

# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

**Symbols in proposed rule text.** Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. “(No change)” indicates that existing rule text at this level will not be amended.

## TITLE 1. ADMINISTRATION

### PART 8. TEXAS JUDICIAL COUNCIL

#### CHAPTER 174. INDIGENT DEFENSE

##### POLICIES AND STANDARDS

##### SUBCHAPTER C. POLICY MONITORING

##### REQUIREMENTS

##### DIVISION 2. POLICY MONITORING

##### PROCESS AND BENCHMARKS

###### 1 TAC §174.28

The Texas Indigent Defense Commission (Commission) is a permanent Standing Committee of the Texas Judicial Council. The Commission proposes amendments to Texas Administrative Code, Title 1, Part 8, Chapter 174, Subchapter C, Division 2, §174.28, concerning On-Site Monitoring Process.

###### EXPLANATION OF PROPOSED AMENDMENTS

The proposed amendment to §174.28(c)(4)(B) would direct monitoring staff to review cases in which the State filed an appeal under Article 44.01(a)(7), Code of Criminal Procedure, of the amount of bail set by a court. Staff would examine each case containing a request for the appointment of counsel. The monitor would make a finding if any request for counsel made before, on, or after the date the State filed its notice of appeal were not ruled upon by the earlier of the date required by Article 1.051(c), Code of Criminal Procedure, or when the State files its brief in the case.

The proposed amendment to §174.28(c)(4)(C) would direct monitoring staff to review cases in which the State sought to deny a defendant bail under Section 11d, Article 1, Texas Constitution, and determine which of those cases contains a request for the appointment of counsel. The monitor would make a finding if the monitor determines that any such requests were not ruled upon (either the appointment of counsel or denial of indigence) and counsel not appointed and present at the hearing.

###### FISCAL NOTE

Mr. Scott Ehlers, Executive Director, Texas Indigent Defense Commission, has determined that for each year of the first five years the proposed amendments are in effect, enforcing or administering the sections will have no fiscal impact on state or local governments.

###### PUBLIC BENEFIT AND COSTS

Mr. Ehlers has determined that for each of the first five-year period the amendment is in effect the public benefit will be an im-

provement in the indigent defense services by helping the Commission assure the requirements of federal and state law related to indigent defense are followed. There are no anticipated economic costs to persons required to comply with the proposed amendments. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities, therefore, preparation of an economic impact statement and a regulatory flexibility analysis is not required.

###### GOVERNMENT GROWTH IMPACT STATEMENT

Mr. Ehlers has determined that for each year of the first five years in which the proposed amendments are in effect, the amendments will have the following effect on government growth. The proposed amendments will not create or eliminate any government programs or employee positions. Additionally, the proposed amendments will not require an increase or decrease in future legislative appropriations to the Commission or change any fees paid to the Commission. The proposed amendments do not create a new regulation. The proposed amendments expand certain existing regulations, including providing for Commission staff to begin monitoring the timely appointment of counsel to represent indigent defendants against whom the State seeks to either deny bail or increase the bail amount set by the magistrate. The proposed amendments would not repeal any rules, nor increase or decrease the number of individuals subject to the applicability of the rules. The proposed amendments are not anticipated to affect this state's economy.

###### SUBMITTAL OF COMMENTS

Comments on the proposed amendments may be submitted in writing to Wesley Shackelford, Deputy Director, Texas Indigent Defense Commission, 209 West 14th Street, Room 202, Austin, Texas 78701 or by email to [wshackelford@tidc.texas.gov](mailto:wshackelford@tidc.texas.gov) no later than 30 days from the date that these proposed amendments are published in the *Texas Register*.

###### STATUTORY AUTHORITY

The amendments are proposed under the Texas Government Code §79.037(a) and (b), which requires the Commission to monitor the effectiveness of the county's indigent defense policies, standards, and procedures and to ensure compliance by the county with the requirements of state law relating to indigent defense.

No other statutes, articles, or codes are affected by the proposed amendments.

§174.28. *On-Site Monitoring Process.*

(a) Purpose. The monitoring process promotes local compliance with the requirements of the Fair Defense Act and Commission rules and provides technical assistance to improve processes where needed.

(b) **Monitoring Process.** The policy monitor examines the local indigent defense plans and local procedures and processes to determine if the jurisdiction meets the statutory requirements and rules adopted by the Commission. The policy monitor also attempts to randomly select samples of actual cases from the period of review by using a 15% confidence interval for a population at a 95% confidence level.

(c) **Core Requirements.** On-site policy monitoring focuses on the six core requirements of the Fair Defense Act and related rules. Policy monitoring may also include a review of statutorily required reports to the Office of Court Administration and Commission. This rule establishes the process for evaluating policy compliance with a requirement and sets benchmarks for determining whether a county is in substantial policy compliance with the requirement. For each of these elements, the policy monitor shall review the local indigent defense plans and determine if the plans are in compliance with each element.

(1) **Prompt and Accurate Magistration.**

(A) The policy monitor shall check for documentation indicating that the magistrate or county has:

(i) Informed and explained to an arrestee the rights listed in Article 15.17(a), Code of Criminal Procedure, including the right to counsel;

(ii) Maintained a process to magistrate arrestees within 48 hours of arrest;

(iii) Maintained a process for magistrates not authorized to appoint counsel to transmit requests for counsel to the appointing authority within 24 hours of the request; and

(iv) Maintained magistrate processing records required by Article 15.17(a), (e), and (f), Code of Criminal Procedure, and records documenting the time of arrest, time of magistration, whether the person requested counsel, and time for transferring requests for counsel to the appointing authority.

(B) A county is presumed to be in substantial compliance with the prompt magistration requirement if magistration in at least 98% of the policy monitor's sample is conducted within 48 hours of arrest.

(2) **Indigence Determination.** The policy monitor checks to see if procedures are in place that comply with the indigent defense plan and the Fair Defense Act.

(3) **Minimum Attorney Qualifications.** The policy monitor shall check that attorney appointment lists are maintained according to the requirements set in the indigent defense plans. Only attorneys approved for an appointment list are eligible to receive appointments.

(4) **Prompt Appointment of Counsel.**

(A) The policy monitor shall check for documentation of timely appointment of counsel in criminal and juvenile cases.

(i) **Criminal Cases.** The policy monitor shall determine if counsel was appointed or denied for arrestees within one working day of receipt of the request for counsel in counties with a population of 250,000 or more, or three working days in other counties. If the policy monitor cannot determine the date the appointing authority received a request for counsel, then the timeliness of appointment will be based upon the date the request for counsel was made plus 24 hours for the transmittal of the request to the appointing authority plus the time allowed to make the appointment of counsel. The policy monitor will determine if any waivers of counsel do not comply with the requirements of Article 1.051, Code of Criminal Procedure. The policy monitor will make a finding if the monitor finds the court did not always explain the procedures for requesting counsel to unrepresented

defendants or identifies any cases where a defendant requested counsel and later entered an uncounseled plea without their counsel request being ruled upon.

(ii) **Juvenile Cases.** The policy monitor shall determine if counsel was appointed prior to the initial detention hearing for eligible in-custody juveniles. If counsel was not appointed, the policy monitor shall determine if the court made a finding that appointment of counsel was not feasible due to exigent circumstances. If exigent circumstances were found by the court and the court made a determination to detain the child, then the policy monitor shall determine if counsel was appointed for eligible juveniles immediately upon making this determination. For out-of-custody juveniles, the policy monitor shall determine if counsel was appointed within five working days of service of the petition on the juvenile.

(iii) [(B)] A county is presumed to be in substantial compliance with the prompt appointment of counsel requirement if, in each level of proceedings (felony, misdemeanor, and juvenile cases), at least 90% of appointments of counsel and denials of indigence determinations in the policy monitor's sample are timely.

(B) **Bail Appeals in Criminal Cases.** The policy monitor shall examine cases in which the State filed an appeal of the bail amount under Article 44.01(a)(7), Code of Criminal Procedure, and determine which of those cases contains a request for the appointment of counsel. The monitor shall make a finding if the monitor determines that any request for counsel made before, on, or after the date the State filed its notice of appeal were not ruled upon by the date required by Article 1.051(c), Code of Criminal Procedure, or the date the State files its brief in the case, whichever is earlier, to facilitate the defense meeting its reply brief filing deadline under Texas Rule of Appellate Procedure 31.8.

(C) **Denial of Bail.** The policy monitor shall examine cases in which the State sought the denial of bail under Section 11d, Article 1, Texas Constitution, and determine which of those cases contains a request for the appointment of counsel. The monitor shall make a finding if the monitor determines that any such requests were not ruled upon (either the appointment of counsel or denial of indigence) and counsel not appointed and present at the hearing.

(5) **Attorney Selection Process.** The policy monitor shall check for the following documentation indicating:

(A) In the case of a contract defender program, that all requirements of §§174.10 - 174.25 of this title are met;

(B) In the case of a public defender's office, that appointments to the office are made in accordance with Article 26.04(f), Code of Criminal Procedure.

(C) In capital felony cases, the policy monitor shall determine if appointments are made in accordance with Article 26.052, Code of Criminal Procedure.

(i) In counties with a public defender's office that handles capital felony cases, the policy monitor shall determine if a public defender's office is appointed in each capital case. If the office is not, the policy monitor will determine whether the court or its designee made a finding of good cause on the record for appointing other counsel in accordance with Article 26.04(f)(1), Code of Criminal Procedure.

(ii) In capital felony cases where a public defender's office is not appointed, the policy monitor shall determine if two attorneys were appointed, at least one of whom is qualified to serve as lead counsel under Article 26.052(e), Code of Criminal Procedure, unless

the state gives notice in writing that the state will not seek the death penalty.

(D) In the case of a managed assigned counsel program, that counsel is appointed according to the entity's plan of operation;

(E) That the attorney selection process actually used matches what is stated in the indigent defense plans; and

(F) For assigned counsel and managed assigned counsel systems, the number of appointments in the policy monitor's sample per attorney at each level (felony, misdemeanor, juvenile, and appeals) during the period of review and the percentage share of appointments represented by the top 10% of attorneys accepting appointments. A county is presumed to be in substantial compliance with the fair, neutral, and non-discriminatory attorney appointment system requirement of 26.04(b)(6), Code of Criminal Procedure, if, in each level of proceedings (felony, misdemeanor, and juvenile cases), the percentage of appointments received by the top 10% of recipient attorneys does not exceed three times their respective share. The top 10% of recipient attorneys is the whole attorney portion of the appointment list that is closest to 10% of the total list. For this analysis, the monitor will include only attorneys who were on an appointment list for the entire time period under review.

(6) Data Reporting. The policy monitor shall check for documentation indicating that the county has established a process for collecting and reporting itemized indigent defense expense and case information.

(d) Report.

(1) Report Issuance. For full and limited-scope reviews, the policy monitor shall submit a draft report to the Commission's Policies and Standards Committee within 60 days after staff receives required data for the monitoring review, unless a documented exception is provided by the director, with an alternative deadline provided, not later than 120 days from the date required data is received. The report shall contain recommendations to address findings of noncompliance. For drop-in visits, the policy monitor may issue a letter with recommendations.

(2) County Response. Within 60 days of the date a report is issued by the policy monitor to the county, the authorized official shall respond in writing to each finding of noncompliance, and shall describe the proposed corrective action to be taken by the county. The county may request the director to grant an extension of up to 60 days.

(3) Follow-up Reviews. The policy monitor shall conduct follow-up reviews of counties where a report included noncompliance findings. The follow-up review shall occur within a reasonable time but not more than two years following receipt of a county's response to a report. The policy monitor shall review a county's implementation of corrective actions and shall report to the county and to the Commission any remaining issues not corrected. Within 30 days of the date the follow-up report is issued by the policy monitor, the authorized official shall respond in writing to each recommendation, and shall describe the proposed corrective action to be taken by the county. The county may request the director to grant an extension of up to 30 days. If the county provides extenuating circumstances, the Executive Director may grant an additional extension of time to respond.

(4) Failure to Respond to Report. If a county fails to respond to a monitoring report or follow-up report within the required time, then a certified letter shall be sent to the authorized official, financial officer, county judge, local administrative district court judge, local administrative statutory county court judge, and chair of the juvenile board notifying them that all further formula grant payments will be withheld if no response to a report is received by the Commission

within 10 days of receipt of the letter. If formula grant funds are withheld under this section, the funds will not be reinstated until the Commission or the Policies and Standards Committee approves the release of the funds.

(5) Noncompliance. If a county fails to correct any non-compliance findings, the Commission may require regular additional reporting of data to determine if process changes are being implemented, and other requirements, as appropriate. The Commission may also impose a remedy under §173.307 of this title (relating to Remedies for Noncompliance).

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

Filed with the Office of the Secretary of State on April 8, 2026.

TRD-202601494

Wesley Shackelford

Deputy Director

Texas Judicial Council

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For further information, please call: (737) 279-9208



**TITLE 10. COMMUNITY DEVELOPMENT**  
**PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**CHAPTER 10. UNIFORM MULTIFAMILY RULES**  
**SUBCHAPTER J. HOUSING FINANCE CORPORATION COMPLIANCE MONITORING**  
**10 TAC §10.1204**

The Texas Department of Housing and Community Affairs (the Department) proposes an amendment to 10 TAC Subchapter J, Housing Finance Corporation Compliance Monitoring, §10.1204 Audit Requirements. The purpose of the amendment is to bring the rule into greater harmony with HB 21 (89th Regular Legislature). HB 21 tasks the Department with the compliance monitoring oversight of all Housing Finance Corporation (HFC) multifamily residential developments.

In §10.1204 relating to Audit Requirements, the rule requires that a Rent Reduction calculation be performed that identifies the difference between the annual Rent charged for each Restricted Unit and the estimated annual Maximum Market Rent that could be charged for such units if they were not restricted.

On March 17, 2026, TDHCA received comment from stakeholders and members of the Texas Legislature challenging the propriety of the rent reduction calculation distinction in cases of Housing Choice Vouchers, and stating that it fails to comport with the statutory definition of "rent." Furthermore, they purport that failing to remove this distinction will jeopardize the "real, measurable benefits to Texas renters and taxpayers" of having reduced rents at HFC developments. These challenges to a single sentence in rule (distinguishing how voucher-supplemented rent is considered for audit purposes) have been raised as a requirement under state law, as well as creating imminent danger to the welfare of Texans seeking affordable rents in HFC developments

under HB21. TDHCA accepts the concerns raised and finds the amendment is justified.

The rule revision is being made to ensure that in the case of units assisted with vouchers, the HFC User is only being attributed their actual rent reduction contribution and not the contribution of the public housing authority supporting the voucher.

Tex. Gov't Code §2001.0045(b) does not apply to the amendment proposed for action because it is necessary to implement the requirements of legislation, HB 21.

The Department has analyzed this rulemaking, and the analysis is described below for each category of analysis performed.

**a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.**

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the amendment is in effect:

1. The amendment does not create or eliminate a government program but clarifies a provision relating to audit requirements.
2. The amendment will neither increase nor decrease the number of employees of the Department.
3. The amendment will not require additional future legislative appropriations.
4. The amendment will not increase or decrease fees paid to the Department.
5. The amendment is not creating a new regulation but amending an existing regulation to bring the rule into greater alignment with the requirements of HB 21.
6. The amendment will not limit or repeal an existing regulation.
7. The amendment will not increase or decrease the number of individuals subject to the rule's applicability; and
8. The amendment will not negatively or positively affect the state's economy.

**b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.**

1. The Department has evaluated this amendment and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.
2. The Department has determined that there will be no economic effect on small or micro-businesses or rural communities because these rules apply to all Housing Finance Corporation multifamily residential developments equally and this amendment revises how a particular calculation is determined.
3. The Department notes that the proposed amendment will make satisfying the public benefit test more difficult than the current version of the rule (for those Developments with voucher holders), but the current version was not required by statute and no audit reports utilizing the version adopted less than a month ago have been submitted. As stated in the referenced letter, the longer the voucher distinction remains in rule, the greater the perceived financial effect would be on HFC developments.

**c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043.** The amendment does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

**d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).**

The Department has evaluated the amendment as to its possible effects on local economies and has determined that for the first five years the amendment will be in effect the amendment does not create a local employment impact except a potentially more accurate reflection of rent reduction at HFC developments.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that no impact is expected on a statewide basis, there are no "probable" effects of the rule on particular geographic regions.

**e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5).** Mr. Bobby Wilkinson, Executive Director, has determined that, for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of the amendment will be to provide a rule in greater harmony with HB 21 and ensure that when calculating rent reductions the public benefit is attributed accurately to a HFC development.

**f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4).** Mr. Wilkinson also has determined that for each year of the first five years the amendment is in effect, enforcing or administering the amendment does have some foreseeable implications related to costs or revenues of the state or local government.

**REQUEST FOR PUBLIC COMMENT AND INFORMATION RELATED TO COST, BENEFIT OR EFFECT.** The Department requests comments on the amendment and also requests information related to the cost, benefit, or effect of the amendment, including any applicable data, research, or analysis from any person required to comply with the proposed rule or any other interested person. The public comment period will be held April 24, 2026 to May 24, 2026, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at [brooke.boston@tdhca.texas.gov](mailto:brooke.boston@tdhca.texas.gov). **ALL COMMENTS AND INFORMATION MUST BE RECEIVED BY 5:00 p.m., Austin local (Central) time, May 24, 2026.**

**STATUTORY AUTHORITY.** The amendment is proposed pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules.

Except as described herein the amendment affects no other code, article, or statute.

*§10.1204. Audit Requirements.*

Multifamily Residential Developments must comply with the Audit Report requirements identified in this section:

- (1) If the Multifamily Residential Development was acquired prior to May 28, 2025, the Development must comply with all requirements by January 1, 2026, with the exception of paragraphs (3)(B), (3)(C), (3)(J), (3)(K) and (3)(L) of this section, which must be met no later than the end of the 10th Tax Year following May 28, 2025, or the end of the first Tax Year following a Tax Year in which the Development was refinanced, fee or leasehold title was conveyed or a sale or transfer of a majority of the beneficial ownership interest in the Multifamily Residential Development or HFC User occurred. For example, 1204(1): If a Development is refinanced on July 15, 2027, the tax year would be 2027, and the second tax year after refinance would be 2028; so the previous Audit Report requirements would be due on June 1, 2028. The above would no longer be exempt for Tax Year 2028 and should be included in the Audit Report submitted June

1, 2029. For purposes of this rule, refinancing of construction loans, whether by virtue of conversion from construction phase to permanent phase or replacement of construction, bridge, or short-term (less than 5 years) financing with permanent financing, will not be considered a refinancing.

(2) The Auditor must use the Department's HFC monitoring forms made available on the website. The review performed by the Auditor may be completed either onsite or electronically. Original records must be made available to the Auditor. The file sample used by the Auditor must contain at least 20% of the total number of Restricted Units for the Development, but no more than a total of fifty (50) household files. The selection of Restricted Units should include at least 75% of households that are newly moved into the Development, but also include at least 10% of households that have recertified, or if 10% of households have not recertified, then units that have recertified. For Developments that are leasing up and not yet fully occupied the percentages reflected in this paragraph should be applied to all occupied Restricted Units.

(3) The Auditor will ensure Development meets the following requirements and will identify any deficiencies in the Audit Report:

(A) The HFC User will provide the Auditor with supporting documentation that the Auditor will submit with the Audit that:

(i) confirms that the Multifamily Residential Development is within its jurisdictional boundaries pursuant to Section 394.031 of the Texas Local Government Code such as a GIS boundary map, recorded legal description, local-government resolution, or other source approved by TDHCA.

(ii) confirms that a Multifamily Residential Development that is outside of the Sponsor's jurisdiction has been approved in accordance with Section 394.031(d) of Texas Local Government Code. For a Development not located within the Sponsor's jurisdictional boundaries, that was acquired on or before September 1, 2025, this requirement does not apply until January 1, 2027, after which this documentation must be submitted.

(B) The Restricted Units in the Development have the same unit finishes and equipment and access to community amenities and programs as residential units that are not income restricted. Minor variations in floorplans, colors, and design are acceptable deviations and will not be noted as noncompliance; significant variations in floor plans and square footage will be considered noncompliance. The Auditor may rely on a written certification and photographic evidence from the HFC User to support that a Development has equitable finishes, equipment and access to amenities and programs. Such certification must be submitted with the Audit Report.

(C) The percentage of Restricted Units in each Unit Type and each category of income restriction in the Development must be the same or greater percentage as the percentage of each Unit Type of units that are reserved in the Development as a whole.

(D) Occupants of Restricted Units are required to recertify the income of the household using a Department-approved Income Certification form at lease renewal. If a household exceeds the income limit at annual income recertification, the Available Unit Rule as outlined in Section 42(g)(2)(D) of the Internal Revenue Code will be implemented in the following manner:

(i) Where the household's income exceeds the AMI as designated, the household can be redesignated to the next AMI level in the Regulatory Agreement. The next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the

income limit. Example 1204(2): Development Regulatory Agreement includes units at 80% and 120%, Unit 101, a one-bedroom Unit Type, is designated as 80%. At the annual income recertification, the household income was determined to exceed 80% AMI but was less than 120% AMI. The unit should be redesignated as 120% at the time the determination is made and the next available one-bedroom Unit Type in the Development must be reserved for and occupied by an 80% household. At the time of determination that the unit should be 120%, with proper notification, the household rent may increase to the new rent designation.

(ii) Where the household's income exceeds the AMI as designated and the household is designated at the highest AMI in the Regulatory Agreement, the next available unit of comparable size in the Development is to be reserved for and occupied by a tenant that meets the AMI of the household that was determined to exceed the income limit. Example 1204(3): Development Regulatory Agreement includes units at 80% and 120%. Unit 201, a two-bedroom Unit Type is designated as 120%. At the annual income recertification, household income was determined to exceed 120% AMI, the highest AMI in the Regulatory Agreement. The next two-bedroom Unit Type in the Development, must be reserved for and occupied by a 120% household. Unit 201 retains the 120% status until such time that the Available Unit Rule, as described here, is complied with or violated.

(E) The Development must affirmatively market available Restricted Units and non-Restricted Units to households participating in the Housing Choice Voucher program and notify local housing authorities of their acceptance of voucher program tenants. Evidence of this must be provided to include, but not be limited to, notifications to the local housing authority, advertising that may be posted at the local housing authority properties, or mailings that were sent to local housing authority households.

(F) The home page of the internet website for the Development must include information about the Development and its compliance with Section 394.9026(c)(7), Texas Local Government Code, along with its policies on the acceptance of Housing Choice Voucher holders or any other rental assistance.

(G) Multifamily Residential Developments cannot refuse to rent to an individual or family solely because the individual or family participates in a Housing Choice Voucher program.

(H) Multifamily Residential Developments cannot require a minimum income standard for individuals or families participating in a Housing Choice Voucher program that exceeds two hundred and fifty percent (250%) of the tenant portion of rent.

(I) The Auditor will review the Development's form of tenant lease, lease addendums and leasing policies to ensure the Development meets the following requirements and will report any deficiencies found in the Audit Report. Each residential lease agreement for a Restricted Unit must provide the following:

(i) The landlord may not retaliate against the tenant or the tenant's guests by taking action because the tenant established, attempted to establish, or participated in a tenant organization;

(ii) The landlord may only choose to not renew the lease if the tenant: committed one or more substantial violations of the lease; failed to provide required information on the income, composition, or eligibility of the tenant's household; or committed repeated minor violations of the lease that disrupt the livability of the Development, adversely affect the health and safety of any person or the right to quiet enjoyment of the leased premises and related Development facilities, interfere with the management of the Development, or have an

adverse financial effect on the Development, including the failure of the tenant to pay rent in a timely manner.

(iii) To non-renew a lease, the landlord must serve a written notice of proposed nonrenewal on the tenant no later than the 30th day before the effective date of nonrenewal.

(iv) Tenants may not waive these protections in a lease or lease addendum.

(J) Income Restrictions. A Development seeking an ad valorem tax exemption must meet the requirements of either clause (i) or (ii) of this subparagraph.

(i) at least 10% of the residential units are reserved as Lower Income Housing Units and at least 40% of the residential units are reserved as Moderate-Income Housing Units or;

(ii) at least 10% of the residential units are reserved as Very Low-Income Housing Units and at least 40% of the residential units are reserved as Middle Income Housing Units.

(K) Rent Restrictions:

(i) Monthly Rent for Restricted Units may not exceed thirty percent (30%) of the imputed household income limitation for the unit, adjusted for family size, as determined by HUD. To determine the adjustment for family size, the Auditor will defer to the Development's Regulatory Agreement and/or other operative document. In the event that the adjustment for family size is unclear, it is the responsibility of the HFC User to provide the Auditor support that the manner in which the adjustment was applied is acceptable by the HFC.

(ii) Notwithstanding the foregoing, if a Restricted Unit is occupied by a household with a Housing Choice Voucher, and the payment standard for that voucher is less than the monthly Rent for the Restricted Unit established pursuant to clause (i) of this subparagraph, the household may be required to pay the difference between the payment standard and the monthly Rent.

(L) Rent Reduction Comparison. It is the sole responsibility of HFC User to:

(i) Identify the difference between the annual Rent charged for each Restricted Unit and the estimated annual Maximum Market Rent that could be charged for such units if they were not restricted. For Developments where all of the Units are Restricted Units, the HFC User must provide evidence of reasonably comparable Maximum Market Rents, which may be based on market studies, leasing surveys, Fair Market Rents as published by HUD, or other methods acceptable to the Department.

(ii) The Audit Report shall include the following public benefit test:

(I) The Rent Reduction for all Restricted Units at the Development in the preceding Tax Year must not be less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development in the same Tax Year if the Development did not receive the exemption.

(-a-) For a Development acquired by an HFC the first Audit Report that will include the rent reduction test is for the first Tax Year after the acquisition Tax Year. Example 1204(4): Development acquired by an HFC on July 24, 2025. The acquisition tax year would be 2025, and the second tax year after acquisition would be 2026, so the first Audit Report would be due on June 1, 2026. The first rent reduction test would be for Tax Year 2026 on Audit Report submitted June 1, 2027.

(-b-) For newly constructed Developments the first Audit Report that will include the rent reduction test for the

first Tax Year after the Tax Year in which construction first begins. Example 1204(5): An Multifamily Residential Development begins new construction on February 1, 2026. The first tenant occupies the Development on September 15, 2027. The first Audit Report is due on June 1, 2028, and must include the rent reduction test for reporting year 2027.

(II) The Rent Reduction calculation for each Restricted Unit must be the difference between the Maximum Market Rent for the same Unit Type and the Rent on the rent roll for the Restricted Unit. ~~[Restricted Units occupied by households with Housing Choice Vouchers or rental assistance will utilize the tenant-paid portion of the Rent for the Rent Reduction calculation.]~~ Units that are vacant for any portion of the Tax Year will be considered as follows for the for the purposes of the Rent Reduction calculation:

(-a-) for a Restricted Unit the maximum permitted Rent for such unit under the Regulatory Agreement will be utilized for all months of vacancy, and

(-b-) for any market rate unit the Maximum Market Rent that would be charged for that Unit Type will be utilized in the months that the Unit was vacant.

(III) If the Rent Reduction calculation demonstrates that the Rent Reduction was less than 50% of the amount of the estimated ad valorem taxes that would have been imposed on the Development for the Tax Year, the HFC User must pay each taxing jurisdiction(s) authorized to impose ad valorem taxes applicable to the Development the pro rata share of the Rent Reduction shortfall; the pro rata amount will be based on each taxing authorities share of the combined aggregate published millage rate of all applicable taxing authorities. The Rent Reduction shortfall is an amount equal to 50% of the estimated ad valorem tax amount minus the total Rent Reduction for the Tax Year. The Auditor Report must include evidence of any payments made by the HFC User to each taxing jurisdiction(s) authorized to impose ad valorem taxes applicable to the Development.

(IV) In estimating the ad valorem taxes that would have been imposed, the HFC User may use, but is not limited to, the following:

(-a-) For occupied Developments acquired by an HFC, estimated ad valorem taxes should generally be based on the actual taxes applicable no earlier than the Tax Year prior to the acquisition by the HFC with a stated escalation factor.

(-b-) For occupied Developments acquired by an HFC which already receive a property tax exemption, estimated ad valorem taxes must be based on the public appraisal district value. In the event that the appraisal district does not provide a value, the following alternative valuation methods may be used: an independent appraisal, third-party property tax report, or other means acceptable to the Department.

(-c-) For new construction, estimated ad valorem taxes must be based on public appraisal district value. In the event that the appraisal district does not provide a value, the following alternative valuation methods may be used: an independent appraisal, third-party property tax report, or other means acceptable to the Department.

(4) A Development acquired by an HFC after May 28, 2025, must comply with all requirements in this Subchapter no later than the end of the Tax Year following the year of acquisition.

(5) The Auditor must maintain monitoring records and papers for each Audit Report for three years and must provide the Department and/or the Chief Appraiser a copy of their monitoring records upon request.

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

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Bobby Wilkinson

Executive Director

Texas Department of Housing and Community Affairs

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For further information, please call: (512) 475-3959



## TITLE 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 2. ACADEMIC AND WORKFORCE EDUCATION

##### SUBCHAPTER R. TEXAS MENTAL HEALTH PROFESSION PIPELINE PROGRAM

###### 19 TAC §§2.500 - 2.503

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 2, Subchapter R, §§2.500 - 2.503, concerning Texas Mental Health Profession Pipeline Program. Specifically, this new section will establish the requirements for participation in the Texas Mental Health Profession Pipeline Program.

Texas Education Code, §61.070, creates the Texas Mental Health Profession Pipeline Program and requires the Coordinating Board to develop rules relating to program administration.

Section 2.500, Purpose and Authority, establishes the purpose of the subchapter and defines the statutory authority for developing rules.

Section 2.501, Definitions, establishes definitions specific to the subchapter.

Section 2.502, Requirements for the Texas Mental Health Pipeline Program, establishes general requirements of program, including roles and responsibilities of the Coordinating Board.

Section 2.503, Requirements for Participating Institutions, establishes requirements for each participating institution including expectations, deliverables, and annual reporting.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Daniel Pérez, Associate Commissioner for Academic Innovation and Success, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be a clear pathway for public junior college students to transfer to a participating institution and prepare for licensure in a mental health profession. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rule; and
- (8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Daniel Pérez, Associate Commissioner for Academic Innovation and Success, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [Comments@highered.texas.gov](mailto:Comments@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under Texas Education Code, Section 61.070, which provides the Coordinating Board with the authority to adopt rules for the Texas Mental Health Profession Pipeline Program.

The proposed new section affects Texas Education Code, Section 61.070.

#### §2.500. Purpose and Authority.

(a) The purpose of this subchapter is to establish the Texas Mental Health Profession Pipeline Program to provide a clear, guided pathway for public junior college students to transfer to a participating general academic teaching institution or private institution to pursue a baccalaureate degree and a postbaccalaureate degree or certificate in a mental health profession.

(b) The authority for this subchapter is Texas Education Code, §61.070, which creates the Texas Mental Health Profession Pipeline Program.

#### §2.501. Definitions.

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

(1) Field of Study Curriculum--Has the meaning prescribed in §4.23(10) of this title (relating to Definitions).

(2) Participating Institution--A general academic teaching institution as defined in Texas Education Code, §61.003(3), or a private or independent institution of higher education as defined in Texas Education Code, §61.003(15), that offers baccalaureate degree programs and postbaccalaureate degree and certificate programs.

(3) Participating Student--A student identified by a participating institution as enrolled in the pipeline program.

(4) Texas Direct--An associate degree as prescribed in §4.39 of this title (relating to Texas Direct Associate Degree).

(5) Texas Mental Health Profession Pipeline Program (Pipeline Program)--A program created that meets the requirements of this subchapter and provides a clear pathway for public junior college students to transfer to a participating institution and prepare for licensure in a mental health profession.

§2.502. Requirements for the Texas Mental Health Profession Pipeline Program.

(a) A pipeline program shall prepare a student for licensure in one or more of the following professions:

(1) A psychologist, as defined by Section 501.002, Occupations Code;

(2) A licensed professional counselor, as defined by Section 503.002, Occupations Code;

(3) An advanced practice registered nurse, as defined by Section 301.152, Occupations Code, who holds a nationally recognized board certification in psychiatric or mental health nursing;

(4) A licensed master social worker or a licensed clinical social worker, as defined by Section 505.002, Occupations Code;

(5) A licensed specialist in school psychology, as defined by Section 501.002, Occupations Code; or

(6) A licensed marriage and family therapist, as defined by Section 502.002, Occupations Code.

(b) The Board shall maintain and promote information about the program on its website that includes:

(1) Board-approved field of study curricula relevant to the pipeline program;

(2) A list of pipeline programs in Texas and each participating institution;

(3) A map showing the location of participating institutions; and

(4) Program data based on reports submitted by participating institutions.

(c) The Board delegates to the Commissioner with the assistance of the Texas Transfer Advisory Committee authority to identify which existing field of study curricula may be used in pipeline programs. The Commissioner may approve additional field of study curricula to support the pipeline program using the approval procedures under §4.33 of this title (relating to Approval of Field of Study Curricula).

§2.503. Requirements for Participating Institutions.

(a) A participating institution that creates a pipeline program shall partner with one or more public junior colleges to create a guided transfer pathway for a participating student.

(b) Each participating institution shall ensure that each participating student:

(1) Completes a Texas Direct associate degree pursuant to §4.39 of this title (relating to Texas Direct Associate Degree) that includes a field of study curriculum for the pipeline program as defined by the Board;

(2) Does not lose any academic credit when transferring to a participating institution;

(3) May earn a baccalaureate degree after transferring to a participating institution in two years or less; and

(4) Is automatically admitted to a related postbaccalaureate degree or certificate program after completing the baccalaureate degree if:

(A) The student meets the minimum academic requirements set by the participating institution; and

(B) The program has space available based on:

(i) student-to-faculty ratios required by law, accreditation, or institutional policy; and

(ii) available clinical placements and supervisors.

(c) Each participating institution shall submit an annual report in a manner prescribed by the Board. The report shall include:

(1) The total number of students enrolled in the pipeline program;

(2) The number of students who transferred from a public junior college without losing academic credit;

(3) The number of students who completed a baccalaureate degree within two years after transfer during the previous academic year;

(4) The program's capacity to prepare additional students for mental health professions;

(5) The financial resources the institution used to support the pipeline program;

(6) The average time it takes a student to complete the program from enrollment at a public junior college to final graduation; and

(7) Any additional information required by the Board.

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

Filed with the Office of the Secretary of State on April 10, 2026.

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Douglas Brock

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6299



## CHAPTER 13. FINANCIAL PLANNING

### SUBCHAPTER T. COMMUNITY COLLEGE FINANCE PROGRAM: HIGH-DEMAND FIELDS

#### 19 TAC §13.595, §13.597

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter T, §13.595 and §13.597, concerning Community College Finance Program: High-Demand Fields. Specifically, this amendment will correct a typographical error that incorrectly refers to Emerging Occupations rather than Essential Occupations and adds a reference to Chapter 13, Subchapter V and Subchapter W. This amendment also removes the word standard when referencing the Regional High-Demand Fields list.

Texas Education Code, §130A.101(c)(1), provides the Coordinating Board with the authority to make rules defining when a college is entitled to additional performance tier funding for awarding a credential in a high-demand occupation or appropriate proxy.

Rule 13.595(a), Essential Occupations, is amended to add a reference to §13.648, which references the current fiscal year 2026 rules in Subchapter V, and a reference to §13.668, which references the new rules beginning in fiscal year 2027 in Subchapter W. This amendment ensures that this subchapter is in line with the current rules in place for the Community College Finance Program.

Rule 13.595(b)(4) is amended to make grammatical changes to update the rule to *Texas Register* publishing requirements.

Rule 13.595(c)(5) is amended to correct a typographical error that incorrectly noted "Emerging Occupations" to "Essential Occupations", as this rule is specifically relating to Essential Occupations.

Rule 13.597(1), Effective Dates: High-Demand Fields, is amended to remove the word "Standard" before Regional High-Demand Fields List to eliminate confusion around the regional list the Coordinating Board provides alongside the statewide list at the beginning of the biennium. This will clarify that the Regional High-Demand Fields List refers to the high-demand occupations identified as published by the Coordinating Board and excludes additional occupations as determined through the Essential and Emerging Occupations processes.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be improved accuracy and clarity in the methodology for determining High-Demand Fields under the community college finance system to create a more effective incentive for community colleges to produce credentials responsive to the workforce needs of the state. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;

(6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [CCFinance@highered.texas.gov](mailto:CCFinance@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code, Section 130A.101(c)(1), which provides the Coordinating Board with the authority to make rules defining when a college is entitled to additional performance tier funding for awarding a credential in a high-demand occupation or appropriate proxy.

The proposed amendment affects Texas Education Code, Section 130A.101.

