

PROPOSAL OF REVISIONS TO

SUBCHAPTER B. CRIMINAL HISTORY EVALUATION GUIDELINES AND PROCEDURES

43 TAC §211.11

REPEAL

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §211.1 AND §211.2

NEW

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §211.1

SUBCHAPTER B. CRIMINAL HISTORY EVALUATION GUIDELINES AND PROCEDURES

43 TAC §211.7 AND §211.9

SUBCHAPTER C. CRIMINAL OFFENSE GUIDELINES: MOTOR CARRIERS

43 TAC §211.23 and §211.25

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes to revise 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, by repealing current §211.1 and §211.2, and proposing new §211.1. The department also proposes to amend current 43 TAC Subchapter B, Criminal History Evaluation Guidelines and Procedures, by retitling current Subchapter B, amending current §211.11, and adding new §211.7 and §211.9. In addition, the department proposes to add new Subchapter C, Criminal Offense Guidelines: Motor Carriers; §211.23 and §211.25. New §211.1 and new Subchapter C are necessary to implement Senate Bill (SB) 1080, 89th Legislature, Regular Session (2025) regarding motor carriers. The revisions to Subchapter B are necessary to make conforming changes to

Chapter 211 due to the proposed addition of new Subchapter C. The proposed repeals are also published in this issue of the *Texas Register*.

Prior to the effective date of SB 1080 on May 27, 2025, Occupations Code, §53.021(b) automatically revoked licenses by operation of law without any action by the department following the license holder's imprisonment for any felony. SB 1080 amended Occupations Code, §53.021(b) to narrow the law so that a license is automatically revoked upon imprisonment only for specific felonies, including offenses that directly relate to the duties and responsibilities of the licensed occupation.

For purposes of Occupations Code Chapter 53, a certificate of registration that the department issues to a motor carrier under Transportation Code, Chapter 643 is a license. Occupations Code, §53.001 and Government Code, §2001.003 define the word "license" as "the whole or part of a state agency permit, certificate, approval, registration, or similar form of permission required by law." The department must therefore define in rule which offenses directly relate to the duties and responsibilities of a licensed motor carrier, so that the department will be able to determine which licenses are revoked by operation of law under Occupations Code, §53.021(b)(1)(A).

EXPLANATION.

Subchapter A. General Provisions

The proposed repeal of §211.1 would allow the department to propose a new §211.1 that would apply to the entire Chapter 211, including new Subchapter C regarding motor carriers.

Proposed new §211.1(a) would state that the purpose of Chapter 211 is to implement Occupations Code, Chapter 53 regarding the consequences of a criminal conviction on a license that the department is authorized to issue. Proposed new §211.1(b) would incorporate laws by reference to provide the applicable definitions regarding specific offenses referenced in Chapter 211. Occupations

Code, §53.021 references “an offense that directly relates to the duties and responsibilities of the licensed occupation,” and does not limit the language to offenses under Texas law. Proposed new §211.1(b) therefore incorporates definitions from federal laws, other states’ laws, and the laws of foreign jurisdictions. Proposed new §211.1(c) would define “department” as the Texas Department of Motor Vehicles for clarity and consistency.

Subchapter B. Criminal History Evaluation Guidelines and Procedures

The department proposes to retitle Subchapter B to only apply to the motor vehicle, salvage vehicle, and trailer industries because the department’s proposed revisions to Chapter 211 include new Subchapter C regarding motor carriers.

The proposed repeal of current §211.1 and §211.2 would allow the department to propose modified versions of the current text of these sections as new §211.7 and §211.9 to only apply to Subchapter B, regarding the motor vehicle, salvage vehicle and trailer industries, due to the proposed new Subchapter C regarding motor carriers.

Proposed new §211.7 would modify the language in current §211.1 to apply only to Subchapter B, clarify that the referenced statutes are Texas statutes, move the definitions to subsection (a) so that they appear before the use of the defined terms in proposed new §211.7, and make the format of the definitions consistent with the department’s other administrative rules. Proposed new §211.9 would modify the language in current §211.2 to only apply to Subchapter B and clarify that the reference to the Occupations Code is a reference to the Texas Occupations Code. The text in proposed new §211.7 and §211.9 clarify that the statutory citations are to Texas law, and are necessary due to references to the laws in other jurisdictions in Chapter 211 and the proposed revisions to Chapter 211.

