent a bad actor with a history of criminal offenses that directly relate to the duties and  
14 responsibilities of a license holder from obtaining a license from the department by using a trust to hide  
15 the bad actor’s identity and then using that license to perpetrate, or benefit from, fraudulent and criminal  
16 actions, or otherwise take advantage of the position of trust created by the license.

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

22 **PUBLIC BENEFIT AND COST NOTE.** Ms. Johnston also determined that, for each year of the first five years  
23 the proposal is in effect, public benefits are anticipated, and that applicants and license holders will not

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## Chapter 211 – Criminal History Offense and Action on License

1 incur costs to comply with the proposal. The anticipated public benefits include reduced opportunity for  
2 fraud and related crime, and improved public safety. Requiring fingerprints for a trust beneficiary will  
3 benefit the public by preventing bad actors with a history of criminal offenses that directly relate to the  
4 duties and responsibilities of a license holder from obtaining licenses by using a trust to hide their identity  
5 and then using those licenses to perpetrate, or benefit from, fraud and criminal actions, or otherwise take  
6 advantage of the position of trust created by the license.

7 Ms. Johnston anticipates that there will be no additional costs on regulated persons to comply  
8 with the submission and evaluation of information under this proposal because the rules do not establish  
9 any new requirements or costs for regulated persons unless the person commits a crime. The proposed  
10 requirement in §211.13(b)(1) for the fingerprinting of trust beneficiaries is a clarification of the existing  
11 requirement that applicant owners must be fingerprinted, as trust beneficiaries are equitable owners of  
12 the trust's assets. It therefore does not create a new fingerprinting requirement. Additionally, Ms.  
13 Johnston anticipates that there will be no additional costs on regulated persons to comply with the  
14 fingerprint requirements under this proposal as the new section does not establish fees for fingerprinting  
15 or processing criminal background checks. Fees for fingerprinting and access to criminal history reports  
16 are established by DPS under the authority of Texas Government Code, Chapter 411.

17 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government  
18 Code, §2006.002, the department has determined that this proposal will not have an adverse economic  
19 effect or disproportionate economic impact on small or micro businesses. The department has also  
20 determined that the proposed amendments will not have an adverse economic effect on rural  
21 communities because rural communities are exempt from the requirement to hold a license under  
22 Transportation Code, §503.024. Therefore, under Government Code, §2006.002, the department is not  
23 required to perform a regulatory flexibility analysis.



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Chapter 211 – Criminal History Offense and Action on License

1 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests  
2 are affected by this proposal and that this proposal does not restrict or limit an owner’s right to property  
3 that would otherwise exist in the absence of government action and, therefore, does not constitute a  
4 taking or require a takings impact assessment under Government Code, §2007.043.

5 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the  
6 first five years the proposed repeal and amendments are in effect the amendments will not create or  
7 eliminate a government program; will not require the creation of new employee positions and will not  
8 require the elimination of existing employee positions; will not require an increase or decrease in future  
9 legislative appropriations to the department; will not require an increase in fees paid to the department;  
10 will create new regulations and expand existing regulations, as described in the explanation section of this  
11 proposal; will repeal existing regulations in §§211.3 – 211.6; will increase the number of individuals  
12 subject to the rule's applicability regarding fingerprinting of trust beneficiaries; and will not significantly  
13 benefit or adversely affect the Texas economy.

14 **REQUEST FOR PUBLIC COMMENT.**

15 If you want to comment on the proposal, submit your written comments by 5:00 p.m. Central  
16 Standard Time on December 9, 2024. A request for a public hearing must be sent separately from your  
17 written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail  
18 to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas  
19 78731. If a hearing is held, the department will consider written comments and public testimony  
20 presented at the hearing.

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## Chapter 211 – Criminal History Offense and Action on License

1 Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of  
2 Transportation Code, Chapter 503; and Transportation Code, §1002.001, which authorizes the board to  
3 adopt rules that are necessary and appropriate to implement the powers and the duties of the  
4 department.

5 **CROSS REFERENCE TO STATUTE.** Government Code, Chapter 411; Occupations Code, Chapters 53, 2301  
6 and 2302; Transportation Code, Chapters 503 and 1002; Penal Code, Chapters 25, 28, 43, 49 and Title 5;  
7 and Code of Criminal Procedure, Article 42A and 62.

8

9 Text.

10 §211.1. Purpose and Definitions.

11 (a) The licenses issued by the department create positions of trust. License holder services  
12 involve access to confidential information; conveyance, titling, and registration of private property;  
13 possession of monies belonging to or owed to private individuals, creditors, and governmental entities;  
14 and compliance with federal and state environmental and safety regulations. License holders are  
15 provided with opportunities to engage in fraud, theft, money laundering, and related crimes, and to  
16 endanger the public through violations of environmental and safety regulations. Many license holders  
17 provide services directly to the public, so licensure provides persons predisposed to commit assaultive  
18 or sexual crimes with greater opportunities to engage in such conduct. To protect the public from these  
19 harms, the department shall review the criminal history of license applicants before issuing a new or  
20 renewal license and may take action on a license holder who commits an offense during the license  
21 period based on the guidelines in this chapter.

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## Chapter 211 – Criminal History Offense and Action on License

1           **(b)** When used in this chapter, the following words and terms have the following meanings,  
2 unless the context clearly indicates otherwise.

3                   (1) "Department" means the Texas Department of Motor Vehicles.

4                   (2) "License" means any license [~~, registration, or authorization,~~] issued by the  
5 department under:

6                           (A) Transportation Code, Chapter 503;

7                           (B) Occupations Code, Chapter 2301; or

8                           (C) Occupations Code, Chapter 2302. [~~or~~]

9                           [~~(D) any other license, registration, or authorization, that the department may~~  
10 ~~deny or revoke because of a criminal offense of the applicant or license holder.~~]

11                   (3) "Retail license types" means those license [~~holder~~] types which require holders to  
12 ~~[that]~~ interact directly with the public, [~~including salvage dealers, converters, independent mobility~~  
13 ~~motor vehicle dealers, lease facilitators, and general distinguishing number holders for the following~~  
14 ~~vehicle categories: all terrain vehicle, light truck, motorcycle, motorhome, moped /motor scooter,~~  
15 ~~medium duty truck, neighborhood vehicle, other, passenger auto, recreational off highway vehicle, and~~  
16 ~~towable recreational vehicle,~~] but does not include other license types that do not generally interact  
17 directly with the public, including manufacturers, distributors, and general distinguishing number  
18 holders for the following vehicle categories: ambulance, axle, bus, engine, fire truck/fire fighting vehicle,  
19 heavy duty truck, transmission, wholesale motor vehicle dealer, and wholesale motor vehicle auction.

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## Chapter 211 – Criminal History Offense and Action on License

1 §211.2. Application of Chapter [~~Subchapter~~].

2 (a) This chapter applies to the following persons:

3 (1) applicants and holders of any license; and

4 (2) persons who are acting at the time of application, or will later act, in a representative  
5 capacity for an applicant or holder of a license, including the applicant's or holder's officers, directors,  
6 members, managers, trustees, partners, principals, or managers of business affairs.

7 (b) In this chapter a "conviction" includes a deferred adjudication that is considered to be a  
8 conviction under Occupations Code, §53.021(d).

9

10 **STATUTORY AUTHORITY.** The department proposes repeals to Chapter 211 under Government Code,  
11 §411.122(d), which authorizes department access to criminal history record information maintained by  
12 DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record  
13 information from DPS and the FBI for license applicants, license holders, and representatives whose act  
14 or omission would be cause for denying, revoking, or suspending a general distinguishing number or  
15 license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302;  
16 Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease  
17 of motor vehicles and the authority to take any action that is necessary or convenient to exercise that  
18 authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of  
19 license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by  
20 statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses  
21 in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations

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## Chapter 211 – Criminal History Offense and Action on License

1 Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which  
2 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter  
3 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives  
4 the board authority to deny an application for a license, to revoke or suspend a license, to place on  
5 probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material  
6 misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor  
7 vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a  
8 motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to  
9 administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board  
10 to adopt rules for the administration of Transportation Code, Chapter 503; and Transportation Code,  
11 §1002.001, which authorizes the board to adopt or rules that are necessary and appropriate to implement  
12 the powers and the duties of the department.

13 **CROSS REFERENCE TO STATUTE.** Government Code, Chapter 411; Occupations Code, Chapters 53, 2301  
14 and 2302; Transportation Code, Chapters 503 and 1002; Penal Code, Chapters 25, 28, 43, 49 and Title 5;  
15 and Code of Criminal Procedure, Article 42A and 62.

16

17 Text.

18 [~~§211.3. Criminal Offense Guidelines.~~]

19 [~~(a) The licenses issued by the department create positions of trust. License holders provide~~  
20 ~~services to members of the public. License holder services involve access to confidential information,~~  
21 ~~conveyance, titling, and registration of private property, possession of monies belonging to or owed to~~  
22 ~~private individuals, creditors, and governmental entities, and compliance with federal and state~~

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## Chapter 211 – Criminal History Offense and Action on License

1 ~~environmental and safety regulations. License holders are provided with opportunities to engage in~~  
2 ~~fraud, theft, money laundering, and related crimes and to engage in environmental and safety violations~~  
3 ~~that endanger the public. In addition, licensure provides persons predisposed to commit assaultive or~~  
4 ~~sexual crimes with greater opportunities to engage in such conduct.]~~

5 ~~[(b) Under Occupations Code Chapter 53 the department may suspend or revoke an existing~~  
6 ~~license or disqualify an applicant from receiving a license because of a person's conviction of a felony or~~  
7 ~~misdemeanor if the crime directly relates to the duties and responsibilities of the licensed occupation.~~  
8 ~~The department shall consider the factors listed in the Occupations Code §53.022 in determining~~  
9 ~~whether a criminal conviction directly relates to the duties and responsibilities of a license holder.]~~

10 ~~[(c) The department has determined under the factors listed in Occupations Code §53.022 that~~  
11 ~~offenses detailed in subsection (d) of this section directly relate to the duties and responsibilities of~~  
12 ~~license holders, either because the offense entails a violation of the public trust; issuance of a license~~  
13 ~~would provide an opportunity to engage in further criminal activity of the same type; or the offense~~  
14 ~~demonstrates the person's inability to act with honesty, trustworthiness, and integrity. Such offenses~~  
15 ~~include crimes under the laws of another state, the United States, or a foreign jurisdiction, if the offense~~  
16 ~~contains elements that are substantially similar to the elements of an offense under the laws of this~~  
17 ~~state. The list of offenses in subsection (d) of this section is in addition to those that are independently~~  
18 ~~disqualifying under Occupations Code §53.021, including:]~~

19 ~~[(1) an offense listed in Article 42A.054, Code of Criminal Procedure; or]~~

20 ~~[(2) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.]~~

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## Chapter 211 – Criminal History Offense and Action on License

1           ~~[(d) The list of offenses in this subsection is intended to provide guidance only and is not~~  
2 ~~exhaustive of the offenses that may relate to a particular regulated occupation. After due consideration~~  
3 ~~of the circumstances of the criminal act and its relationship to the position of trust involved in the~~  
4 ~~particular licensed occupation, the department may find that an offense not described below also~~  
5 ~~renders a person unfit to hold a license based on the criteria listed in Occupations Code §53.022.~~  
6 ~~Paragraphs (1) – (8) of this subsection apply to all license types. Paragraphs (9) – (15) of this subsection~~  
7 ~~apply only to retail license types. Paragraph (16) of this subsection applies to offenses applicable to a~~  
8 ~~license type.]~~

9           ~~[(1) offenses involving fraud, theft, deceit, misrepresentation, or that otherwise reflect~~  
10 ~~poorly on the person’s honesty or trustworthiness, including an offense defined as moral turpitude;]~~

11           ~~[(2) offenses involving forgery, falsification of records, or perjury;]~~

12           ~~[(3) offenses involving the offering, paying, or taking of bribes, kickbacks, or other illegal~~  
13 ~~compensation;]~~

14           ~~[(4) felony offenses against public administration;]~~

15           ~~[(5) felony offenses under a state or federal statute or regulation involving the~~  
16 ~~manufacture, sale, finance, distribution, repair, salvage, or demolition, of motor vehicles;]~~

17           ~~[(6) felony offenses under a state or federal statute or regulation related to emissions~~  
18 ~~standards, waste disposal, water contamination, air pollution, or other environmental offenses;]~~

19           ~~[(7) offenses committed while engaged in a licensed activity or on licensed premises;]~~



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1                   ~~[(8) felony offenses involving the possession, manufacture, delivery, or intent to deliver~~  
2 ~~controlled substances, simulated controlled substances, dangerous drugs, or engaging in an organized~~  
3 ~~criminal activity;]~~

4                   ~~[(9) felony offenses against real or personal property belonging to another;]~~

5                   ~~[(10) offenses involving the sale or disposition of another person's real or personal~~  
6 ~~property;]~~

7                   ~~[(11) a reportable felony offense conviction under Chapter 62, Texas Code of Criminal~~  
8 ~~Procedure for which the person must register as a sex offender;]~~

9                   ~~[(12) an offense against the family as described by Penal Code §§25.02, 25.07, 25.072,~~  
10 ~~or 25.11;]~~

11                   ~~[(13) felony offenses against the person;]~~

12                   ~~[(14) a felony stalking offense as described by Penal Code §42.072;]~~

13                   ~~[(15) a felony offense against public order and decency as described by Penal Code~~  
14 ~~§§43.24, 43.25, 43.251, 43.26, 43.261, or 43.262; and]~~

15                   ~~[(16) offenses of attempting or conspiring to commit any of the foregoing offenses~~  
16 ~~applicable to the license type].~~

17                   ~~[(e) When determining a person's present fitness for a license, the department shall also~~  
18 ~~consider the following evidence:]~~

19                   ~~[(1) the extent and nature of the person's past criminal activity;]~~

20                   ~~[(2) the age of the person when the crime was committed;]~~

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1                   ~~[(3) the amount of time that has elapsed since the person's last criminal activity;]~~

2                   ~~[(4) the conduct and work activity of the person before and after the criminal activity;]~~

3                   ~~[(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or~~  
4 ~~after release;]~~

5                   ~~[(6) evidence of the person's compliance with any conditions of community supervision,~~  
6 ~~parole, or mandatory supervision; and]~~

7                   ~~[(7) other evidence of the person's present fitness, including letters of~~  
8 ~~recommendation.]~~

9                   ~~[(f) It is the person's responsibility to obtain and provide to the licensing authority evidence~~  
10 ~~regarding the factors listed in subsection (e) of this section.]~~

11

12                   ~~[\$211.4. Imprisonment.]~~

13                   ~~[(a) Section 211.3 of this Chapter does not apply to persons who are imprisoned at the time the~~  
14 ~~department considers the conviction.]~~

15                   ~~[(b) The department shall revoke a license upon the imprisonment of a license holder following~~  
16 ~~a felony conviction or revocation or felony community supervision, parole, or mandatory supervision.]~~

17                   ~~[(c) The department may revoke a license upon the imprisonment for a felony conviction, felony~~  
18 ~~community supervision revocation, revocation of parole, or revocation of mandatory supervision of a~~  
19 ~~person described by §211.2(a)(2) of this chapter who remains employed with the license holder.]~~

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## Chapter 211 – Criminal History Offense and Action on License

1           ~~[(d) A person currently imprisoned because of a felony conviction may not obtain a license,~~  
2           ~~renew a previously issued license, or act in a representative capacity for an application or license holder~~  
3           ~~as described by §211.2(a)(2).]~~