#### §13.595. *Essential Occupations.*

(a) To respond to the rapidly evolving economic needs of the state and any regional labor shortages in critical occupations, this section provides an alternative pathway for the Coordinating Board to include fields linked to occupations not otherwise generated by the methodology described in §13.594 of this subchapter (relating to High-Demand Fields Methodology) to the list of High-Demand Fields for which a college receives additional funding under:

(1) Rule 13.648 [§13.558] of this chapter (relating to Performance Tier: High-Demand Fields) for Fiscal Year 2026 only; or[-]

(2) Rule 13.668 of this chapter (relating to Performance Tier: High-Demand Fields) for all other fiscal years.

(b) Petition Process for Essential Occupations. For including Essential Occupations on a region's high-demand occupations list under §13.594(4) of this subchapter, the Coordinating Board shall utilize the following process:

(1) A public junior college or consortium of public junior colleges assigned to the same region under §13.592 of this subchapter (relating to Regions) may petition the Coordinating Board to add no more than five Essential Occupations using a form approved by the Commissioner of Higher Education.

(2) Whether individually or as a member of a consortium, a public junior college may submit only one petition to the Coordinating Board during each time period when petitions are accepted pursuant to paragraph (5) of this subsection [paragraph (b)(5) of this section].

(3) A petition under this section may request that specific occupations identified by six-digit SOC codes be added to the list of high-demand occupations on the regional high-demand fields list for the requestor(s) pursuant to §13.594(4) of this subchapter.

(4) A petition under this section shall name the Workforce Development Area (WDA) in the institution's service area whose board has designated as a Targeted Occupation pursuant to Texas Government Code, Chapter [chapter] 2308, each occupation that the petition seeks to add to a regional high-demand occupations list. The petition shall also include, for the occupation(s) and region in question:

(A) evidence of current job vacancies or growth, whether recent or projected, in the number of job openings;

(B) evidence of prevailing compensation or growth, whether recent or projected, in prevailing compensation;

(C) evidence of the importance of the occupation(s) to the regional economy; and

(D) evidence that the occupation typically requires for entry completion of an academic or workforce credential that the requestor(s) currently offers or will begin offering by the start of the fiscal year for which the occupation would take effect as a high-demand occupation if approved.

(5) Beginning in fiscal year 2025, in each odd-numbered year the Coordinating Board shall accept petitions under this section for a time period beginning on the earlier of May 1 or the day after the TWC publishes a new list of Target Occupations and ending May 31.

(c) Review Process and Criteria for Essential Occupations. The Coordinating Board shall utilize the following method for reviewing all petitions properly submitted pursuant to subsection (b) of this section:

(1) In consultation with the Texas Workforce Commission, the Coordinating Board shall discard as ineligible any occupation(s) not included on the Targeted Occupations list of a Workforce Development Area within the region to which the petitioner(s) is assigned under §13.592 of this subchapter, as well as any occupations already included among the region's high-demand occupations.

(2) If, considering all eligible occupations on all petitions for a region, all public junior colleges in the region request five or fewer unduplicated eligible Essential Occupations for addition to the region's high-demand occupations, the Assistant Commissioner shall recommend that the Commissioner of Higher Education approve the occupations for inclusion on the region's high-demand occupations list.

(3) If multiple public junior colleges in a region request more than five unduplicated eligible Essential Occupations in total for addition to a region's high-demand occupations, the Coordinating Board shall score each occupation according to a rubric developed in consultation with the Texas Workforce Commission and approved by the Commissioner of Higher Education. The rubric shall specify scoring standards that may include the following:

- (A) Workforce demand;
- (B) Prevailing compensation;
- (C) Regional economic importance;
- (D) Typical education and training requirements;

(E) Demand among institutions, such as the percentage of the public junior colleges assigned to the region that petitioned for its inclusion as an Essential Occupation, and

(F) Other criteria or evidence relevant to the determination of need for the occupation in the scoring rubric approved by the Commissioner of Higher Education.

(4) Not later than July 15 of each odd-numbered year, the Assistant Commissioner shall review and approve the scores assigned to each occupation and recommend the five (5) highest scoring occupations for each region to the Commissioner of Higher Education for approval. The Commissioner of Higher Education shall review the occupations recommended by the Assistant Commissioner for each region for addition as an Essential Occupation to the region's list of high-demand occupations. The Commissioner of Higher Education in his or her sole discretion based on the petitions and demonstration of need

may approve or deny approval of any occupation recommended by the Assistant Commissioner.

(5) An Essential Occupation shall remain on a region's list of high-demand occupations under §13.594 of this subchapter ~~[(relating to High-Demand Fields Methodology)]~~ as an Essential ~~[Emerging]~~ Occupation for not fewer than two (2) fiscal years.

§13.597. *Effective Dates: High-Demand Fields.*

This section establishes the schedule upon which the Coordinating Board will create updated lists of high-demand fields, essential occupations, and emerging occupations, and the amount of time that a field identified as high-demand will remain on a high-demand fields list.

(1) ~~[Standard]~~ Regional High-Demand Fields.

(A) The Board shall adopt the Regional High-Demand Fields lists for each biennium not later than its July board meeting of each odd-numbered year.

(B) The new Regional High-Demand Fields lists shall be effective for each biennium beginning September 1 of each odd-numbered year.

(C) Applying first to the High-Demand Fields list adopted under subparagraph (B) of this paragraph ~~[(2)(B) of this section]~~ in FY 2024, a field that the Board removes from a Regional High-Demand Fields list shall continue to be funded as a high-demand field for the following biennium.

(2) Standard Regional High-Demand Fields Conferred in FY 2023 - 2025. For calculating FY 2025 funding amounts based on the greater of FY 2025 credentials awarded or the three-year average of FY 2023 - 2025, the Coordinating Board shall apply High-Demand Fields lists as follows:

(A) For credentials awarded in FY 2023, notwithstanding §13.594 of this subchapter (relating to High-Demand Fields Methodology), the Coordinating Board shall use the list of High-Demand Fields for FY 2023 adopted by the Board at its July 2024 board meeting, which it shall also publish publicly.

(B) For credentials awarded in FY 2024 and FY 2025 the Coordinating Board shall identify credentials conferred in High-Demand Fields based on the list developed in accordance with §13.594 of this subchapter and adopted by the Board at its July 2024 board meeting, which it shall also publish publicly.

(3) Emerging and Essential Occupations.

(A) Academic fields linked to Essential Occupations designated pursuant to §13.595(c) of this subchapter (relating to Essential Occupations) shall be effective for the following biennium beginning September 1 of each odd-numbered year but may be renewed subject to approval of a new petition under §13.595(b) and (c) of this subchapter.

(B) Academic fields linked to Emerging Occupations designated pursuant to §13.595(d) of this subchapter shall be effective for two (2) fiscal years but may be renewed pursuant to §13.595(d) of this subchapter.

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

Filed with the Office of the Secretary of State on April 10, 2026.  
TRD-202601586



## SUBCHAPTER U. COMMUNITY COLLEGE FINANCE PROGRAM: FORECASTING METHODOLOGY AND FINANCE POLICY

### 19 TAC §13.624

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter U, §13.624, concerning Forecasting Fundable Outcomes. Specifically, this amendment will correct an imbedded rule reference and remove the upper bounding parameter to increase the precision of the forecasting methodology to fund student outcomes for public community colleges.

Texas Education Code (TEC), §130A.005, provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A, to implement House Bill 8, 88th Texas Legislature, Regular Session. In addition, TEC, §130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

Rule 13.624(c), Forecasting Fundable Outcomes, is amended to correct a reference that was inadvertently not updated when Chapter 13, Subchapter U, was amended in August 2025.

Rule 13.624(e) is amended to remove the upper bounding limitation on the forecasted outcomes. This will ensure closer alignment to forecasted outcomes and outcome growth trends.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the continued refinement of implementing House Bill 8, 88th Texas Legislature, Regular Session, which established a modern and dynamic finance system that ensures each public junior college has access to adequate state appropriations and local resources to support the education and training of the Texas workforce. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

(1) the rule will not create or eliminate a government program;

(2) implementation of the rule will not require the creation or elimination of employee positions;

(3) implementation of the rule will not require an increase or decrease in future legislative appropriations to the agency;

(4) the rule will not require an increase or decrease in fees paid to the agency;

(5) the rule will not create a new rule;

(6) the rule will not limit an existing rule;

(7) the rule will not change the number of individuals subject to the rule; and

(8) the rule will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [CCFinance@highered.texas.gov](mailto:CCFinance@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendment is proposed under Texas Education Code (TEC), Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A, to implement House Bill 8, 88th Texas Legislature, Regular Session. In addition, TEC, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The proposed amendment affects TEC, Chapter 130A, and TEC, Sections 61.059 and 130.0031.

#### §13.624. Forecasting Fundable Outcomes.

(a) Purpose. The purpose of this section is to establish the methodology for forecasting fundable performance outcome counts to calculate performance tier funding amounts covering a time period for which performance data are not yet available. Using historical data for each public junior college, the Coordinating Board shall forecast each performance tier fundable outcome based on the applicable performance tier funding rules of this chapter in effect for the fiscal year for which the Coordinating Board is calculating performance tier funding. The Coordinating Board shall use these figures to calculate each performance tier payment for the fiscal year as established in this chapter.

(b) Methodology for Fiscal Year 2025 and Foundation Payment for Fiscal Year 2026. To calculate payment adjustments to Fiscal Year 2025 and the foundation payment for Fiscal Year 2026, the Coordinating Board shall forecast the total annual count of a fundable performance tier outcome for a public junior college using the exponential triple smoothing method of trend analysis with additive error, trend, and seasonality parameters applied to time series data. Except as specified in subsection (d)(1) of this section, this time series data shall use fundable certified data with the counts of fundable outcomes achieved annually by the public junior college during no fewer than the six most recent years for which data are available except as otherwise provided by subsection (c) of this section.

(c) Methodology. Except for forecasts conducted to calculate amounts of payments under subsection (b) of this section, the Coordinating Board shall forecast the total annual count of a performance tier fundable outcome for a public junior college using the model of those provided in subsection (c)(4)(A) - (C) [(b)(1)(A)] of this sec-

tion demonstrating the lowest root mean square error (RMSE) as established by time series cross validation, according to the following:

(1) The model demonstrating the lowest RMSE for each fundable performance outcome for a public junior college will be selected and used for forecasting the total annual count of that fundable performance outcome for that public junior college.

(2) For the purposes of forecasting total annual count of a fundable performance outcome for a public junior college, the Coordinating Board will use fundable certified data with the counts of fundable outcomes achieved annually by the public junior college during no fewer than the six most recent years for which data are available except as otherwise provided by subsection (d) of this section.

(3) For the purposes of determining the lowest RMSE model for forecasting each fundable performance outcome for each public junior college for a given fiscal year, fundable certified data with the counts of fundable outcomes achieved annually by the public junior college no more recently than two years prior to the fiscal year for which the forecast is conducted will be included in model selection.

(4) In forecasting performance tier fundable outcome counts, the Coordinating Board shall select between the models listed below. Each model's parameter specifications will be the set of parameters that produces the lowest corrected Akaike information criterion (AICc).

(A) Autoregressive integrated moving average (ARIMA).

(B) Exponential triple smoothing (ETS).

(C) Random walk with drift (RWD).

(d) Other time series data.

(1) In calculating amounts of payments under subsection (b) of this section, the time series data for forecasting Occupational Skills Awards and Institutional Credentials Leading to Licensure or Certification shall consist of fundable certified data with the counts of each performance tier fundable outcome achieved annually by a public junior college during no fewer than the four most recent fiscal years for which data are available. For Institutional Credentials Leading to Licensure or Certification, the Coordinating Board shall use the definition and limitations for the credential in effect during the fiscal year for which the credential was reported.

(2) In conducting forecasting according to subsection (c) of this section, the Coordinating Board shall forecast performance outcome counts for which four or five years of fundable certified data are available using the available data. If fewer than four years of fundable certified data are available, the Coordinating Board shall forecast the performance outcome count as the greater of the count for the most recent available year of fundable certified data and the average of the counts for all available years of fundable certified data.

(e) Bounded projections. The forecasted total annual count of a fundable performance outcome for a fiscal year shall not ~~exceed 110 percent nor~~ be less than 95 percent of the count for the prior year. If the count for the prior year is also a forecasted value, then the maximum allowable change for the current year shall be calculated against the prior year's forecasted value as adjusted pursuant to this rule. If the value for a fundable performance outcome for the most recent actual, not forecasted data is zero, the forecast shall not be bounded in the next fiscal year. In no circumstances may an estimated fundable performance outcome be negative.

(f) The Coordinating Board shall forecast the number of each fundable credential in a high-demand field, as defined under subchap-

ter T of this chapter (relating to Community College Finance Program: High-Demand Fields), for a fiscal year by multiplying the average annual percentage of the credential conferred in a high-demand field in the institution's time series data by the total count of the credential forecast to be conferred in that year.

(g) The Coordinating Board shall forecast the number of each fundable credential receiving an additional weight based on academically disadvantaged, economically disadvantaged, and adult learners status, as provided by §13.556 and §13.646 of this chapter (relating to Performance Tier: Fundable Outcomes) establishing performance outcome definitions for the fiscal year for which it is calculating performance funding, for a fiscal year by multiplying the average percentage of the credential conferred by the institution to students in each respective subgroup in the institution's time series data by the total count of the credential forecast to be conferred by the institution in that year.

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

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Douglas Brock

General Counsel

Texas Higher Education Coordinating Board

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For further information, please call: (512) 427-6495



## SUBCHAPTER V. COMMUNITY COLLEGE FINANCE PROGRAM: BASE AND PERFORMANCE TIER METHODOLOGY FOR FISCAL YEAR 2026

### 19 TAC §§13.643, 13.644, 13.646

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter V, §§13.643, 13.644, and 13.646 concerning Community College Finance Program: Base and Performance Tier Methodology for Fiscal Year 2026. Specifically, these amendments will correct typographical errors and will codify that the Credential of Value Baseline list for associate degrees for fiscal year 2026 will not change after its adoption.

Texas Education Code (TEC), §130A.005, provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A to implement. House Bill 8, 88th Texas Legislature, Regular Session. In addition, TEC, §130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

Rule 13.643(17), Definitions, is amended to correctly reference definition (34) for Semester Credit Hour.

Rule 13.644(c)(2), Base Tier Allotment, is amended to replace the phrase "funding certified data" with "fundable certified data", which is defined in Chapter 13, Subchapter U. This ensures alignment of terms across the subchapters that govern the Community College Finance Program.

Rule 13.646(b)(2)(F), Performance Tier: Fundable Outcomes, is added to clarify that the associate degrees that are identified as

credentials of value will remain unchanged for the duration of all payment calculations for fiscal year 2026. This codifies the current practice of not updating the list of fundable credentials after its initial adoption, and maintaining that list during any updates to the fiscal year 2026 funding model during subsequent fiscal years to allow for consistency in budgeting for the community colleges.

Minor non-substantive grammatical errors have been corrected. Capitalization of the word chapter when preceding a number and the word subchapter when preceding a letter has been standardized throughout the rules for consistency.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rules. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rules. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner of Funding and Resource Planning, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the continued refinement of implementing HB 8, 88th Texas Legislature, Regular Session, which established a modern and dynamic finance system that ensures each public junior college has access to adequate state appropriations and local resources to support the education and training of the workforce. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will not create a new rule;
- (6) the rules will not limit an existing rule;
- (7) the rules will not change the number of individuals subject to the rules; and
- (8) the rules will not affect this state's economy.

Comments on the proposed rules or information related to the cost, benefit, or effect of the proposed rules, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [CCFinance@highered.texas.gov](mailto:CCFinance@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under Texas Education Code, Section 130A.005, which provides the Coordinating Board with

the authority to adopt rules and take other actions consistent with Texas Education Code, Chapter 61, Chapter 130, and Chapter 130A to implement. HB 8, 88th Texas Legislature, Regular Session. In addition, Texas Education Code, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The proposed amendments affect Texas Education Code, Sections 28.0295, 61.003, 61.059, 130.003, 130.0031, 130.0034, 130.008, 130.085, 130.310, 130.352, and Chapter 130A.

#### §13.643. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings:

(1) **Academically Disadvantaged**--A designation that applies to postsecondary students who have not met the college-readiness standard in one or more Texas Success Initiative (TSI) assessments as provided by §4.57 of this title (relating to Texas Success Initiative Assessment College Readiness Standards), and who were not classified as either waived or exempt pursuant to §4.54 of this title (relating to Exemption).

(2) **Adult Learner**--A student aged 25 or older on September 1 of the fiscal year for which the applicable data are reported, in accordance with Coordinating Board data reporting requirements.

(3) **Advanced Technical Certificate (ATC)**--A certificate that has a specific associate or baccalaureate degree or junior level standing in a baccalaureate degree program as a prerequisite for admission. An ATC consists of at least 16 semester credit hours (SCH) and no more than 45 SCH and must be focused, clearly related to the prerequisite degree, and justifiable to meet industry or external agency requirements.

(4) **Associate Degree**--An academic associate degree as defined under Texas Education Code, §61.003(11), or an applied associate degree as defined under Texas Education Code, §61.003(12)(B).

(5) **Baccalaureate Degree**--A degree program that includes any grouping of subject matter courses consisting of at least 120 SCH which, when satisfactorily completed by a student, will entitle that student to an undergraduate degree from a public junior college.

(6) **Base Tier Funding**--The amount of state and local funding determined by the Board for each public junior college that ensures the college has access to a defined level of funding for instruction and operations.

(7) **Base Year**--The time period comprising the year of contact hours used for calculating the contact hour funding to public junior colleges. The Base Year for a funded fiscal year consists of the reported Summer I and II academic term from the fiscal year two years prior to the funded fiscal year; the Fall academic term one fiscal year prior to the funded fiscal year; and the Spring academic term one fiscal year prior to the funded fiscal year.

(8) **Basic Allotment**--A calculation of the dollar value per Weighted FTSE, based on appropriations made in that biennium's General Appropriations Act pursuant to §13.644(c) of this subchapter (relating to Base Tier Allotment).

(9) **Census Date**--The date upon which a college may report a student in attendance for the purposes of formula funding, as specified in the Coordinating Board Management (CBM) manual for the year in which the funding is reported.

(10) **Confer**--An institution of higher education confers a credential when it determines that a student has met all requirements to earn the credential, as defined in paragraph (17) of this section, and

updates the student's transcript to reflect completion of the credential program. Confer and award may be used synonymously.

(11) Continuing Education Certificate--A credential awarded for completion of a program of instruction that meets or exceeds 360 contact hours and earns continuing education units. The certificate program is intended to prepare the student to qualify for employment; to qualify for employment advancement; or to bring the student's knowledge or skills up to date in a particular field or profession; and is listed in an institution's approved program inventory.

(12) Credential of Value Baseline--A credential earned by a student that would be expected to provide a positive return on investment. Credential of Value Baseline methodology is described in §13.646 of this subchapter (relating to Performance Tier: Fundable Outcomes).

(13) Credential of Value Premium Fundable Outcome--A fundable outcome earned by an institution for a credential earned by a student that would be expected to provide a wage premium. Credential of Value Premium methodology is described in §13.646 of this subchapter.

(14) Credential Reporting--An institution of higher education reports a credential when it includes it in data submitted to the Coordinating Board pursuant to §13.524 of this chapter (relating to Required Reporting). An institution shall report a credential as having been conferred in the year or other applicable reporting period in which it was conferred pursuant to paragraph (10) of this section.

(15) Credentialing Examination--A licensure or registration exam required by a state or national regulatory entity or a certification exam required by an authorized professional organization. An authorized professional organization is a national, industry-recognized organization that sets occupational proficiency standards, conducts examinations to determine candidate proficiency, and confers an industry-based certification.

(16) Dual Credit or Dual Enrollment Fundable Outcome--An outcome achieved when a student earns at least 15 SCH or the equivalent of fundable dual credit or dual enrollment courses, defined as follows:

(A) Courses that qualify as dual credit courses as defined in §4.83(10) of this title (relating to Definitions); and:

(i) Apply toward an academic or career and technical education program requirement at the postsecondary level; or

(ii) Are completed by a student who graduates with a Texas First Diploma, as codified in Chapter 4 [chapter 21], Subchapter AA [subchapter D] of this title (relating to Texas First Early High School Completion Program).

(B) All dual credit courses taken by a student enrolled in an approved Early College High School program, as provided by Texas Education Code, §28.009, or a student enrolled in the Windham School District, pursuant to Education Code, Chapter [chapter] 19, or a P-TECH program pursuant to Education Code, chapter 29, Subchapter N, except a physical education course taken by a high school student for high school physical education credit.

(17) Earned--A student earns a credential when the student successfully completes the final semester credit hour or equivalent of a semester credit hour, as defined in paragraph (34) [(33)] of this section, for the credential and has satisfied all other academic program requirements.

(18) Economically Disadvantaged--A designation that applies to postsecondary students who received the federal Pell Grant under 20 U.S.C. §1070a.

(19) Equivalent of a Semester Credit Hour--A unit of measurement for a continuing education course, determined as a ratio of one continuing education unit to 10 contact hours of instruction, which may be expressed as a decimal. One semester credit hour of instruction equals 1.6 continuing education units of instruction. In a continuing education course, not fewer than 16 contact hours are equivalent to one semester credit hour.

(20) Formula Funding--The funding allocated by the Coordinating Board among all public junior colleges by applying provisions of the Texas Education Code, agency rule, and the General Appropriations Act to a sector-wide appropriation from the General Appropriations Act.

(21) Full-Time Student Equivalent (FTSE)--A synthetic measure of enrollment based on the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the time period in question.

(22) Fundable Credential--As defined in §13.646(b) of this subchapter.

(23) Fundable Outcome Weights--A multiplier applied to eligible fundable outcomes to generate a Weighted Outcome Completion for use in determining the Performance Tier allocation. The methodology for each Fundable Outcome Weight is defined in §13.647 of this subchapter (relating to Performance Tier: Fundable Outcome Weights).

(24) High-Demand Fields--A field in which an institution awards a credential that provides a graduate with specific skills and knowledge required for the graduate to be successful in a high-demand occupation, based on the list of high-demand fields as defined in Subchapter [subchapter] T of this chapter (relating to Community College Finance Program: High-Demand Fields).

(25) Individual Self-Sufficient Wage--The Coordinating Board calculates the Individual Self-Sufficient Wage for the purpose of this subchapter as the statewide median of county-level median self-sufficient wages as determined by the Texas Workforce Commission under Government Code, §2308A.012, rounded up to the nearest thousand dollars.

(26) Institutional Credentials Leading to Licensure or Certification (ICLC)--A credential awarded by an institution upon a student's completion of a course or series of courses that represent the achievement of identifiable skill proficiency and leading to licensure or certification. This definition includes a credential that meets the definition of an Occupational Skills Award in all respects except that the program may provide training for an occupation that is not included in the Local Workforce Development Board's Target Occupations list.

(27) Level 1 Certificate--A certificate designed to provide the necessary academic skills and the workforce skills, knowledge, and abilities necessary to attain entry-level employment or progression toward a Level 2 Certificate or an Applied Associate Degree, with at least 50% of course credits drawn from a single technical specialty. A Level 1 Certificate must be designed for a student to complete in one calendar year or less time and consists of at least 15 semester credit hours and no more than 42 semester credit hours.

(28) Level 2 Certificate--A certificate consisting of at least 30 semester credit hours and no more than 51 semester credit hours. Students enrolled in Level 2 Certificates must demonstrate meeting col-

lege readiness standards set forth in §4.57 of this title and other eligibility requirements determined by the institution.

(29) Local Share--The amount determined to be the institution's contribution of local funds to the Instruction and Operations (I&O) amount for each public junior college. The amount consists of estimated ad valorem maintenance and operations tax revenue and tuition and fees revenue, as determined by the Board.

(30) Net Cost of Attendance--Expenses incurred by a student in attending a particular college, including tuition, fees, books and supplies, room and board, transportation, and other personal expenses, less the student's estimated merit- and need-based grant aid.

(31) Non-Formula Support Item--An amount appropriated by line item in the General Appropriations Act to a single public junior college or limited group of colleges for a specific, named purpose.

(32) Occupational Skills Award (OSA)--A sequence of courses that meet the minimum standard for program length specified by the Texas Workforce Commission for the federal Workforce Innovation and Opportunity Act (WIOA) program (9-14 SCH for credit courses or 144-359 contact hours for workforce continuing education courses). An OSA must possess the following characteristics:

(A) The content of the credential must be recommended by an external workforce advisory committee, or the program must provide training for an occupation that is included on the Local Workforce Development Board's Target Occupations list;

(B) In most cases, the credential should be composed of Workforce Education Course Manual (WECM) courses only. However, non-stratified academic courses may be used if recommended by the external committee and if appropriate for the content of the credential;

(C) The credential complies with the Single Course Delivery guidelines for WECM courses; and

(D) The credential prepares students for employment in accordance with guidelines established for the Workforce Innovation and Opportunity Act.

(33) Opportunity High School Diploma Fundable Outcome--An alternative means by which adult students enrolled in a workforce program at a public junior college may earn a high school diploma at a college through concurrent enrollment in a competency-based program, as codified in Texas Education Code, Chapter [chapter] 130, Subchapter [subchapter] O, and Texas Administrative Code, Title 19, Part 1, Chapter 12.

(34) Semester Credit Hour (SCH)--A unit of measure of instruction, represented in intended learning outcomes and verified by evidence of student achievement, that reasonably approximates one hour of classroom instruction or direct faculty instruction and a minimum of two hours out of class student work for each week over a 15-week period in a semester system or the equivalent amount of work over a different amount of time. An institution is responsible for determining the appropriate number of semester credit hours awarded for its programs in accordance with Federal definitions, requirements of the institution's accreditor, and commonly accepted practices in higher education.

(35) Structured Co-Enrollment Fundable Outcome--A student who earns at least 15 semester credit hours at the junior college district in a program structured through a binding written agreement between a general academic teaching institution and a community college submitted and certified to the Coordinating Board pursuant to §13.524 of this chapter (related to Required Reporting). Under such a program, students will be admitted to both institutions and recognized as having

matriculated to both institutions concurrently. The Structured Co-enrollment Fundable Outcome does not include courses fundable under the Dual Credit or Dual Enrollment Fundable Outcome.

(36) Third-Party Credential--A certificate as defined in Texas Education Code, §61.003(12)(C), that is conferred by a third-party provider. The third-party provider of the certificate develops the instructional program content, develops assessments to evaluate student mastery of the instructional content, and confers the third-party credential. A third-party credential that meets the requirements of §13.646 of this subchapter is fundable in accordance with that section.

(37) Transfer Fundable Outcome--An institution earns a fundable outcome in the Performance Tier under §13.645 of this subchapter (relating to Performance Tier Funding) when a student enrolls in a general academic teaching institution or a private or independent institution of higher education, as defined in Texas Education Code, §61.003, after earning at least 15 semester credit hours from a single public junior college district as established under §13.646(e) of this subchapter. For the purpose of this definition, semester credit hours (SCH) shall refer to semester credit hours or the equivalent of semester credit hours.

(38) Weighted Full-Time Student Equivalent (Weighted FTSE or WFTSE)--A synthetic measure of enrollment equal to the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the fiscal year two years prior to the one for which formula funding is being calculated, where the hours delivered to students with certain characteristics carry a value other than one.

(39) Weighted Outcomes Completion--A synthetic count of completions of designated student success outcomes where outcomes achieved by students with certain characteristics carry a value other than one. The synthetic count may also represent a calculation, such as an average or maximizing function, other than a simple sum.

*§13.644. Base Tier Allotment.*

(a) Coordinating Board staff will calculate Base Tier funding for each public junior college district (district) as the greater of the Instruction and Operations (I&O) amount minus Local Share and zero.

(b) A district's I&O amount is the sum of the number of Weighted Full-Time Student Equivalents (Weighted FTSE) enrolled at the district multiplied by the Basic Allotment amount calculated by the Commissioner of Higher Education as provided in subsection (c) of this section and the district's total Contact Hour Funding as determined by the Coordinating Board.

(1) Weighted FTSE for each district is the sum of the district's full-time student equivalents weighted for the student characteristics under subparagraph (B) of this paragraph and the scale adjustment as provided in Texas Education Code, §130A.054.

(A) For purposes of determining annual Weighted FTSE as a component of formula funding for the fiscal year under this section, a district's full-time student equivalents (FTSE) is equal to the sum of:

(i) the total semester credit hours in which for-credit students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for the fiscal year two years prior, divided by 30; and

(ii) the total contact hours in which continuing education students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for the fiscal year two years prior, divided by 900.

(B) The Coordinating Board shall apply a weight to the calculation of Weighted FTSE as follows:

(i) if a student is classified as economically disadvantaged during the fiscal year two years prior, FTSE generated by that student shall have an additional value of 25%;

(ii) if a student is classified as academically disadvantaged during the fiscal year two years prior, FTSE generated by that student shall have an additional value of 25%; and

(iii) if a student is classified as an adult learner on September 1 of the fiscal year two years prior, FTSE generated by that student shall have an additional value of 50%.

(C) The Coordinating Board calculates a district's scale adjustment weight as the greater of the difference between 5,000 and the number of FTSE as defined in subparagraph (A) of this paragraph multiplied by .40, and zero.

(2) For the purpose of calculating formula funding amounts for the fiscal year, Coordinating Board staff will calculate Contact Hour Funding for a public junior college district by first multiplying the number of reported certified fundable contact hours generated by the district in each discipline during the Base Year of the fiscal year by the average cost of delivery per contact hour for each discipline respectively as described in the Report of Fundable Operating Expenses in accordance with §13.524(c) of this chapter (relating to Required Reporting) and summing across all disciplines. Contact hours attributable to students enrolled in a junior-level or senior-level course are weighed in the same manner as a lower division course in a corresponding field. That sum will then be multiplied by a rate calculated by the Commissioner of Higher Education as provided in subsection (c) of this section in accordance with the General Appropriations Act to calculate the district's Contact Hour Funding.

(c) The Commissioner shall calculate the Basic Allotment and the rate to be used for calculating districts' Contact Hour Funding such that:

(1) Contact Hour Funding is equivalent to Basic Allotment Funding for the fiscal year; and

(2) The sum of base tier funding to all districts for the fiscal year equals one-nineteenth of the sum of performance tier foundation payments calculated using fundable [funding] certified data as described in Subchapter [subchapter] U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy) by June 1 prior to the fiscal year.

(3) The Commissioner may modify the base tier funding on a pro rata basis in accordance with this subsection to account for any changes to performance tier totals arising from any amendments to rule adopted by the Board between June 1 and the beginning of the fiscal year.

(d) For the purpose of calculating formula funding amounts for the fiscal year, the Local Share for each public junior college district equals the sum of:

(1) the estimated amount of revenue that would have been generated by the district if it had assessed a \$0.05 maintenance and operations ad valorem tax on each \$100 of taxable property value in its taxing district, as reported under §13.524 of this chapter, which the Coordinating Board will calculate as the district's current tax collection for fiscal year two years prior multiplied by the ratio of the maintenance and operations tax rate to the total tax rate, divided by the product of the maintenance and operations tax rate and 100 and multiplied by five; and

(2) the amount of tuition and fee revenue calculated as the sum of:

(A) the district's FTSE two fiscal years prior as defined in subsection (b)(1)(A) of this section, except for semester credit hours derived from students enrolled in dual credit or dual enrollment courses, multiplied by a rate calculated by the Commissioner of Higher Education, which is the enrollment-weighted statewide average of tuition and fees charges to full-time equivalent students residing within the district of the public junior college they attend, as reported by the public junior colleges in the Integrated Fiscal Reporting System for the fiscal year two fiscal years prior; and

(B) the total semester credit hours of dual credit courses in which students were enrolled as of the census dates of all academic semesters or other academic terms that were reported in the fiscal year two years prior, multiplied by the Financial Aid for Swift Transfer (FAST) tuition rate as codified in §13.504 of this chapter (relating to Financial Aid for Swift Transfer (FAST) Tuition Rate) in the fiscal year two years prior.

§13.646. *Performance Tier: Fundable Outcomes.*

(a) This section contains definitions of Fundable Outcomes eligible for receiving funding through the Performance Tier. An institution's Performance Tier funding will consist of the count of Fundable Outcomes, multiplied by weights identified in §13.647 of this subchapter (relating to Performance Tier: Fundable Outcome Weights) as applicable, multiplied by the monetary rates identified in this subchapter. Only the Fundable Outcomes identified under paragraphs (1), (4), and (5) of this subsection are eligible to qualify for a Fundable Outcome Weight category identified in §13.647(a)(1) - (3) of this subchapter; all other Fundable Outcomes receive a weight of one under §13.647 of this subchapter. A credential's eligibility for funding as a fundable credential is subject to the limitations set out in subsection (h) of this section. Fundable Outcomes consist of the following categories:

- (1) Fundable Credentials;
- (2) Credential of Value Premium;
- (3) Dual Credit Fundable Outcomes;
- (4) Transfer Fundable Outcomes;
- (5) Structured Co-Enrollment Fundable Outcomes; and
- (6) Opportunity High School Diploma Fundable Outcomes.

(b) Fundable Credentials.

(1) A fundable credential is defined as any of the following:

(A) Any of the following credentials awarded by an institution that meets the criteria of a credential of value as defined in paragraph (2) or paragraph (3) of this subsection using the most recent data available prior to the year in which the credential that is otherwise eligible for funding is conferred and that the institution reported and certified to the Coordinating Board:

- (i) An associate degree;
- (ii) A baccalaureate degree;
- (iii) A Level 1 or Level 2 Certificate;
- (iv) An Advanced Technical Certificate; and
- (v) A Continuing Education Certificate.

(B) An Occupational Skills Award awarded by an institution that the institution reported and certified to the Coordinating Board;

(C) An Institutional Credential Leading to Licensure or Certification (ICLC) not reported pursuant to subparagraph (B) of this paragraph and that the institution reported and certified to the Coordinating Board. The credential shall meet one of the following criteria:

(i) The credential includes no fewer than 144 contact hours or nine (9) semester credit hours; or

(ii) The credential is awarded in a high demand field, as defined in Coordinating Board rule, and includes no fewer than 80 contact hours or five (5) semester credit hours; or

(D) A Third-Party Credential that meets the following requirements:

(i) The third-party credential is listed in the American Council on Education's ACE National Guide with recommended semester credit hours;

(ii) The third-party credential program content is either embedded in a course, embedded in a program, or is a stand-alone program;

(iii) The third-party credential is conferred for successful completion of the third-party instructional program in which a student is enrolled;

(iv) The third-party credential is included on the workforce education, continuing education, or academic transcript from the college; and

(I) The third-party credential includes no fewer than the equivalent of nine (9) semester credit hours or 144 contact hours; or

(II) The third-party credential is awarded in a high-demand field as defined in Coordinating Board rule, and includes no fewer than the equivalent of five (5) semester credit hours or 80 contact hours; and

(2) Credential of Value Baseline - Associate Degree. A credential identified in paragraph (1)(A)(i) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph to be eligible as a Fundable Outcome, except when that credential is conferred under the fields appearing in Figure 1, according to the Classification of Instructional Programs promulgated by the U.S. Department of Education. When a credential identified in paragraph (1)(A)(i) of this subsection is conferred under fields appearing in Figure 1, it must meet the Credential of Value Baseline criteria as provided by paragraph (3) of this subsection to be eligible as a Fundable Outcome. Excluding the credentials identified in Figure 1, the baseline is met when a credential earned by a student would be expected to provide a positive return on investment and an individual self-sufficient wage within a period of five years.

Figure: 19 TAC §13.646(b)(2) (No change.)

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within five years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled for a period of two years.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most

current data available to the agency for the funding year for each program or a comparable program.

(D) The Coordinating Board shall determine whether a credential is expected to provide an individual self-sufficient wage within a period of five years by comparing the median real wage, as adjusted based on the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics, earned by all recipients of the credential in their fifth year after receiving the credential according to all available data to the individual self-sufficient wage defined in accordance with §13.643(25) of this subchapter (relating to Definitions).

(E) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter (relating to Emerging and Essential Fields), the Coordinating Board may utilize other recent, relevant data, including:

(i) employer certifications provided under §13.595(b);

(ii) information on program design, including at minimum the cost and length of the program; and

(iii) any other information necessary for the Coordinating Board [Board] to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(F) The associate degrees identified as credentials of value under this paragraph shall be used for any subsequent calculation for fiscal year 2026.

(3) Credential of Value Baseline - Other Credentials. A credential identified in paragraph (1)(A)(ii), (1)(A)(iii), (1)(A)(iv), or (1)(A)(v) of this subsection and not subject to paragraph (2) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph for eligibility as a Fundable Outcome. This baseline is met when a credential earned by a student would be expected to provide a positive return on investment within a period of ten years.