Proposed amendments to §211.11 would update cross-references to proposed new §211.9, update the language to only apply to Subchapter B, and clarify the statutory citations are to Texas law for

1 the reasons stated above. Proposed amendments to §211.11 would also modify the current citations to
2 statutes for consistency with the citations to Texas law throughout Chapter 211.

3 **Subchapter C. Criminal Offense Guidelines: Motor Carriers**

4 Proposed new Subchapter C would implement SB 1080 for motor carriers by defining which
5 offenses directly relate to the duties and responsibilities of motor carriers for purposes of Occupations
6 Code, §53.021(b)(1)(A).

7 Proposed new §211.23(a) would provide the definition for the word “license” as used in proposed
8 new Subchapter C, limiting the term to a certificate of registration issued by the department under Texas
9 Transportation Code, Chapter 643 to a sole proprietor motor carrier. This definition prevents confusion
10 about the application of Occupations Code, §53.021(b)(1)(A) by excluding legal entities with multiple
11 employees or representatives, because such entities cannot be imprisoned for offenses. Only an individual
12 can be imprisoned. Proposed new §211.23(a) would also clarify that a license authorizes a motor carrier
13 to engage in certain operations under Transportation Code, Chapter 643. Although the department issues
14 one type of license under Transportation Code, Chapter 643, a licensed motor carrier may engage in
15 different types of operations, such as transporting cargo, passengers, household goods, or hazardous
16 materials, subject to compliance with the applicable laws regarding that type of operation.

17 Occupations Code, §53.025 requires each state agency to issue guidelines that “must state the
18 reasons a particular crime is considered to relate to a particular license.” To fulfill that requirement,
19 proposed new §211.23(b) would state the reasons each offense referenced in proposed new §211.25 is
20 considered to relate to the particular duties and responsibilities of a license for a motor carrier. Proposed
21 new §211.23(b) would explain why the different offenses listed in proposed new §211.25 would relate to
22 the different types of motor carrier operations that are authorized under a motor carrier license,
23 depending on how the specific duties and responsibilities of each type of motor carrier operation would

1 provide a greater opportunity for an individual, who is predisposed to commit specific types of violations,
2 to commit those offenses

3 Proposed new §211.25 would state the felony offenses that directly relate to the duties and
4 responsibilities of a licensed motor carrier under Occupations Code, §53.021(b)(1)(A). Proposed new
5 §211.25(a) would explain that under Occupations Code, §53.021(b)(1)(A), a license holder's license is
6 automatically revoked by operation of law on the license holder's imprisonment after a conviction of a
7 felony offense that directly relates to the duties and responsibilities of a license holder. Proposed new
8 §211.25(b) would explain that the department used the factors listed in Occupations Code, §53.022 to
9 determine that the offenses detailed in proposed new §211.25(c) through (g) directly relate to the duties
10 and responsibilities of a license holder under Transportation Code, Chapter 643. Proposed new §211.25(b)
11 would also clarify that the listed offenses include offenses under the laws of the United States or another
12 state of the United States if the offense contains elements that are substantially similar to the elements
13 of an offense under the laws of Texas, except as stated otherwise in proposed new Subchapter C.

14 While the offenses listed in proposed new §211.25(c) would apply to all licensed motor carriers,
15 the offenses listed in proposed new §211.25(d) through (g) would apply only to specific types of motor
16 carrier operations due to the particular opportunities to commit certain offenses under a specific type of
17 motor carrier operation. A licensed motor carrier controls, operates, or directs the operation of one or
18 more motor vehicles that transport persons or cargo, which enables the license holder to commit certain
19 offenses that involve the use of a motor vehicle. Also, a licensed motor carrier provides the department
20 with certain information and documents that the department uses to administer and enforce Texas
21 Transportation Code, Chapter 643 and that law enforcement uses to enforce certain laws, including Texas
22 Transportation Code, Chapter 644 and the administrative rules that the Texas Department of Public Safety
23 adopted under Texas Transportation Code, Chapter 644. In addition, a potential customer of a motor

1 carrier has access to certain information on the department's website to determine whether to use the
2 services of a particular licensed motor carrier, and the licensed motor carrier must provide the
3 department with most of this information as part of a license application and any required updates. A
4 licensed motor carrier is in a position of trust with the department because a licensed motor carrier must
5 provide accurate information and documents to the department, so the department's records are reliable
6 for the department, law enforcement, and potential shippers or passengers of the motor carrier.