4

5           ~~[§211.5. Criminal History Evaluation Letters.]~~

6           ~~[(a) Pursuant to Texas Occupations Code, Chapter 53, Subchapter D, a person may request that~~  
7           ~~the department evaluate the person's eligibility for a specific occupational license regulated by the~~  
8           ~~department by:]~~

9                           ~~[(1) submitting a request on a form approved by the department for that purpose; and]~~10                           ~~[(2) paying the required Criminal History Evaluation Letter fee of \$100.]~~

11           ~~[(b) The department shall respond to the request not later than the 90th day after the date the~~  
12           ~~request is received.]~~

13

14           ~~[§211.6. Fingerprint Requirements for Designated License Types.]~~

15           ~~[(a) The requirements of this section apply to applicants for and holders of license types~~  
16           ~~designated in Chapter 215 or Chapter 221 of this title as requiring fingerprints for licensure.]~~

17           ~~[(b) Unless previously submitted for an active license issued by the department, the following~~  
18           ~~persons may be required to submit a complete and acceptable set of fingerprints to the Texas~~  
19           ~~Department of Public Safety and pay required fees for purposes of obtaining criminal history record~~  
20           ~~information from the Texas Department of Public Safety and the Federal Bureau of Investigation:]~~

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## Chapter 211 – Criminal History Offense and Action on License

1                   ~~[(1) a person applying for a new license, license amendment due to change in~~  
2                   ~~ownership, or license renewal; and]~~

3                   ~~[(2) a person acting in a representative capacity for an applicant or license holder who is~~  
4                   ~~required to be listed on a licensing application, including an officer, director, member, manager, trustee,~~  
5                   ~~partner, principal, or manager of business affairs.]~~

6                   ~~[(c) After reviewing a licensure application and licensing records, the department will notify the~~  
7                   ~~applicant or license holder which persons in subsection (b) of this section are required to submit~~  
8                   ~~fingerprints to the Texas Department of Public Safety.]~~

9

10                   **SUBCHAPTER B. CRIMINAL HISTORY EVALUATION GUIDELINES AND PROCEDURES**

11                   **43 TAC §§211.10-211.13**

12                   **STATUTORY AUTHORITY.** The department proposes new sections to Chapter 211 under Government  
13                   Code, §411.122(d), which authorizes department access to criminal history record information  
14                   maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal  
15                   history record information from DPS and the FBI for license applicants, license holders, and  
16                   representatives whose act or omission would be cause for denying, revoking, or suspending a general  
17                   distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code,  
18                   Chapters 2301 and 2302; Occupations Code, §2301.151, which gives the board authority to regulate the  
19                   distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or  
20                   convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to  
21                   establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor

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## Chapter 211 – Criminal History Offense and Action on License

1 vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices,  
2 discrimination, impositions, and other abuses in connection with the distribution and sale of motor  
3 vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code,  
4 Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or  
5 convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before  
6 the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a  
7 license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the  
8 applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the  
9 sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill  
10 a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which  
11 authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302;  
12 Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of  
13 Transportation Code, Chapter 503; and Transportation Code, §1002.001, which authorizes the board to  
14 adopt rules that are necessary and appropriate to implement the powers and the duties of the  
15 department.

16 **CROSS REFERENCE TO STATUTE.** Government Code, Chapter 411; Occupations Code, Chapters 53, 2301  
17 and 2302; Transportation Code, Chapters 503 and 1002; Penal Code, Chapters 25, 28, 43, 49 and Title 5;  
18 and Code of Criminal Procedure, Article 42A and 62.

19

20 Text.

21 §211.10. Criminal Offense Guidelines.

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Chapter 211 – Criminal History Offense and Action on License

1           (a) Under Occupations Code, Chapter 53, the department may suspend or revoke an existing  
2 license or disqualify an applicant from receiving a license because of a person’s conviction of a felony or  
3 misdemeanor if the crime directly relates to the duties and responsibilities of the licensed occupation.

4           (b) The department has determined under the factors listed in Occupations Code, §53.022 that  
5 offenses detailed in subsection (c) of this section directly relate to the duties and responsibilities of  
6 license holders, either because the offense entails a violation of the public trust, issuance of a license  
7 would provide an opportunity to engage in further criminal activity of the same type, or the offense  
8 demonstrates the person’s inability to act with honesty, trustworthiness, and integrity. Such offenses  
9 include crimes under the laws of another state, the United States, or a foreign jurisdiction, if the offense  
10 contains elements that are substantially similar to the elements of an offense under the laws of this  
11 state. The list of offenses in subsection (c) of this section is in addition to offenses that are  
12 independently disqualifying under Occupations Code, §53.021.

13           (c) The list of offenses in this subsection is intended to provide guidance only and is not  
14 exhaustive of the offenses that may relate to a particular regulated occupation. After due consideration  
15 of the circumstances of the criminal act and its relationship to the position of trust involved in the  
16 particular licensed occupation, the department may find that an offense not described below also  
17 renders a person unfit to hold a license based on the criteria listed in Occupations Code, §53.022.

18           (1) the following offenses apply to all license types:

19                   (A) offenses involving fraud, theft, deceit, misrepresentation, or that otherwise  
20 reflect poorly on the person’s honesty or trustworthiness, including an offense defined as moral  
21 turpitude;

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## Chapter 211 – Criminal History Offense and Action on License

1                                    (B) offenses involving forgery, falsification of records, perjury, or the  
2 unauthorized sale, manufacturing, alteration, issuance, or distribution of a license plate or temporary  
3 tag;

4                                    (C) offenses involving the offering, paying, or taking of bribes, kickbacks, or  
5 other illegal compensation;

6                                    (D) felony offenses against public administration;

7                                    (E) felony offenses under a state or federal statute or regulation involving the  
8 manufacture, sale, finance, distribution, repair, salvage, possession, dismantling, or demolition, of motor  
9 vehicles or motor vehicle parts;

10                                   (F) felony offenses under a state or federal statute or regulation related to  
11 emissions standards, waste disposal, water contamination, air pollution, or other environmental  
12 offenses;

13                                   (G) offenses committed while engaged in a licensed activity or on licensed  
14 premises, including the falsification of a motor vehicle inspection required by statute;

15                                   (H) felony offenses involving the possession, manufacture, delivery, or intent to  
16 deliver controlled substances, simulated controlled substances, dangerous drugs, or engaging in an  
17 organized criminal activity; and

18                                   (I) offenses of attempting or conspiring to commit any of the foregoing offenses.

19                                   (2) the following additional offenses apply to retail license types:

20                                   (A) felony offenses against real or personal property belonging to another;

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1 (B) offenses involving the sale or disposition of another person’s real or personal  
2 property;

3 (C) a reportable felony offense conviction under Chapter 62, Texas Code of  
4 Criminal Procedure for which the person must register as a sex offender;

5 (D) an offense against the family as described by Penal Code, §§25.02, 25.04,  
6 25.07, 25.072, 25.08, or 25.11;

7 (E) felony offenses under Penal Code, §28.03 involving a motor vehicle that is  
8 damaged, destroyed, or tampered with during the removal or attempted removal of a catalytic  
9 converter;

10 (F) offenses against the person under Penal Code, Title 5, including offenses in  
11 which use of a firearm resulted in fear, intimidation, or harm of another person, and in Penal Code,  
12 Chapter 49, a felony offense of driving while intoxicated that resulted in the harm of another person;

13 (G) a felony stalking offense as described by Penal Code, §42.072;

14 (H) a felony offense against public order and decency as described by Penal  
15 Code §§43.24, 43.25, 43.251, 43.26, 43.261, or 43.262; and

16 (I) offenses of attempting or conspiring to commit any of the foregoing  
17 offenses.

18 (d) When determining a person’s present fitness for a license, the department shall also  
19 consider the following evidence:

20 (1) the extent and nature of the person’s past criminal activity;



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## Chapter 211 – Criminal History Offense and Action on License

- 1                   (2) the age of the person when the crime was committed;
- 2                   (3) the amount of time that has elapsed since the person’s last criminal activity;
- 3                   (4) the conduct and work activity of the person before and after the criminal activity;
- 4                   (5) evidence of the person’s rehabilitation or rehabilitative effort while incarcerated or  
5 after release;
- 6                   (6) evidence of the person’s compliance with any conditions of community supervision,  
7 parole, or mandatory supervision; and
- 8                   (7) other evidence of the person’s present fitness, including letters of recommendation.
- 9                   (e) It is the person’s responsibility to obtain and provide to the licensing authority evidence  
10 regarding the factors listed in subsection (d) of this section.

11

12 §211.11. Imprisonment.

13                   (a) The department shall deny a license application if the applicant or a person described by  
14 §211.2(a)(2) of this chapter is imprisoned while a new or renewal license application is pending.

15                   (b) The department shall revoke a license upon the imprisonment of a license holder following a  
16 felony conviction or revocation of felony community supervision, parole, or mandatory supervision.

17                   (c) A person currently imprisoned because of a felony conviction may not obtain a license,  
18 renew a previously issued license, or act in a representative capacity for an application or license holder  
19 as described by §211.2(a)(2).

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1           (d) The department may revoke a license upon the imprisonment for a felony conviction, felony  
2 community supervision revocation, revocation of parole, or revocation of mandatory supervision of a  
3 person described by §211.2(a)(2) of this chapter who remains employed with the license holder.

4

5 §211.12. Criminal History Evaluation Letters.

6           (a) Pursuant to Texas Occupations Code, Chapter 53, Subchapter D, a person may request that  
7 the department evaluate the person's eligibility for a specific occupational license regulated by the  
8 department by:

9                   (1) submitting a request on a form approved by the department for that purpose; and

10                   (2) paying the required Criminal History Evaluation Letter fee of \$100.

11           (b) The department shall respond to the request not later than the 90th day after the date the  
12 request is received.

13

14 §211.13. Fingerprint Requirements for Designated License Types.

15           (a) The requirements of this section apply to an applicant for a new or renewal license for the  
16 license types designated in Chapter 215 or Chapter 221 of this title as requiring fingerprints for  
17 licensure.

18           (b) Unless previously submitted for an active license issued by the department, the following  
19 persons may be required to submit a complete and acceptable set of fingerprints to the Texas

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## Chapter 211 – Criminal History Offense and Action on License

1 Department of Public Safety and pay required fees for purposes of obtaining criminal history record

2 information from the Texas Department of Public Safety and the Federal Bureau of Investigation:

3 (1) a person, including a trust beneficiary, applying for a new license, license

4 amendment due to change in ownership, or license renewal; and

5 (2) a person acting in a representative capacity for an applicant or license holder who is

6 required to be listed on a licensing application, including an officer, director, member, manager, trustee,

7 partner, principal, or manager of business affairs.

8 (c) After reviewing a licensure application and licensing records, the department will notify the

9 applicant or license holder which persons in subsection (b) of this section are required to submit

10 fingerprints to the Texas Department of Public Safety.

11

12

13

14

**Board Meeting Date: 10/24/2024**  
**ACTION ITEM**

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**To:** Texas Department of Motor Vehicles Board  
**From:** Annette Quintero, Vehicle Titles & Registration Division Director  
**Agenda Item:** 17  
**Subject:** Specialty Plate Design

---

**RECOMMENDATION**

Action Item. The Vehicle Titles and Registration Division seeks board approval or denial for three plate designs submitted for your consideration. Three plate designs are from the marketing vendor, My Plates.

**PURPOSE AND EXECUTIVE SUMMARY**

Lone Star Badge Black, Lone Star Flag, and Sand Dollar are new plate designs. The designs are being offered in flat and embossed versions.

**FINANCIAL IMPACT**

Costs incurred by the department related to the My Plates program and an \$8 administrative fee per plate are recouped from the My Plates vendor. Revenue generated from the sale of vendor specialty license plates is split between the state (General Revenue Fund) and My Plates. The details of the revenue splits can be found in Section IV (State/Contractor Revenue Sharing) of the Specialty License Plate Marketing contract.

**BACKGROUND AND DISCUSSION**

Statutory authority for the board to approve vendor specialty license plates and invite the public's comment on proposed vendor plate designs is in Texas Transportation Code §504.851(g) and (g-1) (1). Statutory authority for a sponsor of a specialty license plate under Texas Transportation Code Chapter 504, Subchapter J, to contract with the private vendor authorized under Texas Transportation Code §504.851 for the marketing and sale of the specialty license plate is in Texas Transportation Code §504.6011. The board's approval criteria are clarified in Texas Administrative Code §217.45 Specialty License Plates, Symbols, Tabs, and Other Devices, and §217.52 Marketing of Specialty License Plates through a Private Vendor.

The vendor contract (Statement of Work paragraph #2, Marketing Services) specifies that following the board's contingent approval of a plate, the vendor must get at least 200 commitments within six months of the approval for a plate to be produced (*existing* plates must also maintain 200 registrations to stay in the program). My Plates' procedure is to first offer a plate to the public to register their interest. Following the board's contingent approval, My Plates then offers a plate online for prepaid orders and confirms when 200 prepaid orders are achieved.

TxDMV's procedure is to invite comments on all proposed plates ahead of the board's review. The department's intent is to determine if there are any unforeseen public concerns about a plate design. The department publishes a 10-day "like/dislike/comment-by-email" survey, called an eVIEW, on its website. Although the survey counts the public's "likes" and "dislikes," it is unscientific and not used as an indicator of a plate's popularity.

The plate designs listed below were presented to the public in a September 2024 eVIEW. No negative comments were received. The count of the public's "like/dislikes" are noted below:

<b>LONE STAR BADGE BLACK</b>	<b>NEW</b>
984 people liked this design and 240 did not	
<b>LONE STAR FLAG</b>	<b>NEW</b>
712 people liked this design and 305 did not	
<b>SAND DOLLAR</b>	<b>NEW</b>
522 people liked this design and 450 did not	

### LONE STAR BADGE BLACK



### LONE STAR FLAG



## SAND DOLLAR



# TEXAS SPECIALTY PLATE BUSINESS

Vehicle Titles and  
Registration Division  
Special Plates Unit (4FTEs) 10/24



VTR Director  
Annette Quintero

# OCT. 2024



**NEW FROM MYPLATES IN OCTOBER**

- Florida A&M University (**NEW**)
- Premium Embossed – Black & Gold (**NEW**)
- Premium Embossed – Black & Yellow (**NEW**)
- Premium Embossed – Blue & Gold (**NEW**)
- Phi Beta Sigma (**NEW**)



**SLP AVAILABLE** \_\_\_\_\_ **563**  
**MILITARY AND DV** \_\_\_\_\_ **220**  
**RESTRICTED USE** \_\_\_\_\_ **64**  
**STATE SPECIALTY** \_\_\_\_\_ **127**  
**VENDOR SPECIALTY** \_\_\_\_\_ **152**



**TOP TEN DATA 08-2024**

	LINKED	UNLINKED	TOTAL
1. ANIMAL FRIENDLY	6,467	297	6,764
2. CONSERVATION: HORNED LIZARD	5,613	258	5,871
3. CONSERVATION: BLUEBONNET	4,274	256	4,530
4. CONSERVATION: WHITE-TAILED DEER	2,990	176	3,166
5. CONSERVATION: HUMMINGBIRD	1,927	125	2,052
6. BIG BEND NATIONAL PARK	1,832	96	1,928
7. CONSERVATION: LARGE MOUTH BASS	1,774	124	1,898
8. NATIVE TEXAN	1,667	68	1,735
9. CONSERVATION: CAMPING	1,063	66	1,129
10. CONSERVATION: TEXAS RIVERS	868	69	937



1. CLASSIC BLACK	63,250	11,429	74,679
2. LARGE STAR WHITE-BLACK	36,566	5,120	41,686
3. CLASSIC BLACK-SILVER	19,946	3,117	23,063
4. TEXAS BLACK 1845	15,507	2,885	18,392
5. CARBON FIBER	15,222	2,961	18,183
6. LONE STAR BLACK	15,117	2,883	18,000
7. LONE STAR 1836	5,444	989	6,433
8. LOVE HEART	4,633	670	5,303
9. TEXAS A&M (MAROON)	4,237	511	4,748
10. TEXAS VINTAGE BLACK	4,110	706	4,816



1. DISABLED VETERAN	216,798	6,282	223,080
2. DV U.S. ARMY	58,069	1,631	59,700
3. DV U.S. MARINE CORPS	33,496	913	34,409
4. DV U.S. AIR FORCE	26,915	671	27,586
5. DV U.S. NAVY	24,285	634	24,919
6. DV BRONZE STAR MEDAL	15,429	392	15,821
7. MERITORIOUS SERVICE MEDAL	13,777	599	14,376
8. PURPLE HEART	12,171	328	12,499
9. U.S. MARINE CORPS	11,802	506	12,308
10. U.S. ARMY	10,265	503	10,768



## SPECIAL PLATES UNIT CUSTOMER SERVICE STATISTICS FY 2025

<b>84,152</b>	<b>26,175</b>	<b>85</b>	<b>11,301</b>	<b>3,511</b>	<b>35</b>	<b>5,212</b>
Personalized Plate Applications Reviewed (96% Approved)	Telephone Calls	Walk-in Customers	Emails	Refunds	Public Information Open Records	Correspondence (Including Plate Applications)



**Board Meeting Date: 10/24/2024**  
**BRIEFING ITEM**

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**To:** Texas Department of Motor Vehicles Board  
**From:** John Ralston, Director of Budget and Forecasting  
**Agenda Item:** 18.A  
**Subject:** FY 2024 Financial Report

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**RECOMMENDATION**

Briefing item only.