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within ten years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled:

(i) Four years for baccalaureate degree holders;

(ii) Two years for associate degree holders; or

(iii) One year for holders of a Level 1 certificate, Level 2 certificate, Advanced Technical Certificate, or Continuing Education Certificate.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter (relating to Emerging and Essential Fields), the Coordinating Board may utilize recent, relevant data, including:

(i) employer certifications provided under §13.595(b);

(ii) information on program design, including at minimum the cost and length of the program; and

(iii) any other information necessary for the Coordinating Board to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(4) Notwithstanding subsection (h) of this section, the following limitations apply to a fundable credential:

(A) For a credential under paragraph (1)(B) or (C) of this subsection, if more than one credential that the institution awarded to a student includes the same contact hours, the institution may only submit one credential for funding;

(B) If an institution awarded to a student a credential eligible for funding under paragraph (1)(B) and (C) of this subsection and those credentials share the same contact hours, the institution shall submit for funding only the credential awarded under paragraph (1)(B) of this subsection; and

(C) A fundable credential excludes a degree or certificate awarded to a non-resident student enrolled in a 100-percent online degree or certificate program as defined in §2.202(4)(A) of this title (relating to Definitions) for a student who resides out-of-state.

(c) Credential of Value Premium. An institution earns a Credential of Value Premium for each student who completes a Fundable Credential under subsection (b)(1)(A) of this section as follows:

(1) The student completes the credential of value on or before the target year for completion that, for the majority of students who complete comparable programs, would enable the student to achieve a positive return on investment within the timeframe specified for the program as described in paragraph (2) of this subsection.

(2) For each program, the Coordinating Board shall calculate the year in which the majority of comparable programs would be projected to have the majority of their students achieve a positive return on investment.

(3) Each year, the Coordinating Board shall publish a list of the target years for completion for each program.

(d) Dual Credit Fundable Outcome. An institution achieves a Dual Credit Fundable Outcome when a student has earned a minimum number of eligible dual credit semester credit hours, as defined in §13.643(16) of this subchapter (relating to Definitions).

(e) Transfer Fundable Outcome.

(1) An institution earns a transfer fundable outcome when a student enrolls in a general academic teaching institution (GAI), as defined in Texas Education Code, §61.003(3), or a private or independent institution of higher education as defined in Texas Education Code, §61.003(15) after earning at least 15 semester credit hours or semester credit hour equivalents (SCH) from a single public junior college district, subject to the following:

(A) The student is enrolled at a GAI or private or independent institution for the first time in the fiscal year for which the public junior college is eligible for a performance tier allocation, as established in this subchapter;

(B) No institution, including the institution that may be awarded a transfer fundable outcome, has achieved a structured co-enrollment fundable outcome or would otherwise achieve a structured co-enrollment fundable outcome in the same year on the basis of the

student's participation in a structured co-enrollment program under subsection (f) of this section;

(C) The student earned a minimum of 15 SCHs from the public junior community college district seeking the transfer fundable outcome during the period including the fiscal year in which they enroll at the GAI or private or independent institution and the four fiscal years prior; and

(D) The attainment of the 15 SCHs satisfies the following restrictions:

(i) The transfer fundable outcome shall exclude the 15 SCHs that previously counted toward attainment of a dual credit fundable outcome for the student under subsection (d) of this section.

(ii) The transfer fundable outcome may include any SCHs earned by the student not previously counted toward a dual credit fundable outcome under subsection (d) of this section.

(2) Only one institution may earn a transfer fundable outcome for any individual student, except as provided by subparagraph (C) of this paragraph. An institution may earn the transfer fundable outcome only once per student. The Coordinating Board shall award the transfer fundable outcome in accordance with this subsection.

(A) If a student has earned 15 SCH at more than one institution prior to transfer to any GAI or private or independent institution, the Coordinating Board shall award the transfer fundable outcome to the last public junior college at which the student earned the 15 SCH eligible for funding under this section.

(B) If the student earned the 15 SCH at more than one institution during the same academic term, the Coordinating Board shall award the transfer fundable outcome to the public junior college:

(i) from which the student earned the greater number of the SCH that count toward the transfer fundable outcome during the academic term in which they earned the 15 SCH; or

(ii) if the student earned an equal number of SCH that count toward the transfer fundable outcome in the academic term in which the student earned the 15 SCH, to the institution from which the student earned a greater number of SCH that count toward the transfer fundable outcome in total.

(C) If a student has met the SCH requirements of subparagraph (B)(i) and (ii) of this paragraph at more than one public junior college, each public junior college may receive a transfer fundable outcome.

(f) Structured Co-Enrollment Fundable Outcome. An institution achieves a Structured Co-Enrollment Fundable Outcome when a student has earned a minimum number of eligible semester credit hours in a structured co-enrollment program that has been submitted and certified to the Coordinating Board as defined in §13.643(35) of this subchapter, and no institution, including the institution that may be awarded a structured co-enrollment fundable outcome, has been funded for transfer fundable outcome on the basis of the student's enrollment in a GAI under subsection (e) of this section.

(g) Opportunity High School Diploma Fundable Outcome. An institution achieves an Opportunity High School Diploma Fundable Outcome when a student has completed the program and attained the credential, as defined in §13.643(33) of this subchapter. A student must earn the Opportunity High School Diploma on or after September 1, 2024, to qualify as a Fundable Outcome.

(h) Fundable Outcome Parameters. The Commissioner of Higher Education retains sole discretion for determining compliance

with the requirements of this subsection. An institution shall only be funded for credentials reported in compliance with this section.

(1) For a credential conferred in fiscal year 2026 to be eligible for funding, an institution must have conferred the credential in and reported the credential for fiscal year 2026, and the recipient must have earned the credential no earlier than June 1, 2025.

(A) An associate degree that the institution conferred in and reported for fiscal year 2026 shall also be eligible for funding if the student earned the last semester credit hour of the associate degree through the successful completion of coursework at an institution other than the institution conferring and reporting the credential no earlier than May 1, 2025.

(B) A credential earned prior to September 1, 2025, but reported for fiscal year 2026 and satisfying all other requirements of this paragraph must be conferred no later than December 31, 2025, to be eligible for funding.

(2) The coordinating board shall fund the following credentials, provided they meet all other criteria of fundable credentials of value:

(A) An Occupational Skills Award, an Institutional Credential Leading to Licensure or Certification, or Third-Party credential;

(B) Level I Certificate or Continuing Education Certificate;

(C) Level II Certificate;

(D) an associate degree;

(E) an advanced technical certificate; and

(F) a baccalaureate degree.

(3) An institution may not receive funding for more than one credential of each type listed in subsections (h)(2)(A)-(F), where each Subparagraph corresponds to a type, conferred to an individual student in a single reporting year.

(4) Subject to the limitations specified in this subsection, if an institution reports having conferred more than one credential of any single type listed in paragraph (2)(A) - (F) of this subsection to an individual student in a single reporting year and conferred at least one such credential in a discipline designated as a high-demand field for that institution, as described in Subchapter [subchapter] T of this chapter (relating to Community College Finance Program: High-Demand Fields), the coordinating board shall fund a credential in the high-demand field.

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

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## SUBCHAPTER W. COMMUNITY COLLEGE FINANCE PROGRAM: BASE AND

## PERFORMANCE TIER METHODOLOGY BEGINNING IN FISCAL YEAR 2027

### 19 TAC §§13.660 - 13.670

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new rules in Texas Administrative Code, Title 19, Part 1, Chapter 13, Subchapter W, §§13.660 - 13.670, concerning Community College Finance Program: Base and Performance Tier Methodology Beginning in fiscal year 2027. Specifically, this new section will clarify that Chapter 13, Subchapter W, rules apply to the Coordinating Board's calculation of foundation payments made beginning in fiscal year 2027 and future adjustments of those payments under the dynamic funding model, and it also contains a number of modifications relating to specific issue areas, as detailed below. Subsequently, Subchapter V, has continued authority for fiscal year 2026 only.

The Coordinating Board initially adopted the regular rules relating to the community college finance system in April 2025 for fiscal year 2026, including Chapter 13, Subchapter V. These proposed rules, for Subchapter W, would perform the same functions as Chapter 13, Subchapter V, which establishes all definitions, methods, weights and rates for the base and performance tiers, but would apply beginning with funding year FY2027. The proposed rules would make the following substantive changes for fiscal year 2027 to the rules previously adopted by the Coordinating Board for fiscal year 2026:

1. Removal of the Third-Party Credentials as a fundable outcome, as the Coordinating Board does not have the data to analyze or calculate funding for this outcome and how those credentials related to state education and workforce needs.

2. Modification of the Academically Disadvantaged weight from 25% to 20% in both the Base Tier and Performance Tier calculations.

3. Modification of the Economically Disadvantaged weight from 25% to 20% in both the Base Tier and Performance Tier calculations.

4. Modification of the Adult Learner weight from 50% to 40% in both the Base Tier and Performance Tier calculations.

5. Modification of the three-year average to a two-year average when calculating the funding amounts after eligible outcomes are weighted.

6. Further limits the number of outcomes eligible to be funded in which one outcome of each type can be earned within a 5-year time frame, with the exception of two Level 1 certificates or continuing education certificates being allowed.

The proposed Subchapter W, maintains continuity with existing rules in Subchapter V, while proposing the changes listed above and ensuring the applicability of the rules beyond the 2026 fiscal year.

Texas Education Code (TEC), §130A.005, provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A to implement HB 8, 88th Texas Legislature, Regular Session. In addition, TEC, §130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

Rule 13.660, Purpose, establishes that the purpose of Subchapter W, is to implement the community college finance system established by HB 8, 88th Texas Legislature, Regular Session.

Rule 13.661, Authority, establishes the portions of the TEC that authorize the Coordinating Board to adopt rules pertaining to community college finance.

Rule 13.662, Applicability, establishes that the Coordinating Board will apply the rules in effect for the fiscal year in which the funding was delivered, unless otherwise provided. This provision provides guidance to institutions on which rules will apply as the Coordinating Board iterates and refines the community college finance framework. This also clarifies that this subchapter is applicable beginning with fiscal year 2027 base tier and performance tier calculations for funding purposes.

Rule 13.663, Definitions, lists definitions pertinent to the community college finance system. This section provides only general meanings of terms and reserves substantive policy detail for the sections described below.

Rule 13.664, Base Tier Allotment, establishes the calculations used to determine Base Tier funding that the legislature entitled community colleges to receive under TEC, §§130A.051 - 130A.056. To summarize, Base Tier funding is calculated as Instruction and Operations (I&O) minus Local Share. If Local Share is greater than Instructions and Operations, then Base Tier funding is zero.

Rule 13.665, Performance Tier Funding, establishes the components of the Performance Tier portion of community college funding, codified under TEC, Chapter 130A, Subchapter C. Performance Tier funding consists of the number of Fundable Outcomes each community college produces, weighted according to certain Fundable Outcome Weights and multiplied by relevant rates. The Coordinating Board determines institutions' weighted fundable outcome completions based on the better of the average of three fiscal years or the current fiscal year.

Rule 13.666, Performance Tier: Fundable Outcomes, describes the outcomes that are eligible to receive performance tier funding. Outcomes consist of the categories of 1) fundable credentials; 2) credential of value premium; 3) dual credit fundable outcomes; 4) transfer fundable outcomes; 5) structured co-enrollment fundable outcomes; and (6) Opportunity High School Diploma fundable outcomes. The paragraphs concerning §13.666 below focus on the specific ways in which the differs substantively from the analogous current rule governing fundable outcomes for fiscal year 2026.

Rule 13.666(b)(1)(D), removes the third-party credentials as a fundable outcome.

Rule 13.666(h)(3), extends the limitation of one outcome per student over a 5-year timeframe, with the exception of allowing for two certificate outcomes per student per year.

Rule 13.667, Performance Tier: Fundable Outcome Weights, establishes the weights that the Coordinating Board applies to the fundable outcomes achieved by students in the categories of economically disadvantaged, academically disadvantaged, and adult learners, for the purposes of performance tier funding, as required by Education Code, §130A.101. Institutions earn an additional weight of 20% for a fundable outcome when that outcome is achieved by an economically disadvantaged or academically disadvantaged student, and 40% for an adult learner.

Rule 13.668, Performance Tier: High-Demand Fields, establishes that an institution will receive additional weight for awarding credentials delivered in disciplines listed as a High-Demand Field. This is described in more detail in Subchapter T of this chapter.

Rule 13.669, Performance Tier: Rates, sets the monetary rates for each type of fundable outcome achieved by an institution. These fundable outcomes include the conferring of fundable credentials (including associate degrees, bachelor's degrees, and many types of workforce credentials), the credential of value premium, student completion of 15 dual credit hours, and successful student transfer to a public four-year institution. Rates are generally maintained for consistency with those set for fiscal year 2026 formula funding.

Rule 13.670, Shared Services Report, stipulates that smaller community college districts receiving a Base Tier scale adjustment must submit a report on their participation in shared services, and describes the content of this shared report. This provision carries out a statutory requirement for small schools to submit this report, codified in TEC, §130A.054(e).

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has determined that for each of the first five years the sections are in effect there may be fiscal implications for state or local governments as a result of enforcing or administering the rules, as required to continue administration of the public junior college finance system established by HB 8, 88th Texas Legislature, Regular Session. Such ancillary fiscal implications may include the need to collect and report additional data in order to obtain additional outcome-based funding.

Fiscal implications of increased funding to institutions of higher education are funded as part of the new public junior college finance system in statute and the General Appropriations Act. The rules do not impose additional costs of compliance beyond those provided for in statute. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, has also determined that for each year of the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be the continued refinement of implementing HB 8, 88th Texas Legislature, Regular Session, and SB 1786, 89th Texas Legislature, Regular Session, which established and further refined a modern and dynamic finance system that ensures each public junior college has access to adequate state appropriations and local resources to support the education and training of the workforce. There are no anticipated economic costs to persons who are required to comply with the sections as proposed.

#### Government Growth Impact Statement

- (1) the rules will not create or eliminate a government program;
- (2) implementation of the rules will not require the creation or elimination of employee positions;
- (3) implementation of the rules will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rules will not require an increase or decrease in fees paid to the agency;
- (5) the rules will create a new rule;
- (6) the rules will not limit an existing rule;

(7) the rules will not change the number of individuals subject to the rule; and

(8) the rules will not affect this state's economy.

Comments on the proposed rule or information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research or analysis, may be submitted to Andy MacLaurin, Assistant Commissioner for Funding and Resource Planning, P.O. Box 12788, Austin, Texas 78711-2788, or via email at [CCFinance@highered.texas.gov](mailto:CCFinance@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under TEC, Section 130A.005, which provides the Coordinating Board with the authority to adopt rules and take other actions consistent with TEC, Chapter 61, Chapter 130, and Chapter 130A to implement Tex. HB 8, 88th Texas Legislature, Regular Session. In addition, TEC, Section 130.355, permits the Coordinating Board to establish rules for funding workforce continuing education.

The new section affects TEC, Sections 28.0295, 61.003, 61.059, 130.003, 130.0031, 130.0034, 130.008, 130.085, 130.310, 130.352 and Chapter 130A.

§13.660. Purpose.

The purpose of this subchapter is to implement the Community College Finance Program authorized by Texas Education Code, Chapters 61, 130, and 130A.

§13.661. Authority.

The Coordinating Board adopts this subchapter pursuant to Texas Education Code, §130A.005, requiring the Coordinating Board to adopt rules to implement the Community College Finance Program created in Texas Education Code, Chapters 61, 130, and 130A.

§13.662. Applicability.

Unless otherwise provided, the Coordinating Board shall apply this subchapter to the calculation of base tier funding beginning in fiscal year 2027 and to the calculation of performance tier fundable outcome counts achieved or forecasted to be achieved beginning in fiscal year 2027 in all instances where the fundable performance outcome counts achieved or forecasted to be achieved beginning in fiscal year 2027 are a direct input to funding calculations. This subchapter does not apply to the calculation of performance tier fundable outcome counts achieved in years prior to fiscal year 2027, even when such counts are a direct input to funding calculations for funding amounts disbursed beginning in fiscal year 2027.

§13.663. Definitions.

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

(1) Academically Disadvantaged--A designation that applies to postsecondary students who have not met the college-readiness standard in one or more Texas Success Initiative (TSI) assessments as provided by §4.57 of this title (relating to Texas Success Initiative Assessment College Readiness Standards), and who were not classified as either waived or exempt pursuant to §4.54 of this title (relating to Exemption).

(2) Adult Learner--A student aged 25 or older on September 1 of the fiscal year for which the applicable data are reported, in accordance with Coordinating Board data reporting requirements.

(3) Advanced Technical Certificate (ATC)--A certificate that has a specific associate or baccalaureate degree or junior level

standing in a baccalaureate degree program as a prerequisite for admission. An ATC consists of at least 16 semester credit hours (SCH) and no more than 45 SCH and must be focused, clearly related to the prerequisite degree, and justifiable to meet industry or external agency requirements.

(4) Associate Degree--An academic associate degree as defined under Texas Education Code, §61.003(11), or an applied associate degree as defined under Texas Education Code, §61.003(12)(B).

(5) Baccalaureate Degree--A degree program that includes any grouping of subject matter courses consisting of at least 120 SCH which, when satisfactorily completed by a student, will entitle that student to an undergraduate degree from a public junior college.

(6) Base Tier Funding--The amount of state and local funding determined by the Board for each public junior college that ensures the college has access to a defined level of funding for instruction and operations.

(7) Base Year--The time period comprising the year of contact hours used for calculating the contact hour funding to public junior colleges. The Base Year for a funded fiscal year consists of the reported Summer I and II academic term from the fiscal year two years prior to the funded fiscal year; the Fall academic term one fiscal year prior to the funded fiscal year; and the Spring academic term one fiscal year prior to the funded fiscal year.

(8) Basic Allotment--A calculation of the dollar value per Weighted FTSE, based on appropriations made in that biennium's General Appropriations Act pursuant to §13.664(c) of this subchapter (relating to Base Tier Allotment).

(9) Census Date--The date upon which a college may report a student in attendance for the purposes of formula funding, as specified in the Coordinating Board Management (CBM) manual for the year in which the funding is reported.

(10) Confer--An institution of higher education confers a credential when it determines that a student has met all requirements to earn the credential, as defined in paragraph (17) of this section, and updates the student's transcript to reflect completion of the credential program. Confer and award may be used synonymously.

(11) Continuing Education Certificate--A credential awarded for completion of a program of instruction that meets or exceeds 360 contact hours and earns continuing education units. The certificate program is intended to prepare the student to qualify for employment; to qualify for employment advancement; or to bring the student's knowledge or skills up to date in a particular field or profession; and is listed in an institution's approved program inventory.

(12) Credential of Value Baseline--A credential earned by a student that would be expected to provide a positive return on investment. Credential of Value Baseline methodology is described in §13.666 of this subchapter (relating to Performance Tier: Fundable Outcomes).

(13) Credential of Value Premium Fundable Outcome--A fundable outcome earned by an institution for a credential earned by a student that would be expected to provide a wage premium. Credential of Value Premium methodology is described in §13.666 of this subchapter.

(14) Credential Reporting--An institution of higher education reports a credential when it includes it in data submitted to the Coordinating Board pursuant to §13.524 of this chapter (relating to Required Reporting). An institution shall report a credential as having been conferred in the year or other applicable reporting period in which it was conferred pursuant to paragraph (10) of this section.

(15) Credentialing Examination--A licensure or registration exam required by a state or national regulatory entity or a certification exam required by an authorized professional organization. An authorized professional organization is a national, industry-recognized organization that sets occupational proficiency standards, conducts examinations to determine candidate proficiency, and confers an industry-based certification.

(16) Dual Credit or Dual Enrollment Fundable Outcome--An outcome achieved when a student earns at least 15 SCH or the equivalent of fundable dual credit or dual enrollment courses, defined as follows:

(A) Courses that qualify as dual credit courses as defined in §4.83(10) of this title (relating to Definitions); and:

(i) Apply toward an academic or career and technical education program requirement at the postsecondary level; or

(ii) Are completed by a student who graduates with a Texas First Diploma, as codified in Chapter 4, Subchapter AA of this title (relating to Texas First Early High School Completion Program).

(B) All dual credit courses taken by a student enrolled in an approved Early College High School program, as provided by Texas Education Code, §28.009, or a student enrolled in the Windham School District, pursuant to Education Code, Chapter 19, or a P-TECH program pursuant to Education Code, Chapter 29, Subchapter N, except a physical education course taken by a high school student for high school physical education credit.

(17) Earned--A student earns a credential when the student successfully completes the final semester credit hour or equivalent of a semester credit hour, as defined in paragraph (34) of this section, for the credential and has satisfied all other academic program requirements.

(18) Economically Disadvantaged--A designation that applies to postsecondary students who received the federal Pell Grant under 20 U.S.C., §1070a.

(19) Equivalent of a Semester Credit Hour--A unit of measurement for a continuing education course, determined as a ratio of one continuing education unit to 10 contact hours of instruction, which may be expressed as a decimal. One semester credit hour of instruction equals 1.6 continuing education units of instruction. In a continuing education course, not fewer than 16 contact hours are equivalent to one semester credit hour.

(20) Formula Funding--The funding allocated by the Coordinating Board among all public junior colleges by applying provisions of the Texas Education Code, agency rule, and the General Appropriations Act to a sector-wide appropriation from the General Appropriations Act.

(21) Full-Time Student Equivalent (FTSE)--A synthetic measure of enrollment based on the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the time period in question.

(22) Fundable Credential--As defined in §13.666(b) of this subchapter.

(23) Fundable Outcome Weights--A multiplier applied to eligible fundable outcomes to generate a Weighted Outcome Completion for use in determining the Performance Tier allocation. The methodology for each Fundable Outcome Weight is defined in §13.667 of this subchapter (relating to Performance Tier: Fundable Outcome Weights).

(24) High-Demand Fields--A field in which an institution awards a credential that provides a graduate with specific skills and knowledge required for the graduate to be successful in a high-demand occupation, based on the list of high-demand fields as defined in Subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields).

(25) Individual Self-Sufficient Wage--The Coordinating Board calculates the Individual Self-Sufficient Wage for the purpose of this subchapter as the statewide median of county-level median self-sufficient wages as determined by the Texas Workforce Commission under Government Code, §2308A.012, rounded up to the nearest thousand dollars.

(26) Institutional Credentials Leading to Licensure or Certification (ICLC)--A credential awarded by an institution upon a student's completion of a course or series of courses that represent the achievement of identifiable skill proficiency and leading to licensure or certification. This definition includes a credential that meets the definition of an Occupational Skills Award in all respects except that the program may provide training for an occupation that is not included in the Local Workforce Development Board's Target Occupations list.

(27) Level 1 Certificate--A certificate designed to provide the necessary academic skills and the workforce skills, knowledge, and abilities necessary to attain entry-level employment or progression toward a Level 2 Certificate or an Applied Associate Degree, with at least 50% of course credits drawn from a single technical specialty. A Level 1 Certificate must be designed for a student to complete in one calendar year or less time and consists of at least 15 semester credit hours and no more than 42 semester credit hours.

(28) Level 2 Certificate--A certificate consisting of at least 30 semester credit hours and no more than 51 semester credit hours. Students enrolled in Level 2 Certificates must demonstrate meeting college readiness standards set forth in §4.57 of this title and other eligibility requirements determined by the institution.

(29) Local Share--The amount determined to be the institution's contribution of local funds to the Instruction and Operations (I&O) amount for each public junior college. The amount consists of estimated ad valorem maintenance and operations tax revenue and tuition and fees revenue, as determined by the Board.

(30) Net Cost of Attendance--Expenses incurred by a student in attending a particular college, including tuition, fees, books and supplies, room and board, transportation, and other personal expenses, less the student's estimated merit- and need-based grant aid.

(31) Non-Formula Support Item--An amount appropriated by line item in the General Appropriations Act to a single public junior college or limited group of colleges for a specific, named purpose.

(32) Occupational Skills Award (OSA)--A sequence of courses that meet the minimum standard for program length specified by the Texas Workforce Commission for the federal Workforce Innovation and Opportunity Act (WIOA) program (9-14 SCH for credit courses or 144 - 359 contact hours for workforce continuing education courses). An OSA must possess the following characteristics:

(A) The content of the credential must be recommended by an external workforce advisory committee, or the program must provide training for an occupation that is included on the Local Workforce Development Board's Target Occupations list;

(B) In most cases, the credential should be composed of Workforce Education Course Manual (WECM) courses only. However, non-stratified academic courses may be used if recommended by

the external committee and if appropriate for the content of the credential;

(C) The credential complies with the Single Course Delivery guidelines for WECM courses; and

(D) The credential prepares students for employment in accordance with guidelines established for the Workforce Innovation and Opportunity Act.

(33) Opportunity High School Diploma Fundable Outcome--An alternative means by which adult students enrolled in a workforce program at a public junior college may earn a high school diploma at a college through concurrent enrollment in a competency-based program, as codified in Texas Education Code, Chapter 130, Subchapter O, and Chapter 12 of this title (relating to Opportunity High School Diploma Program).

(34) Semester Credit Hour (SCH)--A unit of measure of instruction, represented in intended learning outcomes and verified by evidence of student achievement, that reasonably approximates one hour of classroom instruction or direct faculty instruction and a minimum of two hours out of class student work for each week over a 15-week period in a semester system or the equivalent amount of work over a different amount of time. An institution is responsible for determining the appropriate number of semester credit hours awarded for its programs in accordance with Federal definitions, requirements of the institution's accreditor, and commonly accepted practices in higher education.

(35) Structured Co-Enrollment Fundable Outcome--A student who earns at least 15 semester credit hours at the junior college district in a program structured through a binding written agreement between a general academic teaching institution and a community college submitted and certified to the Coordinating Board pursuant to §13.524 of this chapter. Under such a program, students will be admitted to both institutions and recognized as having matriculated to both institutions concurrently. The Structured Co-enrollment Fundable Outcome does not include courses fundable under the Dual Credit or Dual Enrollment Fundable Outcome.

(36) Transfer Fundable Outcome--An institution earns a fundable outcome in the Performance Tier under §13.665 of this subchapter (relating to Performance Tier Funding) when a student enrolls in a general academic teaching institution or a private or independent institution of higher education, as defined in Texas Education Code, §61.003, after earning at least 15 semester credit hours from a single public junior college district as established under §13.666(e) of this subchapter. For the purpose of this definition, semester credit hours (SCH) shall refer to semester credit hours or the equivalent of semester credit hours.

(37) Weighted Full-Time Student Equivalent (Weighted FTSE or WFTSE)--A synthetic measure of enrollment equal to the number of instructional hours delivered by an institution of higher education divided by the number of hours associated with full-time enrollment for the fiscal year two years prior to the one for which formula funding is being calculated, where the hours delivered to students with certain characteristics carry a value other than one.

(38) Weighted Outcomes Completion--A synthetic count of completions of designated student success outcomes where outcomes achieved by students with certain characteristics carry a value other than one. The synthetic count may also represent a calculation, such as an average or maximizing function, other than a simple sum.

§13.664. Base Tier Allotment.

(a) Coordinating Board staff will calculate Base Tier funding for each public junior college district (district) as the greater of the Instruction and Operations (I&O) amount minus Local Share and zero.

(b) A district's I&O amount is the sum of the number of Weighted Full-Time Student Equivalents (Weighted FTSE) enrolled at the district multiplied by the Basic Allotment amount calculated by the Commissioner of Higher Education as provided in subsection (c) of this section and the district's total Contact Hour Funding as determined by the Coordinating Board.

(1) Weighted FTSE for each district is the sum of the district's full-time student equivalents weighted for the student characteristics under subparagraph (B) of this paragraph and the scale adjustment as provided in Texas Education Code, §130A.054.

(A) For purposes of determining annual Weighted FTSE as a component of formula funding for the fiscal year under this section, a district's full-time student equivalents (FTSE) is equal to the sum of:

(i) the total semester credit hours in which for-credit students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for the fiscal year two years prior, divided by 30; and

(ii) the total contact hours in which continuing education students were enrolled at the district as of the census dates of all academic semesters or other academic terms that were reported for the fiscal year two years prior, divided by 900.

(B) The Coordinating Board shall apply a weight to the calculation of Weighted FTSE as follows:

(i) if a student is classified as economically disadvantaged during the fiscal year two years prior, FTSE generated by that student shall have an additional value of 20%;

(ii) if a student is classified as academically disadvantaged during the fiscal year two years prior, FTSE generated by that student shall have an additional value of 20%; and

(iii) if a student is classified as an adult learner on September 1 of the fiscal year two years prior, FTSE generated by that student shall have an additional value of 40%.

(C) The Coordinating Board calculates a district's scale adjustment weight as the greater of the difference between 5,000 and the number of FTSE as defined in subparagraph (A) of this paragraph multiplied by .40, and zero.

(2) For the purpose of calculating formula funding amounts for the fiscal year, Coordinating Board staff will calculate Contact Hour Funding for a public junior college district by first multiplying the number of reported certified fundable contact hours generated by the district in each discipline during the Base Year of the fiscal year by the average cost of delivery per contact hour for each discipline respectively as described in the Report of Fundable Operating Expenses in accordance with §13.524(c) of this chapter (relating to Required Reporting) and summing across all disciplines. Contact hours attributable to students enrolled in a junior-level or senior-level course are weighed in the same manner as a lower division course in a corresponding field. That sum will then be multiplied by a rate calculated by the Commissioner of Higher Education as provided in subsection (c) of this section in accordance with the General Appropriations Act to calculate the district's Contact Hour Funding.

(c) The Commissioner shall calculate the Basic Allotment and the rate to be used for calculating districts' Contact Hour Funding such that:

(1) Contact Hour Funding is equivalent to Basic Allotment Funding for the fiscal year; and

(2) The sum of base tier funding to all districts for the fiscal year equals one-nineteenth of the sum of performance tier foundation payments calculated using fundable certified data as described in subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy) by June 1 prior to the fiscal year.

(3) The Commissioner may modify the base tier funding on a pro rata basis in accordance with this subsection to account for any changes to performance tier totals arising from any amendments to rule adopted by the Board between June 1 and the beginning of the fiscal year.

(d) For the purpose of calculating formula funding amounts for the fiscal year, the Local Share for each public junior college district equals the sum of:

(1) the estimated amount of revenue that would have been generated by the district if it had assessed a \$0.05 maintenance and operations ad valorem tax on each \$100 of taxable property value in its taxing district, as reported under §13.524 of this chapter, which the Coordinating Board will calculate as the district's current tax collection for fiscal year two years prior multiplied by the ratio of the maintenance and operations tax rate to the total tax rate, divided by the product of the maintenance and operations tax rate and 100 and multiplied by five; and

(2) the amount of tuition and fee revenue calculated as the sum of:

(A) the district's FTSE two fiscal years prior as defined in subsection (b)(1)(A) of this section, except for semester credit hours derived from students enrolled in dual credit or dual enrollment courses, multiplied by a rate calculated by the Commissioner of Higher Education, which is the enrollment-weighted statewide average of tuition and fees charges to full-time equivalent students residing within the district of the public junior college they attend, as reported by the public junior colleges in the Integrated Fiscal Reporting System for the fiscal year two fiscal years prior; and

(B) the total semester credit hours of dual credit courses in which students were enrolled as of the census dates of all academic semesters or other academic terms that were reported in the fiscal year two years prior, multiplied by the Financial Aid for Swift Transfer (FAST) tuition rate as codified in §13.504 of this chapter (relating to FAST Tuition Rate) in the fiscal year two years prior.

§13.665. Performance Tier Funding.

(a) Each public junior college district shall receive Performance Tier funding under Texas Education Code, Chapter 130A, Subchapter C. A district increases its Performance Tier funding amount by producing Fundable Outcomes, with Fundable Outcomes achieved in certain categories eligible for an additional multiplier (Fundable Outcome Weights), as calculated by the Coordinating Board, in accordance with this subchapter, and subject to the limitations in §13.666(h) (relating to Performance Tier: Fundable Outcomes). A Fundable Outcome multiplied by the Fundable Outcome Weight constitutes a Weighted Outcome Completion. A district's Performance Tier funding amount equals the total of each Weighted Outcome Completion multiplied by the funding rates for that completion, as identified in §13.669 of this subchapter (relating to Performance Tier: Rates). Funding rates include an additional weight for fundable credentials delivered in a high-demand field.

(b) Fundable Outcomes. Section 13.666 of this subchapter defines each Fundable Outcome type, including the methodology used to calculate each outcome.

(c) Fundable Outcome Weight. Section 13.667 of this subchapter (relating to Performance Tier: Fundable Outcome Weights) and Subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields) define each Fundable Outcome Weight type, including the methodology used to calculate each outcome. Fundable Outcome Weights consist of the following categories:

(1) Fundable Outcomes achieved by economically disadvantaged students;

(2) Fundable Outcomes achieved by academically disadvantaged students; and

(3) Fundable Outcomes achieved by adult learners.

(d) For the purposes of calculating Weighted Outcome Completions for formula funding amounts for a fiscal year, the Coordinating Board shall calculate the funded number of Weighted Outcome Completions as the greater of the average of the district's Weighted Outcome Completion counts for the fiscal year being funded and one fiscal year prior, as calculated by Subchapter U of this chapter (relating to Community College Finance Program: Forecasting Methodology and Finance Policy), and the count for the fiscal year being funded, as calculated according to Subchapter U.

(e) Fundable Outcome Rates. Section 13.668 of this subchapter (relating to Performance Tier: High-Demand Fields) and §13.669 of this subchapter defines fundable outcomes awarded in a high-demand field and the rates for each fundable outcome, including the higher rate for fundable credentials awarded in a high demand field.

§13.666. Performance Tier: Fundable Outcomes.

(a) This section contains definitions of Fundable Outcomes eligible for receiving funding through the Performance Tier. An institution's Performance Tier funding will consist of the count of Fundable Outcomes, multiplied by weights identified in §13.667 of this subchapter (relating to Performance Tier: Fundable Outcome Weights) as applicable, multiplied by the monetary rates identified in this subchapter. Only the Fundable Outcomes identified under paragraphs (1), (4), and (5) of this subsection are eligible to qualify for a Fundable Outcome Weight category identified in §13.667(a)(1), §13.667(a)(2), or §13.667(a)(3) of this subchapter; all other Fundable Outcomes receive a weight of one under §13.667 of this subchapter. A credential's eligibility for funding as a fundable credential is subject to the limitations set out in subsection (h) of this section. Fundable Outcomes consist of the following categories:

(1) Fundable Credentials;

(2) Credential of Value Premium;

(3) Dual Credit Fundable Outcomes;

(4) Transfer Fundable Outcomes;

(5) Structured Co-Enrollment Fundable Outcomes; and

(6) Opportunity High School Diploma Fundable Outcomes.

(b) Fundable Credentials.

(1) A fundable credential is defined as any of the following:

(A) Any of the following credentials awarded by an institution that meets the criteria of a credential of value as defined in paragraph (2) or (3) of this subsection using the most recent data available prior to the year in which the credential that is otherwise eligible

for funding is conferred and that the institution reported and certified to the Coordinating Board:

- (i) An associate degree;
- (ii) A baccalaureate degree;
- (iii) A Level 1 or Level 2 Certificate;
- (iv) An Advanced Technical Certificate; and
- (v) A Continuing Education Certificate.

(B) An Occupational Skills Award awarded by an institution that the institution reported and certified to the Coordinating Board;

(C) An Institutional Credential Leading to Licensure or Certification (ICLC) not reported pursuant to subparagraph (B) of this paragraph and that the institution reported and certified to the Coordinating Board. The credential shall meet one of the following criteria:

(i) The credential includes no fewer than 144 contact hours or nine (9) semester credit hours; or

(ii) The credential is awarded in a high demand field, as defined in Coordinating Board rule, and includes no fewer than 80 contact hours or five (5) semester credit hours;

(2) Credential of Value Baseline - Associate Degree. A credential identified in paragraph (1)(A)(i) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph to be eligible as a Fundable Outcome, except when that credential is conferred under the fields appearing in Figure: 19 TAC §13.666, according to the Classification of Instructional Programs promulgated by the U.S. Department of Education. When a credential identified in paragraph (1)(A)(i) of this subsection is conferred under fields appearing in Figure: 19 TAC §13.666, it must meet the Credential of Value Baseline criteria as provided by paragraph (3) of this subsection to be eligible as a Fundable Outcome. Excluding the credentials identified in Figure: 19 TAC §13.666, the baseline is met when a credential earned by a student would be expected to provide a positive return on investment and an individual self-sufficient wage within a period of five years.

Figure: 19 TAC §13.666(b)(2)

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within five years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled for a period of two years.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) The Coordinating Board shall determine whether a credential is expected to provide an individual self-sufficient wage within a period of five years by comparing the median real wage, as adjusted based on the Consumer Price Index calculated by the U.S. Bureau of Labor Statistics, earned by all recipients of the credential in their fifth year after receiving the credential according to all available data to the individual self-sufficient wage defined in accordance with §13.663(25) of this subchapter (relating to Definitions).