7 The offenses that would relate to all licensed motor carriers under proposed new §211.25(c)
8 would include offenses that involve the smuggling of a person, the use of a motor vehicle for trafficking
9 or smuggling persons, bribery, perjury, obstructing a road, intoxication while operating a motor vehicle,
10 delivery of a controlled substance, fraudulent emissions inspections, and knowingly operating a
11 commercial motor vehicle in violation of an out-of-service order if the commercial motor vehicle was
12 involved in a motor vehicle collision that resulted in bodily injury or death of a person. Some of these
13 offenses, like the smuggling of a person, the use of a motor vehicle for trafficking or smuggling persons,
14 and delivery of a controlled substance address Occupations Code, §53.022(3) because being a licensed
15 motor carrier would give an individual an opportunity to engage in that sort of criminal activity again.
16 Other offenses listed in proposed new §211.25(c), like intoxication while operating a motor vehicle, align
17 with Occupations Code, §53.022(4) because intoxication would inhibit a person from being able to fulfill
18 the duties of a licensed motor carrier, including safe operation. Still other offenses—such as those
19 involving fraudulent emissions inspections, bribery, perjury, and knowingly operating a commercial motor
20 vehicle in violation of an out-of-service order during which the commercial motor vehicle was involved in
21 a motor vehicle collision that resulted in bodily injury or death of a person—align with Occupations Code,
22 §53.022(5) because they implicate the duties and responsibilities of motor carriers to comply with safety
23 laws, to remain safe on the road, and to cooperate with, provide accurate information to, and follow the

1 orders of government officials, including law enforcement. The offenses listed in §211.25(c) are thus all
2 equally relevant to all motor carriers, regardless of their specific type of operation.

3 Proposed new §211.25(d) would set out offenses that relate only to a passenger motor carrier
4 due to the position of trust and close physical proximity between the motor carrier and its passengers.
5 The offenses listed in proposed new §211.25(d) would be in addition to the offenses listed in proposed
6 new §211.25(c). A passenger loses some of their autonomy over themselves and their tangible personal
7 property, documents, and cargo while they are in another person's motor vehicle. If the passenger is a
8 child, there is even more risk of a crime involving the child or the child's tangible personal property,
9 documents, or cargo. These would include offenses that harm or endanger another person as set out in
10 Texas Penal Code Title 5, such as criminal homicide, kidnapping, sexual offenses and assaultive offenses.
11 They would also include offenses that endanger families or children, such as enticing a child from their
12 parent's custody, violating court protective orders, selling or purchasing children, continuous family
13 violence, using a minor to sell or display harmful material to a minor, employing a child to work in a
14 sexually-oriented commercial activity, possessing child pornography, and any offense for which the
15 person convicted must register as a sex offender. The listed offenses in proposed new §211.25(d) would
16 also include offenses against tangible personal property, a document, or cargo belonging to another
17 person, such as the offenses of criminal mischief, robbery, and theft. All of these offenses fit within
18 Occupations Code, §53.022(3) in that employment as a passenger carrier would provide an increased
19 opportunity to engage in this sort of criminal activity again.

20 Proposed new §211.25(e) would define offenses that relate only to a for-hire motor carrier of
21 cargo, including household goods and hazardous materials, due to the motor carrier's specific position of
22 trust with the shipper and access to the shipper's cargo. A shipper and an individual associated with the
23 shipper may interact with the motor carrier in person, which provides an opportunity for the motor carrier

1 to commit an offense against the individual. Also, a shipper loses control over their cargo when the motor
2 carrier has possession of the cargo. The offenses listed in proposed new §211.25(e) would be in addition
3 to the offenses listed in proposed new §211.25(c). These offenses would include any offense for which
4 the person must register as a sex offender, and the offenses set out in Texas Penal Code Title 5, such as
5 criminal homicide, kidnapping, sexual offenses, and assaultive offenses. In keeping with Occupations
6 Code, §53.022(3), a motor carrier's contact with a shipper would give the carrier an increased opportunity
7 to engage in these offenses against the shipper and individuals associated with the shipper. The offenses
8 listed in proposed new §211.25(e) would also include offenses against tangible personal property, a
9 document, or cargo belonging to another person, such as the offenses of criminal mischief, robbery,
10 burglary of a vehicle, criminal trespass, theft, and fraud. Since a motor carrier of cargo is entrusted with a
11 shipper's cargo for transport, the motor carrier would have an increased opportunity to engage in these
12 property crimes. In keeping with Occupations Code, §53.022(3), a motor carrier's contact with a shipper
13 and the shipper's property would give the motor carrier an increased opportunity to engage in these
14 offenses against the shipper.