**PURPOSE AND EXECUTIVE SUMMARY**

Attached is the TxDMV fiscal year (FY) 2024 financial report for September 1, 2023–August 31, 2024. The report includes statistical and detailed information on revenues, the TxDMV Fund 0010 balance, actual expenditures, and outstanding obligations.

Highlights include:

- TxDMV deposited \$2.1 billion in revenue to the General Revenue Fund (0001), State Highway Fund (0006), and TxDMV Fund (0010) in FY 2024, which is 2.2% more than FY 2023 deposits.
- TxDMV Fund revenue deposits total \$188.0 million.
- The adjusted balance of the TxDMV Fund as of August 31, 2024, is \$206.1 million.
- TxDMV Fund actual expenditures total \$167.3 million, with \$17.0 million in outstanding obligations as of August 31, 2024.
- General Revenue Fund actual expenditures total \$8.7 million, with \$29.0 million in outstanding obligations as of August 31, 2024. General Revenue Fund obligations are primarily for Motor Vehicle Crime Prevention Authority (MVCPA) activities.
- In FY 2024, the department deposited sufficient revenue to support its actual expenditures and outstanding obligations for the year.

**FINANCIAL IMPACT**

TxDMV is self-supporting and funds all its expenditures from revenues deposited to the TxDMV Fund, except the MVCPA, which is funded from motor vehicle insurer fees deposited to the General Revenue Fund. TxDMV also deposits revenue to the State Highway Fund and the General Revenue Fund.

**BACKGROUND AND DISCUSSION**

See attached report.



**Texas Department *of* Motor Vehicles**  
HELPING TEXANS GO. HELPING TEXAS GROW.

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**FY 2024 Financial Report**  
**(September 1, 2023–August 31, 2024)**

**Finance and Operations Division**

**October 24, 2024**



# Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.



## FY 2024 Financial Report

(September 1, 2023 – August 31, 2024)

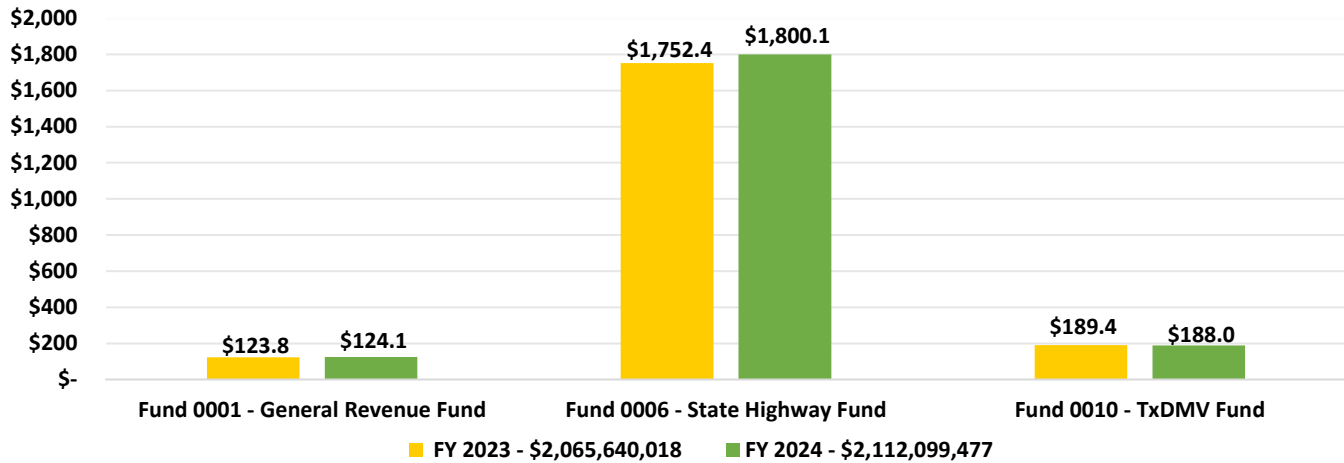
October 24, 2024

# FY 2023 versus FY 2024 Revenues - All Funds

## September 1 through August 31

### FY 2023 and FY 2024 Comparison of Revenue by Fund

(in millions)



- The Texas Department of Motor Vehicles (TxDMV or the "department") collected \$2.1 billion in fiscal year (FY) 2024. This is 2.2% more than FY 2023 collections. FY 2023 and FY 2024 revenue deposits for all funds by revenue category are shown in the chart below.

### FY 2023 and FY 2024 Revenue by Category - All Funds

Revenue Category	FY 2023 Actual	FY 2024 Actual	Variance	% Difference
Motor Vehicle Certificates of Title	\$ 93,682,296	\$ 91,971,015	\$ (1,711,281)	(1.8%)
Motor Vehicle Registration	1,708,955,778	1,757,280,993	48,325,215	2.8%
Motor Carrier - Oversize/Overweight	170,606,467	171,094,127	487,661	0.3%
Motor Carrier Credentialing	5,958,528	5,560,368	(398,160)	(6.7%)
Motor Vehicle Business Licenses	7,085,090	6,657,829	(427,261)	(6.0%)
Miscellaneous Revenue	21,327,244	22,065,234	737,991	3.5%
Processing and Handling Fee	58,024,615	57,469,910	(554,705)	(1.0%)
<b>Total</b>	<b>\$ 2,065,640,018</b>	<b>\$ 2,112,099,477</b>	<b>\$ 46,459,459</b>	<b>2.2%</b>

- In FY 2024, as compared to FY 2023, the state showed mixed results in the underlying fee-generating activities, resulting in increases in three categories of revenue and decreases in four.
- Motor vehicle certificates of title revenue dropped from FY 2023 mostly because of a decrease in delinquent title-transfer penalty collections. A lower number of applications decreased motor carrier credentialing revenue. Lower motor vehicle business license revenue can be attributed to tightened eligibility requirements for licensure in efforts to combat fraud, resulting in the department receiving or approving fewer license applications. The drop in processing and handling fee revenue is due to the timing of remittances and slightly increased online utilization for annual-registration renewals.
- The increase in motor vehicle registration revenue is attributable to the additional fee paid at annual registration of certain electric vehicles following the FY 2024 implementation of Senate Bill 505, 88th Legislature, Regular Session. Increased miscellaneous revenue reflects the uptick in interest rates on the TxDMV Fund balance.

# FY 2024 Projected versus Actual Revenues - All Funds

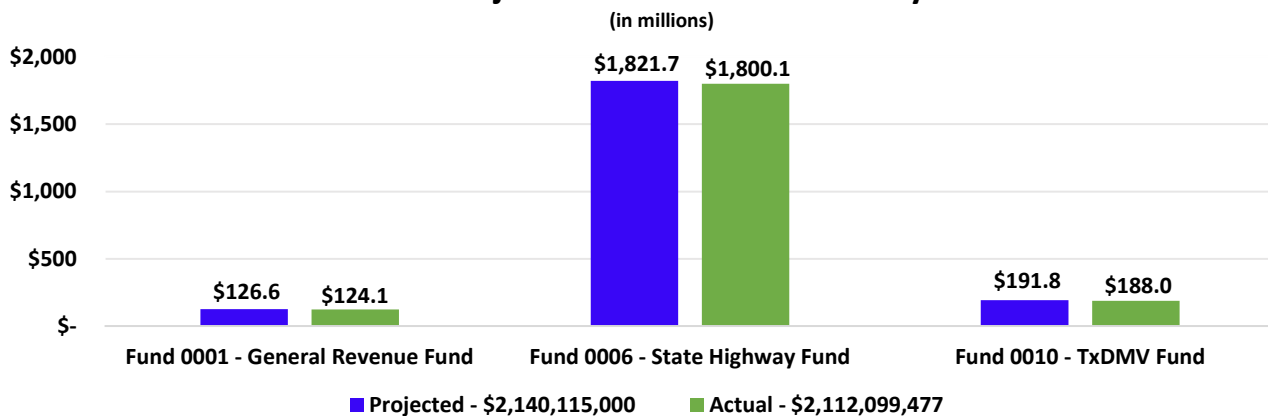
## September 1 through August 31

FY 2024 Projected vs Actual Revenue by Category - All Funds

Revenue Category	FY 2024 Projected	FY 2024 Actual	Variance	% Difference
Motor Vehicle Certificates of Title	\$ 94,923,000	\$ 91,971,015	\$ (2,951,985)	(3.1%)
Motor Vehicle Registration	1,774,087,000	1,757,280,993	(16,806,007)	(0.9%)
Motor Carrier - Oversize/Overweight	177,416,000	171,094,127	(6,321,873)	(3.6%)
Motor Carrier Credentialing	5,894,000	5,560,368	(333,632)	(5.7%)
Motor Vehicle Business Licenses	7,156,000	6,657,829	(498,171)	(7.0%)
Miscellaneous Revenue	22,324,000	22,065,234	(258,766)	(1.2%)
Processing and Handling Fee	58,315,000	57,469,910	(845,090)	(1.4%)
<b>Total</b>	<b>\$ 2,140,115,000</b>	<b>\$ 2,112,099,477</b>	<b>\$ (28,015,523)</b>	<b>(1.3%)</b>

- Revenue for FY 2024 is 1.3% (\$28.0 million) below projections due to the timing of remittances.
- Motor Vehicle Certificates of Title revenue is 3.1% (\$3.0 million) below projections mostly due to a lower-than-expected number of original titles issued and lower-than-expected delinquent title-transfer penalties.
- Motor Vehicle Registration revenue is 0.9% (\$16.8 million) under projections because of less-than-expected electric-vehicle additional-fee collections and the timing of annual-registration remittances.
- Motor Carrier Oversize/Overweight revenue is under projections by 3.6% (\$6.3 million) due to less-than-expected permit issuance.
- Motor Carrier Credentialing is 5.7% (\$333,632) below projections due to a lower-than-expected number of credentialing applications filed. Motor Vehicle Business Licenses is 7.0% (\$498,171) below projections, resulting from a lower-than-expected number of applications submitted following enhanced pre-license requirements approved by the board to address those attempting to obtain licenses for fraudulent purposes.
- The variance in miscellaneous revenue of 1.2% (\$258,766) is mostly due to lower-than-expected collections of Motor Carrier Act penalties. Processing and handling fee revenue is 1.4% (\$845,090) under projections mostly due to the timing of remittances.

FY 2024 Projected vs Actual Revenue by Fund

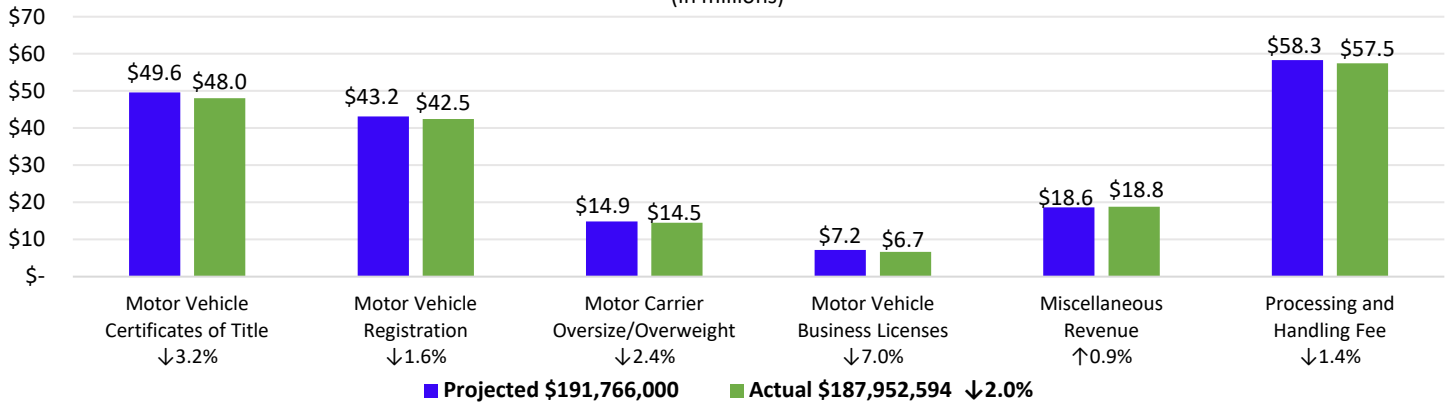


# FY 2024 TxDMV Fund 0010 Revenue Highlights

## September 1 through August 31

### Projected vs Actual Revenue - Fund 0010

(in millions)



- TxDMV Fund 0010 revenue is 2.0% (\$3.8 million) below projections for FY 2024.
- Motor Vehicle Certificates of Title revenue is 3.2% under projections mostly due to less-than-expected delinquent title-transfer penalties.
- Motor Vehicle Registration revenue is 1.6% below projections due to less-than-expected specialty-plate collections.
- Motor Carrier Oversize/Overweight revenue is 2.4% under projections due to less-than-expected permit counts.
- Motor Vehicle Business Licenses is 7.0% below projections due to a lower-than-expected number of applications (mostly for GDNs) following implementation of enhanced pre-licensing checks by the department.
- Processing and Handling Fee revenue is 1.4% under projections, mostly attributable to the timing of remittances.