(E) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter (relating to Essential Occupations), the Coordinating Board may utilize other recent, relevant data, including:

(i) employer certifications provided under §13.595(b) of this chapter;

(ii) information on program design, including at minimum the cost and length of the program; and

(iii) any other information necessary for the Coordinating Board to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(F) The associate degrees identified as credentials of value under paragraph (2) of this subsection shall be used for any subsequent calculation for a given fiscal year.

(3) Credential of Value Baseline - Other Credentials. A credential identified in paragraph (1)(A)(ii), (iii), (iv), or (v) of this subsection and not subject to paragraph (2) of this subsection must meet the Credential of Value Baseline criteria as provided by this paragraph for eligibility as a Fundable Outcome. This baseline is met when a credential earned by a student would be expected to provide a positive return on investment within a period of ten years.

(A) A program demonstrates a positive return on investment when the majority of students statewide completing the credential, within a program area, are expected to accrue earnings greater than the cumulative median earnings of Texas high school graduates who do not hold additional credentials, plus recouping the net cost of attendance within ten years after earning the credential.

(B) This calculation of return on investment shall include students' opportunity cost, calculated as the difference between median earnings for Texas high school graduates and estimated median earnings for students while enrolled:

(i) Four years for baccalaureate degree holders;

(ii) Two years for associate degree holders; or

(iii) One year for holders of a Level 1 certificate, Level 2 certificate, Advanced Technical Certificate, or Continuing Education Certificate.

(C) The Coordinating Board shall calculate the expected return on investment for each program based on the most current data available to the agency for the funding year for each program or a comparable program.

(D) In applying the methodology under this section to a program offering a credential in an emerging or essential high-demand field pursuant to §13.595(a) and (b) of this chapter, the Coordinating Board may utilize recent, relevant data, including:

(i) employer certifications provided under §13.595(b) of this chapter;

(ii) information on program design, including at minimum the cost and length of the program; and

(iii) any other information necessary for the Coordinating Board to apply the methodology under this section to the program proposed in an emerging or essential high-demand field.

(4) Notwithstanding subsection (h) of this section, the following limitations apply to a fundable credential:

(A) For a credential under paragraph (1)(B) or (C) of this subsection, if more than one credential that the institution awarded

to a student includes the same contact hours, the institution may only submit one credential for funding;

(B) If an institution awarded to a student a credential eligible for funding under paragraph (1)(B) and (C) of this subsection and those credentials share the same contact hours, the institution shall submit for funding only the credential awarded under paragraph (1)(B) of this subsection; and

(C) A fundable credential excludes a degree or certificate awarded to a non-resident student enrolled in a 100-percent online degree or certificate program as defined in §2.202(4)(A) of this title (relating to Definitions) for a student who resides out-of-state.

(c) Credential of Value Premium. An institution earns a Credential of Value Premium for each student who completes a Fundable Credential under subsection (b)(1)(A) of this section as follows:

(1) The student completes the credential of value on or before the target year for completion that, for the majority of students who complete comparable programs, would enable the student to achieve a positive return on investment within the timeframe specified for the program as described in paragraph (2) of this subsection.

(2) For each program, the Coordinating Board shall calculate the year in which the majority of comparable programs would be projected to have the majority of their students achieve a positive return on investment.

(3) Each year, the Coordinating Board shall publish a list of the target years for completion for each program.

(d) Dual Credit Fundable Outcome. An institution achieves a Dual Credit Fundable Outcome when a student has earned a minimum number of eligible dual credit semester credit hours, as defined in §13.663(16) of this subchapter (relating to Definitions).

(e) Transfer Fundable Outcome.

(1) An institution earns a transfer fundable outcome when a student enrolls in a general academic teaching institution (GAI), as defined in Texas Education Code, §61.003(3), or a private or independent institution of higher education as defined in Texas Education Code, §61.003(15), after earning at least 15 semester credit hours or semester credit hour equivalents (SCH) from a single public junior college district, subject to the following:

(A) The student is enrolled at a GAI or private or independent institution for the first time in the fiscal year for which the public junior college is eligible for a performance tier allocation, as established in this subchapter;

(B) No institution, including the institution that may be awarded a transfer fundable outcome, has achieved a structured co-enrollment fundable outcome or would otherwise achieve a structured co-enrollment fundable outcome in the same year on the basis of the student's participation in a structured co-enrollment program under subsection (f) of this section;

(C) The student earned a minimum of 15 SCHs from the public junior community college district seeking the transfer fundable outcome during the period including the fiscal year in which they enroll at the GAI and the four fiscal years prior; and

(D) The attainment of the 15 SCHs satisfies the following restrictions:

(i) The transfer fundable outcome shall exclude the 15 SCHs that previously counted toward attainment of a dual credit fundable outcome for the student under subsection (d) of this section.

(ii) The transfer fundable outcome may include any SCHs earned by the student not previously counted toward a dual credit fundable outcome under subsection (d) of this section.

(2) Only one institution may earn a transfer fundable outcome for any individual student, except as provided by subparagraph (C) of this paragraph. An institution may earn the transfer fundable outcome only once per student. The Coordinating Board shall award the transfer fundable outcome in accordance with this subsection.

(A) If a student has earned 15 SCH at more than one institution prior to transfer to any GAI, the Coordinating Board shall award the transfer fundable outcome to the last public junior college at which the student earned the 15 SCH eligible for funding under this section.

(B) If the student earned the 15 SCH at more than one institution during the same academic term, the Coordinating Board shall award the transfer fundable outcome to the public junior college:

(i) from which the student earned the greater number of the SCH that count toward the transfer fundable outcome during the academic term in which they earned the 15 SCH; or

(ii) if the student earned an equal number of SCH that count toward the transfer fundable outcome in the academic term in which the student earned the 15 SCH, to the institution from which the student earned a greater number of SCH that count toward the transfer fundable outcome in total.

(C) If a student has met the SCH requirements of subparagraph (B)(i) and (ii) of this paragraph at more than one public junior college, each public junior college may receive a transfer fundable outcome.

(f) Structured Co-Enrollment Fundable Outcome. An institution achieves a Structured Co-Enrollment Fundable Outcome when a student has earned a minimum number of eligible semester credit hours in a structured co-enrollment program that has been submitted and certified to the Coordinating Board as defined in §13.663(35) of this subchapter, and no institution, including the institution that may be awarded a structured co-enrollment fundable outcome, has been funded for transfer fundable outcome on the basis of the student's enrollment in a GAI under subsection (e) of this section.

(g) Opportunity High School Diploma Fundable Outcome. An institution achieves an Opportunity High School Diploma Fundable Outcome when a student has completed the program and attained the credential, as defined in §13.663(33) of this subchapter. A student must earn the Opportunity High School Diploma on or after September 1, 2024, to qualify as a Fundable Outcome.

(h) Fundable Outcome Parameters. The Commissioner of Higher Education retains sole discretion for determining compliance with the requirements of this subsection. An institution shall only be funded for credentials reported in compliance with this section.

(1) For a credential conferred in fiscal year 2027 to be eligible for funding, an institution must have conferred the credential in and reported the credential for fiscal year 2027, and the recipient must have earned the credential no earlier than June 1, 2026.

(A) An associate degree that the institution conferred in and reported for fiscal year 2027 shall also be eligible for funding if the student earned the last semester credit hour of the associate degree through the successful completion of coursework at an institution other than the institution conferring and reporting the credential no earlier than May 1, 2026.

(B) A credential earned prior to September 1, 2026, but reported for fiscal year 2027 and satisfying all other requirements of this paragraph must be conferred no later than December 31, 2026, to be eligible for funding.

(2) The coordinating board shall fund the following credentials, provided they meet all other criteria of fundable credentials of value:

(A) An Occupational Skills Award, or an Institutional Credential Leading to Licensure or Certification;

(B) Level I Certificate or Continuing Education Certificate;

(C) Level II Certificate;

(D) an associate degree;

(E) an advanced technical certificate; and

(F) a baccalaureate degree.

(3) An institution may not receive funding for more than one credential of each type listed in paragraph (2)(A) - (F) of this subsection, where each subparagraph corresponds to a type, conferred to an individual student in a five-year reporting period, with the exception of paragraph (2)(B) of this subsection which allows funding for two credentials conferred to an individual student in a five-year reporting period.

(4) Subject to the limitations specified in this subsection, if an institution reports having conferred more than one credential of any single type listed in paragraph (2)(A) - (F) of this subsection to an individual student in a five-year reporting period with the exception of paragraph (2)(B) of this subsection which allows funding for two credentials conferred to an individual student in a five-year reporting period and conferred to at least one such credential in a discipline designated as a high-demand field for that institution, as described in Subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields), the coordinating board shall fund a credential in the high-demand field.

§13.667. Performance Tier: Fundable Outcome Weights.

(a) This section contains definitions of Fundable Outcome Weights that are applied to the Fundable Outcomes specified in §13.666 of this subchapter (relating to Performance Tier: Fundable Outcomes) to generate a Weighted Outcome Completion. A Fundable Outcome that does not qualify for one of the following Fundable Outcome Weight categories receives a weight of 1. The Coordinating Board will apply the following weights to Fundable Outcomes to the extent permitted by data availability. Fundable Outcome Weights consist of the following categories:

(1) Outcomes achieved by economically disadvantaged students;

(2) Outcomes achieved by academically disadvantaged students; and

(3) Outcomes achieved by adult learners.

(b) Economically Disadvantaged Students.

(1) An institution will receive an additional weight of 20% for fundable credentials, transfer fundable outcomes, and structured co-enrollment fundable outcomes as referenced in §13.666 of this subchapter achieved by an economically disadvantaged student, as defined in §13.663(18) of this subchapter (relating to Definitions).

(2) For purposes of calculating economically disadvantaged for the Transfer Fundable Outcome and Fundable Credentials,

the student must be classified as economically disadvantaged at any point during the fiscal year in which the outcome was achieved or the four fiscal years prior at the institution in which the outcome was achieved.

(3) For purposes of calculating economically disadvantaged for Structured Co-Enrollment Fundable Outcome, the student must be classified as economically disadvantaged in the initial semester of enrollment in the Structured Co-Enrollment Program at either the community college or general academic institution.

(c) Academically Disadvantaged Students.

(1) An institution will receive an additional weight of 20% for any fundable credentials, transfer fundable outcomes, and structured co-enrollment fundable outcomes, as referenced in §13.666 of this subchapter achieved by an academically disadvantaged student, as defined in §13.663(1) of this subchapter.

(2) For purposes of calculating academically disadvantaged for Transfer Fundable Outcome and Fundable Credentials, the student must be classified as academically disadvantaged at any point during the fiscal year in which the outcome was achieved or the four fiscal years prior at the institution in which the outcome was achieved.

(3) For purposes of calculating academically disadvantaged for Structured Co-Enrollment Fundable Outcome, the student must be classified as academically disadvantaged in the initial semester of enrollment in the Structured Co-Enrollment Program at the institution in which the outcome was achieved.

(d) Adult Learners.

(1) An institution will receive an additional weight of 40% for a fundable credential, transfer fundable outcomes, and structured co-enrollment fundable outcomes as referenced in §13.666 of this subchapter achieved by an adult learner, as defined in §13.663(2) of this subchapter.

(2) For purposes of calculating an Adult Learner for a transfer fundable outcome, the Coordinating Board shall calculate age in accordance with this subsection.

(A) The student shall be 25 years of age or older in the earliest fiscal year in which they were enrolled at the public junior college during the current fiscal year or the two fiscal years prior to first enrollment in a general academic institution; or

(B) If the student was not enrolled at the public junior college during the current fiscal year or the two fiscal years prior to the first enrollment in a general academic institution, the student must be 25 years of age or older in the earliest fiscal year of enrollment at the public junior college during the prior four fiscal years.

(3) For purposes of calculating an Adult Learner for a fundable credential, the student's eligibility will be determined as follows:

(A) For a student who completes an Occupational Skills Award, Institutional Credential leading to Licensure or Certification, Third Party Credential, Level I Certificate, Level II Certificate, Continuing Education Certificate, or Advanced Technical Certificate, as defined in §13.666(b) of this subchapter, 25 years of age or older on September 1 of the fiscal year in which the student earned the credential;

(B) For a student who completes an associate degree as defined in §13.666(b) of this subchapter, 25 years of age or older on September 1 of the earliest fiscal year in which the student was enrolled during the period including the year in which the student earned the credential and the prior fiscal year; and

(C) For a student who completes a bachelor's degree as defined in §13.666(b) of this subchapter, 25 years of age or older on September 1 of the earliest fiscal year in which the student was enrolled during the period including the year in which the student earned the credential and the three fiscal years prior.

(4) For purposes of calculating an Adult Learner for Structured Co-Enrollment Fundable Outcome, the student must be classified as an Adult Learner in the initial semester of enrollment in the Structured Co-Enrollment Program at the institution in which the outcome was achieved.

§13.668. Performance Tier: High-Demand Fields.

An institution will receive an additional weight, as calculated by an increased funding rate for awarding a Fundable Credential described in §13.666 of this subchapter (relating to Performance Tier: Fundable Outcomes) for credentials delivered in disciplines designated as a High-Demand Field for that institution, as described in Subchapter T of this chapter (relating to Community College Finance Program: High-Demand Fields).

§13.669. Performance Tier: Rates.

An institution receives the rate in Figure: 19 TAC §13.669 for each fundable outcome, weighted according to the applicable provisions of §13.666 and §13.667 of this subchapter (relating to Performance Tier: Fundable Outcomes and Performance Tier: Fundable Outcome Weights, respectively).

Figure: 19 TAC §13.669

§13.670. Shared Services Report.

(a) This rule applies to each public junior college district of fewer than 5,000 full-time equivalent students which receives a scale adjustment under §13.664(b)(1)(C) of this subchapter (relating to Base Tier Allotment).

(b) Public junior colleges subject to this rule must submit a report on their participation in shared services to the Coordinating Board by November 1st of each even numbered year.

(c) The report will include information for each fiscal year in the previous two fiscal years in which a college received a scale adjustment.

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

Filed with the Office of the Secretary of State on April 10, 2026.

TRD-202601589

Douglas Brock

General Counsel

Texas Higher Education Coordinating Board

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 427-6495



## PART 2. TEXAS EDUCATION AGENCY

### CHAPTER 105. FOUNDATION SCHOOL PROGRAM

#### SUBCHAPTER BB. COMMISSIONER'S RULES CONCERNING CHARTER SCHOOL FUNDING

The Texas Education Agency (TEA) proposes the repeal of §105.1011 and new §105.1011, concerning additional state aid for open-enrollment charter school facilities. The proposed repeal and new section would implement changes made by House Bill (HB) 2, 89th Texas Legislature, Regular Session, 2025, by defining eligibility criteria and implementing an annual certification provision to receive funding.

**BACKGROUND INFORMATION AND JUSTIFICATION:** HB 2, 89th Texas Legislature, Regular Session, 2025, amended Texas Education Code (TEC), §12.106(d), to repeal the \$60 million appropriation cap and amend the formula for the allotment to be either the lesser of the state average interest and sinking tax rate imposed by school districts for the current school year multiplied by the guaranteed level of state and local funds per student per cent of tax effort or the basic allotment multiplied by \$0.06.

HB 2 amended TEC, §12.106(e), to expand the criteria under which a charter holder is not eligible to receive facilities funding. As amended, a charter holder is ineligible for funding if it has been assigned an unacceptable academic performance rating under TEC, Chapter 39, Subchapter C; a financial accountability performance rating lower than satisfactory under TEC, Chapter 39, Subchapter D; or any combination of these ratings during the two preceding school years. Additionally, HB 2 added new TEC, §12.106(e-2), which requires charter holders to annually certify that no individual associated with the charter school, including administrators, governing body members, or their close relatives, receives a financial benefit from a real estate transaction with the school.

To implement HB 2, the proposed repeal would remove the previous requirements and proposed new §105.1011 would establish eligibility criteria and funding determination processes for open-enrollment charter schools under TEC, §12.106(d), accountability rating standards, funding timelines, and the requirement for an annual certification.

**FISCAL IMPACT:** Amy Copeland, associate commissioner for school finance, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would repeal an existing regulation and create a new regulation to implement the requirements in HB 2.

It would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not expand or limit an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Copeland has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be to ensure the rule aligns with TEC, §12.106, as amended by HB 2, which provides eligible open-enrollment charter schools with additional funding for facilities to assist with leasing, maintaining, or constructing campuses. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data and reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

**PUBLIC COMMENTS:** TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins April 24, 2026, and ends May 26, 2026. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on April 24, 2026. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

### 19 TAC §105.1011

**STATUTORY AUTHORITY.** The repeal is proposed under Texas Education Code (TEC), §12.106(c), as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025, which authorizes the commissioner to adopt rules necessary for the administration of state funding under TEC, §12.106(d), for open-enrollment charter schools.

**CROSS REFERENCE TO STATUTE.** The repeal implements Texas Education Code, §12.106, as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025.

*§105.1011. Additional State Aid for Open-Enrollment Charter School Facilities.*

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

Filed with the Office of the Secretary of State on April 13, 2026.  
TRD-202601595

Cristina De La Fuente Valadez

Director, Rulemaking

Texas Education Agency

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 475-1497



### 19 TAC §105.1011

**STATUTORY AUTHORITY.** The new section is proposed under Texas Education Code (TEC), §12.106(c), as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025, which authorizes the commissioner to adopt rules necessary for the administration of state funding under TEC, §12.106(d), for open-enrollment charter schools.

**CROSS REFERENCE TO STATUTE.** The new section implements Texas Education Code, §12.106, as amended by House Bill 2, 89th Texas Legislature, Regular Session, 2025.

*§105.1011. Additional State Aid for Open-Enrollment Charter School Facilities.*

(a) For the purpose of determining a Texas Education Code (TEC), Chapter 12, Subchapter D open-enrollment charter school's eligibility to receive funding as provided under TEC, §12.106(d), the following apply under TEC, §12.106(e):

(1) an unacceptable academic performance rating under TEC, Chapter 39, Subchapter C, is defined as an overall score below 60, an overall "F" rating, or an overall "D" rating that is considered an unacceptable rating under TEC, §39.0543; and

(2) a financial accountability rating lower than satisfactory under TEC, Chapter 39, Subchapter D, is defined as a score below 70 or substandard achievement.

(b) If ratings under TEC, Chapter 39, Subchapter C or D, were not issued for prior school years due to a declared natural disaster affecting the charter school's county, the most recent two available final accountability ratings from preceding school years will be used to determine eligibility.

(c) For charter schools that operated during the previous school year, the estimated funding under TEC, §12.106(d), for the current school year will be based on the school's eligibility status from the immediate prior year.

(d) During the school year for which funding under TEC, §12.106(d), is provided, the charter holder will provide an annual certification, in a manner prescribed by the commissioner of education, that no individual covered under TEC, §12.106(e-2)(1), (2), or (3), derives any financial benefit from a real estate transaction with the charter school.

(e) At settle up, for which funding under TEC, §12.106(d), would be provided, the Texas Education Agency will use the two most recent preceding school years' final accountability ratings assigned under TEC, Chapter 39, Subchapters C and D, and the applicable annual certification to determine eligibility for funding under TEC, §12.106(e).

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

Filed with the Office of the Secretary of State on April 13, 2026.  
TRD-202601596



## TITLE 22. EXAMINING BOARDS

### PART 10. TEXAS FUNERAL SERVICE COMMISSION

#### CHAPTER 206. ANATOMICAL FACILITIES, NON-TRANSPLANT ANATOMICAL DONATION ORGANIZATIONS, AND WILLED BODY PROGRAMS

##### 22 TAC §206.31, §206.33

The Texas Funeral Service Commission (Commission) proposes new rules to Texas Administrative Code (TAC), Title 22, Part 10, in new Chapter 206, Non-Transplant Anatomical Donations: Inspections, §206.31 and §206.33, regarding the inspection procedures for individuals and entities applying for authorization or registration or currently authorized or registered to receive, use, distribute or transport non-transplant whole body donations for the advancement of medical and forensic science.

This section establishes the regulatory framework governing inspections conducted by the Commission for entities involved with non-transplant anatomical specimens. It outlines when inspections are required, including initial authorization, renewals, ownership changes, and routine compliance reviews, as well as the Commission's authority to perform unannounced inspections. The rule further defines the responsibilities of inspected entities, including cooperation, access to records and personnel, and participation in entrance and exit conferences. It also details the process for addressing deficiencies through formal notification and submission of a Plan of Correction, ensuring ongoing compliance with applicable statutes and regulations.

##### EXPLANATION OF AND JUSTIFICATION FOR THE RULES

The proposed rules under 22 TAC, Chapter 206, implement Texas Health and Safety Code §§ 691.012(a)(2)-(3), 691.022(b)-(c), and 691.034 which authorizes the Commission by rule to administer its duties to regulate the receipt, use, transport, and distribution of decedent non-transplant whole human body or body part donations for medical or forensic science.

Each proposed rule described below is in regard to the receipt, use, transport and distribution of non-transplant donations of whole human bodies or body parts for advancing medical or forensic science for purposes allowed under Texas Health and Safety Code chapter 691, unless stated otherwise.

Proposed new 22 TAC §206.31 requires the Commission to conduct an inspection of an individual or entity applying for initial authorization or registration to operate in Texas, undergoing an ownership change, relocating to a new facility or undergoing major renovations to pass the onsite inspection prior to receiving approval from the Commission. The Commission will conduct onsite inspections, which may be unannounced, of authorized entities once every three years, unless the entity is expressly exempted by statute. The inspections may be conducted at rea-

sonable times, including when a lab or event using human bodies or body parts is occurring. Unannounced inspections may also occur to inspect, investigate or evaluate an entity's compliance with or to prevent a violation of the law; a Plan of Correction; order by the Commissioners, executive director or executive director's designee; court order for injunctive relief; or other regulatory purpose. The proposed rule establishes the scenarios in which the commission's inspections are for evaluating the individual's or entity's compliance.

The proposed rule further requires the individual or entity being inspected to cooperate with the Commission, including allowing entry to grounds and records, opportunity to interview and request a written statement from certain individuals, make copies of requested records, and if necessary, opportunity to remove records. The Commission must make reasonable effort to return any removed records in a timely manner. If the inspection purpose is to ensure compliance, the Commission must give the individual or entity opportunity to submit relevant information. Any records considered confidential or proprietary subject to the inspection will be maintained as consistent with applicable law, and released in accordance with statute.

The Commission will hold an entrance and exit conference to discuss the inspection nature, scope, time frame, findings, and possible deficiencies or violations. If deficiencies or violations are found, the individual or entity will be given an opportunity to provide information to show compliance. A report will be sent to the individual or entity seven days after the exit conference ended.

Proposed new 22 TAC §206.33 establishes procedures for a Plan of Correction should the Commission find deficiencies when inspecting an individual or entity. The plan must be sent to the individual/entity within 15 business days after the exit conference by physical or electronic mail. The recipient has 15 calendar days to respond to each cited deficiencies, propose timeframes for compliance and provide evidence of compliance. The Commission may or may not accept the recipient's Plan of Correction. If it does not accept, the recipient is given an additional 15 business days to submit a modified Plan of Correction. Even with a Plan of Correction, at any time, the Commission may take enforcement action against the individual or entity.

Advisory Committee: State Anatomical Advisory Committee were held on December 20, 2023, January 17, 2024, and July 26, 2024, and stakeholder meetings were held on January 17, 2024 and July 24-25, 2024, to discuss the rules on the implementation of Senate Bill 2040, 88th Regular Legislative Session, and Texas Health and Safety Code chapter 691. These meetings involved discussion and rule recommendations on the inspection for anatomical facilities, non-transplant anatomical donation organizations, and willed body programs. Suggestions and comments made during those meetings were considered into developing the proposed rules.

FISCAL NOTE: The Commission has determined that for the first five-year period the proposed rules are in effect, the proposed rules do not have foreseeable implications relating to cost or revenues of the state or local governments.

PUBLIC BENEFIT-COST NOTE: The Commission has also determined that for the first five-year period the proposed rules are in effect, the public benefit anticipated as a result of the proposed rules will be the protection of public safety and welfare. There is no probable economic cost to individuals and entities required to comply with the proposed rules.

SMALL AND MICRO-BUSINESS, RURAL COMMUNITY IMPACT STATEMENT: The proposed rules have no anticipated adverse economic effect on small businesses, micro-businesses, or rural communities. Therefore, an economic impact statement is not required.

TAKINGS IMPACT ASSESSMENT: The proposed rules do not impose a burden on private real property and, therefore, do not constitute a taking under Texas Government Code §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT: The Commission has determined that for the first five-year period the proposed rules are in effect, the following government growth effects apply:

- (1) The proposed rules do not create or eliminate a government program.
- (2) Implementation of the proposed rules do not require the creation or elimination of employee positions.
- (3) Implementation of the proposed rules do not require an increase or decrease in future appropriations.
- (4) The proposed rules do not require an increase in fees paid to the agency.
- (5) The proposed rules do create new regulations. As mentioned previously, Senate Bill 2040, 88th regular legislative session (SB 2040), abolished the Anatomical Board of the State of Texas and transferred its duties to the Commission. Also pursuant to SB 2040, the prior Anatomical Board rules continued in effect until superseded by a rule of the Commission. Since the Commission did not have prior authority or regulations to inspect individuals or entities regarding the receipt, use, distribution and transport of non-transplant whole body donations, the proposed rules do create new regulations.
- (6) The proposed rules do not expand an existing regulation. As stated above, prior to SB 2040, the Commission did not have rules governing inspections of non-transplant whole body donation receipt, use, distribution or transport. In addition, the proposed rules are to supersede and replace the prior Anatomical Board rules.
- (7) The proposed rules do not increase the number of individuals subject to the rule's applicability. The rules are to implement procedures of those individuals and entities now subject to the Commission's statutory jurisdiction per SB 2040.
- (8) The proposed rules do not positively or adversely affect the state's economy.

PUBLIC COMMENTS: Comments on the proposed rules may be submitted to Maria Haynes, Interim Executive Director, 1801 Congress Avenue, Suite 11.800, Austin, Texas 78701, or by email to [legal@tfsc.texas.gov](mailto:legal@tfsc.texas.gov). The deadline for receipt of comments is 5:00 p.m., Central Time, on May 13, 2026, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

STATUTORY AUTHORITY: The proposed rules are pursuant to Texas Health and Safety Code §691.022(b)-(c), which gives the Commission authority to adopt rules necessary to administer and enforce the receipt, use, distribution, and transport of a decedent's non-transplant whole body or body part donation and other activities under Texas Health and Safety Code chapter 691.

Statutes affected by the proposed rules are Texas Health and Safety Code §§ 691.022, 691.031, 691.033, and 691.034.

§206.31. Inspections.

(a) The Commission shall conduct an inspection of each applicant prior to the issuance of an initial authorization or registration certificate, and may conduct an inspection of each authorized entity applying for a renewal prior to issuing a renewal authorization or registration certificate.

(b) An individual or entity undergoing an ownership change, relocation to a new facility, or major renovations must pass an on-site inspection prior to receiving Commission approval for authorization or registration to operate in Texas.

(c) Onsite inspections of authorized entities shall occur at least once every three years, unless exempt by statute. If exempt under statute, inspections shall be conducted pursuant to the statute's inspection requirements.

(d) The Commission may conduct an unannounced, on-site inspection of an applicant or authorized entity at any reasonable time, including when a lab, training, course or other event is occurring in which donor whole bodies or anatomical specimen are being received, used, stored, distributed or transported.

(e) The Commission may also conduct unannounced inspections to inspect, to investigate or to evaluate compliance with or prevent a violation of:

- (1) any applicable statute or rule;
- (2) plan of correction;
- (3) an order or special order of the Commissioners, executive director or the executive director's designee;
- (4) a court order granting injunctive relief; or
- (5) for other purposes relating to regulation of the applicant or authorized entity.

(f) Commission inspections to evaluate an individual's or entity's compliance may include:

- (1) initial, change of ownership, renovations or relocation inspections for the issuance of a new license;
- (2) routine inspections, which may be conducted without notice and at the Commission's discretion, or prior to renewal;
- (3) follow-up on-site inspections, conducted to evaluate implementation of a Plan of Correction for previously cited deficiencies;
- (4) inspections to determine if an unauthorized or unregistered individual or entity is operating, receiving, using, handling, transferring or engaging in other activities involving non-transplant donor whole bodies or anatomical specimen; and

(5) entry in conjunction with any other federal, state, or local agency's entry.

(g) An individual or entity shall cooperate with any Commission inspection and shall permit the Commission to examine the individual's or entity's grounds, buildings, books, records, video surveillance, and other documents and information maintained by or on behalf of the individual or entity, unless prohibited by law.

(h) An individual or entity subject to an inspection under this section shall permit the Commission access to interview members of the governing body, personnel, instructors, demonstrators, students, trainees, or event attendees, including the opportunity to request a written statement.

(i) An individual or entity shall permit the Commission to inspect and copy any requested information, unless prohibited by law. If it is necessary for the Commission to remove documents or other records from the individual or entity, the Commission must provide a written description of the information being removed and when it is expected to be returned. The Commission must make a reasonable effort, consistent with the circumstances, to return any records removed in a timely manner.

(j) During the inspection, the Commission representative must give the individual or entity representative an opportunity to submit information and evidence relevant to matters of compliance being evaluated.

(k) Any records or information subject to the inspection that is considered confidential or proprietary will be maintained as confidential under applicable law. The individual or entity claiming the information is proprietary or confidential must reference the appropriate statute or rule. Such information may be released in the manner and method authorized by statute.

(l) Upon entry, the Commission inspector holds an entrance conference with the individual or entity's designated representative to explain the nature, scope, and estimated duration of the inspection.

(m) When an inspection is complete, the Commission inspector holds an exit conference with the individual or entity representative to inform them of any preliminary findings of the inspection, including possible concerns, deficiencies and violations. The individual or entity may provide any final documentation regarding compliance during the exit conference. Any preliminary or final report discussed during the exit conference will be provided to the individual or entity subject to the inspection at or within 7 days following the conclusion of the exit conference.

§206.33. Notice and Plan of Correction.

(a) An individual, applicant or authorized entity is deemed to have received any Commission correspondence on the date of receipt, or three business days after mailing, whichever is earlier.

(b) When the Commission finds deficiencies:

(1) The Commission provides the individual or entity with a written Statement of Deficiencies within 15 business days after the exit conference via U.S. Postal Service or electronic mail.

(2) Within 15 calendar days after the individual's or entity's receipt of the Statement of Deficiencies, the individual or entity shall return a written Plan of Correction to the Commission that addresses each cited deficiency, including timeframes for corrections, together with any additional evidence of compliance.

(3) The Commission determines if a Plan of Correction and proposed timeframes are acceptable, and, if accepted, notifies the individual or entity in writing.

(4) If the Commission does not accept the Plan of Correction, the Commission notifies the individual or entity in writing and requests the individual or entity submit to a modified Plan of Correction to the Commission, and any additional evidence of compliance, no later than 15 business days after the Commission notifies the individual or entity in writing.

(c) Regardless of an individual's or entity's compliance with this section or the Commission's acceptance of an individual's or entity's Plan of Correction, the Commission may, at any time, propose to take enforcement action as appropriate under applicable statute and agency rule.

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

Filed with the Office of the Secretary of State on April 10, 2026.

TRD-202601579

Maria Haynes

Interim Executive Director

Texas Funeral Service Commission

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 936-2474

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**TITLE 25. HEALTH SERVICES**

**PART 1. DEPARTMENT OF STATE  
HEALTH SERVICES**

**CHAPTER 228. RETAIL FOOD ESTABLISHMENTS**

**SUBCHAPTER H. REQUIREMENTS**

**APPLICABLE TO CERTAIN ESTABLISHMENTS**

**25 TAC §228.221**

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes the repeal of §228.221, concerning Mobile Food Units.

**BACKGROUND AND PURPOSE**

The purpose of the proposal is to remove an outdated rule related to the regulation and permitting of mobile food units, roadside food vendors, and pushcarts. House Bill (HB) 2844, 89th Legislature, Regular Session, 2025, created Texas Health and Safety Code (HSC) Chapter 437B, concerning Mobile Food Vendors (MFVs). HB 2844 made significant changes to how MFVs are regulated, licensed, and inspected in Texas. New rules were proposed in Texas Administrative Code (TAC) Title 25, Chapter 226, concerning Mobile Food Vendors. The proposed new rules were published in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1013).

**SECTION-BY-SECTION SUMMARY**

The proposed repeal of §228.221 deletes the rule because mobile food units will be regulated under 25 TAC Chapter 226, Mobile Food Vendors.

**FISCAL NOTE**

Christy Havel Burton, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

**GOVERNMENT GROWTH IMPACT STATEMENT**

DSHS has determined that during the first five years that the rule repeal will be in effect:

(1) the proposed rule will not create or eliminate a government program;

- (2) implementation of the proposed rule will not affect the number of DSHS employee positions;
- (3) implementation of the proposed rule will result in no assumed change in future legislative appropriations;
- (4) the proposed rule will not affect fees paid to DSHS;
- (5) the proposed rule will not create a new regulation;
- (6) the proposed rule will not expand, limit, or repeal existing regulations;
- (7) the proposed rule will not change the number of individuals subject to the rule; and
- (8) DSHS has insufficient information to determine the proposed rule's effect on the state's economy.

**SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS**

Christy Havel Burton has also determined that there will be no adverse economic effect on small businesses or micro-businesses, or rural communities.

The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

**LOCAL EMPLOYMENT IMPACT**

The proposed rule will not affect a local economy.

**COSTS TO REGULATED PERSONS**

Texas Government Code §2001.0045 does not apply to this rule because the repeal is necessary to protect the health, safety, and welfare of the residents of Texas and is necessary to implement legislation that does not specifically state that §2001.0045 applies to the rule.

**PUBLIC BENEFIT AND COSTS**

Dr. Timothy Stevenson, Deputy Commissioner, Consumer Protection Division, has determined that for each year of the first five years the rule repeal is in effect, the public will benefit from the repeal of the outdated rule which will prevent conflict with mobile food vendor rules proposed in 25 TAC Chapter 226.

Christy Havel Burton has also determined that for the first five years the rule repeal is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rule repeal because the proposed rule repeal only removes outdated information. The updated requirements for mobile food vendors was proposed in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1013).

**TAKINGS IMPACT ASSESSMENT**

DSHS has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

**PUBLIC COMMENT**

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rules, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, TX 78751; or emailed to [HHSCoordinationOffice@hhs.texas.gov](mailto:HHSCoordinationOffice@hhs.texas.gov).

To be considered, comments must be submitted no later than 14 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be post-marked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R068" in the subject line.

**STATUTORY AUTHORITY**

The repeal is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system; Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the administration of Texas Health and Safety Code Chapter 1001; and Texas Health and Safety Code Chapters 437 and 437B.

The repeal affects Texas Government Code §524.0151, Texas Health and Safety Code § 1001.075, and Texas Health and Safety Code Chapters 437 and 437B.

*§228.221. Mobile Food Units.*

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

Filed with the Office of the Secretary of State on April 10, 2026.

TRD-202601562

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 834-6753



**CHAPTER 229. FOOD AND DRUG**

The executive commissioner of the Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes amendments to §229.372, concerning Permitting Fees and Procedures, and §229.472, concerning Inspection Fees and Procedures.

**BACKGROUND AND PURPOSE**

The purpose of the proposal is to remove references to the regulation and permitting of mobile food units, roadside food vendors, and pushcarts in 25 Texas Administrative Code (TAC) Chapter 229, Subchapters U and Z as part of the implementation of House Bill (HB) 2844, 89th Legislature, Regular Session, 2025. HB 2844 added Texas Health and Safety Code Chapter 437B, concerning mobile food vendors and made significant changes to how mobile food vendors are regulated, licensed, and inspected in Texas. As a result, DSHS proposed new rules in 25 TAC Chapter 226, concerning Mobile Food Vendors, which were published in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1013). The proposal complies with statutory requirements of HB 2844 regarding licensing and fees and refers to the changes in the proposed new Chapter 226.

This proposal also updates references in the rules.

## SECTION-BY-SECTION SUMMARY

The proposed amendment to §229.372 removes permitting language in subsection (a)(3) and (4) as part of the implementation of HB 2844, 89th Legislature, Regular Session, 2025; removes the permitting exemption for mobile food units permitted under local authority in subsection (b)(2)(K) and adds a reference to the proposed new rules in Chapter 226; removes the requirement for display of permits on mobile food units in subsection (h)(2); and removes the reference to mobile food units and roadside food vendors in subsection (j)(1)(D). The proposed amendment also updates references in subsection (b)(2)(l) and subsection (c).

The proposed amendment to §229.472 removes the permitting exemption for mobile food units permitted under local authority in subsection (d)(9) and adds a reference to the proposed new rules in Chapter 226. The proposed amendment also updates a reference in subsection (b).

## FISCAL NOTE

Christy Havel Burton, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, enforcing or administering the rules does not have foreseeable implications relating to costs or revenues of state or local governments.