15 Proposed new §211.25(f) would enumerate offenses that relate only to a household goods carrier
16 because they are allowed access to the shipper's home, household goods, and household members,
17 including children. These offenses would be in addition to the offenses listed in §211.25(c) and (e).
18 Proposed new §211.25(f) would include offenses related to real property, including arson, criminal
19 mischief, and burglary. Household goods carriers are not just entrusted with personal property, but they
20 also have access to and gain knowledge of the customer's home from or to which they are moving. A
21 household goods carrier therefore has an increased opportunity to commit these offenses by virtue of
22 their licensed profession, in accordance with Occupations Code, §53.022(3). The offenses listed in
23 proposed new §211.25(f) would also include using a minor to sell or display harmful material to a minor,

1 employing a child to work in a sexually-oriented commercial activity, and possession of child pornography.
2 These offenses align with Occupations Code, §53.022(3) because a household goods carrier has more
3 access to children as the carrier moves household goods from one home to another for families.

4 Proposed new §211.25(g) would list offenses that relate only to a motor carrier who transports
5 hazardous materials, which create opportunities for those motor carriers to commit offenses that
6 endanger the public and the environment. The offenses in proposed new §211.25(g) would apply to these
7 motor carriers in addition to the offenses listed in §211.25(c) and (e). These offenses would include any
8 offense related to hazardous material, waste disposal, water contamination, air pollution, or other
9 environmental offenses under Texas law, federal law, or the law of another state. For example, 49 U.S.C.
10 §5124 provides for a criminal penalty of imprisonment for up to 10 years for a person who violates certain
11 provisions of federal law regarding the transportation of hazardous materials. The offenses under
12 proposed new §211.25(g) address Occupations Code, §53.022(3) because by virtue of having access to
13 hazardous materials, a motor carrier that transports hazardous materials has an increased opportunity to
14 engage in environmental offenses, such as improper transportation, disposal, or discharge of those
15 materials.

16 Proposed new §211.25(h) would state that if a license holder's imprisonment occurs on or after
17 May 1, 2026, for a conviction for any offense described by proposed new §211.25(c) through (g), the
18 license holder's license is automatically revoked on the date of the imprisonment if at least one of the
19 offenses that resulted in the imprisonment falls within the scope of any offense described by proposed
20 new §211.25(c) through (g). These proposed revisions to Chapter 211 are anticipated to become effective
21 on May 1, 2026, if the department's board approves the adoption of these proposed revisions. The
22 department intends to apply the proposed revisions prospectively, so that only those imprisoned on or
23 after May 1, 2026, would be automatically revoked by operation of law for an offense specified under

1 proposed new §211.25(c) through (g). Proposed new §211.25(h) would require that at least one of the
2 offenses that resulted in the imprisonment falls within the scope of any offense described in proposed
3 new §211.25(c) through (g) because these new subsections identify the offenses that directly relate to the
4 duties and responsibilities of a licensed motor carrier as required by Occupations Code, §53.021(b)(1)(A).

5 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
6 has determined that for each year of the first five years the new sections, amendments and repeals will
7 be in effect, there will be no significant fiscal impact to state or local governments as a result of the
8 enforcement or administration of the proposal. Clint Thompson, Director of the Motor Carrier Division,
9 has determined that there will be no significant impact on local employment or the local economy as a
10 result of the proposal.

11 **PUBLIC BENEFIT AND COST NOTE.** Mr. Thompson has also determined that, for each year of the first five
12 years the revisions are in effect, there is one anticipated public benefit.

13 Anticipated Public Benefits. The public benefit anticipated as a result of the proposal is clarity,
14 consistency, enforceability, and predictability with regard to which offenses cause automatic revocation
15 of a motor carrier's license by operation of law when the licensee is imprisoned for the offense.

16 Anticipated Costs To Comply With The Proposal. Mr. Thompson anticipates that there will be no
17 costs to comply with the proposed rule revisions. The cost to persons required to comply with the proposal
18 are due to the language in Occupations Code, §53.021(b)(1)(A) regarding the automatic revocation of a
19 license by operation of law following imprisonment for a felony conviction for an offense that directly
20 relates to the duties and responsibilities of the licensed occupation.

21 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
22 Code, §2006.002, the department has determined that the proposed revisions will not have an adverse
23 economic effect on small businesses, micro-businesses, and rural communities because the proposed

1 revisions merely specify the felony offenses that directly relate to the duties and responsibilities of a
2 motor carrier's license under Transportation Code, Chapter 643 as required by Occupations Code,
3 §53.021(b)(1)(A). Therefore, the department is not required to prepare a regulatory flexibility analysis
4 under Government Code, §2006.002.