### FY 2023 and FY 2024 Actual Revenue - Fund 0010

Revenue Category	FY 2023		FY 2024		Variance	% Difference
	Actual	Actual	Actual	Actual		
Motor Vehicle Certificates of Title	\$ 48,817,248	\$ 48,024,200	\$ 48,817,248	\$ 48,024,200	\$ (793,048)	(1.6%)
Motor Vehicle Registration	43,485,545	42,470,721	43,485,545	42,470,721	(1,014,825)	(2.3%)
Motor Carrier Oversize/Overweight	14,399,066	14,511,396	14,399,066	14,511,396	112,330	0.8%
Motor Vehicle Business Licenses	7,085,090	6,657,829	7,085,090	6,657,829	(427,261)	(6.0%)
Miscellaneous Revenue	17,617,652	18,818,538	17,617,652	18,818,538	1,200,886	6.8%
Processing and Handling Fee	58,024,615	57,469,910	58,024,615	57,469,910	(554,705)	(1.0%)
<b>Total</b>	<b>\$ 189,429,217</b>	<b>\$ 187,952,594</b>	<b>\$ 189,429,217</b>	<b>\$ 187,952,594</b>	<b>\$ (1,476,623)</b>	<b>(0.8%)</b>

- Total TxDMV Fund 0010 revenue is 0.8% (\$1.5 million) lower than in FY 2023. The decrease in motor vehicle certificates of title is mostly attributable to lower delinquent title-transfer penalty collections. The decrease in motor carrier registration is mostly due to the cyclical effect of multi-year antique-plate transactions. The decrease in motor vehicle business license revenue from last year is attributable to fewer applications for licensure as discussed earlier in this report, and also to unfavorable market conditions related to vehicle affordability. The decrease in processing and handling fee revenue is due to the timing of remittances and slightly increased online utilization. Higher interest rates on the fund balance resulted in increased TxDMV Fund interest credits as compared to last year (within the miscellaneous-revenue category).

## FY 2024 Actual Expenditures by Fund (September 1 through August 31)

For FY 2024, TxDMV was appropriated \$422,399,717 for department operations, of which \$230,517,234 is from TxDMV Fund 0010; \$48,882,483 is from General Revenue Fund 0001 specifically for use by the Motor Vehicle Crime Prevention Authority; and \$143,000,000 is from bond proceeds for the Camp Hubbard Renewal Project. An additional \$15,454,483 from prior-year appropriations and adjustments was also available for use, as well as \$15,477,862 for employee benefits. FY 2024 expenditures excluding encumbrances totaled \$175,947,631 as shown in the last column of the table immediately below.

	Fund 0010 Sep-Aug FY 24	Fund 0001 Sep-Aug FY 24	Grand Total Sep-Aug FY 24
<b>Operating Expenditures</b>			
Salaries and Wages	\$ 49,453,722	\$ 825,326	\$ 50,279,048
Other Personnel	\$ 2,599,275	\$ 75,862	\$ 2,675,137
Professional Fees	\$ 29,451,622	\$ -	\$ 29,451,622
Fuels & Lubricants	\$ 45,568	\$ -	\$ 45,568
Consumables	\$ 1,203,742	\$ 66	\$ 1,203,808
Utilities	\$ 5,329,792	\$ 3,904	\$ 5,333,696
Travel	\$ 486,506	\$ 85,628	\$ 572,134
Rent - Building	\$ 798,568	\$ 21,351	\$ 819,918
Rent - Machine and Other	\$ 208,634	\$ 2,086	\$ 210,720
Other Operating	\$ 63,367,577 <sup>(1)</sup>	\$ 99,958	\$ 63,467,535
Grants	\$ -	\$ 7,380,887	\$ 7,380,887
Other Capital	\$ 36,917	\$ -	\$ 36,917
<b>Total Operating Expenditures</b>	<b>\$ 152,981,923</b>	<b>\$ 8,495,067</b>	<b>\$ 161,476,990</b>
<b>Fringe Benefits</b>			
Retirement	\$ 4,617,820	\$ 59,998	\$ 4,677,818
Group Insurance	\$ 5,795,931	\$ 72,993	\$ 5,868,925
OASI (Old Age and Survivor's Insurance)	\$ 3,818,482	\$ 65,102	\$ 3,883,583
Unemployment Reimbursement to GR	\$ 13,052	\$ -	\$ 13,052
Benefit Replacement Pay	\$ 27,264	\$ -	\$ 27,264
<b>Total Fringe Benefits</b>	<b>\$ 14,272,549</b>	<b>\$ 198,093</b>	<b>\$ 14,470,642</b>
<b>Total Expenditures</b>	<b>\$ 167,254,472</b>	<b>\$ 8,693,160</b>	<b>\$ 175,947,631</b>

## TxDMV Fund 0010 Balance

FY 2024 TxDMV Fund 0010 revenue collections exceeded expenditures by \$20.7 million, increasing the adjusted fund balance to \$206.1 million as of August 31, 2024.

<b>FY 2024 Beginning Balance</b>	\$ 202,340,107
<b>Revenue</b>	
Motor Vehicle Certificates of Title	\$ 48,024,200
Motor Vehicle Registration	\$ 42,470,721 <sup>(1)</sup>
Motor Carrier - Oversize/Overweight	\$ 14,511,396
Motor Vehicle Business Licenses	\$ 6,657,829
Miscellaneous Revenue	\$ 18,818,538
Processing and Handling Fee	\$ 57,469,910 <sup>(2)</sup>
<b>Total Revenue</b>	<b>\$ 187,952,594</b>
<b>Total Fund 0010 Expenditures</b>	<b>\$ 167,254,472</b>
<b>Ending Fund Balance</b>	<b>\$ 223,038,229</b>
<b>Adjustment for Encumbrances</b>	<b>\$ 16,964,243</b>
<b>Adjusted Fund Balance</b>	<b>\$ 206,073,986</b>

### FY 2024 Revenues & Expenditures



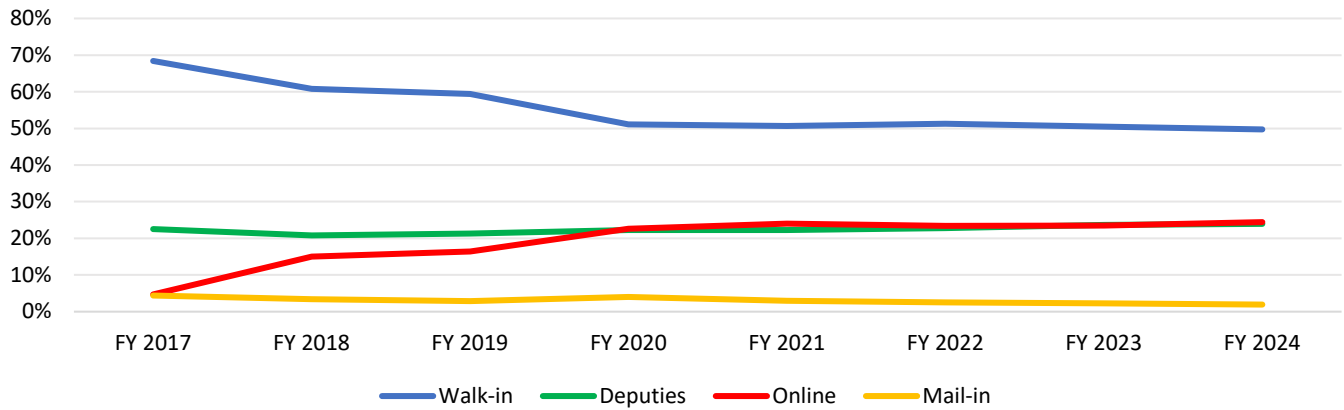
#### Footnotes:

<sup>(1)</sup> Included in Motor Vehicle Registration fees are MyPlates revenue collections of \$9,473,365; and included in Other Operating expenditures are MyPlates expenditures of \$9,229,277.

<sup>(2)</sup> Processing and Handling Fee revenue does not include the portion of the fees retained for administrative expenses by the counties or Texas.gov, per TxDMV board rule.

## Processing and Handling Fee Transactions

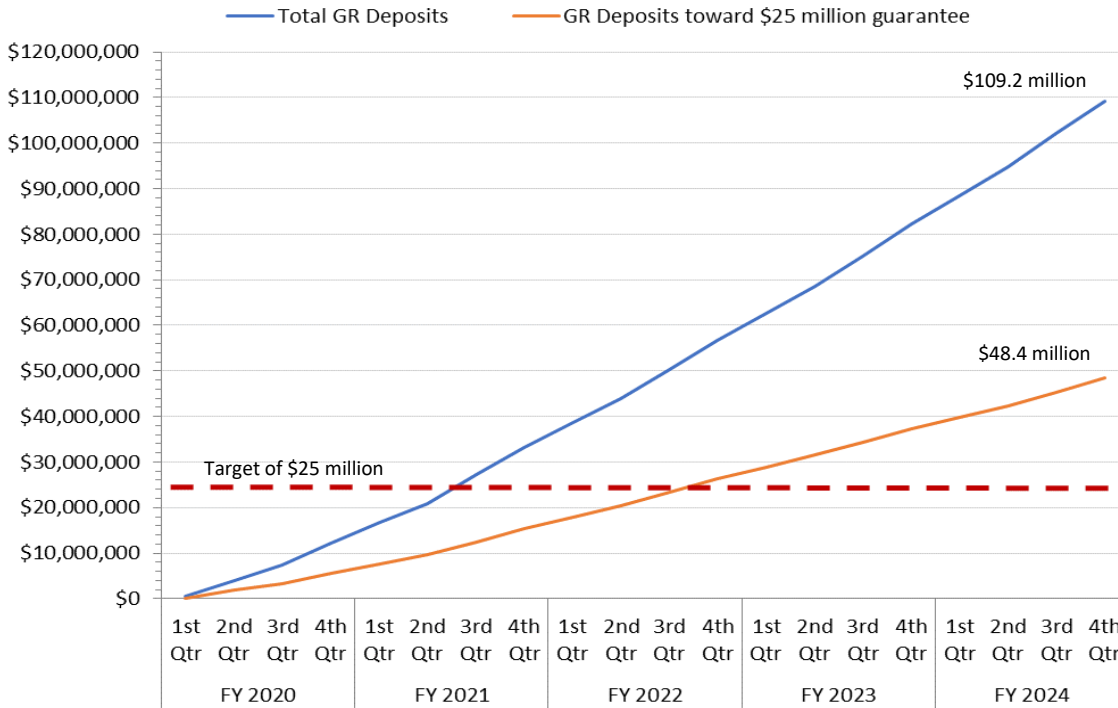
### Transaction Mix from Annual Registrations



- In FY 2024, about half (49.7%) of annual-registration transactions were processed at county offices.
- The percentage of annual-registration transactions conducted online increased slightly year-over-year, accounting for 24.4% (6.2 million) of the 25.5 million total transactions in FY 2024 compared to 23.5% in FY 2023.
- Deputy and mail-in percentages have remained relatively constant since FY 2017, and are at 23.9% and 1.9%, respectively, for FY 2024.

## Vendor Plates

### Current-Contract Cumulative Deposits to General Revenue

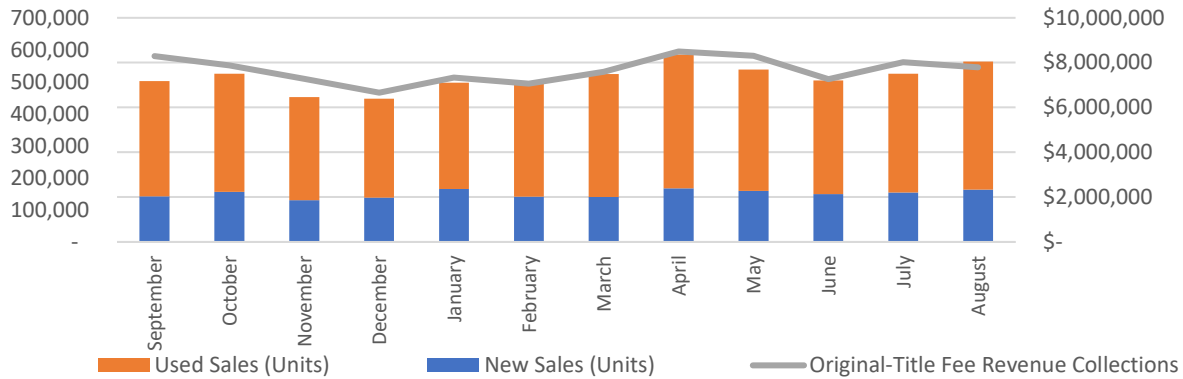


- General Revenue Fund 0001 deposits associated with the MyPlates contract from November 19, 2019, to August 31, 2024, totaled \$109.2 million.
- The contract's \$25 million guarantee was met in July 2022.
- Since the effective date of the current contract, new orders accounted for 41.4% of the Fund 0001 mix, and renewals accounted for 58.6%.



## Motor Vehicle Certificates of Title

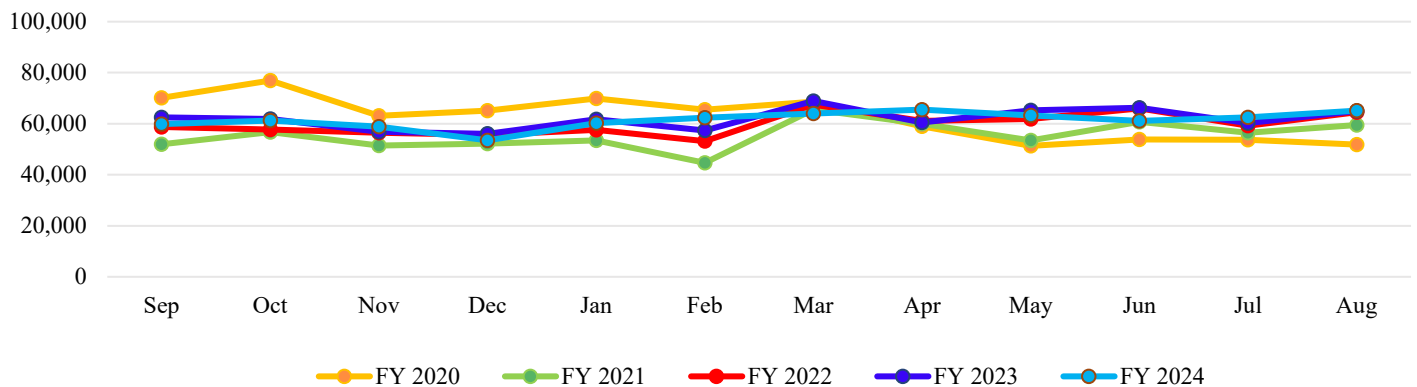
### Monthly Auto Sales and Original-Title Fee Revenue Collections



- Original-title fees are the largest component of motor vehicle certificates of title revenue. In FY 2024, TxDMV collected revenue from the issuance of about 6.6 million original titles. Original-title issuance is driven by new- and used-vehicle sales; original-title revenue collections are reflected in the gray trend line above. FY 2024 saw a slight decrease in overall vehicle sales as compared to FY 2023.
- Auto sales in FY 2024 decreased 1.4% from FY 2023, with used-vehicle sales down 3.1% and new-vehicle sales up 3.0%.

## Motor Carrier Oversize/Overweight Permits

### Monthly Oversize/Overweight Permit Issuance



- The number of motor carrier oversize/overweight permits issued in FY 2024 is 737,645 as compared to 742,594 in FY 2023, a decrease of 0.7%. Activity in the oil-and-gas and construction sectors is the chief driver of the issuance of motor-carrier permits, resulting in a steady trend in oversize/overweight fee deposits since FY 2023.
- As shown in the trend lines in the graph above, FY 2024 saw a slight decrease (4,949) in number of permits issued as compared to FY 2023.
- Although permit counts have decreased slightly, revenue in this category saw a 0.3% year-over-year increase in FY 2024.

# FY 2024 Financial Summary as of August 31

## FY 2024 Expenditure Highlights

- The adjusted FY 2024 budget as of August 31, 2024, was \$453.3 million. This amount includes the original baseline total as approved by the 88th Legislature and adjustments as shown in the table below.