## GOVERNMENT GROWTH IMPACT STATEMENT

DSHS has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will not affect the number of DSHS employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to DSHS;
- (5) the proposed rules will not create a new regulation;
- (6) the proposed rules will not expand, limit, or repeal existing regulations;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) DSHS has insufficient information to determine the proposed rules' effect on the state's economy.

## SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Christy Havel Burton has also determined that there will not be an adverse economic effect on small businesses or micro-businesses, or rural communities because the rules do not impose any additional costs on small businesses, micro-businesses, or rural communities that are required to comply with the rules.

## LOCAL EMPLOYMENT IMPACT

The proposed rules will not affect a local economy.

## COSTS TO REGULATED PERSONS

Texas Government Code §2001.0045 does not apply to these rules because the rules are necessary to protect the health, safety, and welfare of the residents of Texas, do not impose a cost on regulated persons, and are necessary to implement leg-

islation that does not specifically state that Section 2001.0045 applies to the rules.

## PUBLIC BENEFIT AND COSTS

Dr. Timothy Stevenson, Deputy Commissioner, Consumer Protection Division, has determined that for each year of the first five years the rules are in effect, the public benefit will be statewide regulation of "mobile food vendors" under 25 Texas Administrative Code Chapter 226 pursuant to HB 2844. Additionally, the proposed amendments will make the rules easier to understand by updating references.

Christy Havel Burton has also determined that for the first five years the amended rule is in effect, there are no anticipated economic costs to persons who are required to comply with the proposed amended rule because the proposed amended rule only removes outdated information. The updated requirements for mobile food vendors was proposed in the February 20, 2026, issue of the *Texas Register* (51 TexReg 1013).

## TAKINGS IMPACT ASSESSMENT

DSHS has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

## PUBLIC COMMENT

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rules, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to [HHSRulesCoordinationOffice@hhs.texas.gov](mailto:HHSRulesCoordinationOffice@hhs.texas.gov).

To be considered, comments must be submitted no later than 14 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please indicate "Comments on Proposed Rule 26R067" in the subject line.

## SUBCHAPTER U. PERMITTING RETAIL FOOD ESTABLISHMENTS

### 25 TAC §229.372

#### STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the administration of Texas Health and Safety Code Chapter 1001, and Texas Health and Safety Code Chapters 437 and 437B.

The amendment implements Texas Government Code §524.0151, Texas Health and Safety Code §1001.075, and Texas Health and Safety Code Chapters 437 and 437B.

§229.372. *Permitting Fees and Procedures.*

(a) Permitting fees.

(1) A person who operates a food establishment shall obtain a permit from the department and pay a permit fee for each establishment unless specifically exempted under subsection (b) or (c) of this section. All permit fees are nonrefundable. Permits are issued for a two-year term. The fees are based on gross annual volume of sales as follows:

(A) for an establishment with gross annual volume of food sales of \$0 - \$49,999.99, the fee is \$250;

(B) for an establishment with gross annual volume of food sales of \$50,000 - \$149,999.99, the fee is \$500; or

(C) for an establishment with gross annual volume of food sales of \$150,000 or more, the fee is \$750.

(2) A person who contracts with a school to provide food services on a for-profit basis shall obtain a permit and pay a permit fee for each school where food services are provided. Permits are issued for a two-year term. The permit fee is \$250.

~~[(3) A person who operates a mobile food unit shall obtain a permit from the department for each mobile food unit operated.]~~

~~[(A) Each mobile food unit shall be inspected and comply with §228.221 of this title (relating to Mobile Food Units) and pay a nonrefundable permit fee before a permit is issued. If a request for inspection is not received or if the mobile food unit does not meet the minimum standards contained in §228.221 of this title within two years of paying the permit fee, a new fee shall be paid.]~~

~~[(B) Mobile food unit permits are issued for a two-year term. The permit fee is \$250.]~~

~~[(4) Each roadside food vendor shall obtain a permit and pay a fee. All fees are nonrefundable. A permit will be issued for a two-year term. The permit fee is \$250.]~~

(3) ~~[(5)]~~ For all initial and renewal applications submitted through Texas.gov, the department is authorized to collect fees in amounts determined by the Department of Information Resources to recover costs associated with using Texas.gov.

(4) ~~[(6)]~~ If the license or permit category changes during the license or permit period, the license or permit shall be renewed in the proper category at the time of the renewal.

(5) ~~[(7)]~~ An establishment required to be licensed as a food manufacturer under Texas Health and Safety Code Chapter 431, and also required to be permitted under this subchapter, will be issued only one license or permit. The license or permit fee to be paid will be the higher fee of the two applicable fees.

(b) Exemptions from permit and fees.

(1) Food establishments permitted and inspected by a county or public health district under Texas Health and Safety Code Chapter 437, provided inspections are based on the requirements of §229.373 of this subchapter (relating to Minimum Standards for Permitting and Operation), are exempted from obtaining a permit and paying a fee to the department.

(2) The following meet the definition of "food establishment" in §229.371 of this subchapter (relating to Definitions), but are not required to pay a fee or obtain a Retail Food Establishment permit under this subchapter:

(A) food establishments permitted and under the inspection authority granted to municipal health departments;

(B) food establishments on federal property under federal inspection authority;

(C) food establishments under the inspection authority of state college or university personnel in accordance with the requirements of §229.373 of this subchapter;

(D) food establishments licensed under Texas Health and Safety Code Chapter 431, as manufacturers of food, provided the fee for licensure exceeds the permit fee required under this section;

(E) food establishments under the inspection authority of the Texas Health and Human Services Commission (HHSC) Regulatory Services Division;

(F) facilities under the inspection authority of the HHSC Regulatory Services Division;

(G) hospitals under the inspection authority of the HHSC Regulatory Services Division and that do not serve food to the general public;

(H) correctional facilities under the inspection authority of the Texas Department of Criminal Justice;

(I) nonprofit organizations as defined in §229.371(4) ~~[(3)]~~ of this subchapter ~~;~~ (Nonprofit organizations which meet the definition of "manufacturers of food" under Texas Health and Safety Code Chapter 431, or the definition of "food salvage establishments" under Texas Health and Safety Code Chapter 432, are not exempt from licensure in those categories.)

(J) food and beverage vending machines; and

(K) mobile food vendors. The licensure and fee requirements for mobile food vendors are in Chapter 226 of this title (relating to Mobile Food Vendors). ~~[mobile food units permitted and inspected under the authority granted to municipalities and which operate only within their respective jurisdictions. (Except for units which handle only pre-packaged, non-TCS foods, a mobile food unit is classified as a food establishment, regardless of whether food preparation occurs on the unit.)]~~

(c) Nonprofit fee exemption. Nonprofit organizations as defined in §229.371(4) ~~[(3)]~~ of this subchapter (relating to Definitions) are exempt from payment of the permit fee. Nonprofit organizations shall comply with the requirements of §229.373 of this subchapter. The department shall provide guidelines for the safe handling of foods prepared by nonprofit organizations. Any civic or fraternal organization, charity, lodge, association, proprietorship, corporation, or church not meeting the definition of "nonprofit organization" shall obtain a permit, pay the required fee, and comply with the requirements.

(d) Application for permit. The permit application shall be on a form furnished by the department and shall contain the following information:

(1) the name under which the establishment operates;

(2) the mailing address and street address of the establishment;

(3) if a sole proprietorship, the name of the proprietor; if a partnership, the names of all partners; if a corporation, the date and place of incorporation and the name and address of its registered agent in the State; or if any other type of association, the names of the principals of such association;

(4) the names of those individuals in an actual administrative capacity which, in the case of a sole proprietorship, shall be the managing proprietor; in a partnership, the managing partner; in a cor-

poration, the officers and directors; in any other association, those in a managerial capacity;

- (5) the signature of the owner, operator, or other authorized person; and
- (6) any other information the department may require issuing a permit.

(e) Temporary food establishments. An organizer of an event at which a temporary food establishment operates shall obtain a permit for each temporary food establishment. In the absence of an event organizer, each temporary event operator shall obtain a permit. The application and permit fee for a temporary food establishment must be submitted to the department at least 30 days before the event. The permit fees are as follows.

(1) Single-event permit. The permit fee is \$50 and is valid for the duration of a single event not to exceed 14 consecutive days from the initial effective date specified in the permit application. The fee is non-refundable.

(2) Multiple-event permit. A multiple-event permit is issued for a two-year term and the permit fee is \$200. The fee is non-refundable.

(f) Two or more establishments. Each establishment shall submit an application even if it is owned by the same person.

(g) Pre-permit inspection. The department may conduct a pre-permit inspection to determine compliance with this subchapter.

(h) Issuance of a permit. The department may issue a permit or a renewal permit for an establishment based on compliance with Chapter 228 of this title (relating to Retail Food Establishments), and payment of all fees. Copies of the permit application are available by sending a request to the department at 1100 West 49th Street, Austin, Texas 78756-3182 or by downloading online at: <https://www.dshs.texas.gov/retail-food-establishments/permitting-information-retail-food-establishments>.

(1) The permit or proof of permit shall be posted in a location in the food establishment conspicuous to consumers.

~~[(2) Permits for mobile food units, including pushcarts and roadside food vendors, shall be displayed on the unit at all times.]~~

~~(2) [(3)]~~ A permit shall only be issued when all past due and delinquency fees are paid. This applies to any delinquent penalties due under an order issued by the department.

(i) Renewal of a permit.

(1) The permit holder shall submit a renewal application and permit fees before the expiration date of the permit. A person filing a renewal application after the expiration date shall pay an additional \$100 as a delinquency fee.

(2) The department may renew a permit if the applicant is compliant with Chapter 228 of this title, and all fees are paid.

(3) Failure to submit a renewal application and permit fee before the expiration date, while continuing to operate, is a violation of Texas Health and Safety Code Chapter 437, and is subject to enforcement proceedings under that chapter, and §229.374 of this subchapter (relating to Refusal, Revocation, or Suspension of a Permit; Administrative Penalties).

(j) Amendment of permit.

(1) Fee. For a permit amendment, including a change of name or physical location of a food establishment requiring a permit

under Texas Health and Safety Code §437.0125, the permit holder shall pay as follows:

- (A) for an establishment with gross annual volume of food sales of \$0 - \$49,999.99, the fee is \$125;
- (B) for an establishment with gross annual volume of food sales of \$50,000.00 - \$149,999.99, the fee is \$250;
- (C) for an establishment with gross annual volume of food sales of \$150,000.00 or more, the fee is \$375; or
- (D) for each [~~mobile food unit, roadside vendor,~~] school food establishment or central preparation facility, the fee is \$125.

(2) Change of location. A permit is not transferrable to another location for any non-mobile food establishment except in the case of a permit amendment as described in paragraph (1) of this subsection.

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

Filed with the Office of the Secretary of State on April 10, 2026.

TRD-202601563

Cynthia Hernandez

General Counsel

Department of State Health Services

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 834-6753

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## SUBCHAPTER Z. INSPECTION FEES FOR RETAIL FOOD ESTABLISHMENTS

### 25 TAC §229.472

#### STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services system, Texas Health and Safety Code §1001.075, which authorizes the executive commissioner of HHSC to adopt rules for the administration of Texas Health and Safety Code Chapter 1001, and Texas Health and Safety Code Chapters 437 and 437B.

The amendment implements Texas Government Code §524.0151, Texas Health and Safety Code §1001.075, and Texas Health and Safety Code Chapters 437 and 437B.

§229.472. *Inspection Fees and Procedures.*

(a) Inspection fees. A person operating a non-permitted food establishment, who requests an inspection be conducted by the department, shall pay an inspection fee for each inspection of the establishment. All inspection fees are nonrefundable.

(1) A school food establishment requesting two inspections per year shall pay for both inspections before the first inspection is conducted by the department. The school food establishment fee is \$300 for two inspections. The fee is non-refundable.

(2) A person operating a non-permitted food establishment that is not a school food establishment shall pay an inspection fee for each inspection of the establishment.

- (A) The inspection fee is \$150 per inspection.

(B) An application and inspection fee must be submitted to the department at least 6 weeks before the earliest desired inspection date.

(b) Non-permitted food establishments, other than schools, inspection fee requirement. Non-permitted food establishments, that are nonprofit organizations as defined in §229.471(6) [§229.471(7)] of this subchapter (relating to Definitions), are not exempt from paying an inspection fee as required under subsection (a) of this section. Non-profit organizations are exempt from obtaining a permit as specified in §229.372(c) of this chapter (relating to Permitting Fees and Procedures). Nonprofit organizations shall comply with §229.473 of this subchapter (relating to Minimum Standards for Permitting and Operation). Any civic or fraternal organization, charity, lodge, association, proprietorship, corporation, or church not meeting the definition of "nonprofit organization" shall obtain a permit, pay the required fee, and comply with the requirements for permitted food establishments. Internal Revenue Service documentation of nonprofit status shall be provided, if requested by the department.

(c) Food establishments under the jurisdiction of county health departments or public health districts. The department shall not inspect or collect an inspection fee from food establishments permitted or inspected by a county or public health district under Texas Health and Safety Code Chapter 437, or food establishments permitted or inspected under authority granted to municipalities.

(d) Exemptions from fees. The following meet the definition of "food establishment" in §229.471 of this subchapter, but are not required to pay a fee to the department or obtain a Retail Food Establishment inspection under this subchapter:

- (1) food establishments permitted and inspected under authority granted to municipalities;
- (2) food establishments inspected by state college or university personnel in accordance with the requirements of §229.373 of this chapter (relating to Minimum Standards for Permitting and Operation);
- (3) food establishments licensed under Texas Health and Safety Code Chapter 431, as manufacturers of food, provided the fee for licensure exceeds the permit fee required under §229.372 of this chapter;
- (4) food establishments under the inspection authority of the Texas Health and Human Services Commission (HHSC) Regulatory Services Division;
- (5) facilities under the inspection authority of the HHSC Regulatory Services Division;
- (6) hospitals under the inspection authority of the HHSC Regulatory Services Division and that do not serve food to the general public;
- (7) federally inspected food establishments on federal property;
- (8) correctional facilities under the inspection authority of the Texas Department of Criminal Justice; and
- (9) mobile food vendors. The inspection and fee requirements for mobile food vendors are found in Chapter 226 of this title (relating to Mobile Food Vendors). [mobile food units permitted and inspected under the authority granted to municipalities and which operate only within their respective jurisdictions. (Except for units which handle only pre-packaged, non-TCS foods, a mobile food unit is classified as a food establishment, regardless of whether food preparation occurs on the unit.)]

(e) Application for inspection request. The inspection request shall be submitted on an application form furnished by the department and shall contain the following information:

- (1) the name under which an establishment is operated;
- (2) the mailing address and street address of the establishment; and
- (3) the signature of the owner, operator, or other authorized person.

(f) Two or more establishments. If a person owns or operates two or more establishments, each establishment shall request inspections separately by listing the name and address of each establishment on separate application forms. A school district may submit a single application and attach a listing of each school food establishment requesting inspection.

(g) Application form. Copies of the application for inspection request form may be obtained from the department, 1100 West 49th Street, Austin, Texas 78756-3182, or online at <https://www.dshs.texas.gov/retail-food-establishments/permitting-information-retail-food-establishments>.

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

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## TITLE 26. HEALTH AND HUMAN SERVICES

### PART 1. HEALTH AND HUMAN SERVICES COMMISSION

#### CHAPTER 745. LICENSING

The executive commissioner of the Texas Health and Human Services Commission (HHSC) proposes amendments to §§745.21, 745.609, 745.615, 745.631, 745.643, 745.683, 745.695, 745.751, 745.775, and 745.8483; new §745.675; and the repeal of §745.601 and §745.607.

#### BACKGROUND AND PURPOSE

The proposal is necessary to implement Senate Bill (SB) 1849, 88th Legislature, Regular Session, 2023. SB 1849 created Texas Health and Safety Code Chapter 810, Interagency Reportable Conduct Search Engine, and amended Texas Human Resources Code §§42.056(b), 42.159(c), and 42.206(c). The search engine created by the bill will include findings of reportable conduct by the Texas Education Agency, Texas Juvenile Justice Department, and HHSC Employee Misconduct Registry that were not previously considered by HHSC Child Care Regulation (CCR). CCR is proposing amended, new, and repealed rules to define the search engine required by statute, require CCR's use of the search engine as part of any subject's background check, and clarify that the reportable conduct findings may prevent a person from being present at an operation or

affect a person's ability to receive or maintain an administrator's license.

The purpose of the proposal is also to update rules and definitions to provide additional detail regarding background check and licensing procedures and to improve the readability and understanding of the rules.

#### SECTION-BY-SECTION SUMMARY

The proposed amendment to Subchapter A, Division 2, amends the title of the division.

The proposed amendment to §745.21 (1) amends the rule title; (2) amends and deletes many of the existing terms and definitions; (3) adds terms and definitions to the rule; and (4) updates and incorporates definitions from current §745.601 and §745.607, which are proposed for repeal.

The proposed repeal of Subchapter F, Division 1, deletes §745.601, the division's only rule, as it is no longer necessary because the content of the rule has been updated and added to proposed amended §745.21.

The proposed amendment to Subchapter F, Division 2, renumbers the division to Division 1.

The proposed repeal of §745.607 deletes the rule as it is no longer necessary because the content of the rule has been updated and added to proposed amended §745.21.

The proposed amendment to §745.609 (1) amends the rule title; (2) removes cross-references to other rules; (3) adds a Search Engine for Multi-Agency Reportable Conduct (SEMARC) check as part of a required background check; and (4) makes nonsubstantive changes to language and punctuation for better readability and understanding.

The proposed amendment to §745.615 (1) amends the rule title; (2) clarifies that a person who requires a background check in a listed family home that only provides care for related children also needs a National Sex Offender Registry check if the person lived in another state or territory within five years prior to the submission of the background check request; (3) adds a SEMARC check as part of a required background check; and (4) makes nonsubstantive changes to language and punctuation for better readability and understanding.

The proposed amendment to Subchapter F, Division 3, renumbers the division to Division 2.

The proposed amendment to §745.631 (1) amends the rule title; (2) makes nonsubstantive changes to language and punctuation for better readability and understanding; and (3) eliminates examples outlining when the Centralized Background Check Unit may place conditions on a subject's presence.

The proposed amendment to §745.643 (1) amends the rule title; and (2) makes nonsubstantive changes to language and punctuation for better readability and understanding.

The proposed amendment to Subchapter F, Division 4 (1) renumbers the division to Division 3; and (2) amends the title of the division.

Proposed new §745.675 describes the SEMARC findings that would bar a subject's presence at an operation or qualify the subject for a risk evaluation.

The proposed amendment to Subchapter F, Division 5, (1) renumbers the division to Division 4; and (2) amends the title of the division.

The proposed amendment to §745.683 (1) amends the rule title; (2) clarifies that a child-placing agency may request a risk evaluation; and (3) simplifies language for better readability and understanding.

The proposed amendment to §745.695 (1) amends the rule title; (2) removes cross-references to other rules; and (3) simplifies language and makes nonsubstantive changes to punctuation for better readability and understanding.

The proposed amendment to Subchapter F, Division 7, renumbers the division to Division 6.

The proposed amendment to §745.751 (1) amends the rule title; (2) simplifies language to clarify that CCR considers the severity and circumstances of a background check result and the prospective position, role, and responsibilities of the person at the operation when determining if the person is an immediate threat to the health or safety of children; and (3) makes nonsubstantive changes to language, punctuation, and rule organization for better readability and understanding.

The proposed amendment to Subchapter F, Division 8, renumbers the division to Division 7.

The proposed amendment to §745.775 (1) amends the rule title; (2) removes rule language regarding financial crimes to match CCR's current background check process for licensed administrators and applicants for an administrator's license; and (3) eliminates duplication of content that exists in another rule.

The proposed amendment to §745.8483 (1) amends the rule title; (2) clarifies that confidentiality may be required by statute or rule; and (3) makes nonsubstantive changes to language and punctuation for better readability and understanding.

#### FISCAL NOTE

Trey Wood, Chief Financial Officer, has determined that for each year of the first five years that the rules will be in effect, there will be an estimated additional cost to state government as a result of enforcing and administering the rules as proposed. Enforcing and administering the rules does not have foreseeable implications relating to costs or revenues of local governments.

The effect on state government for each year of the first five years the proposed rules are in effect is an estimated cost of \$3,795,008 in fiscal year (FY) 2027, \$1,209,658 in FY 2028, \$1,209,658 in FY 2029, \$1,209,658 in FY 2030, and \$1,209,658 in FY 2031. Funds were appropriated for these costs by the 89th Legislature, Regular Session, 2025, through the Exceptional Item process for the FY 2027 and FY 2028 biennium. The costs associated with this proposal are shared with other HHSC proposals, implementing SB 1849, that will be published in future issues of the *Texas Register*.

#### GOVERNMENT GROWTH IMPACT STATEMENT

HHSC has determined that during the first five years that the rules will be in effect:

- (1) the proposed rules will not create or eliminate a government program;
- (2) implementation of the proposed rules will create new HHSC employee positions;
- (3) implementation of the proposed rules will result in no assumed change in future legislative appropriations;
- (4) the proposed rules will not affect fees paid to HHSC;

- (5) the proposed rules will create new regulations;
- (6) the proposed rules will expand and repeal existing regulations;
- (7) the proposed rules will not change the number of individuals subject to the rules; and
- (8) the proposed rules will not affect the state's economy.

**SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS**

Trey Wood has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities. The rules do not impose any additional costs on small businesses, micro-businesses, or rural communities required to comply with the rules.

**LOCAL EMPLOYMENT IMPACT**

The proposed rules will not affect a local economy.

**COSTS TO REGULATED PERSONS**

Texas Government Code §2001.0045 does not apply to these rules because the rules: (1) are necessary to protect the health, safety, and welfare of the residents of Texas; (2) do not impose a cost on regulated persons; and (3) are necessary to implement legislation that does not specifically state that §2001.0045 applies to the rules.

**PUBLIC BENEFIT AND COSTS**

Rachel Ashworth-Mazerolle, Associate Commissioner for Child Care Regulation, has determined that for each year of the first five years the rules are in effect, the public benefit will be increased protections for children in regulated settings from persons with a history of reportable conduct.

Trey Wood has also determined that for the first five years the rules are in effect, there are no anticipated economic costs to persons who are required to comply with the proposed rules because the rules do not change background check fees or require any additional resources to comply.

**TAKINGS IMPACT ASSESSMENT**

HHSC has determined that the proposal does not restrict or limit an owner's right to the owner's property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code §2007.043.

**PUBLIC COMMENT**

Written comments on the proposal, including information related to the cost, benefit, or effect of the proposed rule, as well as any applicable data, research, or analysis, may be submitted to Rules Coordination Office, P.O. Box 13247, Mail Code 4102, Austin, Texas 78711-3247, or street address 4601 West Guadalupe Street, Austin, Texas 78751; or emailed to [HHSRulesCoordinationOffice@hhs.texas.gov](mailto:HHSRulesCoordinationOffice@hhs.texas.gov).

To be considered, comments must be submitted no later than 31 days after the date of this issue of the *Texas Register*. Comments must be (1) postmarked or shipped before the last day of the comment period; (2) hand-delivered before 5:00 p.m. on the last working day of the comment period; or (3) emailed before midnight on the last day of the comment period. If the last day to submit comments falls on a holiday, comments must be postmarked, shipped, or emailed before midnight on the following business day to be accepted. When emailing comments, please

indicate "Comments on Proposed Rule 25R018" in the subject line.

**SUBCHAPTER A. PRECEDENCE AND DEFINITIONS**  
**DIVISION 2. DEFINITIONS [FOR LICENSING]**

**26 TAC §745.21**

**STATUTORY AUTHORITY**

The amendments are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.21. *Definitions.* [What do the following words and terms mean when used in this chapter?]

The following [words and] terms[, when used] in this chapter, have the following meanings unless the context clearly indicates otherwise:

(1) Abuse--As defined in the Texas Family Code[<sup>2</sup>] §261.001(1) [(relating to Definitions) and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5 (relating to Abuse, Neglect, and Exploitation)].

(2) Affinity--Related by marriage<sub>2</sub> as set forth in Texas Government Code[<sup>3</sup>] §573.024 [(relating to Determination of Affinity)].

(3) Business entity--May include an association, corporation, nonprofit association, nonprofit corporation, nonprofit association with religious affiliation, nonprofit corporation with religious affiliation, limited liability company, political subdivision, or state agency. For purposes of this chapter, this definition does not include any type of "partnership." [May be an association, corporation, nonprofit association, nonprofit corporation, nonprofit association with religious affiliation, nonprofit corporation with religious affiliation, or limited liability company.]

(4) Capacity--The maximum number of children that a permit holder may care for at one time.

(5) Caregiver--A person who is counted in the child to caregiver ratio, whose duties include the supervision, guidance, and protection of a child.

(6) CBCU--Centralized Background Check Unit. A subdivision of Child Care Regulation that conducts background checks.

(7) CCR--Child Care Regulation. A department of the Texas Health and Human Services Commission responsible for regulatory oversight of child care operations.

(8) Central registry--A DFPS database of persons who have been found by DFPS to have abused, neglected, or exploited a child.

(9) [(6)] Child--A person under 18 years old.

(10) [(7)] Child care [Child-care] facility--An operation defined in Texas Human Resources Code §42.002(3). [An establishment subject to regulation by Licensing that provides assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility, for all or part of the 24-hour day, whether or not the establishment operates for profit or charges for its services. A child-care facility includes the people, administration, governing body, activities on or off the premises, operations, buildings, grounds, equipment, furnishings, and materials. A child-care facility does not include child-placing agencies, listed family homes, employer-based child care operations, or shelter care operations.]

(11) [(8)] Child day care--Taking care of, supervising, teaching, or educating:

(A) a child under 14 years old who is not related to the caregiver, for less than 24 hours a day, in a place other than the child's own home, including taking care of school-age children before or after the regular school day; or

(B) a related child under 14 years old, for less than 24 hours a day, that occurs in the caregiver's or child's home if the care is given:

(i) under the auspices of a listed family home; and

(ii) the caregiver follows the requirements in the Texas Labor Code Chapter 313, including providing care in the child's home only if:

(I) the child or one of the child's siblings is disabled;

(II) the child or one of the child's siblings is under 18 months old;

(III) the child has a parent 18 years old or younger;

(IV) the child has a parent 19 years old, who is in high school working towards a diploma;

(V) the child's parent works during the evening, overnight, or on the weekend and taking the child out of the home would be disruptive to the child; or

(VI) the Texas Workforce Commission determines there are no other child care options available in the community. [As defined in §745.33 of this chapter (relating to What is child day care?).]

[(9)] Child-placing agency (CPA)--A person, including a sole proprietor, partnership, or business or governmental entity, other than the parents of a child, who plans for the placement of or places a child in a child care operation or adoptive home.]

(12) [(10)] Children related to the caregiver--Children described in Texas Human Resources Code §42.002(16) [who are the children, grandchildren, siblings, great-grandchildren, first cousins, nieces, or nephews of the caregiver, whether by affinity or consanguinity or as the result of a relationship created by court decree].

(13) Client in care--A child or young adult in the care of an operation.

(14) [(11)] Consanguinity--As [Two individuals are related to each other by consanguinity if one is a descendant of the other; or they share a common ancestor. An adopted child is related by consanguinity for this purpose. Consanguinity is] defined in Texas Government Code[;] §573.022 [(relating to Determination of Consanguinity)].

(15) [(12)] Contiguous [operations]--Sharing [Two or more operations that touch at a point on] a common border or [are] located in the same building.

(16) [(13)] Controlling person--A person described in Texas Human Resources Code §42.002(18). [As defined in §745.901 of this chapter (relating to Who is a controlling person at a child-care operation?).]

(17) Criminal history--Information collected by criminal justice agencies about a person's interactions with the criminal justice system, including a person's record of arrests, convictions, and other types of criminal justice involvement.

(18) Days--Calendar days, unless otherwise stated.

(19) [(14)] Deficiency--Any failure to comply with a statute, administrative rule, minimum standard, condition on a permit, [rule, statute, specific term of your permit,] or condition of [your] probation.

(20) Designated finding--A finding in the DFPS central registry against a person (also known as a designated perpetrator) who has not finished challenging the finding through an administrative review, a due process hearing, or other rights of appeal.

(21) [(15)] Designated perpetrator--A person listed in the DFPS central registry who has a designated finding of child abuse, neglect, or exploitation. [As defined in §745.731 of this chapter (relating to What are designated perpetrators and sustained perpetrators of child abuse or neglect?).]

(22) [(16)] Designee--The person named on the application as the designated representative of the operation who is officially authorized by the owner to speak for and act on the operation's [operations]' behalf.

(23) DFPS--Texas Department of Family and Protective Services.

(24) DPS--Texas Department of Public Safety.

(25) [(17)] Employee--Any natural person who works for or has a contract [employed by or that contracts] with the permit holder [; including caregivers, drivers, kitchen personnel, maintenance and administrative personnel, and the center or program director].

(26) [(18)] Endanger--To expose a child to a situation where physical or mental injury to a child is likely to occur.

(27) [(19)] Exploitation--As defined in Texas Family Code[;] §261.001(3) [and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5].

(28) FBI--Federal Bureau of Investigation.

(29) Fingerprint-based criminal history check--A search that compares a subject's fingerprints with the:

(A) DPS database of arrests and dispositions for alleged crimes committed in Texas;

(B) FBI database of arrests and dispositions for alleged crimes committed in the United States and Territories;

(C) DPS database of the Texas sex offender registry; and

(D) FBI database of the National Sex Offender Registry.

[(20)] Finding--The conclusion of a Licensing investigation or inspection indicating compliance or deficiency with one or more minimum standards, rules, or statutes.]

(30) [(21)] Full license--Issued to operate a child care operation after meeting the requirements of this chapter either while maintaining a license or to issue a full license instead of an initial license as described in this chapter. [The type of full permit that is issued to an operation that requires a license. See also §745.341 of this chapter (relating to What type of permit does Licensing issue?) and §745.343 of this chapter (relating to What is the difference between an initial license and a full license?).]

(31) [(22)] Full permit--Includes a listing, registration, compliance certification, or a full license. [A full permit includes a listing, registration, compliance certificate, or a full license. See also §745.341 and §745.343 of this chapter.]

(32) [(23)] Governing body--A person or group of persons or officers of a business or governmental entity that has ultimate control over the operation [entity].

(33) [(24)] Governmental entity--A political subdivision or state agency of Texas.

(34) HHSC--Texas Health and Human Services Commission.

(35) HHSC EMR--The Employee Misconduct Registry maintained by HHSC.

(36) [(25)] Household member--A person who lives in an operation or verified foster home, who is not a caregiver or client in care. [An individual, other than the caregivers, who resides in an operation.]

(37) Initial background check--The first background check that an operation requests for a person.

(38) [(26)] Initial license--As defined in Texas Human Resources Code §42.051. An initial license is valid for 12 months from the date of issuance; however, CCR may renew an initial license for up to an additional six months. [A time-limited license that we issue to certain applicants for a full license in situations described in §745.345 of this chapter (relating to When does Licensing issue an initial license?).]

(39) [(27)] Licensed administrator--A licensed child care administrator or licensed child placing agency administrator as defined in Texas Human Resources Code §43.001. [As defined in §745.8905 of this chapter (relating to What is a licensed administrator?).]

(40) Licensing--CCR, which was formerly titled Child Care Licensing.

(41) [(28)] Minimum standards--Regulatory administrative rules that [Minimum requirements for] permit holders must follow [that are enforced by Licensing] to protect the health, safety, and well-being of children. These rules are found [The minimum standards consist of the rules contained] in:

(A) Chapter 742 of this title (relating to Minimum Standards for Listed Family Homes);

(B) Chapter 743 of this title (relating to Minimum Standards for Shelter Care);

(C) Chapter 744 of this title (relating to Minimum Standards for School-Age and Before or After-School Programs);

(D) Chapter 746 of this title (relating to Minimum Standards for Child-Care Centers);

(E) Chapter 747 of this title (relating to Minimum Standards for Child-Care Homes);

(F) Chapter 748 of this title (relating to Minimum Standards for General Residential Operations);

(G) Chapter 749 of this title (relating to Minimum Standards for Child-Placing Agencies); and

~~[(H) Chapter 750 of this title (relating to Minimum Standards for Independent Foster Homes); and]~~

(H) [(H)] Subchapter D, Division 11 of this chapter (relating to Employer-Based Child Care).

(42) Name-based Texas criminal history check--A search that compares a subject's name with the:

(A) DPS database of arrests and dispositions for alleged crimes committed in Texas; and

(B) DPS database for the Texas sex offender registry.

(43) National Sex Offender Registry--A national database that has records on persons who are required to register on a jurisdiction's sex offender registry.

(44) [(29)] Neglect--As defined in the Texas Family Code[.] §261.001(4) [and Texas Administrative Code, Title 40, Chapter 707, Subchapter C, Division 5].

(45) [(30)] Operation (also known as a child care [child care] operation)--Any person or entity that must have a permit according to Texas Human Resources Code Chapter 42. [A sole proprietor, partnership, or business or governmental entity offering a program that is subject to Licensing's regulation; including day-care operations and residential child care operations. An operation includes the building and grounds where the program is offered; any person involved in providing the program; and any equipment used in providing the program. An operation includes a child-care facility, child-placing agency, listed family home, employer-based child care operation, shelter care operation, or any operation that requires a permit under Chapter 42, Texas Human Resources Code.]

(46) Out-of-state child abuse and neglect registry check--A search that compares the subject's name with another state's or territory's database of persons who have been found to have abused or neglected a child.

(47) Out-of-state criminal history check--A search that compares the subject's name or fingerprints with another state's or territory's database of arrests and dispositions for crimes committed in the other state or territory.

(48) Out-of-state sex offender registry check--A search that compares the subject's name with another state's or territory's sex offender registry.

(49) [(31)] Owner--The sole proprietor, partnership, or business or governmental entity that owns an operation that is subject to CCR's regulation [by Licensing].

(50) [(32)] Parent--A person or entity that [who] has legal responsibility for or legal custody of a child, including the managing conservator or legal guardian of the child or a legally authorized representative of an entity with managing conservatorship of the child.

(51) [(33)] Permit--A license, certification, registration, listing, compliance certificate, or any other written authorization granted by CCR [Licensing] to operate a child care operation. This also includes an administrator's license.

(52) [(34)] Permit holder--The owner of the operation that is granted the permit.

(53) [(35)] Pre-kindergarten age child--A child who is three or four years of age before the beginning of the current school year.

(54) Present at an operation--A person is present at an operation if the person has or may have contact with children in care. This includes:

(A) the person is physically present at an operation while any child is in care, unless the person is present for the sole purpose of attending orientation or pre-service training or is briefly present for business unrelated to child care and does not have contact with children in care;

(B) the person has responsibilities that may require the person to be present at an operation while any child is in care;

(C) the person resides at an operation or is present at an operation on a regular or frequent basis; or

(D) the person has direct access to any child in care, including supervised or unsupervised direct access to any child.

(55) [(36)] Program--Activities and services provided by an operation.

(56) Regularly or frequently present at an operation--Visiting the operation often, at regular times, or consistently over time.

(A) A person is regularly or frequently present at an operation if the person:

(i) is present at the operation on a scheduled basis;

(ii) visits the operation three or more times in a 30-day period, with each visit being less than 24 hours, and with multiple or repeated visits to an operation within the same day counting as one visit;

(iii) stays or lives at the operation for more than seven days in a row; or

(iv) stays or lives at the operation three or more times per year, with each stay being more than 48 hours.

(B) For foster homes, the following persons are not considered to be regularly or frequently present at a foster home:

(i) a child unrelated to a foster parent who visits the foster home, unless:

(I) the child is responsible for the care of a foster child; or

(II) there is a reason to believe that the child has a criminal history or previously abused or neglected another child; and

(ii) an adult unrelated to a foster parent who visits the foster home, unless:

(I) the adult has unsupervised access to children in care; or

(II) there is a reason to believe that the adult has a criminal history or previously abused or neglected a child.

(C) For a child day care operation, a parent is not considered regularly or frequently present at the operation only because the parent is visiting his or her child. A parent is considered regularly or frequently present at the operation if the parent volunteers at the operation.

(57) [(37)] Regulation--Includes the following:

(A) the [The] development of administrative rules, including minimum standards, as provided by statutory authority; and

(B) the [The] enforcement of requirements that are minimum standards, administrative rules, statutes, or any condition or re-

striction HHSC has [we have] placed on a permit. Anyone providing or seeking to provide care or a service that is subject to regulation must comply with all [the] applicable requirements. This includes a permit holder, an applicant for a permit, and anyone providing care or a service without the appropriate permit.

(58) Renewal background check--A background check that an operation requests for a person who has already had an initial background check at the operation.