5 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests
6 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property
7 that would otherwise exist in the absence of government action and, therefore, does not constitute a
8 taking or require a takings impact assessment under Government Code, §2007.043.

9 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
10 first five years the proposed revisions are in effect, no government program would be created or
11 eliminated. Implementation of the proposed revisions would not require the creation of new employee
12 positions or elimination of existing employee positions. Implementation would not require an increase or
13 decrease in future legislative appropriations to the department or an increase or decrease of fees paid to
14 the department. The proposed revisions technically create a new regulation, as required by SB 1080, to
15 define which offenses are directly related to the occupation of a licensed motor carrier. The proposed
16 revisions do not expand, limit, or repeal an existing regulation. Lastly, the proposed revisions technically
17 affect the number of individuals subject to the rule's applicability, because the department had previously
18 only defined offenses related to the occupations of the motor vehicle, salvage vehicle and trailer
19 industries, while the proposed rule revisions would add the list of felony offenses that directly relate to
20 the duties and responsibilities of a motor carrier licensed under Transportation Code, Chapter 643.
21 However, since motor carriers were previously subject to automatic revocation for imprisonment for any
22 felony under Occupations Code, §53.021(b) prior to the effective date of SB 1080 on May 27, 2025, these
23 proposed rule revisions would actually narrow the offenses for which a motor carrier will be automatically

1 revoked upon imprisonment, in keeping with SB 1080. The proposed revisions will not affect this state's
2 economy.

3 **REQUEST FOR PUBLIC COMMENT.**

4 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on
5 January 26, 2026. The department requests information related to the cost, benefit, or effect of the
6 proposed revisions, including any applicable data, research, or analysis, from any person required to
7 comply with the proposed revisions or any other interested person. A request for a public hearing must
8 be sent separately from your written comments. Send written comments or hearing requests by email to
9 rules@txdmv.gov or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000
10 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments
11 and public testimony presented at the hearing.

12
13
14 **SUBCHAPTER A. GENERAL PROVISIONS**

15 **43 TAC §211.1**

16
17 **STATUTORY AUTHORITY.** The Texas Department of Motor Vehicles (department) proposes the new
18 section under Occupations Code, §2301.151, which gives the board authority to regulate the distribution,
19 sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to
20 exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the
21 qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is
22 conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination,
23 impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to

enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed new section would implement Occupations Code, Chapters 53, 2301 and 2302; and Transportation Code, Chapters 503, 643, and 1002.

Text.

§211.1. Purpose and Definitions.

(a) The purpose of this chapter is to implement Texas Occupations Code, Chapter 53 regarding the consequences of a criminal conviction on a license that the department is authorized to issue.

1 **(b) Except as stated otherwise in this chapter, the definitions contained in the following laws**
2 **apply to this chapter regarding specific offenses, control in the event of a conflict with this chapter, and**
3 **are incorporated by reference into this chapter:**

4 **(1) the Texas Code of Criminal Procedure, Texas Health and Safety Code, Texas**
5 **Occupations Code, Texas Penal Code, Texas Transportation Code, other Texas statutes, and Texas**
6 **administrative rules;**

7 **(2) the federal statutes and regulations of the United States;**

8 **(3) the laws of other states of the United States; and**

9 **(4) the laws of a foreign jurisdiction.**

10 **(c) When used in this chapter, the word “department” means the Texas Department of Motor**
11 **Vehicles.**

12
13 **STATUTORY AUTHORITY.** The Texas Department of Motor Vehicles (department) proposes the repeals
14 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale,
15 and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise
16 that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications
17 of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required
18 by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other
19 abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer
20 Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155,
21 which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code,

Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, to revoke or suspend a license, to place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed repeals would implement Occupations Code, Chapters 53, 2301 and 2302; and Transportation Code, Chapters 503 and 1002.

Text.