<b>FY 2024 Budget</b>	<b>Amount</b>
Original Baseline Appropriations	\$ 422,399,717
Unexpended Balances from FY 2023 and Other Adjustments	\$ 15,454,483
Benefit Costs	\$ 15,477,862
<b>Adjusted Appropriations</b>	<b>\$ 453,332,062</b>

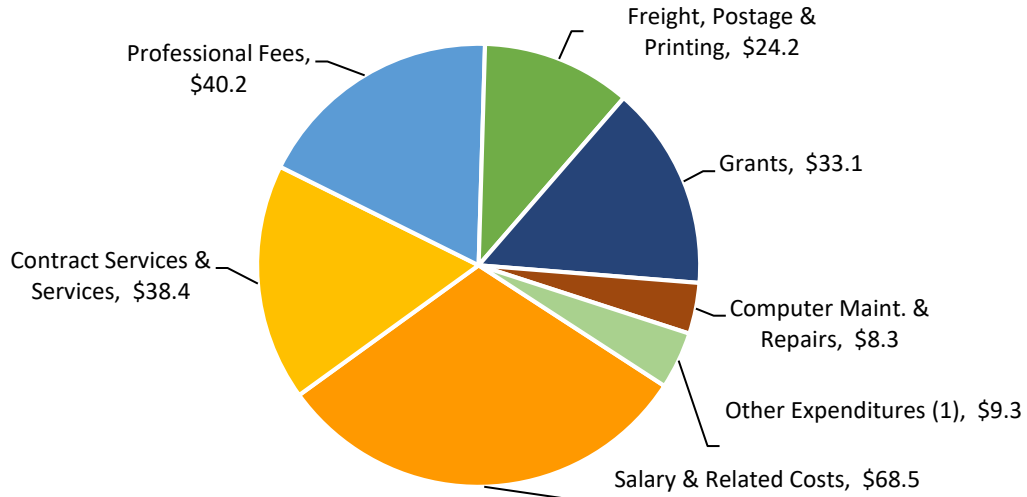
- The baseline total of \$422.4 million provides funding for 854.0 full-time equivalents (FTEs), ongoing operating costs, and FY 2024 funding for capital projects.
- Notable major items included in the original baseline appropriation are funding for the Camp Hubbard Renewal project (\$143.0 million) and funding for the implementation of requirements for House Bill 718, 88th Legislature, Regular Session (\$35.0 million).
- The \$15.5 million in unexpended balances and other adjustments as of August 31, 2024, was primarily a combination of the continuation of capital projects funded in FY 2023 and brought forward to FY 2024 and Motor Vehicle Crime Prevention Authority (MVCPA) lapses brought forward to FY 2024.
- Capital project carryforwards from FY 2023 include Automation projects (\$7.4 million), Headquarters Maintenance (\$2.2 million), and Regional Service Center (RSC) Maintenance (\$625,000).
- The Accounts Receivable project balance of \$3.1 million was also brought forward from FY 2023 to FY 2024.

# FY 2024 Financial Summary as of August 31

## September 1 through August 31

- Expenditures and outstanding obligations as of August 31, 2024, totaled \$221.9 million (\$176.0 million in expenditures and \$45.9 million in encumbrances).

**FY 2024 Expenditures and Encumbrances by Category - All Funds**  
(in millions)

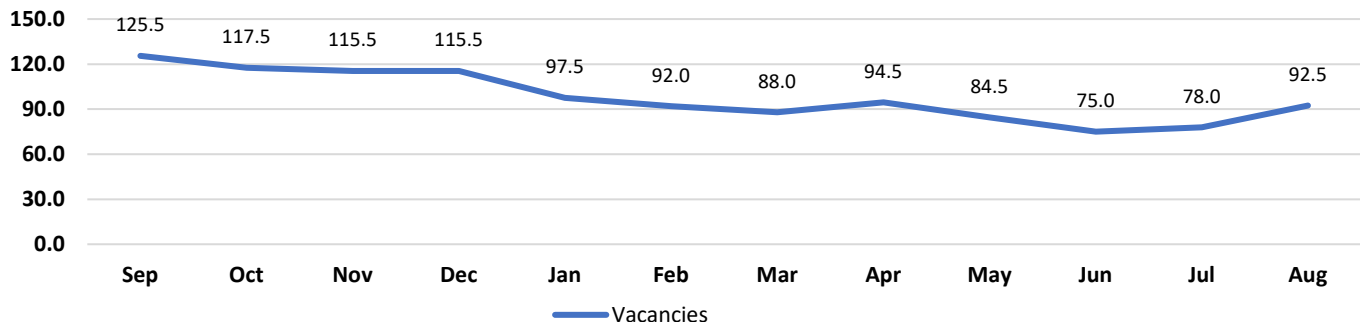


<sup>(1)</sup> Other Expenditures includes: Rents/Utilities (\$6.5 million), Other Expenses (\$1.5 million), Travel/Training (\$1.1 million), and Capital (\$153K)

## Full-Time Equivalent

- The FY 2024 authorized FTE cap is 854.0, which was an increase of 46.0 FTEs over the FY 2023 cap of 808.0. Additional FTEs were approved for multiple divisions, including new positions for the expansion of RSC locations in Dallas and Houston. The increase in vacancies at the beginning of FY 2024 reflected the additional FTEs.
- In addition to the 854.0 FTEs, MVCPA was approved for an additional 4.0 FTEs for the implementation of Senate Bill 224, 88th Legislature, Regular Session.
- To implement the requirements of House Bill 718, 88th Legislature, Regular Session, 2.0 FTEs were authorized in FY 2024, with the first two being deployed to Information Technology and Enforcement. Another 42.0 FTEs will be authorized for House Bill 718 beginning in FY 2025 and recruitment for the additional House Bill 718 FTEs began in the second half of FY 2024.

**Monthly Vacancies - Most Recent 12 Months**



# FY 2024 Financial Summary as of August 31

## Capital Budget and Projects

### Capital Budget Financial Status

	Revised Budget	Expenditures	Encumbrances	Available Budget
TxDMV Automation System	\$ 17,838,157	(\$7,322,127)	(\$2,398,723)	\$ 8,117,307
Other Information Resources Projects	\$ 27,667,433	(\$17,621,792)	(\$5,509,959)	\$ 4,535,683
Other Capital Projects	\$ 147,868,436	(\$488,582)	(\$1,639,663)	\$ 145,740,191
<b>Grand Total, Capital Budget</b>	<b>\$ 193,374,026</b>	<b>(\$25,432,501)</b>	<b>(\$9,548,344)</b>	<b>\$ 158,393,181</b>

- The Revised Capital Budget for FY 2024 includes \$10.6 million carried forward from FY 2023 and \$182.8 million in FY 2024 appropriations.

### TxDMV Automation System Projects

Project Name	FY 2024 Budget	FY 2024 Obligations	Status
Cybersecurity	\$ 253,850	\$ 133,877	In progress. This project addresses two solutions - a privileged access management solution and a security information event management solution.
RTS Support	\$ 11,597,224	\$ 7,928,568	Project ongoing.
MCCS Rewrite	\$ 4,179,642		Project in procurement phase.
Voice-to-Cloud	\$ 1,675,208	\$ 1,658,404	Project in implementation phase.
	<b>\$ 17,705,924</b>	<b>\$ 9,720,850</b>	

- The total FY 2024 budget for the TxDMV Automation System Projects as of August 31, 2024, is \$17.7 million.
- Expenditures and encumbrances total \$9.7 million. The majority of these costs are for Registration and Title System (RTS) Support (\$7.9 million).
- Automation funds were allocated to the implementation of the Voice-to-Cloud project, which is a project for modernizing the TxDMV Call Center application.

# FY 2024 Financial Summary as of August 31

## Other Information Resources Projects

Project Name	FY 2024 Budget	FY 2024 Obligations	Status
County Technology	\$ 5,020,000	\$ 4,813,114	Major items in progress include continuing refresh of computer equipment in tax assessor-collector offices; upgrades of connectivity with tax assessor-collector offices; and implementation of credit cards in regional service centers.
Data Center Services	\$ 17,318,944	\$ 17,318,944	This project provides for annual Data Center Services costs.
PC Replacement	\$ 507,000	\$ 363,921	Provides funding for annual computer refresh.
Cybersecurity	\$ 400,000	\$ 136,987	In progress. Includes security audit contract and projects to develop a privileged access management solution and a security information event management solution.
RTS Replacement Phase One	\$ 4,421,489	\$ 498,784	This project is to modernize the Registration and Title System (RTS). The project is in progress.
	<b>\$ 27,667,433</b>	<b>\$ 23,131,750</b>	

- Data Center Services provides management of applications, hardware, and technology services for TxDMV and is the largest single component (\$17.3 million) of Other Information Resources Projects.
- Obligations in County Technology Replacement include routine replacement of laptops and desktops for the technology refresh program.
- The RTS Replacement Phase One is a new project for the FYs 2024–2025 biennium. Additional funds are being requested for FY 2026–2027 to complete the project.

# FY 2024 Financial Summary as of August 31

## Other Capital Projects

Project Name	FY 2024 Budget	FY 2024 Obligations	Status
Regional Service Center (RSC) Maintenance	\$ 1,500,000	\$ 828,447	This is for the Midland-Odessa Regional Service Center. Project scope of work being finalized. This funding will also be used for the Pharr Regional Service Center project.
Headquarters Maintenance	\$ 2,436,830	\$ 1,299,798	In progress.
Dallas and Houston RSC Expansion	\$ 931,606	\$ -	Negotiations with vendors for property leases underway.
Camp Hubbard Renewal	\$ 143,000,000	\$ -	In progress.
	<b>\$ 147,868,436</b>	<b>\$ 2,128,245</b>	

- The budget for Other Capital Projects as of August 31, 2024, totals \$147.9 million and includes funding for Regional Service Center Maintenance, Headquarters Maintenance, and two new projects for FY 2024 - the Dallas and Houston RSC expansions and the Camp Hubbard Renewal Project.
- As of August 31, 2024, the major highlights of the Camp Hubbard Renewal project include: financing agreements are complete; construction of a new data center in Building 6 is nearing completion; other renovation work is underway in Building 6; and work is being completed for the relocation of staff and technology items from Building 5 to Building 6.
- The Headquarters Maintenance capital budget is a carry forward from FY 2023. This project will address headquarters facilities as part of the transition of Camp Hubbard from the Texas Department of Transportation.



To: Texas Department of Motor Vehicles Board  
From: Jason Gonzalez, Internal Audit Interim Director  
Agenda Item: 18.B  
Subject: Internal Audit Division Status Update

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### RECOMMENDATION

Briefing Only.

### PURPOSE AND EXECUTIVE SUMMARY

This status update provides information on current Internal Audit Division (IAD) activities.

### FINANCIAL IMPACT

N/A

### BACKGROUND AND DISCUSSION

#### *Internal Engagements*

IAD finalized the Inventory Management Audit. Its objective was to evaluate the Department's processes for accounting for, safeguarding, and reporting inventory statewide. The audit covered purchasing and receiving segregation of duties, the onside inventory count process, accuracy of reported information, and the reporting process for missing assets. A copy of the audit report has been included in the board materials.

Similarly, IAD finalized the Fiscal Year 2024 Internal Audit Report. The objective was to ensure compliance with the Texas Government Code's annual internal audit reporting requirements. The report summarized the IAD's completed audit engagements, advisory services, and risk management activities for the previous fiscal year. A copy of the report has been included in the board materials.

Additionally, IAD finalized the annual Quality Assurance and Improvement Program (QAIP). The objective was to ensure compliance with the professional audit standards requirement to develop and maintain a Quality Assurance and Improvement Program that includes both internal and external assessments. A copy of the report has been included in the board materials.

Finally, the Fleet Management audit is currently in the planning phase. Its objective is to determine the effectiveness of the vehicle maintenance practices, compliance with the State Fleet Plan, and fleet monitoring. The audit is anticipated to be completed by the end of January 2025.

#### *External Engagements*

There are no external engagements being tracked by IAD at this time.



# Texas Department *of* Motor Vehicles

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## Inventory Management Audit Report 24-04

Internal Audit Division  
October 2024



## Inventory Management Audit, 24-04

### Executive Summary

The Texas Department of Motor Vehicles (TxDMV or Department) partners with 254 Tax Assessor Collector offices (TACs) in providing equipment for the TACs, TAC substations, and Full-Service Deputy locations to provide title and registration services. In fiscal year 2023, TxDMV maintained 11,786 controlled assets totaling \$14.8 million. The assets include items such as routers, laptops, desktop computers, and network devices. The objective of this audit was to evaluate Department processes on accounting for and reporting controlled assets throughout the State.

#### WHAT WE FOUND

The audit found that audit processes are at a Level 3 – Established: The function achieves its purpose in an organized way, following established processes, but those processes may not be consistently followed or well communicated. The Internal Audit Division (IAD) issued three results related to the audit objectives.

- **Result #1:** The Department segregated duties and tracked assets.
- **Result #2:** While the Department conducts onsite inventory verifications, there are opportunities to improve the verification and reporting process.
- **Result #3:** The Department is moving towards a more efficient way of conducting annual inventory verifications by leveraging technology.

#### WHAT WE RECOMMEND

IAD made five recommendations in this audit related to the following areas:



Using current inventory reports to conduct onsite inventory verification



Continuing the use of technology to manage assets and potentially expanding its use



Developing a process to update the Statewide Accounting System (SPA) with results from the onsite inventory verification



Identifying assets that have not been used in a set period with technology to more effectively manage inventory



Reconciling assets and updating SPA monthly or quarterly.

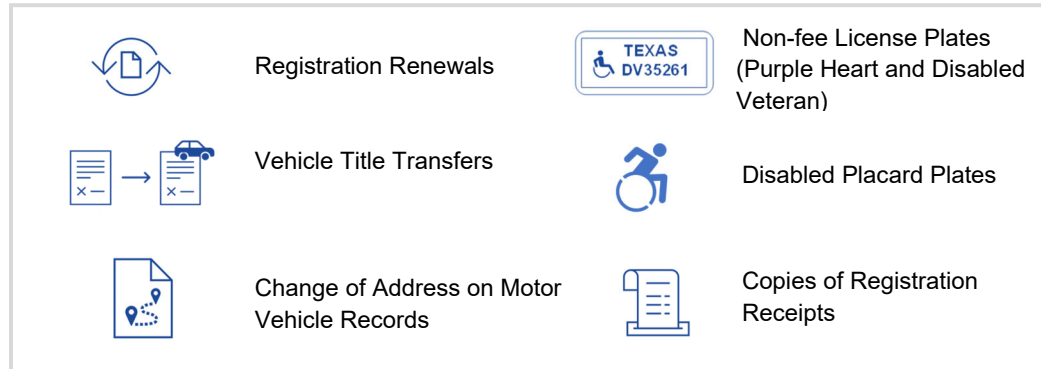
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## Background

The Texas Department of Motor Vehicles (TxDMV or Department) partners with 254 Tax Assessor Collector offices (TACs) and provides equipment necessary for the TACs, TAC substations, and Full-Service Deputy (FSD) locations to provide title and registration services (see **Figure 1**). In fiscal year 2023, the Department tracked 11,786 controlled assets totaling \$14.8 million. The assets include items such as routers, laptops, desktop computers, and network devices (see **Figure 2**).