(59) [(38)] Report--Any [A] communication to CCR [Licensing] or DFPS [the Department of Family and Protective Services (DFPS)], including the Statewide Intake division of DFPS, of:

(A) an [An] allegation of a violation of [deficiency in] a minimum standard, rule, or statute; or

(B) any [Any] other possible risk to a child in the care of an operation that is subject to CCR's regulation [by Licensing].

(60) [(39)] Residential child care--The care, custody, supervision, assessment, training, education, or treatment of a child who is not related by blood, marriage, or adoption to the owner or operator of the operation, for all of the 24-hour day, regardless of whether the operation is operated for profit or charges for the services it offers. [As defined in §745.35 of this chapter (relating to What is residential child care?).]

(61) Risk evaluation--A CBCU process to determine if a person's background check results will allow the person to be present at an operation.

(62) SEMARC--Search Engine for Multi-Agency Reportable Conduct as established by Texas Health and Safety Code Chapter 810. For CCR background check processes, a DFPS central registry check is separate from a SEMARC check.

(63) SEMARC finding--Result of a SEMARC check that shows the determination by a participating state agency that a person engaged in reportable conduct as defined in Texas Health and Safety Code §810.001(6), and any information about the determination recorded in SEMARC.

(64) [(40)] School-age child--A child who is five years of age or older and is enrolled in or has completed kindergarten.

(65) [(41)] State Office of Administrative Hearings (SOAH)--The state agency responsible for conducting certain administrative hearings for other state agencies, including HHSC. [See §745.8831 of this chapter (relating to What is a due process hearing?).]

(66) Subject of a background check--A person for whom the operation submits a request for a background check.

(67) Substitute--A person who fills in for an absent employee or caregiver at an operation.

(68) Sustained finding--A finding in the DFPS central registry against a person (also known as a sustained perpetrator) who has been offered due process, and:

(A) the person has waived the person's due process rights by not requesting an administrative review and a due process hearing timely or by waiving those rights in writing; or

(B) the child abuse, neglect, or exploitation finding was upheld in the due process hearing and any subsequent appeals.

(69) [(42)] Sustained perpetrator--A person listed in the DFPS central registry who has a sustained finding of abuse, neglect, or exploitation of a child. [See §745.731 of this chapter (relating to

Who are designated perpetrators and sustained perpetrators of child abuse or neglect?)]

(70) TEA--Texas Education Agency.

(71) Texas sex offender registry--A registry maintained by DPS that contains records on persons who are required to register as sex offenders in Texas.

(72) TJJD--Texas Juvenile Justice Department.

(73) Unsupervised access--Access to a child in care without the presence of another person who is a qualified caregiver.

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

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## SUBCHAPTER F. BACKGROUND CHECKS

### DIVISION 1. DEFINITIONS

#### 26 TAC §745.601

##### STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.601. *What words must I know to understand this subchapter?*

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## DIVISION 1. REQUESTING BACKGROUND CHECKS

### 26 TAC §745.609, §745.615

##### STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.609. *Background Check Requirements. [What types of background checks are required for persons at my operation?]*

{(a)} Except for listed family homes that only care for children related to the caregiver, a person [as described in subsection (b) of this section; persons] required to have a background check [under §745.605 of this division (relating to For whom must I submit requests for background checks?)] must have the following types of background checks:

(1) either a: [As further described in §745.611 of this division (relating to Which persons at my operation require either a fingerprint-based criminal history check or a name-based Texas criminal history check?); either a:]

(A) fingerprint-based [Fingerprint-based] criminal history check; or

(B) name-based [Name-based] Texas criminal history check;

(2) a central registry [A Central Registry] check;

(3) a SEMARC check;

(4) [(3)] if the [If your] operation is a child day care [day-care] operation that is not an employer-based child care operation or a shelter care operation, a National Sex Offender Registry check for persons who require a fingerprint-based criminal history check [under §745.611(a)(1) of this division]; and

(5) [(4)] for certain persons identified in this division who have lived outside of Texas, an: [As further described in §745.613 of this division (relating to Which persons at my operation must have an out-of-state criminal history check, an out-of-state child abuse and neglect registry check, and an out-of-state sex offender registry check?); for certain persons, an:]

(A) out-of-state [Out-of-state] criminal history check;

(B) out-of-state [Out-of-state] child abuse and neglect registry check; and

(C) out-of-state [Out-of-state] sex offender registry check.

{(b)} This rule does not apply to listed family homes that only provide care to related children. See §745.615 of this division (relating

to What types of background checks are required for persons at listed family homes that only provide care to related children?)-]

§745.615. Background Check Requirements for Certain Listed Family Homes. [What types of background checks are required for persons at listed family homes that only provide care to related children?]

For listed family homes that only care for [provide care to related] children related to the caregiver, a person [persons] required to have a background check [under §745.605 of this division (relating to For whom must I submit requests for background checks?)] must have the following types of background checks:

(1) a [A] name-based Texas criminal history check [with a Texas sex offender registry check], unless [except] the person must have a fingerprint-based criminal history check and National Sex Offender Registry check because [if]:

(A) the [The] person has lived in another state or territory [resided outside of Texas] any time during the five years before [five-year period prior to] the date [you submit] a background check request is submitted [for a background check]; or

(B) there [There] is reason to believe the person has criminal history in another state; [and]

(2) a central registry [A Central Registry] check; and[-]

(3) a SEMARC check.

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## DIVISION 2. REQUESTING BACKGROUND CHECKS

### 26 TAC §745.607

#### STATUTORY AUTHORITY

The repeal is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.607. *What are the different types of background checks?*

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## DIVISION 2. DETERMINATIONS REGARDING BACKGROUND CHECKS

### 26 TAC §745.631, §745.643

#### STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.631. Conditions on a Subject's Presence. [In what situations may the CBCU place conditions or restrictions on a subject's presence at an operation?]

The CBCU may place conditions [or restrictions] on a person's [subject's] presence at an operation if [that] the CBCU determines the conditions to be necessary to protect the health or safety of children. [; including in the following situations:]

[(1) While the subject's out-of-state criminal history check or out-of-state child abuse or neglect registry check is pending, if applicable, and the CBCU has not received information that renders the subject ineligible to be present at an operation;]

[(2) Pending the outcome of a risk evaluation for an eligible criminal conviction, child abuse and neglect finding, or crime for which the subject has been arrested or charged;]

[(3) For an approved risk evaluation; or]

[(4) For a minimum standard violation that is relevant to a condition or restriction already placed on a subject's presence at an operation.]

§745.643. Challenging the Accuracy or Completeness of Background Check Results. [How can the subject of a background check challenge the accuracy or completeness of the information contained in the results of the background check?]

To challenge the accuracy or completeness of [the information contained in] the background check results [of the background check]:

(1) the person [The subject] should first talk to [work with] the CBCU representative who [that] made the background check determination and [to] provide updated disposition information or additional documentation; and

(2) if [H] the person [subject] cannot resolve the problem this way [is unable to resolve the issue in this manner], then the person may seek help [subject may seek resolution of the issue] from the agency that gave [provided] the results to [upon which] the CBCU [background check determination was made].

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### DIVISION 3. CRIMINAL HISTORY, SEX OFFENDER REGISTRY, CHILD ABUSE OR NEGLECT, AND SEMARC FINDINGS

#### 26 TAC §745.675

#### STATUTORY AUTHORITY

The new section is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

#### §745.675. *SEMARC Findings.*

(a) SEMARC findings from HHSC EMR, TEA, and TJJJ that involve reportable conduct such as abuse, neglect, exploitation, and inappropriate relationships may affect a person's ability to be present at an operation.

(b) Except as addressed in subsection (c) of this section, the following SEMARC findings result in an absolute bar to a person's presence at an operation:

- (1) physical or sexual abuse;
- (2) inappropriate sexual conduct or communication with a student or child; and

(3) unprofessional conduct demonstrating an inappropriate sexual, romantic, or interpersonal relationship with or interest in a child.

(c) A SEMARC finding regarding physical abuse results in an absolute bar except for a kinship caregiver, who is eligible for a risk evaluation if the finding is more than five years old.

(d) In addition to the exception noted in subsection (c) of this section, the following SEMARC findings are eligible for a risk evaluation:

- (1) neglect;
- (2) emotional, verbal, or psychological abuse;
- (3) financial exploitation or misappropriated funds or property; and
- (4) any other finding not noted in this section.

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### DIVISION 4. EVALUATION OF RISK BECAUSE OF A FINDING

#### 26 TAC §745.683, §745.695

#### STATUTORY AUTHORITY

The amendments are authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

#### §745.683. *Risk Evaluation Request. [When may the subject of a background check request a risk evaluation?]*

After a person or a child-placing agency (CPA) receives a written notification regarding background check results with eligibility to request a risk evaluation [an operation has submitted a request for a background check], the person or CPA [subject of a background check] may request a risk evaluation as described in the written notice [when the CBCU has provided the subject with written notice that the subject is eligible for

a risk evaluation for a criminal conviction, child abuse or neglect finding, or crime for which the subject has been arrested or charged].

§745.695. *Risk Evaluation Determination.* [What factors does the CBCU use when deciding whether the subject of a background check poses a risk to the health or safety of children in a particular operation?]

When making a risk evaluation determination [decision], the CBCU reviews [will review] all of the information submitted by the requestor [submitted under §745.689 or §745.691 of this division (relating to What must a request for a risk evaluation based on criminal history include? and What must a request for a risk evaluation based on a child abuse or neglect finding include?, respectively)], checks if [consider whether the requestor failed to submit] any information is missing, and reviews [review] any other relevant information. The CBCU considers [will consider] the following factors when deciding if [assessing whether] the person is [subject poses] a risk to the health or safety of children:

(1) the [The] compliance history and regulatory status of the operation;

(2) the person's [The subject of a background check's] intended or current role and responsibility at the operation;

(3) how much time has passed since the finding or criminal history occurred [The length of time that has elapsed since the criminal conviction, child abuse or neglect finding, or crime for which the subject has been arrested or charged];

(4) the [The] nature and severity of the finding or criminal history [criminal conviction, child abuse or neglect finding, or crime for which the subject has been arrested or charged];

(5) the person's [The subject's] role in the finding or criminal history [criminal conviction, child abuse or neglect finding, or crime for which the subject has been arrested or charged], including the person's age [of the subject] at the time of the finding [crime or abuse or neglect];

(6) whether [Whether] there is a pattern of criminal activity [any type of crime] or abusive, neglectful, or exploitative conduct related to the person's interactions with vulnerable populations [abuse or neglect];

(7) work [Work] history, references, and any evidence of rehabilitative effort over the past 10 years [, such as a copy of a certificate indicating completion of classes, treatment, or support groups (either mandatory or voluntary) that the subject has taken];

(8) any [Any] federal requirements regarding criminal history and child abuse and neglect findings; and

(9) any [Any] other relevant factor that enhances or mitigates the risk to the health or safety of children in a particular operation.

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

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## DIVISION 6. IMMEDIATE THREAT OR DANGER TO THE HEALTH OR SAFETY OF CHILDREN

### 26 TAC §745.751

#### STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.751. *Determination of an Immediate Threat.* [What factors does Licensing consider when determining if a person or an operation is an immediate threat to the health or safety of children?]

CCR [Licensing] considers the following factors when determining if a person [, including the subject of a background check,] or an operation is an immediate threat to the health or safety of children:

(1) the severity and circumstances of any deficiencies, findings, or criminal history, including any relation to abuse or neglect [The severity of the deficiency, including abuse or neglect];

{(2) The circumstances surrounding the deficiency, including abuse or neglect;}

(2) [(3)] the [The] seriousness of any injuries to children;

(3) [(4)] how much time has passed since any deficiencies, findings, or criminal history finding [The length of time since the deficiency, including abuse or neglect, occurred];

(4) [(5)] if any deficiencies have [Whether the deficiency has] been repeated, if any corrections have been made, and how quickly corrections can be made;

(5) [(6)] the [The] compliance history and current regulatory status of the operation;

{(7) The current regulatory status of the operation;}

{(8) How quickly corrections to the deficiency can be made;}

{(9) If any corrections have already been made;}

(6) [(10)] the person's role [The role of the person] in the deficiency, finding, or criminal history [abuse or neglect];

(7) [(11)] the [The] current or prospective position, role, and responsibilities of the person at the operation; and

(8) [(12)] the [The] degree and immediacy of the threat or danger.

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## DIVISION 7. ADMINISTRATOR'S LICENSING

### 26 TAC §745.775

#### STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

*§745.775. Licensed Administrator Background Checks. [How may a criminal conviction or a child abuse or neglect finding affect my ability to receive or maintain an administrator's license?]*

(a) In addition to the background check process for administrator's licensing, the operation where a person serves as an administrator must also request a background check, as specified in §745.605(a)(2)(A) of this subchapter (relating to For whom must I submit requests for background checks?). The person must meet the background check requirements in this chapter to be present at the operation. This process is separate from the administrator's licensing background check process. [You must meet the background check requirements that are part of the administrator's licensing process in Subchapter N of this chapter (relating to Administrator's Licensing).]

(b) A person may receive and maintain an administrator's license if the person's background check results allow for a risk evaluation. However, CCR may place restrictions on the license, and an approved risk evaluation must be obtained before the person can be present at an operation. [In addition to complying with the criminal conviction requirements specified in §745.661(a)(1) of this subchapter (relating to What types of criminal convictions may affect a subject's ability to be present at an operation?), you are also monitored for offenses related to financial crimes, including all Title 7 Offenses Against Property, Title 8 Offenses Against Administration, and Title 11 Organized Crime offenses in the Penal Code. financial crimes, including all Title 7 Offenses Against Property, Title 8 Offenses Against Administration, and Title 11 Organized Crime offenses in the Penal Code.]

[(e) You may not receive or maintain an administrator's license if you:]

[(1) Have a criminal conviction, as specified in §745.661(a)(1) of this subchapter or a child abuse or neglect finding as specified in §745.671 of this subchapter (relating to What types

of findings from the Central Registry or out-of-state child abuse and neglect registries may affect a subject's ability to be present at an operation?) that would bar you from being present at an operation;]

[(2) Are on a sex offender registry; or]

[(3) Have a felony conviction of a financial crime, as specified in subsection (b) of this section, within the past 10 years.]

[(d) You may receive and maintain an administrator's license if you have a felony conviction of a financial crime older than 10 years or a misdemeanor conviction of a financial crime. However, these crimes do require a risk evaluation and Licensing may place restrictions on your license. You must have an approved risk evaluation before you may be present at an operation.]

[(e) You may receive and maintain an administrator's license if you have a criminal conviction or a child abuse or neglect finding that only requires a risk evaluation. However, Licensing may place restrictions on your license. You must have an approved risk evaluation before you may be present at an operation.]

[(f) In addition to the Administrator's Licensing background check process, the operation where you serve as an administrator must also request a background check on you, as specified in §745.605(a)(2)(A). This process is separate and apart from the Administrator's Licensing background check process.]

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

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Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 438-3269



## SUBCHAPTER K. INSPECTIONS, INVESTIGATIONS, AND CONFIDENTIALITY

### DIVISION 3. CONFIDENTIAL RECORDS

#### 26 TAC §745.8483

#### STATUTORY AUTHORITY

The amendment is authorized by Texas Government Code §524.0151, which provides that the executive commissioner of HHSC shall adopt rules for the operation and provision of services by the health and human services agencies, as well as Texas Government Code §524.0005, which provides the executive commissioner of HHSC with broad rule-making authority. In addition, the adoption of rule changes relating to §§745.21, 745.601, 745.607, 745.609, 745.615, 745.631, 745.643, 745.675, 745.683, 745.695, 745.751, 745.775, and 745.8483 are authorized by Texas Human Resources Code §42.042, which requires the executive commissioner to adopt rules and minimum standards related to required qualifications and background checks of employees at regulated facilities.

The proposal affects Texas Human Resources Code §§42.042, 42.056, 42.159, and 42.206, and Texas Health and Safety Code Chapter 810.

§745.8483. Portions of a Child Care Record that Are Confidential.  
[What portions of a child care record are confidential?]

The following parts [We can provide most portions of a child care record to the public. However, the following lists the portions] of a child care record [that] are confidential and will not be shared with [released to] the public in any manner, unless there is [noted as] an exception elsewhere in statute or rule [in §745.8487 of this division (relating to Are there any exceptions that allow the portions of a child care record that are confidential to be released to the public or certain persons?)]:

(1) information [~~Information~~] concerning an open investigation, including:

(A) interviews [~~Interviews~~] with operation staff, foster parents or other caregivers, children, or any other person; and

(B) internal [~~Internal~~] discussions by or among CCR [~~Licensing~~] staff;

(2) the [~~The~~] name of the reporter and any information identifying the reporter [that identifies the reporter];

(3) information [~~Information~~] received or obtained from another agency, entity, or person, if that information is confidential under law, including information related to background check findings [checks as explained further in Subchapter F of this title (relating to Background Checks)];

(4) any [~~Any~~] private information that is confidential under state or federal law, including:

(A) a [~~A~~] person's social security number;

(B) a [~~A~~] foster home screening, adoptive home screening, and post-placement adoptive report; and

(C) any [~~Any~~] information pertaining to pending court cases where the state is a party;

(5) any [~~Any~~] information that would interfere with:

(A) an [~~An~~] ongoing law enforcement investigation or prosecution;

(B) a DFPS [~~A Texas Department of Family and Protective Services~~] child abuse, neglect, or exploitation investigation; or

(C) an HHSC [~~A Texas Health and Human Services Commission~~] Long-Term Care Regulation adult abuse, neglect, or exploitation investigation;

(6) the [~~The~~] location of a family violence shelter or a victims of trafficking shelter center as defined by Texas Government Code §552.138;

(7) information about a person [~~Information pertaining to an individual~~] who received services at a family violence shelter or a victims of trafficking shelter center;

(8) any [~~Any~~] photograph, audio or visual recording, or documentation of a child; and

(9) any other information that is confidential by statute or rule. [~~Information that is confidential as described in §745.8497 of this division (relating to What confidentiality requirements apply to a person who is an applicant for a permit, a permit holder, or a former permit holder?); and~~]

[(10) Any other information that is confidential under state or federal law.]

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

Filed with the Office of the Secretary of State on April 8, 2026.

TRD-202601507

Karen Ray

Chief Counsel

Health and Human Services Commission

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 438-3269

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**TITLE 31. NATURAL RESOURCES AND CONSERVATION**

**PART 2. TEXAS PARKS AND WILDLIFE DEPARTMENT**

**CHAPTER 65. WILDLIFE**

**SUBCHAPTER X. MOUNTAIN LIONS**

**31 TAC §65.950**

The Texas Parks and Wildlife Department proposes an amendment to 31 TAC §65.950, concerning Mountain Lions. The proposed amendment would create a mandatory harvest reporting system for mountain lions in Texas, which is a critical component of the department's ongoing attempts to better monitor mountain lion populations.

In 2022, the Chairman of the Commission directed the formation of a Mountain Lion Stakeholder Working Group consisting of landowners, livestock producers, private land managers, trappers, and natural resource professionals. The group was charged with making recommendations for the development of a mountain lion management plan. There was broad consensus that the current approach to data collection (voluntary reporting) is inadequate, because voluntary reports represent an unknown proportion of the total harvest, and that better data on mountain lion populations and demographics is necessary to make meaningful population assessments, guide research efforts, and inform agency actions, if any are necessary. Staff has continued dialogue with stakeholders over the last three years while canvassing management and regulatory strategies in other states, and has developed an integrated population model (IPM) that utilizes various population parameters (births, deaths, and movements in and out of local populations) to assess populations and develop more accurate estimates. Effective population monitoring requires data from multiple population parameters to allow a larger picture to coalesce. Birth rates and movements in and out of a population typically vary within limited and predictable ranges which can be quantified. The variation is primarily due to environmental conditions such as drought or food availability. Death rates from human causes, however, tend to fluctuate unpredictably and therefore should regularly be assessed for population estimates to be accurate. Because the primary source of mountain lion mortality in Texas, on the basis of all past studies in Texas and data from other states where hunting is permitted, appears to be people, a reliable annual estimate of total harvest is one of if not the most important pieces of information needed for the model to function optimally.

Because the functionality and utility of the IPM depend upon accurate, timely data, particularly with respect to mountain lion mortality and mortality rates, staff have concluded that the best avenue to acquiring meaningful scientific data on mountain lion populations is to require some sort of mandatory harvest reporting program, which would provide the department with accurate, highly useful data collected at county-level scale (because the population inferences for mountain lions must be made at broad spatial extents due to the species' large home ranges).

The proposed amendment would create new subsection (e) to require a person who takes a mountain lion to report the take within 24 hours via the department's website or mobile application. The report would provide basic information necessary for the department to supply data for the IPM, such as the date, county of harvest, and method of take, and do so in very close to real time (the more closely the data tracks actual events, the finer the resolution of the model). The department hastens to note that the automated report neither requests nor records location data at any level more precise than county level, nor does it request property names or other identifying information. The department notes that the functionality of the mobile application does not require network connectivity at the time a reporting requirement is executed; a person complies with reporting requirements by entering required data on a device, which records the date and time of the report. The information is then transmitted to the department when connectivity is established. The proposed new subsection also would require the submission of a biological sample from each mountain lion harvested, to consist of a premolar and a small patch of dry tissue, which allows the department to conduct definitive laboratory analysis unique to the harvested animal. For that reason, the rule also stipulates that biological samples be segregated on a per-animal basis, to avoid data corruption. Finally, the proposed amendment would provide an option for the department to conduct sample collection rather than the person who killed the mountain lion. The department notes that in either case, there is no cost to the person who killed the mountain lion.

Robert Macdonald, Regulations Coordinator, has determined that for each of the first five years that the rule as proposed is in effect, there will be fiscal implications to the department as a result of administering or enforcing the rule as proposed of approximately \$26,000, consisting of the cost of pre-paid mailers and the laboratory analysis of biological samples. The department generously estimates that no more than 250 mountain lions are killed each year; thus, at \$4 per mailer, the cost of pre-paid mailers should be approximately \$1,000 per year. The cost of laboratory analysis (tooth age analysis, genetic analysis) is estimated to be less than \$100 per sample; thus, the department estimates the cost to the department to be approximately \$25,000 per year.

There will be no fiscal implications to other units of state or local government.

Mr. Macdonald also has determined that for each of the first five years that the rule as proposed is in effect, the public benefit anticipated as a result of enforcing or administering the proposed rule will be a better understanding of nongame species, the management of which is crucial to healthy, balanced, and functional wildlife systems.

The rule as proposed will not result in adverse economic impacts to persons required to comply.

Under provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, and rural communities. As required by Government Code, §2006.002(g), in April 2008, the Office of the Attorney General issued guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services. The department has determined that the proposed rule will not result in a direct economic costs to small businesses and micro-businesses.

The department has determined that the rule as proposed will not affect rural communities, as it does not directly regulate any rural community.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022, as the agency has determined that the rule as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rule.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rule.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rule as proposed, if adopted, will not create a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of any fee; create a new regulation (to require reporting of mountain lion harvest); expand an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposed rule may be submitted to Jonah Evans, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744; (830) 431-1491; email: [jonah.evans@tpwd.texas.gov](mailto:jonah.evans@tpwd.texas.gov) or via the department website at [www.tpwd.texas.gov](http://www.tpwd.texas.gov).

The amendment is proposed under the authority of Parks and Wildlife Code, §67.004, which requires the commission by regulation to establish any limits on the taking, possession, propagation, transportation, importation, exportation, sale, or offering for sale of nongame fish or wildlife that the department considers necessary to manage the species.

The proposed amendment affects Parks and Wildlife Code, Chapter 67.

§65.950. *Mountain Lions (Puma concolor).*

(a) - (d) (No change.)

(e) A person who takes a mountain lion in this state must report the take via the department's website or mobile application within 24 hours.

(1) A report is not valid unless it contains, at a minimum, the following:

(A) species of harvest;

(B) date of harvest, if known;

(C) county of harvest;

(D) method of take; and

(E) measure of effort (the amount of time devoted to the take activity resulting in harvest).

(2) Within 60 days of reporting take as required by this subsection, the person who harvested the mountain lion shall submit a biological sample to the department, using a pre-paid mailer provided by the department, consisting of the identification number for the mountain lion assigned by the department's app or website, accompanied by:

(A) at least one complete, unbroken premolar (a permanent tooth located between the canines and the molars); and

(B) a patch of dry tissue of at least 5mm by 5mm in size.

(C) A separate mailer must be used for each mountain lion (i.e., one mailer shall not be used to submit biological samples from more than one mountain lion).

(3) In lieu of compliance with the provisions of paragraph (2) of this subsection, a person who kills a mountain lion may contact the department upon harvest and schedule a sample collection by department personnel. The provisions of this paragraph cease to apply seven days from the time the harvest has been reported as required by this subsection.

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

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TRD-202601597

James Murphy

General Counsel

Texas Parks and Wildlife Department

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For further information, please call: (512) 389-4775



## CHAPTER 69. RESOURCE PROTECTION

The Texas Parks and Wildlife Department (the department) proposes the repeal of 31 TAC §69.47 and amendments to §§69.43 - 69.46, 69.48, 69.49, and 69.52, concerning Wildlife Rehabilitation Permits.

In 2021, the department conducted an extensive revision of wildlife rehabilitation rules to address longstanding concerns regarding programmatic inefficiency, noncompliance, and abuse (such as the persistent problem of permits being used to keep wildlife as pets or curiosities, which is not only undesirable, but unlawful). Because those revisions were quite significant, the department anticipated that additional revisions in the near term would be necessary in order to address unforeseen issues, eliminate conflicts, and make improvements. The proposed amendments would function, collectively, to reorganize the

subchapter, address problematic processes, and improve administrative efficiencies with the goal of strengthening and improving the delivery of wildlife rehabilitation activities in Texas.

The proposed amendment to §69.43, concerning Definitions, would add definitions for "animal control authority," "large wildlife rehabilitation center," "licensed veterinarian," "reportable disease," and "wildlife health crisis." The proposed amendment would define "animal control authority" as "the local governmental entity responsible for regulating and/or enforcing laws applicable to the possession, control, welfare, and disposition of animals." The department has received numerous requests from various law enforcement and first-responder entities for assistance in identifying places and locations where persons may be holding wildlife, because first-responders find it helpful to know about the possibility of encountering captive wildlife in the course of their duties, and because there may be local ordinances and laws that apply to such situations. Therefore, the rules as proposed would require permittees to notify the local animal control authority of the existence and location of facilities and an unambiguous definition of that term is necessary to facilitate compliance and enforcement.

The rules as proposed would make regulatory distinctions based on the intensity and magnitude of rehabilitation efforts. Wildlife rehabilitation activities can vary greatly in scale and pace; some rehabilitators have very narrow areas of specialization and others operate what amount to trauma centers that can have significant staff and treat many animals per day or year. The proposed amendment to §69.45, concerning Permit Required, would acknowledge these scales by creating rule specific for the largest types of facilities. "Large Wildlife Rehabilitation Center" would define "Large Wildlife Rehabilitation Center" as "a registered facility that has received at least 3,000 animals in each of the preceding three years and employs the permittee on a full or part-time basis to conduct activities for which a permit under this subchapter is required," which is necessary to provide a standard for compliance, administration, and enforcement.

The department has determined that it is necessary to define "licensed veterinarian" as "a person licensed by the Texas Board of Veterinary Medical Examiners to practice veterinary medicine in Texas," which is necessary to ensure that all persons providing veterinary medical services to wildlife rehabilitators are lawfully able to do so by the state of Texas and are professionally accountable in the state of Texas.

The proposed amendment would define "reportable disease" as "a disease identified as reportable on the National List of Reportable Animal Diseases maintained by the Animal and Plant Health Inspection Service under the United States Department of Agriculture, or that meets criteria listed in 4 TAC §45.2(a) in the rules of the Texas Animal Health Commission." The definition is intended to acknowledge other state and federal rules that require certain persons to notify appropriate health authorities upon discovery of certain contagious diseases.

The proposed amendment also would define "wildlife health crisis" as "a circumstance or set of circumstances that threaten wildlife populations, biodiversity, ecosystem stability, or animal or human health, including through zoonotic pathogen spillover." The definition is necessary because the term is employed in current rule and the standard applied by the department to such situations should be clear with respect to the threshold for department responses to disease emergence, such as that posed by New World Screwworm, that threatens public wildlife resources and potentially, livestock, pets, and humans.

Finally, the proposed amendment would clarify that "supervisory permittee" and "permittee" are synonymous with respect to references in the rule, and would correct and relocate current paragraph (12) to preserve meaning and alphabetical order.

The proposed amendment to §69.44, concerning General Provisions, would consist of several actions. The department has determined that the section is unwieldy and thematically inconsistent; therefore, the proposed amendment would rearrange existing provisions according to shared applicability and relocate some provisions to other sections as noted.

The proposed amendment would relocate current subsections (e) - (l), (n), (q), and (r) to subsection (a) and redesignate those provisions as paragraphs, which is intended to group generally applicable provisions in one place. Current subsections (e) and (f) would become new paragraph (3)(A) and (B) under subsection (a); the contents of current subsection (c) would be retained but become new subsection(a)(4); current subsection (g) would become new paragraph (5); current subsection (j) would become new subsection (a)(6); current subsection (n) would become new subsection (a)(7); current subsection (q) would become new subsection (a)(8); and current subsection (r) would become new subsection (a)(9). The changes are purely organizational and nonsubstantive.

The proposed amendment to §69.44 would retain the provisions of current subsection (d) as new subsection (b)(2) and add new paragraph (1), which would require subpermittees to be at least 18 years of age and to have passed a department-administered examination with a score of 100 percent. The department has encountered situations in which persons listed as subpermittees are clearly too young and/or unqualified to be conducting or assisting in permitted activities; therefore, the department believes a standard is appropriate. The department believes it is reasonable to require that all subpermittees be at least 18 years of age and to have demonstrated a basic understanding of wildlife rehabilitation.

The proposed amendment would combine the provisions of current subsections (h) and (i) and place them in proposed new subsection (c) concerning Display to the Public.

The proposed amendment to §69.44 would also create new subsection (d) to address the possession of non-releasable wildlife. Wildlife is by definition animal life that is meant to live in a state of nature and not in a state of domestication. In the natural world, animals that cannot survive don't. In many cases, wildlife brought to wildlife rehabilitators cannot be restored to a state of health that would allow survival in the wild and thus cannot be returned to the wild ("non-releasable"), which dictates euthanasia unless there is a compelling argument for allowing the animal to be kept for use for education, socializing other wildlife of the same species, or some other specialized use that benefits the species or human understanding of wildlife. Current rule requires non-releasable wildlife to be euthanized except as provided for approved educational, fostering, or socialization purposes, or transfer to zoological, scientific, or educational permit holders; however, the department continues to be concerned about situations in which wildlife is being retained in contravention of these understandings, in effect, becoming pets or curiosities, and in some cases the department has reason to suspect that persons have obtained wildlife rehabilitation permits solely for such purposes, which defeats the entire purpose of the concept of wildlife rehabilitation. The department believes that the highest and best reality for wildlife is to live in the wild as part of and contributors to native ecosystems and that wildlife inca-

pable of survival in the wild should be euthanized unless it can be used to benefit the species or human understanding of biology because the animal cannot live as nature intended. The department also wishes to avoid any possibility of inadvertently creating a legal pathway for the intentional acquisition of wildlife for personal use or enjoyment. For these reasons, the department proposes new provisions, in addition to the current provisions, that would require non-releasable wildlife to be kept at the permittee's registered facility and explicitly prohibit public display except as provided for educational purposes. The proposed amendment also would require non-releasable wildlife approved for educational display to be restrained at all times and would prohibit any touching or handling by the public at any time. The department reasons that explicit provisions carrying criminal penalties for violation are useful to emphasize that wildlife resources are owned by the people of the state and are not to be treated as pets, curiosity pieces, or commodities. For similar reasons, the current requirement restricting the possession of non-releasables to persons with at least three years as a permitted rehabilitator would be altered to increase the period of experience to five years. The proposed amendment would also relocate current §69.45(b) in new subsection (g).

The proposed amendment to §69.45, concerning Permit Required, would retitle the section to acknowledge the addition of new provisions to create four categories of wildlife rehabilitation permit, based on level of complexity, and to enhance quality control measures for satellite facilities.

The department has long experienced administrative difficulties associated with the various and disparate levels of operational complexity within the regulated community. As noted previously in this preamble, the universe of wildlife rehabilitation in Texas is very diverse, ranging from permittees who are highly specialized and work with a very small number of animals at a single facility to permittees who supervise large numbers of subpermittees and volunteers that treat a wide variety of animals at numerous satellite facilities. The one-size-fits-all nature of the current regulatory structure is problematic, particularly from the perspective of disease management, reporting and recordkeeping, and effective monitoring and tracking of the activities of subpermittees and volunteers. The department acknowledges the legitimate usefulness of satellite facilities, subpermittees, and volunteers, but is also concerned about both the abuse of those privileges (intentional and accidental) and the unwieldiness introduced by its complexity. There is an ongoing problem with the proliferation of subpermittees and volunteers under multiple permittees, permittees being listed as subpermittees under other permittees, geographical dispersion of satellite facilities, phantom facilities, and other, similar types of problems. Therefore, the department proposes to eliminate the current one-size-fits-all approach and replace it with a system of graduated permit types stratified by magnitude of subpermittee/volunteer/satellite facility activities.

The proposed amendment would create the Type A permit to address those rehabilitation activities that do not involve subpermittees or satellite facilities. This permit level would be the entry or default level of permit issuance but could also be utilized by permittees with very narrow and/or high specialized practices (for example, a rehabilitator that specializes only in rabbits). The Type B permit would address moderately more complex rehabilitation activities and would authorize up to five subpermittees, whose activities would be confined to the supervisory permittee's registered facility (i.e., no satellite facilities). To qualify for issuance of a Type B permit, the applicant would be required to document a minimum of two years' experience as a permit-

ted wildlife rehabilitator in Texas. The department believes that two years of experience as a wildlife rehabilitator should be the minimum standard for supervision of other persons conducting wildlife rehabilitation activities as authorized under the subchapter. The Type C permit would address complex rehabilitation activities, authorize the permittee to supervise up to 10 subpermittees at up to five satellite facilities, and require the permittee to document at least five years of experience as a permitted wildlife rehabilitator in Texas as a condition of issuance. The department has determined that it is reasonable and logical to allow expansion of permit privileges in proportion to demonstrated responsible experience. Finally, the Type D permit would address very large wildlife rehabilitation activities conducted by permittees who are paid employees of an organization. A Type D permit would authorize any number of subpermittees at any number of satellite facilities, but would be conditioned on the permittee having at least five years documented experience as a permitted wildlife rehabilitator (in any state or states) and being a paid employee of a large wildlife rehabilitation center, as defined in the rules. The department reasons that very large wildlife rehabilitation operations operated or sanctioned by bona fide conservation/conservation-oriented organizations that employ experienced, demonstrably responsible permittees can be entrusted with significant latitude in conducting permitted activities.

The proposed amendment also would alter current subsection (c) to strengthen oversight provisions applicable to satellite facilities. The current rule requires supervisory permittees to visit satellite facilities no less frequently than once every 120 days to verify compliance with applicable provisions of the subchapter. The department has determined, on the basis of encountering several failures with respect to permittees ensuring that satellite facilities are compliant, that it is necessary to prohibit wildlife rehabilitation at any satellite facility unless the supervisory permittee has personally inspected the facility within the previous 120 days and documented in writing that the facility is being operated in compliance with the applicable provisions of the subchapter. In this way, the department intends to ensure that public resources are receiving appropriate care.

The proposed amendment would move current subsection (b) to §69.44 as noted previously in this preamble. Additionally, the proposed amendment would create new subsection (c) to prohibit any permittee from being listed as a subpermittee by another permittee. The department has encountered significant issues untangling webs of interconnected persons performing wildlife rehabilitation under multiple authorizations, which confounds department processes, most notably, the ability of the department to conduct epidemiological investigations in the event of a wildlife health crisis.

The proposed amendment also would relocate the provisions of current §69.44(q) as new subsection (f), reworded to acknowledge that amendment of permit provisions in the event of a declared wildlife health crisis would be effected by emergency rulemaking. Although other provisions of the rules allow the department to waive provisions of the subchapter in response to wildlife health crises, the department wishes to avoid any suggestion of engaging in ad hoc rulemaking in such situations and therefore seeks to make it abundantly clear that any amendments of permits in response to a health crisis will be done under the provisions of the Administrative Procedure Act and the Parks and Wildlife Code.

Finally, the proposed amendment would prohibit the possession of any animal under a wildlife rehabilitation permit for longer than

365 days unless recommended in writing by a licensed veterinarian and the department. As mentioned previously in this preamble, the intent of wildlife rehabilitation is the return of wildlife to native systems, with exceptions for certain non-releasables. The wildlife rehabilitation permit is not a pet permit, nor is it companion-animal permit. The department reasons that a year is sufficient time to restore most injured or sick wildlife to a state of health that would permit re-introduction to the wild, with the proviso that there could be legitimate reasons for additional time in extenuating circumstances.