~~§211.1. Purpose and Definitions.~~

~~[(a) The licenses issued by the department create positions of trust. License holder services involve access to confidential information; conveyance, titling, and registration of private property; possession of monies belonging to or owed to private individuals, creditors, and governmental entities; and compliance with federal and state environmental and safety regulations. License holders are provided with opportunities to engage in fraud, theft, money laundering, and related crimes, and to endanger the public through violations of environmental and safety regulations. Many license holders~~

~~provide services directly to the public, so licensure provides persons predisposed to commit assaultive or sexual crimes with greater opportunities to engage in such conduct. To protect the public from these harms, the department shall review the criminal history of license applicants before issuing a new or renewal license and may take action on a license holder who commits an offense during the license period based on the guidelines in this chapter.]~~

~~[(b) When used in this chapter, the following words and terms have the following meanings, unless the context clearly indicates otherwise.]~~

~~[(1) "Department" means the Texas Department of Motor Vehicles.]~~

~~[(2) "License" means any license issued by the department under:]~~

~~[(A) Transportation Code, Chapter 503;]~~

~~[(B) Occupations Code, Chapter 2301; or]~~

~~[(C) Occupations Code, Chapter 2302.]~~

~~[(3) "Retail license types" means those license types which require holders to interact directly with the public, but does not include other license types that do not generally interact directly with the public, including manufacturers, distributors, and general distinguishing number holders for the following vehicle categories: ambulance, axle, bus, engine, fire truck/fire fighting vehicle, heavy duty truck, transmission, wholesale motor vehicle dealer, and wholesale motor vehicle auction.]~~

~~[\$211.2. Application of Chapter.]~~

~~[(a) This chapter applies to the following persons:]~~

~~[(1) applicants and holders of any license; and]~~

~~[(2) persons who are acting at the time of application, or will later act, in a
representative capacity for an applicant or holder of a license, including the applicant's or holder's
officers, directors, members, managers, trustees, partners, principals, or managers of business affairs.]~~

~~[(b) In this chapter a "conviction" includes a deferred adjudication that is considered to be a
conviction under Occupations Code, §53.021(d).]~~

SUBCHAPTER B. CRIMINAL HISTORY EVALUATION GUIDELINES AND PROCEDURES: MOTOR

VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRIES

43 TAC §§211.7, 211.9, and 211.11

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

place on probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed revisions would implement Occupations Code, Chapters 53, 2301 and 2302; and Transportation Code, Chapters 503 and 1002.

Text.

§211.7. Definitions and Purpose.

(a) When used in this subchapter, the following words and terms have the following meanings, unless the context clearly indicates otherwise.

(1) License--Any license issued by the department under:

(A) Texas Transportation Code, Chapter 503;

(B) Texas Occupations Code, Chapter 2301; or

(C) Texas Occupations Code, Chapter 2302.

(2) Retail license types--Those license types which require holders to interact directly with the public, but does not include other license types that do not generally interact directly with the public,

1 including manufacturers, distributors, and general distinguishing number holders for the following
2 vehicle categories: ambulance, axle, bus, engine, fire truck/fire fighting vehicle, heavy duty truck,
3 transmission, wholesale motor vehicle dealer, and wholesale motor vehicle auction.

4 (b) The licenses issued by the department create positions of trust. License holder services
5 involve access to confidential information; conveyance, titling, and registration of private property;
6 possession of monies belonging to or owed to private individuals, creditors, and governmental entities;
7 and compliance with federal and state environmental and safety regulations. License holders are
8 provided with opportunities to engage in fraud, theft, money laundering, and related crimes, and to
9 endanger the public through violations of environmental and safety regulations. Many license holders
10 provide services directly to the public, so licensure provides persons predisposed to commit assaultive
11 or sexual crimes with greater opportunities to engage in such conduct. To protect the public from these
12 harms, the department shall review the criminal history of license applicants before issuing a new or
13 renewal license and may take action on a license holder who commits an offense during the license
14 period based on the guidelines in this subchapter.

15
16 §211.9. Application of Subchapter B.

17 (a) This subchapter applies to the following persons:

18 (1) applicants and holders of a license; and

19 (2) persons who are acting at the time of application, or will later act, in a representative
20 capacity for an applicant or holder of a license, including the applicant's or holder's officers, directors,
21 members, managers, trustees, partners, principals, or managers of business affairs.

(b) In this subchapter a “conviction” includes a deferred adjudication that is considered to be a conviction under Texas Occupations Code, §53.021(d).

§211.11. Imprisonment.

(a) The department shall deny a license application if the applicant or a person described by §211.9(a)(2) [§211.2(a)(2)] of this title [chapter] (relating to Application of Subchapter B [Chapter]) is imprisoned while a new or renewal license application is pending.