**Figure 1: Title and Registration Services Provided by Tax Assessor Collector Offices**



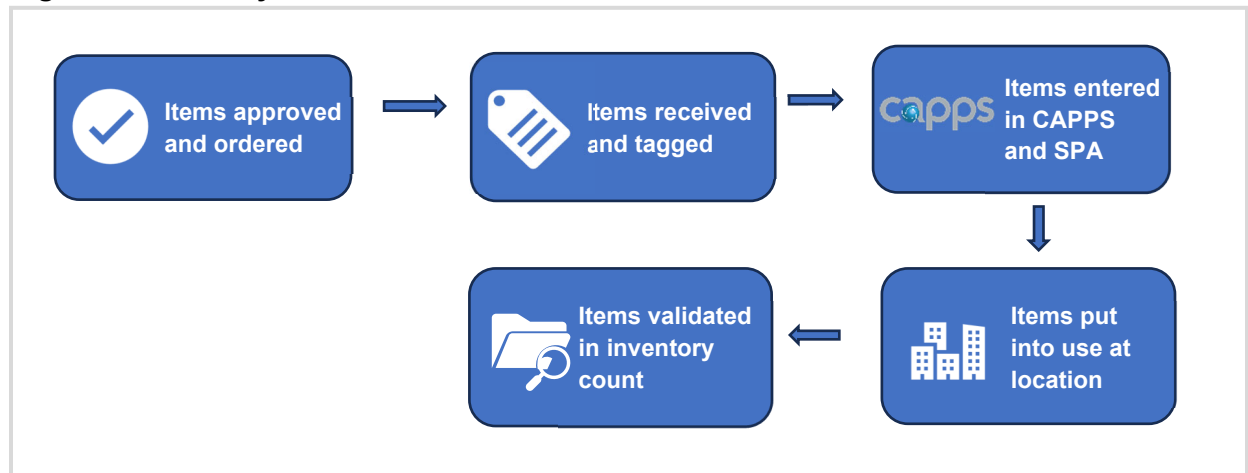
**Figure 2: Department Inventory by Location and Amount**

Location Type	Number of Tracked Equipment	Total Amount
Tax Assessor Collector Offices	4,265	\$ 3,084,734
Tax Assessor Collector Office - Substations	3,092	2,326,058
Full Service Deputy Locations	315	264,411
Department Headquarters	3,458	6,999,207
Department Regional Service Centers	656	2,097,595

**Inventory Process.** After inventory items are approved and ordered, the Department's Finance and Operations (FAO) Asset Management Team (Asset Team) receive the asset, physically inspect the asset, and verifies the order quantity and item description against the purchase order. The assets are entered into the state's Centralized Accounting and Payroll/Personnel System (CAPPS). Generally, property that is over \$500 is defined as a controlled asset with assets greater than \$5,000 defined as capitalized. The Property Manager from the Asset Team assigns the asset tags for these assets, which must also be recorded in the State Property Accounting System (SPA).

Once assets are tagged and recorded in SPA, they are distributed to TACs, TAC substations, and FSD locations for use and included in the Department's inventory count (verification) process which is conducted by the Enforcement Division's (ENF) Compliance Specialists (see **Figure 3**).

**Figure 3: Inventory Process**



Compliance Specialists coordinate with the TACs to visit the county for the inventory verification, documenting missing assets or additional items found.

The audit scope focused on Fiscal Year 2023 controlled asset inventory management, which includes asset receiving and reporting.

### Strengths

- The Finance and Operations inventory asset team has identified areas for asset management improvement and initiated new inventory processes for fiscal year 2024 inventory verification. New processes include utilizing asset tracking technology to assist with county-controlled asset inventory verification that improves efficiencies.
- FAO and ENF communication has improved and collaboration has increased.

### Audit Engagement Team

The audit was performed by Jason Gonzalez (Principal Internal Auditor) and Salem Chuah (Internal Audit Director).

## Audit Results

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### Audit Results #1: The Department segregated duties and tracked assets

IAD selected a sample of 20 purchase orders and found that all were ordered and received by different employees, demonstrating appropriate segregation of duties.

Each purchase order can include multiple line items for different types of equipment. The 20 purchase orders contained a total of 68 line items associated with equipment such as routers, laptops, desktop computers, and network devices. For example, one purchase order may contain three line items, with the items being 100 laptops, 5 tablets, and 5 server jump boxes. All line items were received with the same quantities and price as approved in the purchase orders.

Further, all equipment (asset) over \$500 from the purchase orders had an asset number in CAPPS which means that these assets are tracked throughout the equipment's lifecycle.

According to the Committee of Sponsoring Organization of the Treadway Commission, organizations should establish control activities and ensure duties are divided among different individuals to reduce the risk of errors or inappropriate or fraudulent actions (see **Figure 4**).

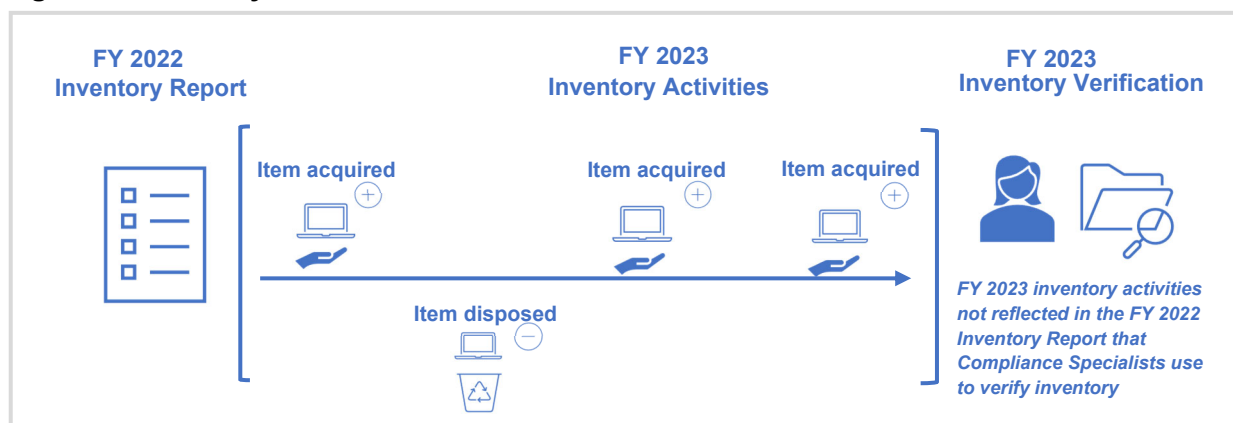
**Figure 4: Segregation of Duties**



## Audit Results #2: While the Department conducts onsite inventory verifications, there are opportunities to improve the verification and reporting process.

**Inventory Reports.** ENF Compliance Specialists use Preliminary Asset Inventory Reports (Inventory Reports; see **Appendix 3**) to perform onsite inventory verifications at TACs, TAC substations, and FSD locations. The Inventory Reports are generated at the end of the previous fiscal year by FAO and used by the Compliance Specialists for onsite inventory verifications throughout the year (see **Figure 5**).

**Figure 5: Inventory Verification**



Since the Inventory Reports are not generated immediately prior to the onsite visits, the Inventory Reports may not reflect the most current inventory status. This timing issue can lead to discrepancies, such as:

- **New Inventory:** Additional items not listed in the Inventory Report might be found during onsite visit due to the office receiving inventory during the fiscal year.
- **Missing Inventory:** Items listed in the Inventory Report may be missing if those items were disposed of during the fiscal year.

**Inventory Reports - New Inventory.** When Compliance Specialists find additional assets during onsite visits that are not included in the Inventory Report, they document those assets in the Additional Items Found, But Not Listed Worksheet (see **Appendix 4**).

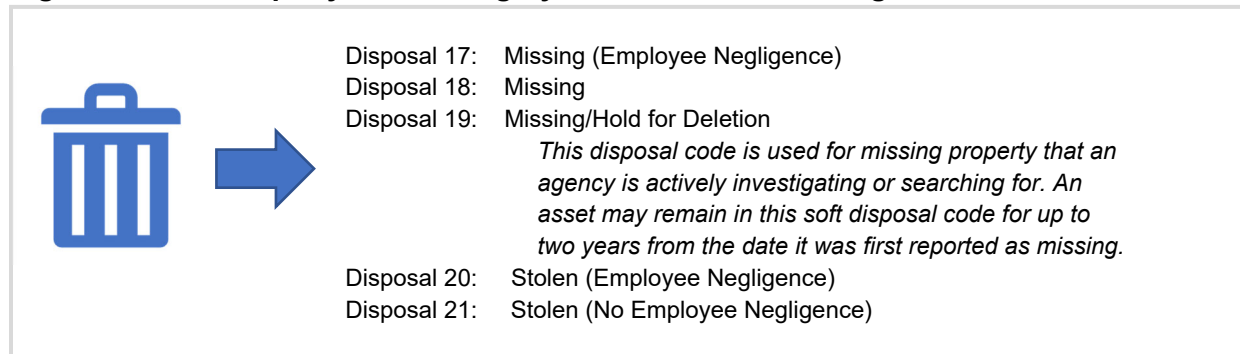
In a sample of 50 assets contained in the Found Inventory Item worksheet, almost all were accurately documented as active assets in both CAPPs and SPA. However, one asset was mistakenly listed as disposed in SPA even though it was documented by the Compliance Specialist as an active asset. This asset was transferred to the Department to be disposed of and then subsequently reinstated as an active asset.

**Inventory Reports - Missing Inventory.** When Compliance Specialists are unable to locate assets during onsite visits that are included in the Inventory Report, they document those items in the Missing/Stolen/Damaged Property Report (see **Appendix 5**).

In a sample of assets that were documented as missing, 20 (57 percent) of 35 missing assets reported by Compliance Specialists were reported accurately in SPA as missing (disposed). Of the remaining 15 assets:

- 9 of 15 were found, taking an average of 124 days to locate. During this period, the assets could have been reported as missing in SPA (see **Figure 6**).
- 6 of 15 were never found and incorrectly reported as active assets in SPA.

**Figure 6: State Property Accounting System Codes for Missing/Stolen Assets**



The manual reporting process may contribute to the inaccuracies. Compliance Specialists submit results to FAO's Inventory Team for review. According to FAO, it is possible that submitted documents were lost resulting in assets not being reported in SPA.

Using outdated Inventory Reports can result in:

1. Additional time and effort for the Compliance Specialists to fill out the Additional Items Found Form for inventory items found or searching for inventory items that have already been disposed of and completing the Missing/Stolen/Damaged Property Forms (Missing Forms).
2. Additional work for Department staff to validate whether inventory is indeed new or missing and updating CAPPs and SPA as necessary.

**Inventory Disposal.** Inventory assets for disposal due to damage or end-of life are documented on the Surplus Transfer Form. All 35 assets selected for disposal were accurately reflected as disposed in SPA. On average, the assets were disposed in SPA within 40 days of disposal recommendation on the Surplus Transfer Form.

**Inventory Reconciliation Process.** Each month, the Department performs reconciliations and identifies discrepancies between SPA and CAPPs balances. While reconciliations were performed for all months in fiscal year 2023, adjustments are not reported through journal entries until year-end reporting in October.

Reporting once annually could create inefficiencies in reporting. Additionally, reporting assets more than once per year could improve the Department's inventory management by identifying missing or additional assets throughout the fiscal year.

*Texas Administrative Code, Public Finance (Title 34) Chapter 5* requires state agencies to maintain property records and inventory information, including tracking and reporting state property on a unit basis. Further, the SPA User's Guide requires temporary disposal (soft disposal) of missing assets while investigations or searches are being conducted for a period of up to two years.

Also, *Government Code, Section 403.271* states that each state agency is responsible for ensuring that its fiscal year-end capitalized asset balance reflected in SPA is accurate and

materially correct, reflecting the agency's financial position when reported in its annual financial report.

### Recommendations

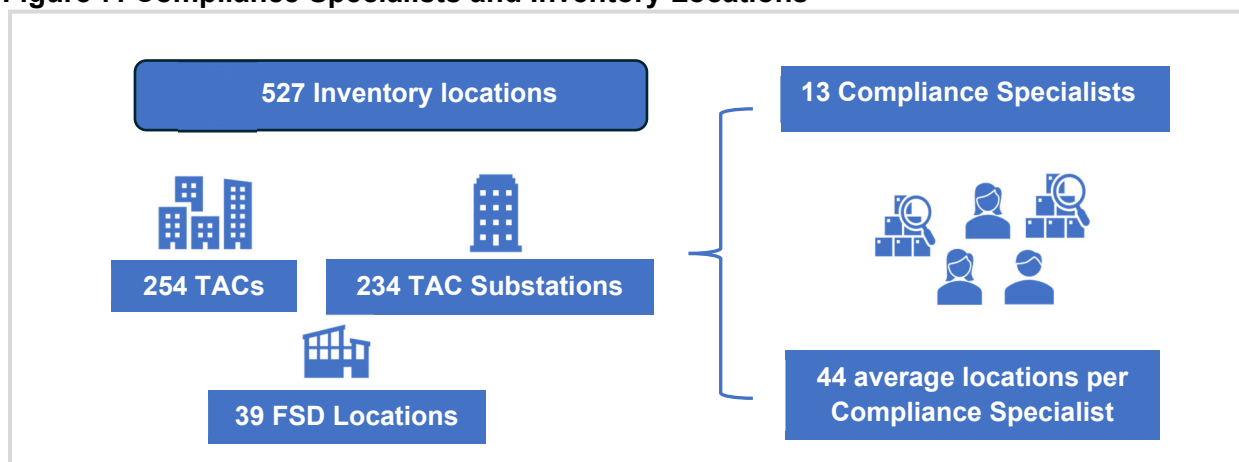
1. The Department should use Preliminary Asset Inventory Reports that are generated immediately prior to the onsite visits (or as closely to this date as possible) for use by the Enforcement Division's Compliance Specialists so that there is a more accurate record of inventory items to locate while onsite.
2. The Department should establish a process to ensure that additional inventory items found or inventory items marked as missing by the Enforcement Division's Compliance Specialists are accurately and timely reported in the State Property Accounting system.
3. The Department should consider reconciling assets and make accounting adjustments in the State Property Accounting system monthly or quarterly, rather than annually.



### Audit Results #3: The Department is moving towards a more efficient way of conducting annual inventory verifications by leveraging technology.

**Inventory Verifications.** Compliance Specialists documented physical inventory verifications at all 527 TACs, TAC substations, and FSD locations in fiscal year 2023. These 527 locations include 254 TACs, 234 TAC substations, and 39 FSD locations. Compliance Specialists visited locations ranging from 3 to 69 in one fiscal year. Each location has 2 to 209 equipment that were verified by the Compliance Specialists ranging from approximately \$1,300 to \$142,000 in total asset value. On average, each Compliance Specialists visited 44 locations in one year (see **Figure 7**).

**Figure 7: Compliance Specialists and Inventory Locations**



The SPA Process User's Guide states that each state agency is required to conduct an annual physical inventory of capitalized and controlled personal property in the agency's possession at a time of its own choosing during the fiscal year.

**Leveraging Technology for Inventory Verifications.** In May 2024, the Department managed a total of 4,744 desktops and laptops and 716 network devices such as routers and switches. The Department's Information Technology Services Division (ITSD) uses Ivanti LANDESK to document inventory locations for desktops and laptops and monitors network devices through SolarWinds. Both software programs provide real time inventory data that includes the asset location and asset name.

While the Department used a manual inventory verification process to conduct annual inventory in fiscal year 2023, it began using Ivanti LANDESK to locate desktops and laptops electronically for fiscal year 2024. By using Ivanti LANDESK, the Department can drastically reduce the time spent looking for assets by Compliance Specialists to physically locate inventory items that have been found electronically.

Since the Department has the capability to provide inventory information for devices that are online, there is an opportunity to be more proactive in managing inventory at locations by identifying assets that have not been online in a set period. This information could help the

Department identify inventory that may be missing or not used to more effectively manage inventory. Also, the Department could explore using SolarWinds to expand its use of electronic verification of assets for network devices to further increase efficiencies.

The SPA User's Guide includes allowable verification methods which include physical or electronic verification methods to locate inventory and inventory locations.