The proposed amendment to §69.46, concerning Application for Permit, would impose specific experiential requirements for permit issuance. Current rules require only completion of a training course offered by a professional wildlife rehabilitation organization within three years of the application for a permit. The department has determined that this is inadequate and has resulted in issuance of permits to persons who seek a wildlife rehabilitation permit for purposes unrelated to bona fide wildlife rehabilitation (such as keeping wildlife as pets or conversation pieces, practices that historically have plagued the program), in addition to enabling permit issuance to persons who are not serious or are otherwise insufficiently committed to or experienced enough to ably practice wildlife rehabilitation. To remedy this situation, the proposed amendment would require applicants to document a minimum of 800 hours of wildlife rehabilitation experience at any level and to have been either a subpermittee in Texas or a permitted wildlife rehabilitator in any state for a minimum of two years. The department believes that persons meeting these requirements have demonstrated genuine commitment to the practice of wildlife rehabilitation. Proposed new subsection (b) would exempt current permittees from the proposed new requirements, but would stipulate that any person who allows a permit to lapse and subsequently seeks a permit would have to meet the proposed new requirements. Additionally, new applicants would be required to provide evidence of at least 20 hours of training or coursework provided by an accredited professional organization or an entity approved by the department, which is intended to replace the current educational requirement of any training within the previous three years, which is vague. The department believes it is appropriate to quantify the amount of professional training and establish a credible standard in order to ensure that applicants have made a credible and efficacious investment in continuing education and training.

The proposed amendment to §69.46 also would eliminate the current requirement for a letter from a licensed veterinarian known to the applicant and replace that standard with the requirement of a letter from a licensed veterinarian affirming that the veterinarian will provide veterinary consultation services to the applicant if a permit is issued. The department reasons that the current standard is little more than proof that two people are acquainted, whereas the proposed amendment would require an affirmation of willingness to provide professional advice and/or services, which the department believes is a higher standard that will improve the quality of wildlife rehabilitation in the state. Finally, the proposed amendment would reduce the minimum required score on a department-administered wildlife rehabilitation test, from 100% to 80% on a more comprehensive exam. The department assesses that persons who are capable of meeting the enhanced standards of the proposed new provisions need not be held to the 100% standard.

The amendment to §69.48, concerning Permit Renewals, would comport the provisions of subsection (a) to accommodate the changes made elsewhere to replace quarterly reporting with an-

nual reporting for certain permittees, and would amend subsection (b) to require at least eight hours of training annually, as well as a letter from licensed veterinarian attesting to the willingness to provide consulting services to the permittee. The department believes it is important for permitted wildlife rehabilitators to participate in continuing education furnished by recognized professional organizations and associations so as to be aware of and familiar with current developments and trends that improve the quality and efficacy of wildlife rehabilitation delivery. Similarly, as discussed earlier in this preamble, the department believes it is important to document access to veterinary professionals for specialized expertise necessary to inform successful outcomes. The proposed amendment also would alter subsection (c) to cite the department's rules governing the process for denial of permit issuance or permit renewal.

The proposed amendment to §69.49, concerning General Facility Standards, would insert new subsection (b) to prohibit the registration of any facility located in a domestic residence that shares air handling equipment or access to water, housing or exercise space, or food in common with another domestic residence. The department seeks to eliminate wildlife rehabilitation activities in environments where the facilitation of disease propagation and spread is possible via cross-contamination or physical contact with sick wildlife, and to prevent wildlife rehabilitation activities in environments that are inappropriate in terms of noise and other disruptions that could interfere with or confound effective rehabilitation efforts (e.g., apartments, duplexes, townhomes, etc.).

The proposed amendment to §69.52, concerning Reports and Recordkeeping, would alter the title of the section to reflect notification requirements created by the proposed amendment in the form of possession of documentation of inspections of satellite facilities required under the proposed amendment to §69.45. The proposed amendment would also relax reporting requirements for all permittees that do not rehabilitate deer. In a previous rulemaking in response to the emergence of chronic wasting disease (CWD), the department imposed quarterly reporting requirements on all wildlife rehabilitators. The department has been persuaded that the quarterly reporting requirements can safely be restricted only to those permittees authorized to rehabilitate deer, and that there is negligible threat of CWD being spread from facilities not authorized to receive deer.

The proposed amendment would also require permittees to notify the appropriate local animal control authority, for reasons mentioned earlier in this preamble in the discussion of the proposed amendment to §69.43, concerning Definitions.

Finally, the proposed amendment would create new subsection (j) to require notification of the department upon learning of, discovering, or being informed that a reportable disease has been confirmed to exist in an animal or facility for which the permittee is responsible. The department believes it is axiomatic that the presence or detection of disease is something that should be reported immediately, so as to allow the department and any other involved entities the greatest amount of time to respond effectively.

The repeal of §69.47, concerning Refusal of Permit Issuance or Renewal; Review, is necessary because the department was directed by the Sunset Commission in 2022 to implement a uniform process governing department decisions to refuse issuance or renewal of non-recreational licenses and permits for which such processes are not prescribed by statute and prescribe a similar process regarding agency decisions to suspend or re-

voke a license or permit affected by the proposed new subchapter. Those rules are located at 31 TAC Chapter 56 and include the license affected by this rulemaking; thus, the section is no longer necessary.

Richard Heilbrun, Wildlife Division Deputy Director, has determined that for each of the first five years that the rules are in effect, there will be no fiscal implications to state or local governments as a result of administering or enforcing the rules, because the rules will be administered and enforced by existing personnel using existing systems, equipment, and budget.

Mr. Heilbrun also has determined that for each of the first five years that the rules as proposed are in effect, the public benefit anticipated as a result of enforcing or administering the rule as proposed will be the implementation of rules that will increase the effectiveness and efficiency of wildlife rehabilitation in the state and enhance measures to ensure the biosecurity of wildlife rehabilitation activities in the state, thereby protecting native wildlife populations and natural systems, as well as having the benefit of protecting human and livestock health and safety.

There will be no direct adverse economic effects on persons required to comply with the rules as proposed. Although the rules as proposed would create additional requirements for permit issuance in the form of minimum standards of training and experience, the department reasons that those provisions do not affect current permittees except with respect to the requirement of eight hours of annual training in lieu of the non-specific standard in the current rules, which is "the completion of a training course." The department has determined that virtually any approved training course will satisfy the eight-hour requirement imposed by the rules as proposed. Additionally, the department notes that because the proposed provision prohibiting the registration of facilities with certain shared physical residential infrastructure, if adopted, would apply only to facilities registered after the effective date of the rules (i.e., not retroactively), there is no cost of compliance associated with the provision.

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses, micro-businesses, and rural communities. As required by Government Code, §2006.002(g), the Office of the Attorney General has prepared guidelines to assist state agencies in determining a proposed rule's potential adverse economic impact on small businesses. Those guidelines state that an agency need only consider a proposed rule's "direct adverse economic impacts" to small businesses and micro-businesses to determine if any further analysis is required. For that purpose, the department considers "direct economic impact" to mean a requirement that would directly impose recordkeeping or reporting requirements; impose taxes or fees; result in lost sales or profits; adversely affect market competition; or require the purchase or modification of equipment or services.

The department has determined that no small businesses, micro-businesses, or rural communities will be affected by the proposed rules, because it is unlawful to conduct wildlife rehabilitation on a for-profit or commercial basis in this state. Therefore, the department has not prepared the economic impact statement or regulatory flexibility analysis described in Government Code, Chapter 2006.

The department has not drafted a local employment impact statement under the Administrative Procedures Act, §2001.022,

as the agency has determined that the rules as proposed will not impact local economies.

The department has determined that Government Code, §2001.0225 (Regulatory Analysis of Major Environmental Rules), does not apply to the proposed rules.

The department has determined that there will not be a taking of private real property, as defined by Government Code, Chapter 2007, as a result of the proposed rules.

In compliance with the requirements of Government Code, §2001.0221, the department has prepared the following Government Growth Impact Statement (GGIS). The rules as proposed, if adopted, will not create a government program; not result in an increase or decrease in the number of full-time equivalent employee needs; not result in a need for additional General Revenue funding; not affect the amount of any fee; create a new regulation (requirement for permittee presence at registered facilities); expand existing regulations (stratification of permit privileges, quantification of experience requirements for permit issuance and renewal); limit an existing regulation (by prohibiting rehabilitation activities in shared residential environments); will repeal an existing regulation; neither increase nor decrease the number of individuals subject to regulation; and not positively or adversely affect the state's economy.

Comments on the proposal may be submitted to Lindsay Garza (830) 261-2716, e-mail: Lindsay.garza@tpwd.texas.gov. Comments also may be submitted via the department's website at [http://www.tpwd.texas.gov/business/feedback/public\\_comment/](http://www.tpwd.texas.gov/business/feedback/public_comment/).

## SUBCHAPTER C. WILDLIFE REHABILITATION PERMITS

### 31 TAC §§69.43 - 69.46, 69.48, 69.49, 69.52

The amendments are proposed under Parks and Wildlife Code, §43.022, which requires the commission to adopt rules to govern the collecting, holding, possession, propagation, release, display, or transport of protected wildlife for scientific research, educational display, zoological collection, or rehabilitation and authorizes the department to issue a permit to a qualified person to collect, hold, possess, display, transport, release, or propagate protected wildlife for scientific research, educational display, zoological collection, or rehabilitation.

The proposed amendments affect Parks and Wildlife Code, Chapter 43, Subchapter C.

#### §69.43. Definitions.

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

(1) Animal control authority--The local governmental entity responsible for regulating and/or enforcing laws applicable to the possession, control, welfare, and disposition of animals.

(2) [(4)] Education--Activities that encourage management and conservation of wildlife resources or that are intended to increase the public's awareness and understanding of aspects of wildlife biology.

(3) [(2)] Final disposition--The terminal status of wildlife rehabilitation efforts due to transfer, retention, mortality, or euthanasia.

(4) [(3)] Fostering--Using a captive animal to rear young animals of the same species.

(5) [(4)] Holding--Retaining in captivity.

(6) [(5)] Human imprinting or human bonding--A dependency or fixation upon humans as parent substitutes or companions.

(7) Large Wildlife Rehabilitation Center--A registered facility that:

(A) has received at least 3,000 animals in each of the preceding three years; and

(B) employs the permittee on a full or part-time basis to conduct activities for which a permit under this subchapter is required.

(8) Licensed veterinarian--A person licensed by the Texas Board of Veterinary Medical Examiners to practice veterinary medicine in Texas.

(9) [(6)] Non-releasable animal--An animal which, after rehabilitation, is determined by the department to be unlikely to survive in the wild if released.

(10) [(7)] Propagate--To allow animals to produce offspring.

(11) Protected wildlife--As defined by Parks and Wildlife Code, Chapter 43, Subchapter C.

(12) [(8)] Rehabilitation--The temporary caring for injured, orphaned, or sick wildlife until such animals can be released to the wild.

(13) Reportable Disease--A disease identified as reportable on the National List of Reportable Animal Diseases maintained by the Animal and Plant Health Inspection Service under the United States Department of Agriculture, or that meets criteria listed under 4 TAC §45.2(a) (relating to Duty to Report).

(14) [(9)] Satellite rehabilitation facility (satellite facility)--A facility registered with the department and operated by a subpermittee under the supervision of a permittee.

(15) [(10)] Socialize--Using a captive animal to teach wild behaviors to juvenile animals of the same species.

(16) [(11)] Subpermittee--A person authorized by a permittee to conduct activities governed by this subchapter.

(17) Wildlife health crisis--A circumstance or set of circumstances that threaten wildlife populations, biodiversity, ecosystem stability, or animal or human health, including through zoonotic pathogen spillover.

[(12) "Wildlife Protected" wildlife--as defined by Parks and Wildlife Code, Chapter 43, Subchapter C.]

(18) [(13)] Supervisory permittee--A permittee who is responsible for the activities of subpermittees listed on the permittee's permit and volunteers at the permittee's or subpermittee's facility or satellite facility, as applicable. Unless otherwise indicated, a reference to a permittee is a reference to the supervisory permittee.

(19) [(14)] Volunteer--An individual who is not a permittee or subpermittee and works with permitted wildlife in the presence of the permittee or subpermittee.

#### §69.44. General Provisions.

##### (a) General.

(1) Activities authorized by a permit issued under this subchapter shall be conducted only by the permittee and/or subpermittees named on the permit or volunteers in compliance with the requirements of this subchapter.

(2) [(b)] Except as provided in paragraph (4) of this subsection [subsection (e) of this section], activities authorized by a permit

issued under this subchapter shall be conducted only at a rehabilitation facility or satellite facility registered with the department via an electronic application designated by the department for that purpose.

(3) Wildlife held under the authority of a permit issued under this subchapter:

(A) shall not be commingled with domestic pets, livestock, exotic livestock, exotic fowl, or non-indigenous wildlife; and

(B) may not be sold, bartered, or exchanged for any consideration. A permit issued under this subchapter shall not authorize a person, firm, or corporation to engage in the propagation or commercial sale of wildlife.

(4) ~~[(e)]~~ A permittee or subpermittee may possess sick or injured wildlife while not at a registered facility or satellite facility only for the amount of time necessary to stabilize and transport the wildlife to a registered facility or satellite facility.

(5) A permittee shall conduct rehabilitation in an environment which minimizes human contact and prevents human and domestic animal imprinting or bonding.

(6) A permittee shall not conduct activities governed under this subchapter on the same property as a fur-bearing animal propagation facility or deer breeding facility unless specifically authorized in writing by the department.

(7) All medical treatment, including vaccinations, shall be performed in consultation with a licensed veterinarian and in accordance with all applicable laws regarding extra-label use of medications and biologicals.

(8) The department may temporarily waive any provision of this subchapter during a wildlife health crisis.

(9) The department may designate a manual process in lieu of any electronic application requirement of this subchapter if for whatever reason the electronic application is unavailable.

(b) ~~[(d)]~~ Subpermittees and Volunteers.

(1) A subpermittee must:

(A) be at least 18 years of age; and

(B) have scored 100 percent on a department-administered wildlife rehabilitation examination within the previous five years.

(2) A volunteer may engage in permitted activities if:

(A) ~~[(1)]~~ the volunteer is identified on the daily volunteer log as required under §69.52 of this title (relating to Reports and Recordkeeping); and

(B) ~~[(2)]~~ the supervisory permittee or a subpermittee is present. At any time that the supervisory permittee or a subpermittee is not present, volunteer activity must be limited to feeding, watering, cleaning of cages and enclosures, and other custodial activities that involve only incidental contact with wildlife.

(c) Display to the Public.

(1) Except for permitted educational purposes, wildlife possessed under a rehabilitation permit shall not come in contact with anyone other than the permittee and/or subpermittees, volunteers, licensed veterinarians, or the staff of licensed veterinarians.

(2) A permittee shall not allow the viewing, exhibit, or display to the public of animals possessed under a rehabilitation permit unless specifically authorized by permit provision.

(d) Non-releasable wildlife.

(1) No person may conduct educational display activities involving non-releasable wildlife under Type A, B, or C permits unless the supervisory permittee is present during the activity. Non-releasable wildlife:

(A) must be housed at the supervisory permittee's registered facility;

(B) shall not be displayed to the public except as provided in this subchapter for educational activities;

(C) shall not be touched or handled by the public at any time; and

(D) shall be restrained at all times during educational events in such a fashion as to prevent physical contact with the public; and

(E) shall be euthanized except as provided by this paragraph.

(2) Permission to retain non-releasable wildlife may be granted only to permittees who have at least five years' experience as a permitted wildlife rehabilitator.

(3) The department may permit the retention of non-releasable wildlife for approved educational, fostering, or socialization purposes, or for transfer to zoological, scientific, or educational permittees. Requests must be made in writing to the department, and no transfer shall take place until the department has approved the request. A request to retain non-releasable wildlife under this subsection shall include a statement from a licensed veterinarian that the animal is non-releasable and the reasons why the animal is non-releasable. The department will not authorize the retention of an animal that because of a disease or condition poses a danger to humans, other animals, or itself.

(4) Permittees possessing non-releasable raptors shall band the raptors with markers supplied by the department.

~~[(e)] Wildlife held under the authority of a permit issued under this subchapter may not be sold, bartered, or exchanged for any consideration. A permit issued under this subchapter shall not authorize a person, firm, or corporation to engage in the propagation or commercial sale of wildlife.~~

~~[(f)] Wildlife held under the authority of a permit issued under this subchapter shall not be commingled with domestic pets, livestock, exotic livestock, exotic fowl, or non-indigenous wildlife.~~

~~[(g)] A permittee shall conduct rehabilitation in an environment which minimizes human contact and prevents human and domestic animal imprinting or bonding.~~

~~[(h)] Except for permitted educational purposes, wildlife possessed under a rehabilitation permit shall not come in contact with anyone other than the permittee and/or subpermittees, volunteers, licensed veterinarians, or the staff of licensed veterinarians.~~

~~[(i)] A permittee shall not allow the viewing, exhibit, or display to the public of animals possessed under a rehabilitation permit unless specifically authorized by permit provision.~~

~~[(j)] A permittee shall not conduct activities governed under this subchapter on the same property as a fur-bearing animal propagation facility or deer breeding facility unless specifically authorized in writing by the department.~~

~~[(k)] Non-releasable wildlife shall be euthanized except as provided by this subsection.~~

~~[(1) Permission to retain non-releasable wildlife may be granted only to permittees who have at least three years' experience as a permitted wildlife rehabilitator.]~~

~~[(2) The department may permit the retention of non-releasable wildlife for approved educational, fostering, or socialization purposes, or for transfer to zoological, scientific, or educational permittees. Requests must be made in writing to the department and no transfer shall take place until the department has approved the request. A request to retain non-releasable wildlife under this subsection shall include a statement from a licensed veterinarian that the animal is non-releasable and the reasons why the animal is non-releasable. The department will not authorize the retention of an animal that because of a disease or condition poses a danger to humans, other animals, or itself.]~~

~~[(t) Permittees possessing non-releasable raptors shall band the raptors with markers supplied by the department.]~~

~~(c) [(m)] Deer. Wildlife rehabilitation of white-tailed deer and mule deer is restricted to fawns only. No permittee or subpermittee may accept or possess a white-tailed or mule deer that is in adult pelage (no spots). All white-tailed or mule deer received by a permittee shall immediately be identified by the attachment to the pinna of either ear of:~~

~~(1) a Radio Frequency Identification Device (RFID) button tag approved by the department; and~~

~~(2) a "dangle" type tag bearing the unique identifier assigned to the deer by the department.~~

~~(3) The RFID tag required by this subsection must have an associated 15-digit animal identification number conforming to the 840 standards of the United States Department of Agriculture, which number shall be reported to the department in accordance with the applicable provisions of §65.92 of this title (relating to Reports and Record-keeping).~~

~~(4) It is an offense for any person to remove or allow the removal of a tag required by this subsection from a living white-tailed or mule deer.~~

~~(5) A permittee or subpermittee who transfers a white-tailed or mule deer shall notify the administrator of the wildlife rehabilitation program at least 24 hours but not more than 48 hours prior to and following the completion of the transfer.~~

~~(6) Deer must be released, transferred, or euthanized by the end of the calendar year in which they were born or at the time they grow adult pelage, whichever occurs first.~~

~~(7) The department may require any deer held under a permit issued under this subchapter to be tested for chronic wasting disease.~~

~~[(n) All medical treatment, including vaccinations, shall be performed in consultation with a licensed veterinarian and in accordance with all applicable laws regarding extra-label use of medications and biologics.]~~

~~(f) [(o)] Disposition of Euthanized Wildlife. Euthanized wildlife and wildlife that has died while under the care of a permittee shall be:~~

~~(1) transferred to a person authorized by law to receive such wildlife;~~

~~(2) disposed of in a Type 1 landfill; or~~

(3) interred or incinerated onsite in compliance with any applicable local, state, or federal law regarding animal carcass burial or disposal.

(4) Open-pit disposal and burn-pile incineration are prohibited.

(g) ~~[(p)]~~ Exceptions.

(1) Except as otherwise provided under Chapter 65, Subchapter B, of this title (relating to Disease Detection and Response), licensed veterinarians may hold, possess, and transport wildlife to provide emergency medical care or stabilization care until they are stabilized and able to be transferred, at which time the wildlife must be transferred to a permitted rehabilitator.

(2) This subchapter does not apply to department personnel, or transport by animal control officers or peace officers in the performance of official duties.

~~[(q) The department may temporarily waive any provision of this subchapter during a wildlife health crisis.]~~

~~[(r) The department may designate a manual process in lieu of any electronic application requirement of this subchapter if for whatever reason the electronic application is unavailable.]~~

*§69.45. Permit Required; Permit Privileges.*

(a) Except as may be otherwise provided by this subchapter, no person may possess wildlife for purposes of rehabilitation unless the person possesses a valid permit issued under the provisions of this subchapter, as follows.

(1) A Type A permit authorizes the permittee to supervise volunteers, but does not authorize a permittee to supervise subpermittees or conduct activities at satellite facilities.

(2) A Type B permit authorizes the permittee to supervise volunteers and no more than five subpermittees, but does not authorize the permittee to conduct permitted activities at any satellite facility. The department will not issue a Type B permit to any person unless that person is able to document a minimum of two years of experience as a permitted wildlife rehabilitator in Texas.

(3) A Type C permit authorizes the permittee to:

(A) supervise volunteers;

(B) supervise no more than 10 subpermittees; and

(C) conduct permitted activities at no more than five satellite facilities. The department will not issue a Type C permit to any person unless that person is able to document a minimum of five years of experience as a permitted wildlife rehabilitator in Texas.

(4) A Type D permit authorizes a permittee to:

(A) supervise volunteers;

(B) supervise any number of subpermittees; and

(C) conduct activities authorized under this subchapter at registered satellite facilities. The department will not issue a Type D permit to any person unless that person:

(i) is able to document a minimum of five years of experience as a permitted wildlife rehabilitator; and

(ii) is an employee of a Large Wildlife Rehabilitation Center.

~~[(b) Except as otherwise provided under Chapter 65, Subchapter B, of this title (relating to Disease Detection and Response), licensed veterinarians may hold, possess, and transport wildlife to provide emer-~~

gency medical care or stabilization care until they are stabilized and able to be transferred, at which time the wildlife must be transferred to a permitted rehabilitator.}]

(b) [(e)] A person may possess protected wildlife for rehabilitation purposes at a satellite facility, provided:

(1) the person is listed as a subpermittee on the valid permit of a supervisory permittee and possesses a copy of the valid permit at the satellite facility;

(A) the supervisory permittee has registered the facility with the department;

(B) the facility is in compliance with the facility standards set forth in §69.49 of this title (relating to General Facilities Standards) and any additional standards or requirements set forth in the permit provisions of the supervisory permittee; and

(C) the subpermittee engages only in the rehabilitation activities authorized by the department to be undertaken at the satellite facility, including but not limited to restrictions on numbers and kinds of animals, life stages, and any other restrictions deemed necessary by the department.

(2) A permittee who registers a satellite facility with the department shall be responsible for the conduct of the subpermittee at the satellite facility with respect to all activities governed under this subchapter and applicable permit provisions.

(3) No activities regulated under this subchapter shall take place at a registered satellite facility unless the supervisory permittee has personally inspected the satellite facility within the previous 120 days and documented in writing that [and shall visit each satellite facility no less frequently than once per 120 days to verify that] the satellite facility is compliant with the provisions of this subchapter and applicable permit provisions. The department may prescribe alternatives to physical visitation for permittees with a demonstrated history of compliance.

(4) [(3)] The department will not authorize the registration of more than one satellite facility per subpermittee.

(5) [(4)] No person may be a subpermittee for more than one permittee.

(c) A permittee may not be a subpermittee on another individual's permit.

(d) No permittee shall change facility location or receive unauthorized species, or conduct unauthorized activities unless the permittee possesses an amended permit authorizing such activity.

(e) Permits issued under this section may be issued for any period of time not exceeding three years from the date of issuance.

(f) The department may declare a wildlife health crisis in response to a disease outbreak or other conditions or circumstances that threatens wildlife species in the state. During a wildlife health crisis, the department may amend any permit provision (to include prohibition of the movement or transfer of wildlife into or from any facility) by emergency rule.

(g) No permittee shall possess an animal for longer than 365 days unless recommended in writing by a licensed veterinarian and specifically authorized in writing by the department.

#### §69.46. *Application for Permit.*

(a) An applicant for a permit under this subchapter must:

(1) be at least 18 years of age;[-]

(2) have at least 800 hours of documented wildlife rehabilitation experience at any level; and

(3) have been either:

(A) a subpermittee in Texas for at least two years; or

(B) a permitted wildlife rehabilitator in another state for at least two years.

(4) The department will consider wildlife rehabilitation experience lawfully obtained under an equivalent permit issued by another state.

(b) The requirements of subsection (a) of this section do not apply to any person who, as of the effective date of this subsection, holds a valid wildlife rehabilitation permit issued by the department; however, a permittee who allows a permit to expire without renewal after the effective date of this subsection must comply with the provisions of subsection (a) of this section if that person seeks to obtain a permit again.

(c) [(b)] Applications shall be made on forms supplied or approved by the department. Incomplete applications will not be processed.

(d) [(e)] Applications must be accompanied by:

(1) a copy of the certificate of completion or similar documentation provided by the course provider, of at least 20 hours of training/coursework provided by or under the auspices of]; within the preceding three years, of a training course offered by] the International Wildlife Rehabilitation Coalition, the National Wildlife Rehabilitator's Association, or other organization or entity approved by the department;

(2) a letter of recommendation from a [licensed veterinarian and/or] permitted wildlife rehabilitator with at least three years' experience as a permitted wildlife rehabilitator attesting to personal knowledge of the applicant's experience and competence at wildlife rehabilitation [who has known the applicant for at least two years]; and

(3) a test score of at least 80 percent [100] on a department-administered wildlife rehabilitation examination.

(4) a letter from a licensed veterinarian attesting willingness to provide, if the department issues a permit to the applicant, wildlife veterinary consultation services to the permittee.

(e) [(d)] Permits for the taking or holding of federally protected species shall not be valid unless the permittee also possesses a valid federal permit authorizing possession of those species.

(f) [(e)] Except for persons authorized to do so under the terms of zoological permits, no person holding a permit authorizing the propagation for sale of wildlife shall be authorized to rehabilitate those species.

#### §69.48. *Permit Renewals.*

(a) Renewal applications shall be made on a form provided by the department and shall be submitted with the annual or final quarterly report required by §69.52 of this title (relating to Notifications, Reports, and Recordkeeping) by no later than January 15 of each year.

(b) Renewal applications shall not be processed until the department has received all reports required by §69.52 of this title accompanied by evidence of at least one of the following:

(1) completion of at least eight hours per permit year of training or coursework provided by or under the auspices of [a training course offered by] the International Wildlife Rehabilitation Coalition,

the National Wildlife Rehabilitator's Association, or other department-approved organization or entity [within the preceding three years];

(2) a current Wildlife Rehabilitator Certification provided by the International Wildlife Rehabilitation Coalition; or

(3) attendance at a national wildlife rehabilitators conference within the preceding three years; and

(4) a letter from a licensed veterinarian attesting willingness to provide wildlife veterinary consultation services to the permittee.

(c) The department may deny a renewal as provided in Chapter 56[§69.47] of this title (relating to Agency Decision to Refuse License or Permit Issuance or Renewal and Agency Decision to Suspend or Revoke Affected License or Permit [Refusal of Permit Issuance or Renewal; Review]).

#### §69.49. General Facilities Standards.

(a) All facilities shall be subject to inspections by the department. A first-time applicant's facilities shall be inspected by the department and no permit shall be issued until the facilities are determined to satisfy all of the applicable facilities standards of this subchapter.

(1) The department may specify individual caging requirements on a case-by-case basis.

(2) Clean water shall be available at all times except where medical circumstances require the temporary denial of water.

(3) Feces and waste materials shall be removed on a daily basis except for species which normally re-ingest fecal material.

(4) Cages shall be cleaned and disinfected using non-irritating methods.

(5) A person authorized by permit shall observe and provide care for wildlife at least once daily unless otherwise specified by the permit.

(b) The department will not allow the registration of any facility located in a domestic residence that shares air handling equipment or access to water, housing or exercise space, or food in common with another domestic residence (e.g., apartments, duplexes, townhomes, etc.).

(c) ~~[(b)]~~ White-tailed deer and mule deer held under a permit issued under this subchapter shall be confined at all times within a department-approved enclosure (indoor, outdoor, or both) that is constructed in such a fashion as to prevent both escape and contact with other deer or susceptible species as defined in Chapter 65, Subchapter B, of this title (relating to Disease Detection and Response). The department will not authorize the rehabilitation of deer by a permittee if the permittee's facility is not in compliance with this subsection.

#### §69.52. Notifications, Reports, and Recordkeeping.

(a) At each registered facility for which a permittee is responsible, the [Each] permittee [and each subpermittee who operates a satellite facility] shall maintain, on a form provided or approved by the department:

(1) a daily log of all animals acquired or received for rehabilitation. The daily log shall, at a minimum, consist of the following:

(A) the species and sex (if possible) of each animal acquired or received;

(B) the date and time that each animal was acquired or received;

(C) the name, address, phone number, and, if possible, an email address for each person from whom an animal is acquired or received;

(D) the approximate or exact geographical location where each animal was found before being acquired or obtained;

(E) a reference identifier assigned to the wildlife;

(F) the RFID tag number assigned to a white-tailed or mule deer; and

(G) final disposition data for each animal, including:

(i) the cause of final disposition;

(ii) the date and time of final disposition; and

(iii) the method and location of disposition, including but not limited to:

(I) GPS coordinates for any release location;

(II) the name, address, phone number, and email address of the landowner of a property where wildlife is released; and

(III) the name, address, phone number, email address, and permit number (if applicable) of any person to whom wildlife is transferred, if wildlife is transferred; and

(2) a daily log of all volunteers who engage in permitted activities at the permittee's facility. The daily volunteer log shall record:

(A) the first and last name of each volunteer;

(B) a valid phone number and email address for each volunteer;

(C) the date the volunteer arrived at the facility;

(D) the time the volunteer arrived at the facility; and

(E) the time the volunteer departed the facility; and [-]

(3) if authorized to conduct activities at a satellite facility, documentation of facility inspections required by §69.45(b)(2) of this title.

(b) Except as specified in subsection (c) of this section for permittees authorized to possess deer, a [Each] permittee [and each subpermittee who operates a satellite facility] shall complete and submit [quarterly reports] to the administrator of the department's rehabilitation program an annual report documenting all permitted activities conducted by all individuals listed on the permit, including activities conducted by subpermittees at satellite facilities. The report shall be submitted by January 15 of each year. [until the department designates an electronic application for that purpose, at which time the quarterly reports required by this section shall be filed via electronic application. The reports required by this section must be received by the department by January 15, April 15, July 15, and October 15 of each year.]

~~[(1) For permittees, the reports shall include the activities conducted at the permittee's registered facility] by all individuals listed on the permit, not to include activities conducted by subpermittees at satellite facilities.]~~

~~[(2) For subpermittees who operate a satellite facility, the report shall include the activities conducted at the satellite facility.]~~

(c) Permittees authorized to possess deer are not required to submit an annual report but instead shall complete and submit quarterly reports to the administrator of the department's rehabilitation program documenting all permitted activities conducted by all individuals listed on the permit, including activities conducted by subpermittees at satellite facilities. The reports required by this subsection must be received

by the department by no later than January 15, April 15, July 15, and October 15 of each year.

(d) A separate report is required for each facility registered under the permittee's name.

(e) The reports required by this subsection shall be submitted to the department via an electronic application designated by the department for that purpose.

(f) [(3)] The [quarterly] reports required by this section must be filed even if no permitted activities took place during the reporting [quarterly] period.

(g) [(e)] The following shall be retained at the permitted facility and kept available for inspection by the department for a period of two years from generation:

- (1) copies of all reports required by this section;
- (2) the daily logs required by this section; and
- (3) the written landowner permission to release wildlife required under the provisions of 69.51(g) of this title (relating to Release of Rehabilitated Wildlife).

(h) Within 10 days of the effective date of this subsection or the issuance of a permit under this subchapter, as applicable, a permittee shall notify the appropriate local animal control authority of the existence and location of each registered facility that is operated by the permittee within the jurisdiction of the local animal control authority. Upon the notification required by this subsection, the appropriate local animal control authority shall provide written acknowledgment of the notification, which shall be maintained at each registered facility for inspection by department personnel.

(i) [(4)] The registrations, reports, and notifications required by this subchapter shall be submitted via email to the administrator of the department's wildlife rehabilitation program until the department designates an electronic application for that purpose, at which time all reports and notifications shall be filed via the electronic application.

(j) A permittee shall notify the department within 24 hours of learning, discovering, or being informed that a reportable disease is confirmed to exist in an animal or within a facility for which the permittee is responsible.

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

Filed with the Office of the Secretary of State on April 13, 2026.  
TRD-202601599  
James Murphy  
General Counsel  
Texas Parks and Wildlife Department  
Earliest possible date of adoption: May 24, 2026  
For further information, please call: (512) 389-4775



**31 TAC §69.47**

The repeal is proposed under Parks and Wildlife Code, §43.022, which requires the commission to adopt rules to govern the collecting, holding, possession, propagation, release, display, or transport of protected wildlife for scientific research, educational display, zoological collection, or rehabilitation and authorizes the department to issue a permit to a qualified person to collect, hold, possess, display, transport, release, or propagate

protected wildlife for scientific research, educational display, zoological collection, or rehabilitation.

The proposed repeal affects Parks and Wildlife Code, Chapter 43, Subchapter C.

§69.47. *Refusal of Permit Issuance or Renewal; Review.*  
The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 13, 2026.  
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General Counsel  
Texas Parks and Wildlife Department  
Earliest possible date of adoption: May 24, 2026  
For further information, please call: (512) 389-4775



**PART 18. TEXAS GROUNDWATER PROTECTION COMMITTEE**

**CHAPTER 601. GROUNDWATER CONTAMINATION REPORT**

The Texas Groundwater Protection Committee (TGPC or committee) proposes amendments to 31 Texas Administrative Code (TAC) §§601.1 - 601.3, 601.5 and 601.10.

Background and Summary of the Factual Basis for the Proposed Rules

The purpose of this rule proposal is to implement the provisions of Senate Bill (SB) 2124 and to address provisions of SB 1663, both passed during the 89th Legislature Regular Session (2025).

SB 2124 amended the publication deadline for the committee's annual Joint Groundwater Monitoring and Contamination Report (Joint Report). SB 1663 amended the list of entities to receive notice of groundwater contamination to include the residents of each residential address within one mile of the contamination site and allowed alternative delivery methods.

The rule proposal amends the publication deadline for the Joint Report to align with the date referenced in Texas Water Code (TWC), §26.406(c) and updates the form and content for a notice of groundwater contamination to more closely align with the new requirements in TWC, §26.408(b). The rule proposal also makes clarifying language updates to one sub-section of 31 TAC Chapter 601, along with additional non-substantive grammatical and formatting changes for improved clarity and consistency.

The rules in 31 TAC Chapter 601 define the conditions that constitute groundwater contamination for the purpose of inclusion of cases in the public files for each state agency having responsibilities related to the protection of groundwater. The rules also describe the contents of the committee's Joint Report required under TWC, §26.406. The Joint Report describes the current status of groundwater monitoring activities conducted by or required by each agency at regulated facilities or associated with regulated activities; contains a description of each case of groundwater contamination documented during the previous calendar year; contains a description of each case of contamination documented during the previous year for which enforcement action was incomplete at the time of issuance of the preceding report;

and, indicates the status of enforcement action for each case of contamination which is listed.

The rules also specify the form and content of a notice of groundwater contamination as directed by TWC, §26.408(c). The charge to the committee under TWC, §26.408(c) is limited to adopting rules that prescribe the form and content of the notice required under §26.408(b). Currently, 31 TAC §601.10 references who receives notice: specifically, the owner of a private drinking water well that may be affected by the contamination and each applicable Groundwater Conservation District (GCD). SB 1663 added that notice must be provided to all residents at each residential address within one mile of the contamination, which is not included in the rule. Since applicability is addressed by TWC, §26.408(c) and the committee is not charged by statute with further defining applicability, the proposed rulemaking removes applicability provisions in the first paragraph of 31 TAC §601.10. The proposed rulemaking also updates the content of the notification.

#### Section by Section Discussion

The proposed amendment to §601.1, Purposes of Rules, adds a comma at the end of sub-section (2) and clarifies that the form and content of the notice of groundwater contamination is required under TWC, §26.408(c).

The proposed amendment to §601.2, Applicability, adds a comma at the end of sub-section (9).

The proposed amendment to §601.3, Definitions, in sub-section (8), removes a comma after "Texas Water Code, §26.403(c)" and updates the names of two member agencies to match those listed in §601.2, Applicability.