(b) The department shall revoke a license upon the imprisonment of a license holder following a:

(1) felony conviction for:

(A) an offense that directly relates to the duties and responsibilities of the licensed occupation;

(B) an offense listed in Texas [Article 42A.054,] Code of Criminal Procedure, Article 42A.054; or

(C) a sexually violent offense, as defined by Texas [Article 62.001,] Code of Criminal Procedure, Article 62.001;

(2) felony community supervision revocation;

(3) revocation of parole; or

(4) revocation of mandatory supervision.

(c) A person currently imprisoned because of a felony conviction may not obtain a license, renew a previously issued license, or act in a representative capacity for an application or license holder as described by §211.9(a)(2) of this title. ~~§211.2(a)(2).~~

(d) The department may revoke a license upon the imprisonment for a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision of a person described by §211.9(a)(2) ~~§211.2(a)(2)~~ of this title ~~chapter~~ who remains employed with the license holder.

SUBCHAPTER C. CRIMINAL OFFENSE GUIDELINES: MOTOR CARRIERS

43 TAC §211.23 and §211.25

STATUTORY AUTHORITY. The Texas Department of Motor Vehicles (department) proposes new Subchapter C under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The proposed new subchapter would implement Occupations Code, §53.021(b)(1)(A) and Transportation Code, Chapter 643.

Text.

§211.23. Definition and Criminal Offense Guidelines.

1 (a) When used in this subchapter, the word “license” means a certificate of registration issued
2 by the department under Texas Transportation Code, Chapter 643 to a sole proprietor motor carrier. A
3 license authorizes a motor carrier to engage in certain operations under Transportation Code, Chapter
4 643.

5 (b) The particular offenses referenced in §211.25 of this title (relating to Criminal Offense
6 Guidelines; Imprisonment) relate to the duties and responsibilities of a license holder under Texas
7 Transportation Code, Chapter 643 because an individual who is predisposed to commit violations of
8 certain laws may have a greater opportunity to commit such offenses with a license, in addition to the
9 following reasons regarding particular types of motor carrier operations under Texas Transportation
10 Code, Chapter 643:

11 (1) For the felony offenses referenced in §211.25(c) of this title, a licensed motor carrier
12 controls, operates, or directs the operation of one or more motor vehicles that transport persons or
13 cargo, which enables the license holder to commit certain offenses that involve the use of a motor
14 vehicle. Also, a licensed motor carrier provides the department with certain information and documents
15 that the department uses to administer and enforce Texas Transportation Code, Chapter 643 and that
16 law enforcement uses to enforce certain laws, including Texas Transportation Code, Chapter 644 and
17 the administrative rules that the Texas Department of Public Safety adopted under Texas Transportation
18 Code, Chapter 644. In addition, a potential customer of a motor carrier has access to certain information
19 on the department’s website to determine whether to use the services of a particular licensed motor
20 carrier, and the licensed motor carrier must provide the department with most of this information as
21 part of a license application and any required updates. A licensed motor carrier is in a position of trust
22 with the department because a licensed motor carrier must provide accurate information and

1 documents to the department, so the department's records are reliable for the department, law
2 enforcement, and potential shippers or passengers of the motor carrier.

3 (2) For the offenses referenced in §211.25(d) of this title regarding a motor carrier of
4 passengers, a license creates a position of trust between the motor carrier and their passengers.
5 Passengers lose some of their autonomy over themselves and their tangible personal property,
6 documents, and cargo while they are in another person's motor vehicle. If the passenger is a child, there
7 is even more risk of a crime involving the child or the child's tangible personal property, documents, or
8 cargo.

9 (3) For the offenses referenced in §211.25(e) of this title regarding a for-hire motor
10 carrier of any cargo (including any tangible personal property or a document), a license creates a
11 position of trust between the motor carrier and its shipper. A shipper and an individual associated with
12 the shipper may interact with the motor carrier in person, which provides an opportunity for the motor
13 carrier to commit an offense against the individual. Also, a shipper loses control over their cargo when
14 the motor carrier has possession of the cargo. In addition, the motor carrier likely has access to
15 information regarding the location and description of the shipper's cargo at least a day before the
16 contractual deadline for loading the cargo for transport, which may provide an opportunity for the
17 motor carrier to commit offenses regarding a shipper's cargo.

18 (4) For the offenses referenced in §211.25(f) of this title regarding a household goods
19 carrier, a license creates a position of trust between the motor carrier and its shipper and potentially
20 provides the household goods carrier with access to the shipper's home, the shipper, and other
21 individuals located in or around the shipper's home, including children.

1 (5) For the offenses referenced in §211.25(g) of this title regarding a motor carrier who
2 transports hazardous materials, a license provide such motor carriers with access to hazardous
3 materials, which are potentially dangerous to the public and the environment if the motor carrier does
4 not comply with the applicable laws.