### Recommendations

4. The Department should continue leveraging technology to manage assets and consider expanding its use to include network devices to drive efficiency in its annual inventory verification process.
5. The Department should consider identifying assets that have not been used within a specified period with Ivanti LANDESK, SolarWinds, or other technology so that it can be more proactive in managing assets.

## **Appendix 1: Objectives, Scope, Methodology, and Rating Information**

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### **Objectives**

The objective of this audit was to evaluate Department processes on accounting for and reporting controlled assets throughout the State.

### **Scope and Methodology**

The scope of the audit included inventory transactions and inventory counts from September 2022 to August 2023.

Methodology in this audit included the following:

- Interviewed Finance and Operations (FAO) division staff and management.
- Interviewed Enforcement (ENF) division staff.
- Interviewed ITSD asset management and network staff.
- Reviewed asset management policies and procedures.
- Reviewed inventory count sheets for all 527 county, county substation, and full-service deputy locations.
- Selected a sample of 50 assets identified as additional found assets.
- Selected a sample of 35 assets identified as missing.
- Selected a sample of 35 assets recommended for disposal.
- Reviewed CAPPs and SPA asset reporting.
- Selected a sample of 20 purchase orders.
- Reviewed CAPPs inventory receipts.
- Reviewed SolarWinds and Ivanti LANDesk asset tracking technologies.

This audit was included in the FY2024 Internal Audit Plan. IAD conducted this performance audit in accordance with Generally Accepted Government Auditing Standards and in conformance with the Internal Standards for the Professional Practice of Internal Auditing. Those standards require that IAD plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for findings and conclusions based on our audit objectives. IAD believe that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

### **Report Distribution**

In accordance with the Texas Internal Auditing Act, this report is distributed to the Board of the Texas Department of Motor Vehicles, Governor's Office of Budget, Planning, and Policy, Legislative Budget Board, and the State Auditor's Office.

### **Ratings Information**

#### **Maturity Assessment Rating Definition**

IAD derived the maturity assessment ratings and definitions from the Control Objectives of Information and Related Technologies (COBIT) 5 IT Governance Framework and Maturity Model, the Enterprise Risk Management (ERM) Maturity Model, and the ISACA Maturity Model. The model was adapted for assurance audit purposes and does not provide a guarantee

against reporting misstatement and reliability, non-compliance, or operational impacts. The ratings and definitions are provided in Table 1.

Table 1. Maturity Assessment/Process Capability Rating Definitions

Rating	Name	Definition
1	Minimal	The function may have policies and procedures established for some activities but relies on intuition and handles issues on an ad-hoc basis.
2	Informal and Reactive	The function achieves its purpose with basic processes and activities that are not very organized or followed.
3	Established	The function achieves its purpose in an organized way, following established processes, but those processes may not be consistently followed or well communicated.
4	Predictable	The function fully achieves its purpose, is well-defined, and its performance is quantitatively measured. The function is fully integrated within the Department, the function has full resources to achieve business objectives, and policies and procedures are regularly improved.
5	Optimized	The function fully achieves its purpose, is well-defined, and its performance is quantitatively measured. There is continuous improvement that is pursued, and technology is heavily leveraged to automate workflow and improve quality and effectiveness of processes.

## **Appendix 2: Management Response and Action Plan**

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The Finance and Operations Division provided the following responses:

Recommendation	Responsible Department and Section/Unit	Department Response	Completion Date
<p>1. The Department should use Preliminary Asset Inventory Reports that are generated immediately prior to the onsite visits (or as closely to this date as possible) for use by the Enforcement Division's Compliance Specialists so that there is a more accurate record of inventory items to locate while onsite.</p>	<p>FAO Director of Operations</p>	<p>The Department agrees with this recommendation. This procedure is now standard operating procedure for the annual inventory process and was implemented during the FY 2024 inventory. Enforcement Compliance Specialist (ENF CS) requests an updated preliminary asset inventory report 3-5 days before conducting onsite county office visits. Upon request the asset team compiles and emails a digital inventory packet that includes a new (clean) asset inventory report, and all required inventory forms (i.e., missing or additional items found forms).</p>	<p>07/31/2024</p>
<p>2. The Department should establish a process to ensure that additional inventory items found or inventory items marked as missing by the Enforcement Division's Compliance Specialists are accurately and timely reported in the State Property Accounting system.</p>	<p>FAO Director of Operations</p>	<p>The Department agrees with this recommendation. The new process was implemented during the FY 2024 inventory count. Returned (emailed) inventories from ENF Compliance Specialists were processed, all issues were "investigated" and updates or adjustments were generally completed on the same day reports were received. Reports that were not resolved on the same day were investigated until all means were exhausted. All HQ/RSC inventories followed the same procedures when the IC sent their inventory reports to the asset management team.</p> <p>The missing item form is used to track assets identified as missing during inventories. Listed information technology (IT) assets go to the IT division to conduct additional research. Operations asset management team conducts internal research for non-IT related assets. The division directors (or their representative) sign the missing asset form(s) for each asset not located after all research of the discrepancies are exhausted. The final step is inputting updates into CAPPs and SPA and reconciling the two systems.</p>	<p>07/31/2024</p>

Recommendation	Responsible Department and Section/Unit	Department Response	Completion Date
3. The Department should consider reconciling assets and make accounting adjustments in the State Property Accounting system monthly or quarterly, rather than annually.	FAO Director of Operations	The Department agrees with the recommendation. Plans are being developed to run periodic reconciliation reports throughout the year. Additionally, adjustments to SPA and CAPPs are made when assets are received, delivered, transferred or surplus.	11/01/2024
4. The Department should continue leveraging technology to manage assets and consider expanding its use to include network devices to drive efficiency in its annual inventory verification process.	FAO Director of Operations	The Department agrees with the recommendation. The department currently uses electronic verification to locate assets connected to the network; computers, WIFI routers, and servers. Electronic verification will remain a permanent process and will be included in the operations asset management standard operating procedures. As technological changes take place, the asset team will work with IT to keep the process relevant and accurate.	07/31/2024
5. The Department should consider identifying assets that have not been used within a specified period with Ivanti LANDESK, SolarWinds, or other technology so that it can be more proactive in managing assets.	FAO Director of Operations	The Department agrees with this recommendation. We will work with IT to develop a way to further incorporate technology into the asset management process.	11/01/2024











# Texas Department *of* Motor Vehicles

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## Quality Assurance and Improvement Program Report 25-02

Internal Audit Division  
October 2024

## Quality Assurance and Improvement Program Report, 25-02

### Executive Summary

The Internal Audit Division (IAD) at the Texas Department of Motor Vehicles (TxDMV or Department) follows (1) the audit standards prescribed by the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing (IIA Standards), (2) U.S. Government Accountability Office's (GAO) Generally Accepted Government Auditing Standards (GAGAS); and (3) Texas Internal Auditing Act, Texas Government Code. These audit standards require IAD to develop and maintain a Quality Assurance and Improvement Program (QAIP) that includes both internal and external assessments.

Internal assessments include ongoing monitoring of the performance of the internal audit activity as well as annual self-assessment reviews. The IIA Standards require the results of internal assessments be communicated to the governing board annually.

### WHAT WE FOUND

IAD issued five results from its internal assessment:



**Result #1 and #2:** IAD met compliance and performance audit standards.



**Result #3:** IAD met 4 of 5 metrics in its key performance indicators.



**Result #4:** IAD maintained its level 4 on the capability model.



**Result #5:** IAD received and referred 65 fraud, waste, and abuse allegations.

### WHAT WE RECOMMEND



**Recommendation #1:** IAD should continue tracking all internal and external audit recommendations and ensure that recommendations are being implemented.



**Recommendation #2:** IAD should continue to track and monitor fraud, waste, and abuse complaints received.



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## Background

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The Internal Audit Division (IAD) at the Texas Department of Motor Vehicles (TxDMV or Department) follows audit standards prescribed by:

- (1) the audit standards prescribed by the Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing (IIA Standards), the Definition of Internal Auditing, the Core Principles for the Professional Practice of Internal Auditing and the Code of Ethics;
- (2) U.S. Government Accountability Office's (GAO) Generally Accepted Government Auditing Standards (GAGAS); and
- (3) Texas Internal Auditing Act, Texas Government Code, Chapter 2102 (Act).

These audit standards require IAD to develop and maintain a Quality Assurance and Improvement Program (QAIP) that includes both internal and external assessments:

**Internal assessments** are ongoing monitoring of the performance of the internal audit activity, as well as annual self-assessment reviews. The IIA Standards require the results of the internal assessments to be communicated to the governing board annually. Internal assessments include a review of all audit documentation, audit recommendations, and reports for each engagement conducted by IAD in a fiscal year (FY) prior to finalizing an engagement file. The annual self-assessment includes verifying that IAD followed all required compliance and performance audit standards. In addition, IAD provides progress and results on the following:

- Key Performance Indicators (KPIs);
- Institute of Internal Auditors (IIA) – Internal Audit Capability Model for the Public Sector (Capability Model); and,
- Fraud, waste, and abuse allegations and disposition.

**External assessment (Peer Review)** is a review of the IAD conducted by a qualified, knowledgeable external party (Peer Review team). This review results in a report rendering an overall opinion on whether IAD complied with audit standards. The external assessment may also provide feedback on operational or strategic issues. IAD received its most recent Peer Review in March 2021. IAD implemented the Peer Review recommendation in FY2022.

### Audit Engagement Team

The assessment was performed by Sonja Murillo, Sr. Internal Auditor and Jason Gonzalez, Interim Internal Audit Director.

## Assessment Results

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### Assessment Result #1: IAD met compliance standards

IAD met all compliance standards based on a review of the IAD's audit charter, standard operating procedures, and engagement control programs. IAD was in adherence with all compliance standards:

- **Purpose, Authority, and Responsibility** - The internal audit function must be formally defined in an internal audit charter, consistent with the Mission of Internal Audit and the mandatory elements of the International Professional Practices Framework (the Core Principles for the Professional Practice of Internal Auditing, the Code of Ethics, the Institute of Internal Auditors (IIA) Standards, and the Definition of Internal Auditing). The IAD internal audit charter covering FY2024 was approved by the TxDMV Board in August 2022.
- **Independence and Objectivity** - The internal audit function must be independent and perform work in an objective manner.
- **Proficiency and Due Professional Care** - Engagements must be performed by staff who are proficient and have due professional care.
- **Quality Assurance and Improvement Program** - A quality assurance and improvement program must be established and must enable an evaluation of the internal audit function's conformance with the audit standards and any applicable other requirements. The program should also assess the efficiency and effectiveness of the internal audit function and identify opportunities for improvement for the function.
- **Managing the Internal Audit Activity** - The internal audit function must be effectively managed to ensure it adds value to the organization.
- **Nature of Work** - The internal audit function must evaluate and contribute to the improvement of the organization's governance, risk management, and control processes using a systematic, disciplined, and risk-based approach.
- **Monitoring Progress** - A system to monitor the disposition of results must be established, maintained, and communicated.

## Assessment Result #2: IAD met performance audit standards

IAD reviewed the FY2024 Investigation Processes Audit to determine compliance with performance standards when planning, performing, and communicating engagement. IAD adhered to all performance audit standards:

- **Engagement Planning** - A plan must be developed and documented for each engagement.
- **Performing the Engagement** - Internal auditors must identify, analyze, evaluate, and document sufficient information to achieve the engagement's objectives.
- **Communicating Results** - Results from the audit engagements must be communicated to management and others in charge of governance. Audit results were communicated to the Department's Enforcement Division and in the August 2024 Department Board meeting.

## Assessment Result #3: IAD should ensure, when possible, recommendations are implemented timely.

IAD has seven key performance indicators (KPIs) to measure the audit function's effectiveness and efficiency. IAD met 4 of 5 KPIs.

**KPI #1: Percentage of audit recommendations overdue** – IAD monitors the Department's implementation for internal and external audit recommendations. In FY2024, IAD tracked 45 audit recommendations consisting of 34 *internal* and 11 *external* audit recommendations.

IAD ended FY2024 with 16 of 45 (36%) audit recommendations overdue not meeting its goal of 20% or less. The overdue recommendations consist of 15 internal and 1 external audit. The Department is currently working with the Information Technology Systems Division on implementing new systems therefore, outstanding items are currently in progress and are being closely monitored.

IAD should continue tracking all internal and external audit recommendations and ensure that divisions are providing status updates on the progress of outstanding recommendations.

**KPI #2: Percentage of audit plan completed** – IAD completed 6 of 7 (90%) engagements listed in the FY2024 Internal Audit Plan, exceeding the 80% goal. The one engagement not completed is an audit that was completed in FY2024 but the report was not released until FY2025.

**KPI #3: Percentage of complaint referred or investigated within 10 days** – IAD referred 83% of complaints received within 10 days of exceeding the 80% goal.

In FY24 IAD received 65 complaints that consisted of 55 from the State Auditor's Office and 10 from external sources.



**KPI #4: Number of internal audit education efforts conducted annually** – IAD has a goal of completing four educational and outreach efforts. In FY2024, IAD met its goal by conducting four educational and outreach efforts as seen in Figure 2.

*Figure 2: Educational and Outreach Efforts Conducted*

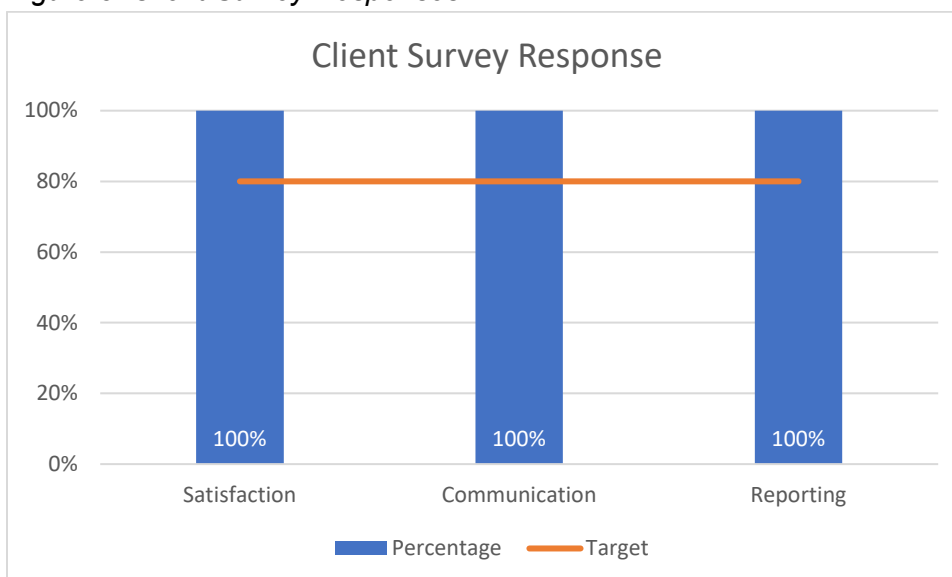
Number	Quarter	Topic	Audience
1	2	COSO Framework (E-team)	Internal
2	3	St. Edward's University Lunch and Learn	External
3	3	Client Educational Updates	Internal
4	4	Client Educational Updates	Internal

**KPI #5, #6, #7: Survey results on client satisfaction, communication, and reporting** – For three KPIs, IAD uses post-engagement surveys to determine Department staff's overall satisfaction with the engagement. The three metrics are:

- **Satisfaction:** Percentage in client survey who agree IAD provided value for the Department and/or Division
- **Communication:** Percentage in client survey who agree IAD communicated the status of audit work throughout the audit
- **Reporting:** Percentage in client survey who agree that the audit report was accurate, clear, and engaging to read.

Figure 3 below depicts the survey results with satisfaction at 100%, communication at 100%, and reporting at 100%, exceeding the goal of 80% for each area. These survey results are based on the Regional Services Audit, the Investigation Processes Audit, and the Inventory and Assets Audit, all of which were completed in FY2024.