5
6 §211.25 Criminal Offense Guidelines; Imprisonment.

7 (a) Under Texas Occupations Code, §53.021(b)(1)(A), a license holder's license is automatically
8 revoked by operation of law on the license holder's imprisonment after a felony conviction for an
9 offense that directly relates to the duties and responsibilities of the licensed occupation.

10 (b) The department has determined, under the factors listed in Texas Occupations Code,
11 §53.022, that the offenses detailed in subsections (c) through (g) of this section directly relate to the
12 duties and responsibilities of license holders under Texas Occupations Code, §53.021(b)(1)(A). Such
13 offenses include offenses under the laws of the United States or another state of the United States if the
14 offense contains elements that are substantially similar to the elements of an offense under the laws of
15 this state, except as otherwise stated in this subchapter.

16 (c) The following offenses apply to a license:

17 (1) an offense involving the smuggling of a person, as described by Texas Penal Code,
18 Chapter 20;

19 (2) an offense involving the use or intended use of a motor vehicle, as described by
20 Texas Penal Code, §20.07;

1 (3) an offense against public administration, as described by Texas Penal Code, Chapters
2 36 or 37; or Texas Penal Code, §42.03;

3 (4) an offense involving intoxication while operating a motor vehicle, as described by
4 Texas Penal Code, Chapter 49;

5 (5) an offense involving the delivery or intent to deliver a controlled substance,
6 simulated controlled substance, or dangerous drug, as described by Texas Health and Safety Code,
7 Chapter 481, 482, or 483;

8 (6) an offense as described by Texas Transportation Code, §548.6035 or §644.151; and

9 (7) an offense of attempting or conspiring to commit any of the foregoing offenses.

10 (d) The following additional felony offenses apply to a motor carrier of passengers:

11 (1) an offense against the person, as described by Texas Penal Code, Title 5;

12 (2) an offense against the family, as described by Texas Penal Code, §§25.04, 25.07,
13 25.072, 25.08, or 25.11;

14 (3) an offense against tangible personal property, a document, or cargo belonging to
15 another, as described by Texas Penal Code, Chapters 28, 29, or 31;

16 (4) an offense against public order and decency, as described by Texas Penal Code
17 §§43.24, 43.251, or 43.262;

18 (5) a reportable offense conviction under Texas Code of Criminal Procedure, Chapter 62
19 for which the person must register as a sex offender; and

20 (6) an offense of attempting or conspiring to commit any of the foregoing offenses.

1 (e) The following additional felony offenses apply to a for-hire motor carrier of any cargo,
2 including household goods and hazardous materials:

- 3 (1) an offense against the person, as described by Texas Penal Code, Title 5;
4 (2) an offense against tangible personal property, a document, or cargo belonging to
5 another, as described by Texas Penal Code, Chapters 28, 29, 30, 31, or 32;
6 (3) a reportable offense conviction under Texas Code of Criminal Procedure, Chapter 62
7 for which the person must register as a sex offender; and
8 (4) an offense of attempting or conspiring to commit any of the foregoing offenses.

9 (f) The following additional felony offenses apply to a household goods carrier:

- 10 (1) an offense against real property belonging to another, as described by Texas Penal
11 Code, Chapters 28 or 30;
12 (2) an offense against public order and decency, as described by Texas Penal Code
13 §§43.24, 43.251, or 43.262; and
14 (3) an offense of attempting or conspiring to commit any of the foregoing offenses.

15 (g) The following additional felony offenses apply to a motor carrier who transports hazardous
16 materials:

- 17 (1) an offense related to hazardous material, waste disposal, water contamination, air
18 pollution, or other environmental offense under a Texas statute or administrative rule;
19 (2) a federal statute or regulation of the United States related to hazardous material,
20 waste disposal, water contamination, air pollution, or other environmental offense; or

1 (3) the laws of another state of the United States related to hazardous material, waste
2 disposal, water contamination, air pollution, or other environmental offense, if the offense contains
3 elements that are substantially similar to the elements of an offense under Texas law or a law of the
4 United States.

5 (h) If a license holder's imprisonment occurs on or after May 1, 2026, for a conviction for any
6 offense described by subsections (c) through (g) of this section, the license holder's license is
7 automatically revoked on the date of the imprisonment if at least one of the offenses that resulted in
8 the imprisonment falls within the scope of any offense described in subsections (c) through (g) of this
9 section.

10