*Figure 3: Client Survey Responses*



## Assessment Result #4: IAD maintained its level 4 on the capability model

IAD tracks its effectiveness through the *Capability Model for the Public Sector*. The goal for the division is to achieve *Level 5, Optimizing*. In 2018, IAD was at a *Level 2, Informal and Reactive*. Since then, IAD has consistently improved with each fiscal year. In FY2024, IAD maintained a capability model of *Level 4, Predictable*. For example, IAD supports professional bodies, including external participants in education and outreach efforts as mentioned above. Also, IAD reports to top-level authority in the Department for governance structure and IAD provides management with insight into organizational risks.

Figure 4: FY2023 TxDMV IAD Capability Model

	Services and Role of IAD	People Management	Professional Practices	Performance Management and Accountability	Organizational Relationships and Culture	Governance Structures
<b>Level 5 – Optimized</b>	IAD Recognized as Key Agent of Change	Leadership Involvement with Professional Bodies  Workforce Projection	Continuous Improvement in Professional Practices  Strategic IAD Planning	Outcome Performance and Value to Organization Achieved	Effective and Ongoing Relationships	Independence, Power, and Authority of the IAD Activity
<b>Level 4 – Predictable</b>	Overall Assurance on Governance, Risk Management, and Control	Contributes to Management Development  IAD Activity Supports Professional Bodies  Workforce Planning	Audit Strategy Leverages Organization's Management of Risk	Integration of Qualitative and Quantitative Performance Measures	Chief Audit Executive Advises and Influences Top-level Management	Independent Oversight of the IAD Activity  Chief Audit Executive Reports to Top-level Authority
<b>Level 3 – Established</b>	Advisory Services  Performance and Value-for-Money Audits	Team Building and Competency  Professionally Qualified Staff	Quality Management Framework  Risk-based Audit Plans	Performance Measures  Cost Information  IAD Management Reports	Coordination with Other Review Groups  Integral Component of Management Team	Management Oversight of the IAD Activity  Funding Mechanism
<b>Level 2 – Informal and Reactive</b>	Compliance Auditing	Individual Professional Development  Skilled People Identified and Recruited	Professional Practices and Processes Framework  Audit Plan Based on Management/ Stakeholder Priorities	IAD Operating Budget  IAD Business Plan	Managing within the IAD Activity	Full Access to the Organization's Information, Assets, and People  Reporting Relationship Established

	Services and Role of IAD	People Management	Professional Practices	Performance Management and Accountability	Organizational Relationships and Culture	Governance Structures
<b>Level 1 – Minimal</b>	Ad hoc and unstructured; isolated single audits or reviews of documents and transactions for accuracy and compliance; outputs dependent upon the skills of specific individuals holding the position; no specific professional practices established other than those provided by professional associations; funding approved by management, as needed; absence of infrastructure; auditors likely part of a larger organizational unit; no established capabilities; therefore, no specific key process areas					

## Assessment Result #5: IAD received and tracked 65 fraud, waste, and abuse allegations

IAD tracks and investigates fraud, waste, and abuse (FWA) allegations. The allegations are received from multiple sources: internal sources (employees), external sources, and the State Auditor’s Office (SAO). In FY2024, IAD received a total of 65 complaints compared to 57 in FY2023 and 90 in FY2022.

*Figure 5: Fraud, Waste, and Abuse Allegations in FY2022 thru FY2024*

Allegation Type	FY2022	FY2023	FY2024
Internal	9	0	0
External	2	8	10
SAO	79	49	55
<b>Total</b>	<b>90</b>	<b>57</b>	<b>65</b>

Of the 65 allegations received in FY2024, 55 were referred, 10 were reviewed and closed. In FY2024, the top categories of FWA allegations pertain to dealers (22) and titles (12).

## Appendix 1: Objective, Scope, and Methodology

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### Objective

To provide a summary of the Internal Audit Division activities and compliance with applicable audit standards.

### Scope and Methodology

The scope of the assessment included fiscal year 2024 Internal Audit Division activities. Information and documents reviewed in the assessment included the following:

- End of engagement survey results
- August 2022 approved Internal Audit Charter
- IAD Standard Operating Procedures
- IAD Engagement Control Programs
- TxDMV Operational Plan
- TeamMate+ Audit Programs
- IIA's Capability Model
- Regional Service Centers Audit
- Investigation Processes Audit
- Inventory Assets Audit

### Report Distribution

This report is distributed to the Board of the Texas Department of Motor Vehicles.



# Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

## Fiscal Year 2024 Internal Audit Annual Report

25 – 01

Internal Audit Division  
October 2024

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## Introduction

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The Internal Audit Division (IAD) at the Texas Department of Motor Vehicles (TxDMV) prepared the Fiscal Year 2024 Internal Audit Annual Report to meet the requirements of the Texas Government Code using guidelines established by the State Auditor's Office.

In fiscal year 2024, IAD completed 7 engagements which consisted of 3 audits, 2 follow-ups, and 2 compliance reports that provided management with information and analyses to assist in initiating improvements to operations and to strengthen internal controls. IAD provided advice on governance and other activities to work toward more effective and efficient processes.

## **I. Compliance with Texas Government Code, Section 2102.015: Posting the Internal Audit Plan, Internal Audit Annual Report, and Other Audit Information on the Website**

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Texas Government Code, Section 2102.015 requires state agencies and institution of higher education to post the entity's internal audit plans and internal audit annual reports on the entity's website within 30 days of approval. The statute also requires the entity to post any weaknesses or concerns resulting from the annual plan or annual report and a summary of actions taken to address the issues raised by the audit plan or annual report.

The Internal Audit Division (IAD) at the Texas Department of Motor Vehicles (TxDMV) posted the following on its [website](#):

- FY 2024 Internal Audit Plan
- FY 2023 Internal Audit Report



## II. Internal Audit Plan for Fiscal Year 2024

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The status of the Fiscal Year 2024 internal audit plan engagements is outlined below in Table 1.

Table 1. Fiscal Year 2024 Internal Audit Plan Status

Engagement Number and Name	Type	Division Impacted	Status / Report Date
24-00: Audit Recommendation Implementation Status Follow-Up	Follow-up	Various	Completed January 2024 Completed August 2024
24-01: Fiscal Year 2022 Internal Audit Annual Report	Compliance	IAD	Completed October 2023
24-02: Quality Assurance - Internal Assessment	Compliance	IAD	Completed November 2023
23-05: Regional Service Centers Audit	Audit	Vehicle Titles and Registration Division	Completed December 2023
24-03 Investigation Processes Audit	Audit	Enforcement Division	Completed June 2024
24-04: Inventory Management Audit	Audit	Finance and Operations Division	Completed August 2024

### Internal Audit Plan Deviations

IAD submitted the FY 2024 Internal Audit Plan in August 2023, there were no deviations to the Board approved audit plan in FY 2024.

### **III. Consulting Services and Nonaudit Services Completed**

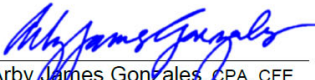
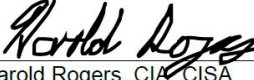
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IAD did not perform an advisory service engagement during the fiscal year.

## V. External Quality Assurance Review

IAD went through an external quality assurance review (peer review) in fiscal year 2021. Representatives of the State Agency Internal Audit Forum performed the peer review in accordance with current peer review policies and procedures. On March 2021, IAD received a rating of “pass” out of three possible ratings: pass, pass with deficiencies, or fail (see Figure 1).

Figure 1. Peer Review Opinion

<p>Texas Department of Motor Vehicles Internal Audit Division External Quality Assurance Review – March 2021</p>	
<p><b>Overall Opinion</b></p>	
<p>Based on the information received and evaluated during this external quality assurance review, it is our opinion that the Texas Department of Motor Vehicles Internal Audit Division receives a rating of <b>“Pass/Generally Conforms”</b> and is in compliance with the Institute of Internal Auditors (IIA) <i>International Standards for the Professional Practice of Internal Auditing</i> and Code of Ethics, the United States Government Accountability Office (GAO) <i>Government Auditing Standards</i>, and the Texas Internal Auditing Act (Texas Government Code, Chapter 2102). This opinion, which is the highest of the three possible ratings, means that policies, procedures, and practices are in place to implement the standards and requirements necessary for ensuring the independence, objectivity, and proficiency of the internal audit function.</p>	
<p>The Internal Audit Division is independent, objective, and provides impartial and unbiased judgments on the audit work performed. Division staff are qualified, proficient, and knowledgeable in the areas they audit. Individual audit projects are planned using risk assessment techniques; audit conclusions are supported in the working papers; and findings and recommendations are clear and concise.</p>	
<p>The Internal Audit Division is well managed. In addition, the Division has effective relationships with the Board and is well respected and supported by management. Surveys and interviews conducted during the quality assurance review indicate that management considers Internal Audit a useful part of the overall Department operations and finds that the audit process and report recommendations add value and help improve the Department’s operations.</p>	
<p>The Internal Audit Division has reviewed the results of the peer review team’s work and has accepted them to be an accurate representation of the Division’s operations.</p>	
<p><b>Acknowledgements</b></p>	
<p>We appreciate the courtesy and cooperation extended to us by the Internal Audit Division Director, Internal Audit staff, the Chairman of the Board and the Chair of the Finance and Audit Committee, the Executive Director, and the senior managers who participated in the interview process. We would also like to thank each person who completed surveys for the quality assurance review. The feedback from the surveys and the interviews provided valuable information regarding the operations of the Internal Audit Division and its relationship with management.</p>	
 <hr/> <p>Arby James Gonzales, CPA, CFE Internal Audit Director Texas Division of Insurance SAIAF Peer Review Team Leader</p>	<p>April 21, 2021 Date</p>
 <hr/> <p>Harold Rogers, CIA, CISA Internal Auditor Texas Workforce Commission SAIAF Peer Review Team Member</p>	<p>April 21, 2021 Date</p>

## V. Internal Audit Plan for Fiscal Year 2025

### Fiscal Year 2025 Engagements

The TxDMV Board approved the Fiscal Year 2025 Internal Audit Plan on August 8, 2024. The audit plan included 12 planned engagements (Table 2), five alternative engagements (Table 3), value-added services, and division initiatives.

Table 2. Fiscal Year 2025 Planned Engagements

Topic	Potential Objective
Fleet Management Audit	This audit could determine the effectiveness of the vehicle maintenance practices, compliance with the State Fleet Plan, and fleet monitoring.
Information Security Audit	This audit could evaluate how the Department assesses and tracks vulnerabilities, the defenses in place to prevent malware, and the methods used to establish and maintain a security awareness program.
Public Information Request Audit	This audit could evaluate the internal controls on the Department's processes used to receive, track, and fulfill public information requests.
Network Infrastructure and Monitoring Audit	This audit could evaluate how the Department establishes, implements, and actively manages network devices as well as the processes in monitoring the network.
Special Plates Audit	This audit could evaluate the process and controls in processing special plates, such as personalized and military service license plates.
Motor Carrier Licensing Processes Advisory	This advisory could look at the licensing/renewal process for credentialing.
Consumer Relations Division Quality Assurance Advisory	This advisory could review the quality assurance program for opportunities to improve efficiency in current processes.
Contract Monitoring Advisory	This advisory could determine how contracts are being managed.
FY 2024 Internal Audit Annual Report	A report produced in FY 2025 that summarizes IAD's activities conducted in FY 2024. This report will be submitted to the State Auditor's Office.

Topic	Potential Objective
Quality Assurance and Improvement Program - Internal Assessment	A report produced in FY 2025. This is an internal assessment to determine IAD's compliance with audit standards and performance.
Audit Recommendation Implementation Status	An engagement to verify if outstanding audit recommendations have been fully implemented.
FY 2026 Risk Assessment and Internal Audit Plan	An enterprise-wide risk assessment to identify risk areas for the upcoming year. The Internal Audit Plan will be submitted to the State Auditor's Office.
Internal Audit Division Peer Review	External peer review.

Table 3. FY 2025 Alternative Engagements

Topic	Potential Objective
Key Performance Metrics Audit	This audit could determine the accuracy of the reported performance metrics and the adequacy of related controls over the collection and reporting of selected performance metrics.
Closed Data Portal Audit	This audit could evaluate the controls in place prior to granting access to the Closed Data Portal and for ensuring appropriate use.
Leave and Overtime Advisory	This advisory could provide analysis on leave balances (e.g., vacation/comp time) in various divisions and approval processes.
Information Technology Governance Advisory	This advisory could assess the effectiveness of the governance structure in providing oversight over key information technology projects.

## Value-Added Services and Division Initiatives

### Value-Added Services

- Investigations on Fraud, Waste, and Abuse:** Detecting, tracking, and reviewing any internal fraud, waste, and abuse allegations, complaints from external parties, and those from the State Auditor's Office. IAD investigates internal fraud, waste, and abuse allegations.
- External Audit/Review Coordination:** Coordinating external audits or reviews by providing audit status updates and facilitating management responses to recommendations.
- Workgroup Participation / Ad-hoc Advisory:** Participating in TxDMV workgroups, such as the Executive Steering Committee and the Governance Team, to help identify unforeseen risks in enterprise projects or activities. IAD also sets aside hours to address any short-term assessment

or information requests by TxDMV staff.

- **Department Training:** Providing training to help TxDMV staff understand the role of IAD and staff's responsibilities in recommendation implementation and prevention of fraud, waste, and abuse.

#### Division Initiatives

- **TeamMate+ Process Optimization:** Enhancing the software's functionality by continuing to update the risks stored within the software, creating and automating reports, and staying current on best practices for optimized software functionality.
- **Staff Development & Hiring:** Taking the minimum required hours of training each year (40 hours) in accordance with auditing standards. This includes creating development plans to obtain required knowledge, skills, and abilities for audit and advisory services. Hiring internal audit staff to fill IAD vacancies and providing training to integrate new hires into the office.

#### Risk Assessment Methodology

The audit plan was developed using a risk-based methodology, which incorporated input from TxDMV board members, executive management, division management, and risks identified by audit staff through previous fiscal year engagements and observations. IAD also reviewed internal audit and industry publications to identify and rank potential audit topics. In addition, IAD collected information on the potential controls that were in place to mitigate the identified risks.

Each risk was reviewed using approved Department risk guidance that took into consideration the following factors: financial impact, operational effectiveness and efficiency impact, legal or regulatory impact, brand or reputational impact, degree of change in the program/function/process, degree of complexity, degree of centralization, and control design strength. Risks were scored using the factors mentioned to determine the engagements in the audit plan.

## **VI. External Audit Services Procured in Fiscal Year 2024**

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TxDMV did not utilize external audit services during the fiscal year.

## VII. Reporting Suspected Fraud and Abuse

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TxDMV has taken the following actions to implement the fraud detection and reporting requirements of Section 7.09 of the General Appropriations Act and Section 321.022 of the Texas Government Code:

- TxDMV’s Internal Audit intranet site includes a section on reporting fraud, waste, or abuse.
- TxDMV’s public-facing website includes a “Report Fraud, Waste or Abuse” link to the State Auditor’s Office “Reporting Fraud” page. This link is also provided on the Internal Audit Division’s webpage.
- TxDMV’s Fraud, Waste, and Abuse Policy includes definitions, examples, and procedures on how to report detected or suspected fraud, waste, or abuse.
- IAD evaluates all instances of fraud, waste, or abuse reported to IAD to determine appropriate action. If the Internal Audit Director has reasonable cause to believe that fraudulent or unlawful conduct has occurred in relation to the operation of the TxDMV, the Director will work with appropriate parties and notify the SAO.





Texas Department  
*of* Motor Vehicles