The proposed amendment to §601.5, Joint Groundwater Monitoring and Contamination Report, aligns the Joint Report's publication deadline with the date referenced in TWC, §26.406(c), clarifies that the Joint Report is an annual report, and adds a comma at the end of sub-section (2).

The proposed amendment to §601.10, Form and Content of Groundwater Contamination Notice, clarifies that the form and content of the notice of groundwater contamination is required under TWC, §26.408(c); references TWC, §26.408(b) instead of listing those that receive the notification; adds a comma at the end of sub-section (1); and, updates the content of the notice of groundwater contamination required under TWC, §26.408(c) to include a website or other resource with the name of the contaminant(s), the general location of the known groundwater contamination, and contact options for further information.

#### Fiscal Note: Costs to State and Local Government

Mr. James-Eric Simon, for the chairman of the committee acting on behalf of the committee, determined that during the first five-year period the proposed amendments are in effect, no significant fiscal implications are anticipated to state and local government as a result of the administration of the proposed amendments to the rule. This includes governmental entities that are members of the committee as well as local governmental entities providing information for the Joint Report.

#### Public Benefits and Costs

Mr. Simon determined that for the first five years the proposed amendments are in effect, the public benefit will be compliance with state law, specifically SB 2124 from the 89th Legislature Regular Session (2025). The proposed rulemaking will not result

in fiscal implications for individuals or businesses during the first five-year period the proposed rules are in effect.

#### Local Employment Impact Statement

The committee reviewed this proposed rulemaking and determined that a Local Employment Impact Statement is not required because the proposed amendments do not adversely affect a local economy in a material way for the first five years that the proposed amendments are in effect.

#### Rural Communities Impact Assessment

The committee reviewed this proposed rulemaking and determined that it does not adversely affect rural communities in a material way for the first five years that the proposed rules are in effect because the proposed amendments would apply statewide and have the same effect in rural communities as in urban communities.

#### Small Business and Micro-Business Assessment

The committee reviewed this proposed rulemaking and determined that no adverse fiscal implications are anticipated for small or micro-businesses due to the implementation or administration of the proposed rules for the first five-year period the proposed rules are in effect.

#### Small Business Regulatory Flexibility Analysis

The committee reviewed this proposed rulemaking and determined that a Small Business Regulatory Flexibility Analysis is not required because the proposed rules do not adversely affect a small or micro-business in a material way for the first five years the proposed rules are in effect.

#### Government Growth Impact Statement

The committee reviewed this proposed rulemaking and determined that it does not create or eliminate a government program and will not require an increase or decrease in future legislative appropriations to the committee. The proposed rulemaking does not require the creation of new employee positions, eliminate current employee positions, nor require an increase or decrease in fees paid to the committee. The proposed rulemaking amends an existing regulation, and it does not create, expand, repeal, or limit this regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years, the proposed rules should not impact positively or negatively the state's economy.

Written comments concerning the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

#### Draft Regulatory Impact Analysis Determination

The committee reviewed the proposed amendments in consideration of the regulatory analysis of major environmental rules required by the Texas Government Code (TGC). The following is a summary of that review.

The committee determined that the rulemaking is not subject to TGC, §2001.0225(a) because it does not meet the definition of a "Major environmental rule" as that term is defined in TGC, §2001.0225(g)(3).

Section 2001.0225 applies to a "Major environmental rule" adopted by a state agency, the result of which is to exceed standards set by federal law, exceed express requirements of state law, exceed requirements of delegation agreements

between the state and the federal government to implement a state and federal program, or adopt a rule solely under the general powers of the agency instead of under a specific state law. A "Major environmental rule" is a rule, the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector or the state.

The 89th Legislature Regular Session (2025) enacted SB 2124, which amended TWC, Chapter 26, Subchapter J (Groundwater Protection) by changing the date referenced in TWC, §26.406(c), which is also the date the committee, in conjunction with the commission, must publish not later than June 1, rather than April 1, of each year a "Joint Groundwater Monitoring and Contamination Report" (Joint Report) covering the activities and findings of the committee made during the previous calendar year as part of its continuing duty to coordinate state agency actions to protect groundwater quality and terrestrial and aquatic life.

The committee's rules require that in cases of groundwater contamination, all state agencies having responsibilities related to protecting groundwater must document each case in the public files of that state agency. The Joint Report requires these applicable state agencies' programs to close out calendar year activities and gather and analyze significant volumes of data. The committee must then combine all the agencies' programs' data and conduct further analysis. Because quality assurance and control are integral components of the process to prepare the Joint Report, changing the date that the Joint Report must be published to June 1, rather than April 1, of each year the Joint Report is required, allows the committee two more months to finish the time-intensive analysis required to prepare the Joint Report.

Therefore, the specific intent of the proposed rule amendments is related to maximizing the quality assurance and control integral to the committee's implementation of state law. SB 2124 amends Chapter 26 of the TWC by changing the date referenced in TWC, §26.406(c), and the proposed rulemaking amends the committee rules found at Title 31 of the Texas Administrative Code, Chapter 601 (Groundwater Contamination Report), which implements TWC, Subchapter J (Groundwater Protection). The proposed rule amendments align the Joint Report's publication deadline with the date referenced in TWC, §26.406(c).

Certain aspects of the committee's Joint Report rules are intended to protect the environment or reduce risks to human health from environmental exposure. However, the proposed rulemaking will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, or jobs; nor would the proposed rulemaking adversely affect in a material way the environment, or the public health and safety of the state or a sector of the state. Therefore, the proposed rulemaking does not fit the TGC, §2001.0225 definition of "Major environmental rule."

Even if this rulemaking was a "Major environmental rule," this rulemaking meets none of the criteria in TGC, §2001.0225 for the requirement to prepare a full Regulatory Impact Analysis. First, this rulemaking is not governed by federal law. Second, it does not exceed state law but rather amends an applicable date within state law and committee rules. Third, it does not come under a delegation agreement or contract with a federal program, and finally, it is not being proposed under the committee's general rulemaking authority. This rulemaking is being proposed under a

specific state statute amended in SB 2124 of the 89th Legislature Regular Session (2025) and implements existing state law found at TWC, §26.406 that mandates that the committee publish a Joint Report. Because this proposal does not constitute a major environmental rule, a regulatory impact analysis is not required.

Therefore, the committee does not adopt the rules solely under the committee's general powers. The committee invites public comment on the draft regulatory impact analysis determination. Written comments may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

#### Takings Impact Assessment

The committee evaluated the proposed rulemaking and performed an analysis of whether it constitutes a taking under TGC, Chapter 2007. The following is a summary of that analysis.

Under TGC, §2007.002(5), "taking" means a governmental action that affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Section 17 or 19, Article I, Texas Constitution; or a governmental action that affects an owner's private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the governmental action and is the producing cause of a reduction of at least 25% in the market value of the affected private real property, determined by comparing the market value of the property as if governmental action is not in effect and the market value of the property determined as if the governmental action is in effect.

The specific purpose of the proposed rulemaking is to implement the legislative amendments to the TWC in SB 2124 by amending committee's Joint Report rules. The committee's Joint Report rules do not regulate property but instead regulate the documentation of groundwater contamination. The proposed rulemaking will substantially advance the stated purpose by amending rule language that requires that the committee publish the Joint Report on April 1 of a calendar year that a Joint Report is required, to June 1 of that calendar year.

Promulgation and enforcement of the proposed rules will not be a statutory or constitutional taking of private real property because, as the committee's analysis indicates that Chapter 2007 of the TGC does not apply to these proposed rules because these rules do not impact private real property in a manner that would require compensation to private real property owners under the United States Constitution or the Texas Constitution. Specifically, the proposed rulemaking does not apply to or affect any landowner's rights in any private real property because it does not burden (constitutionally), restrict, or limit any landowner's right to real property and reduce any property's value by 25% or more beyond that which would otherwise exist in the absence of the regulations. The primary purpose of the proposed rules is to implement SB 2124 by changing the date referenced in TWC, §26.406(c). The proposed rulemaking is reasonably taken to fulfill requirements of state law. Therefore, the proposed rulemaking will not cause a taking under TGC, Chapter 2007. The committee invites public comment on the Takings Impact Assessment. Written comments may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble

## Consistency with the Coastal Management Program

The committee reviewed the proposed rulemaking and found that the rules are neither identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11, nor will it affect any action or authorization identified in Coastal Coordination Act Implementation Rules, 31 TAC §29.11. Therefore, the proposed rules are not subject to the Texas Coastal Management Program. The committee invites public comment on the Consistency with the Coastal Management Program.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

### Submittal of Comments

Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://tceq.commentinput.com/comment/search>. File size restrictions may apply to comments being submitted via the Texas Commission on Environmental Quality (TCEQ) Public Comments system. All comments should reference Rule Project Number TGPC-2026-1. The comment period closes on May 26, 2026. Please choose one of the methods provided to submit your written comments.

Copies of the proposed rulemaking can be obtained from the committee's website at <https://www.tgpc.texas.gov>. For further information, please contact Michael Parr, TCEQ Environmental Law Division, (512) 239-0611, or Kathy McCormack, TCEQ Water Availability Division, (512) 239-3975.

## SUBCHAPTER A. GENERAL PROVISIONS RELATING TO PUBLIC FILES AND JOINT REPORT

### 31 TAC §§601.1 - 601.3, 601.5

#### Statutory Authority

The Texas Groundwater Protection Committee (TGPC or committee) proposes these amendments to the committee's rules under the Texas Water Code (TWC). TWC, §26.403 establishes the committee and its members, while TWC, §26.401 identifies the committee's purpose, and TWC, §26.405 provides the committee with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC, §26.405(1). TWC, §§26.404(e) and 26.406(d) require the committee to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state. Lastly, TWC, §26.406(c) requires the committee, in conjunction with the commission, to publish the annual Joint Groundwater Monitoring and Contamination Report (Joint Report).

These amendments implement Senate Bill 2124, 89th Legislature Regular Session (2025), TWC, §§26.401, 26.403 - 26.406.

#### §601.1. Purposes of Rules.

The purposes of this chapter are:

(1) to implement duties and responsibilities assigned to the committee under Texas Water Code, §26.406, concerning the maintenance by member agencies of public files containing documented cases of groundwater contamination and the publication by the committee, in conjunction with the commission, of annual groundwater monitoring and contamination reports;

(2) to establish general policies of the committee to guide that implementation; and,

(3) to specify the form and content of the notice of groundwater contamination required under Texas Water Code, §26.408(c) [§26.408].

#### §601.2. Applicability.

This chapter specifically applies to each state agency or organization having membership on the committee. The committee is composed of:

- (1) the Texas Commission on Environmental Quality;
- (2) the Texas Department of State Health Services;
- (3) the Texas Department of Agriculture;
- (4) the Railroad Commission of Texas;
- (5) the Texas Water Development Board;
- (6) the Texas Alliance of Groundwater Districts;
- (7) the Texas A&M AgriLife Research;
- (8) the Bureau of Economic Geology of the University of Texas at Austin;
- (9) the Texas State Soil and Water Conservation Board; and,
- (10) the Water Well Drillers and Pump Installers Program of the Texas Department of Licensing and Regulation.

#### §601.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings.

- (1) Act--House Bill 1458 (71st Legislature, 1989) codified, with amendments, as Texas Water Code, §§26.401 - 26.408.
- (2) Commission--Texas Commission on Environmental Quality.
- (3) Committee--Texas Groundwater Protection Committee.
- (4) Documented groundwater contamination--A case of groundwater contamination in which a member agency has an established procedure for making a determination based on the quality of groundwater and the information pertinent to making the determination is maintained by that member agency under §601.4(b) of this title (relating to Public Files).
- (5) Enforcement action--Any action of the member agencies, identified in §601.2 of this title (relating to Applicability), that accomplishes or requires the identification, documentation, monitoring, assessing, or remediation of groundwater contamination.
- (6) Groundwater--Water below the land surface in a zone of saturation.
- (7) Groundwater contamination--The detrimental alteration of the naturally occurring physical, thermal, chemical, or biological quality of groundwater. Except for an underground source of drinking water granted an aquifer exemption by the commission with concurrence from the United States Environmental Protection Agency in accordance with 40 Code of Federal Regulations Parts 144 - 146, and 30 TAC Chapter 331 (relating to Underground Injection Control), groundwater contamination, for purposes of inclusion of cases in the public files and the joint groundwater monitoring and contamination report, is limited to contamination reasonably suspected of having been caused by activities or by entities under the jurisdiction of the member agencies identified in §601.2 of this title (relating to

Applicability) and affecting groundwater that contains a concentration of:

(A) less than or equal to 10,000 milligrams per liter (mg/liter) of dissolved solids; or

(B) greater than 10,000 mg/liter of dissolved solids if it is:

(i) currently extracted for beneficial use such as domestic, industrial, or agricultural purposes; or

(ii) hydrologically connected with, and with the potential for contaminant movement to, a surface water body or another zone of groundwater that has a concentration of less than or equal to 10,000 mg/liter of dissolved solids.

(8) Member agency--A state agency or organization designated by law under Texas Water Code, §26.403(c)[,] to serve on the committee and be subject to its rules. Member agencies are listed in §601.2 of this title (relating to Applicability). Member agencies having responsibilities related to protection of groundwater include the commission, the Texas Department of Agriculture, the Railroad Commission of Texas, and the Texas State Soil and Water Conservation Board.

§601.5. Joint Groundwater Monitoring and Contamination Report. Joint Groundwater Monitoring and Contamination Report. In conjunction with the commission, the committee shall publish not later than the date referenced in Texas Water Code, §26.406(c) the annual [April 1 of each year a] joint groundwater monitoring and contamination report covering the activities and findings of the committee made during the previous calendar year. The report must:

(1) describe the current status of groundwater monitoring programs conducted by or required by each member agency at regulated facilities or in connection with regulated facilities;

(2) contain a description of each case of groundwater contamination documented during the previous calendar year and of each case of groundwater contamination documented during previous years for which enforcement action was incomplete at the time of issuance of the preceding report; and,

(3) indicate the status of enforcement action for each case of groundwater contamination that is included in the report.

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

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TRD-202601601

Kathy McCormack

Project Manager, Water Availability Division

Texas Groundwater Protection Committee

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 239-2678



## SUBCHAPTER B. NOTICE OF GROUNDWATER CONTAMINATION

### 31 TAC §601.10

Statutory Authority

The Texas Groundwater Protection Committee (TGPC or committee) proposes these amendments to the committee's rules under the Texas Water Code (TWC). TWC, §26.403 establishes the

committee and its members, while TWC, §26.401 identifies the committee's purpose, and TWC, §26.405 provides the committee with the authority to carry out its duties and general powers under its jurisdictional authority as provided by TWC, §26.405(1). TWC, §§26.404(e) and 26.406(d) require the committee to adopt any rule necessary to carry out its powers and duties under the TWC and other laws of the state. Lastly, TWC, §26.408(c) requires the committee, by rule, to prescribe the form and content of the groundwater contamination notice required under TWC, §26.408(b).

These amendments address provisions of Senate Bill 1663, 89th Legislature Regular Session (2025), TWC, §26.408(b).

§601.10. Form and Content of Groundwater Contamination Notice.

Form and Content of Groundwater Contamination Notice. This section establishes the form and content of the notice required under Texas Water Code, §26.408(c). When notice of groundwater contamination, as defined in §601.3(7) of this title (relating to Definitions), is provided under Texas Water Code, §26.408(b) [§26.408 to the owner of a private drinking water well that may be affected by the contamination and to each applicable groundwater conservation district], the notice shall:

(1) be in writing; and,

(2) [eontain,] at a minimum, contain or direct the recipient to a website or other resource with the following information:

(A) the name of the contaminant(s) [eontaminant or eontaminants];

(B) the general location of the known groundwater contamination; and,

[(B) the range of analytical results for the contaminant or eontaminants measured in the area or well to date;]

[(C) possible health effects of the contaminant or eontaminants;]

[(D) possible source or sources for this type of contamination;]

[(E) suggested actions and precautions potentially impacted well owners could take; and]

(C) [(F) who to] contact options for further [more ] information.

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

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Kathy McCormack

Project Manager, Water Availability Division

Texas Groundwater Protection Committee

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For further information, please call: (512) 239-2678



## TITLE 37. PUBLIC SAFETY AND CORRECTIONS

### PART 1. TEXAS DEPARTMENT OF PUBLIC SAFETY

CHAPTER 6. LICENSE TO CARRY  
HANDGUNS  
SUBCHAPTER B. ELIGIBILITY AND  
APPLICATION PROCEDURES FOR A LICENSE  
TO CARRY A HANDGUN

37 TAC §6.11, §6.16

The Texas Department of Public Safety (the department) proposes amendments to §6.11 and §6.16, concerning Eligibility and Application Procedures for a License To Carry a Handgun. The proposed amendments provide that an applicant for a new or renewal license to carry a handgun must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is \$22, a REAL ID-compliant driver license or identification certificate in Texas is \$33, and a United States passport is \$165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with eh sections as proposed.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program;

will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.197, which authorizes the director of the department to adopt rules to administer Subchapter H, License to Carry a Handgun.

Texas Government Code, §411.197 and 8 U.S.C. §1621, are affected by this proposal.

§6.11. *Application Review and Background Investigation.*

(a) The statutory time periods for the department to conduct application reviews and background investigations shall be measured from the date a complete application is received by the department.

(b) For an application to be considered complete, the department must receive all information required by the Act and this chapter, including additional requests for information, and all nonrefundable fees must be paid.

(c) The applicant must provide proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(1) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(2) a valid, unexpired United States passport book or passport card;

(3) a valid, unexpired foreign passport with a visa with a valid I-94;

(4) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(5) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(6) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(7) a United States Citizen Identification Card (form I-179 or I-197);

(8) a valid, unexpired Permanent Resident Card (form I-551); or

(9) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp.

(d) [(e)] If an application is not legible or complete, the department will notify the applicant of the deficiency. The applicant will have 90 days from the date of the deficiency notification letter to amend the application. Upon written request, the department may extend the period to amend the application for one additional 90 day period. After the period to amend expires, the application process is terminated.

(e) [(d)] An individual whose application is terminated under this subsection will be required to submit new application materials and fees to apply for a license in the future.

*§6.16. Renewal of License.*

(a) An expired license may be renewed for up to one year after the expiration date. If the license has been expired for more than one year, the former license holder must submit an original license application to receive a license in the future.

(b) Renewal notices will be provided to a license holder no more than six months before the expiration date to the mailing address currently reported to the department by the license holder.

(c) An applicant for a license renewal must submit proof that the applicant is eligible for a license as required in §6.11(c) of this title (relating to Application Review and Background Investigation).

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

Filed with the Office of the Secretary of State on April 10, 2026.

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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 424-5848



## SUBCHAPTER C. QUALIFIED HANDGUN INSTRUCTOR LICENSE

### 37 TAC §6.46

The Texas Department of Public Safety (the department) proposes amendments to §6.46, concerning Renewal of Qualified Handgun Instructor Certification. The proposed amendment provides that an applicant for a renewal qualified handgun instructor certification must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period this rule is in effect there will be no fiscal implications for

state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is \$22, a REAL ID-compliant driver license or identification certificate in Texas is \$33, and a United States passport is \$165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and certification process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand an existing regulation. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submit-

sion only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.197, which authorizes the director of the department to adopt rules to administer Subchapter H, License to Carry a Handgun.

Texas Government Code, §411.197 and 8 U.S.C. §1621, are affected by this proposal.

§6.46. *Renewal of Qualified Handgun Instructor Certification.*

(a) The certificate of a qualified handgun instructor expires on December 31 following the second anniversary after the date the certificate was issued.

(b) To renew certification, an instructor must pay a fee of \$100 and successfully complete the retraining courses required by the department. An instructor whose certificate has expired may renew the certificate up to one year after its expiration. After one year, the instructor must reapply as a new qualified handgun instructor applicant.

(c) An applicant for certificate renewal must submit proof that the applicant is eligible for a license as required in §6.11(c) of this title (relating to Application Review and Background Investigation).

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

Filed with the Office of the Secretary of State on April 10, 2026.

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D. Phillip Adkins  
General Counsel

Texas Department of Public Safety

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For further information, please call: (512) 424-5848



## CHAPTER 10. IGNITION INTERLOCK DEVICE

### SUBCHAPTER B. VENDOR AUTHORIZATION

#### 37 TAC §10.11

The Texas Department of Public Safety (the department) proposes amendments to §10.11, concerning Application; Renewal. The proposed amendments provide that an applicant for a new or renewal ignition interlock device vendor authorization must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing and vendor authorization process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in

the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period this rule is in effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is \$22, a REAL ID-compliant driver license or identification certificate in Texas is \$33, and a United States passport is \$165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and vendor authorization process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and vendor authorization process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and vendor authorization process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand an existing regulation. The proposed rulemaking does not increase or decrease the number of indi-

viduals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Conrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to [RSD.Rule.Comments@dps.texas.gov](mailto:RSD.Rule.Comments@dps.texas.gov). Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §521.2476, which authorizes the department to establish by rule the minimum standards for vendors of ignition interlock devices who conduct business in this state.

Texas Government Code, §411.004(3); Texas Transportation Code §521.2476; and 8 U.S.C. §1621, are affected by this proposal.

*§10.11. Application; Renewal.*

(a) Application for vendor authorization must be made in the manner required by the department. The application must contain all materials or information required by this chapter, and the initial inspection fee must be paid as provided in §10.15 of this title (relating to Inspections and Fees).

(b) If the applicant is an entity other than an individual, the applicant must identify each partner or shareholder who owns a 25% or greater interest in the entity, the director of the entity, and each officer of the entity who oversees the entity's regulated functions.

(c) In order to obtain an authorization, the vendor must have:

(1) All necessary equipment and tools for the proper installation, removal, inspection, calibration, repair, and maintenance, of the type of IID(s) to be installed or serviced by the vendor, as determined by the device manufacturer and standard industry protocols;

(2) A designated waiting area separate from the installation area, to ensure customers do not observe the installation of the IID; ~~and~~

(3) Proof of liability insurance providing coverage for damages arising out of the operation or use of IIDs with a minimum policy limit of \$1,000,000 per occurrence and \$3,000,000 aggregate total; ~~and~~[-]

(4) Proof that the applicant, or if the applicant is an entity other than an individual, each partner, shareholder, director, or officer as described in subsection (b) of this section, is eligible for vendor authorization under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(d) If an incomplete application is received, notice will be sent to the applicant stating that the application is incomplete and specifying the information required for acceptance. The applicant has 90 calendar days after receipt of notice to provide the required information and submit a complete application. If an applicant fails to furnish the documentation, the application will be considered withdrawn.

(e) An application is complete when:

(1) It contains all of the items required pursuant to this section;

(2) All required fees have been paid; and

(3) All requests for additional information have been satisfied.

(f) The vendor authorization expires on the second anniversary of the date of original issuance. Application for renewal must be made in the manner required by the department, and must meet all requirements for an original application. The renewal application must be submitted prior to expiration.

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

Filed with the Office of the Secretary of State on April 10, 2026.

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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

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For further information, please call: (512) 424-5848



CHAPTER 12. COMPASSIONATE-USE/LOW-THC CANNABIS PROGRAM  
SUBCHAPTER B. APPLICATION AND RENEWAL

37 TAC §§12.12, 12.13, 12.16

The Texas Department of Public Safety (the department) proposes amendments to §§12.12, 12.13, and 12.16, concerning Application and Renewal. The proposed amendments provide that an applicant for a new or renewal registration under the Compassionate-Use/Low-THC Cannabis Program must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing and registration process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are in effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is \$22, a REAL ID-compliant driver license or identification certificate in Texas is \$33, and a United States passport is \$165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and registration process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and registration process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and registration process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks

to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Health and Safety Code, §487.052, which authorizes the director of the department to adopt any rules necessary for the administration and enforcement of Chapter 487.

Texas Health and Safety Code §487.052 and 8 U.S.C. §1621, are affected by this proposal.

§12.12. *Application for Registration.*

(a) In conjunction with the dispensing organization's application for license, or prior to employment with a currently licensed dispensing organization, directors, owners, managers, members, and employees must submit:

(1) Identifiers, including the individual's full name, date of birth, telephone number, electronic mail address, residential address, and driver license or state-issued identification number; and

(2) Fingerprints submitted in the manner approved by the department; and[-]

(3) Proof that the applicant is eligible for registration under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(b) If the applicant does not have a digital photograph on file with the department or the department is unable to access the photograph on file, the registration card will be issued without a photograph. When presenting such a card to a peace officer or to a representative of the department, the registrant shall also present a valid government issued identification card or driver license.

(c) Failure of an applicant to comply with the requirements of this section will result in notification of the deficiency. Applicant will have ninety (90) days from the date of notice to address the deficiency. Upon request of the applicant, the department may extend the period to address the deficiency for one additional ninety (90) day period. If an applicant fails to provide all required application materials, or fails to respond to a request by the department for additional information necessary to process the application, the application will be terminated. Following the termination of an application, a new application, including a new application fee, must be submitted.

#### *§12.13. Renewal.*

(a) A license or registration may be renewed at any time during the six (6) months prior to expiration.

(b) A renewal applicant must pass department inspection prior to approval of the application. This requirement is satisfied by an inspection within ninety (90) days prior to the submission of the renewal application.

(c) An expired license or registration may be renewed for up to six (6) months after the expiration date. If the license has been expired for more than six (6) months, the former license holder must submit an original license application to receive a license in the future.

(d) An applicant for registration renewal must submit proof that the applicant is eligible for registration as required in §12.12(a)(3) of this title (relating to Application for Registration).

#### *§12.16. Denial of Application for Registration.*

The department may deny the application for registration of a director, owner, manager, member, or employee of a dispensing organization if the applicant is disqualified pursuant to §12.3 of this title (relating to Criminal History Disqualifiers) or the applicant is found to have violated any provision of the Act or this chapter. The applicant may request a hearing by submitting a request through the department's website within thirty (30) days of the date of the denial notice.

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

Filed with the Office of the Secretary of State on April 10, 2026.

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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 424-5848



## CHAPTER 15. DRIVER LICENSE RULES

### SUBCHAPTER B. APPLICATION REQUIREMENTS--ORIGINAL, RENEWAL, DUPLICATE, IDENTIFICATION CERTIFICATES

#### 37 TAC §15.25

The Texas Department of Public Safety (the department) proposes amendments to §15.25, concerning Address. The proposed rule amendments implement Senate Bill 523, 89th Leg., R.S. (2025) and House Bill 16, 89th Leg., 2d C.S. (2025) by modifying the list of persons eligible to apply for a driver license with an alternative address and updates the list of requirements for application.

Christopher Major, Management Analyst IV, Driver License Division, has determined that for each year of the first five-year period this rule is in effect there will be no fiscal implications for state or local government or local economies.

Mr. Major has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities required to comply with the section as proposed. There is no anticipated economic cost to individuals who are required to comply with the rule as proposed. There is no anticipated negative impact on local employment.

Mr. Major has determined that for each year of the first five-year period the rule is in effect the public benefit anticipated as a result of this rule will be improved public safety for law enforcement and judicial personnel.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does expand an existing regulation. The proposed rulemaking does increase the number of individuals subject to its applicability. During the first five years the proposed rule is in effect, the proposed rule should not impact positively or negatively the state's economy.

Comments on the proposal may be submitted to Christopher Major, Driver License Division, Texas Department of Public Safety, P.O. Box 4087 (MSC 0300), Austin, Texas 78773; by fax to (512) 424-5233; or by email to [DLDrulecomments@dps.texas.gov](mailto:DLDrulecomments@dps.texas.gov). Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; Texas Transportation Code, §521.005, which authorizes the department to adopt rules necessary to administer Chapter 521; and Senate Bill 523, 89th Leg., R.S. (2025) and House Bill 16, 89th Leg., 2d C.S. (2025).

Texas Government Code, §411.004(3) and Texas Transportation Code, §521.005, §521.121, and §521.1211, are affected by this proposal.

#### §15.25. Address.

The address requirement for a driver license and identification certificate is:

(1) The applicant's Texas residence address must be given. A business address is not acceptable. Applicants may be required by the department to provide proof satisfactory to the department to establish the Texas residence address provided. All documents must be verifiable.

(2) The complete street address including apartment numbers and such terms as street, circle, drive, or court should be used whenever possible. The city, state, zip code, and type of residence must be shown as part of the address on all applications for driver licenses and identification certificates. The zip code may be a five or nine digit number until such time as the nine digit number is required by the department or postal authorities. In rural areas, route number and box number should be given.

(3) The application form also provides space for a mailing address. If there is no mail delivery at the address shown, then a post office box number or other mailing address must be shown in conjunction with the Texas residence address provided. If an applicant has a mailing address in addition to the Texas residence address, which may include post office boxes or other mailing locations, it may be provided in this space.

(4) A general delivery address must not be used except in very small communities when no street or route addresses are available.

(5) A post office box number is not acceptable if a better address can be obtained. The post office box number may only be listed in addition to a Texas residence address.

(6) Military personnel and the spouse or dependent of a member of the armed forces should give a complete address such as: John Henry Smith, Co. B, 25th Inf., Camp Barkeley, Abilene, Texas. If a member of the armed forces or the spouse or dependent of a member of the armed forces has a residence address in Texas, it should be provided and used. A member of the armed forces and the spouse or dependent of a member of the armed forces may provide a residence address outside of Texas.

(7) The department has incorporated an address validation program that presents addresses using United States Postal Service (USPS) standards.

(A) Standardized addresses will be displayed on licenses and identification certificates and used for mailing purposes.

(B) Addresses that do not conform to USPS standards or do not validate may be used if the customer can verify that he/she receives mail at that address.

(8) The department shall conduct an audit of driver license and identification certificate address information provided by driver license customers. This audit shall:

(A) validate that the addresses being reviewed are residential addresses; and/or

(B) determine if the same address has been provided by ten (10) or more driver license or identification certificate holders.

(9) The department may require each driver license or identification certificate holder whose address of record is being audited to present documentation required by §15.49 of this title (relating to Proof of Domicile) and §16.7 of this title (relating to Proof of Domicile) to demonstrate the holder resides at the address of record. An acceptable list of documentation may be found in §15.49 and §16.7.

(10) The department shall cancel any driver license or identification certificate issued to a person who does not prove that he/she resides at the address on record.

(11) An alternate address may be used on a driver license per Texas Transportation Code, §521.121 and §521.1211. An applicant who is eligible to use an alternate address must apply in person for an original, renewal, or duplicate driver license and surrender any other driver license issued to the applicant by the department or another state. No online transactions will be allowed for issuance of duplicate or renewed licenses issued under this paragraph.

(A) A peace officer or special investigator, as defined in the Code of Criminal Procedure, Article 2.12 and Article 2.122 respectively, may use the address of the county courthouse in their county of residence or their business address as the alternate address on their driver license.

(i) Peace officers must present a license issued by the Texas Commission on Law Enforcement (TCOLE) and a Peace Officer Identification Card and Badge issued by the officer's employing agency to establish eligibility.

(ii) Special investigators must present a federal ID and badge issued by the officer's employing agency.

(B) A parole officer or probation officer, as defined in Government Code, §508.001 and Texas Transportation Code,

§521.1211, respectively, may use the official's office address as the alternate address on the official's driver license. These applicants must present an employment verification letter on agency letterhead or an official identification card or badge.

(C) ~~(B)~~ A county attorney, district attorney, criminal district attorney, assistant county attorney, assistant district attorney, or assistant criminal district attorney may use their business address as the alternate address on their driver license. These applicants must present either their oath of office documentation or a letter from the elected prosecutor for their office affirming employment.

(D) ~~(C)~~ A federal or state judge, as defined by Texas Election Code, §1.005, a United States Marshall, or a United States Attorney may use the address of the courthouse or office building where they work as the alternate address on their driver license.

(i) A federal judge must present an official identification card issued by the Administrative Office of the United States courts.

(ii) A state judge must present an official identification card issued by the office of the Texas Secretary of State.

(iii) A municipal court judge or justices of the peace must present their business card along with additional documentation identifying the judge issued by a state agency affiliated with the judiciary, including the Office of Court Administration, Office of the Attorney General, Secretary of State, and Texas courts.

(iv) A U.S. Marshal must present a federal identification card or badge issued by the officer's employing agency or a letter with required information if a federal ID card cannot be copied or scanned.

(v) A U.S. Attorney or an assistant U.S. attorney must present a letter from the elected prosecutor for their office affirming employment or an Oath of Office documentation.

(E) ~~(D)~~ A spouse or a child of a federal judge, state judge, U.S. Marshall, or U.S. Attorney, who reside at the same residence, may also use the address of the courthouse or office building where the eligible official works as the alternate address on their driver license.

(F) A court clerk, court coordinator, court administrator, juvenile case manager, law clerk, or staff attorney who performs duties related to court administration may use the address of the courthouse or office building where the eligible official or employee works as the alternate address on the official or employee's driver license. Applicants must provide an employment verification letter on agency letterhead and one of the following: an official identification card or badge; a payroll record; or a human resource record.

(G) A spouse or child of a court clerk, court coordinator, court administrator, juvenile case manager, law clerk, or staff attorney, who reside at the same residence, may also use the address of the courthouse or office building where the eligible official or employee works as the alternate address on the spouse or child's driver license. Applicants must provide proof of relationship (marriage license, birth certificate, or adoption papers) and proof of employment as described in subparagraph (F) of this section for the eligible official or employee.

(H) An employee of the office of county clerk, district clerk, or county and district clerk, or of the Office of Court Administration of the Texas Judicial System and entities administratively attached to the office, or an employee or commissioner of the State Commission of Judicial Conduct may use the office address where the eligible employee or official works as the alternate address on the employee or official's driver license. Applicants must provide an employment ver-

ification letter on agency letterhead and one of the following: an official identification card or badge; a payroll record; or a human resource record.

(I) A spouse or child of an employee of the office of county clerk, district clerk, or county and district clerk, or of the Office of Court Administration of the Texas Judicial System and entities administratively attached to the office, or an employee or commissioner of the State Commission of Judicial Conduct, who reside at the same residence, may also use the office address where the eligible employee or official works as the alternate address on the spouse or child's driver license. Applicants must provide proof of relationship (marriage license, birth certificate, or adoption papers) and proof of employment as described in subparagraph (H) of this section for the eligible employee or official.

(J) ~~(E)~~ An applicant who is eligible to use an alternate address must provide the actual current residence address for department records and mailing purposes.

(K) ~~(F)~~ A person who has been issued a driver license with an alternate address must apply to the department for issuance of a duplicate driver license that displays the person's actual current residence address not later than 30 days after the license holder ceases to be eligible to use an alternate address.

(L) ~~(G)~~ A person who has been issued a driver license or identification card with an alternate address must notify the department of the change and obtain a duplicate driver license not later than 30 days after a name change and/or residence address change.

(M) ~~(H)~~ An applicant who is eligible to use an alternate address must pay the required fee for changes to the driver license.

(12) All documents submitted by the applicant must be acceptable to the department. The department has the discretion to reject or require additional evidence for alternate address eligibility.

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

Filed with the Office of the Secretary of State on April 10, 2026.

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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

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## CHAPTER 23. VEHICLE INSPECTION

### SUBCHAPTER A. VEHICLE INSPECTION STATION AND VEHICLE INSPECTOR CERTIFICATION

#### 37 TAC §23.1, §23.3

The Texas Department of Public Safety (the department) proposes amendments to §23.1 and §23.3, concerning Vehicle Inspection Station and Vehicle Inspector Certification. The proposed amendments provide that an applicant for a new or renewal vehicle inspection station certification or a vehicle inspector certificate must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local

public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing and certification process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is \$22, a REAL ID-compliant driver license or identification certificate in Texas is \$33, and a United States passport is \$165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and certification process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program;

will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Transportation Code, §548.002, which authorizes the department to adopt rules to administer and enforce Chapter 548.

Texas Government Code, §411.004(3); Texas Transportation Code, §548.002; and 8 U.S.C. §1621, are affected by this proposal.

§23.1. *New or Renewal Vehicle Inspection Station Applications.*

(a) Applicants for new or renewal vehicle inspection station certification must apply in a manner prescribed by the department.

(b) By submitting a new or renewal vehicle inspection station application form, the applicant agrees to allow the department to conduct background checks as authorized by law.

(c) A new or renewal vehicle inspection station application must include, but is not limited to, the items listed in paragraphs (1) - (4) [(3)] of this subsection:

(1) Criminal history disclosure of all convictions for the applicant or, if the applicant is an entity other than an individual, for the executive officer or other individual specifically authorized by the entity to sign the application;

(2) Proof of ownership and current status as required by the department. Such proof includes, but is not limited to, a current Certificate of Fact from the Texas Secretary of State and a Certificate of Account Status from the Texas Comptroller of Public Accounts; [and]

(3) Payment of the vehicle inspection station nonrefundable new and renewal application fee of \$100; and[-]

(4) Proof that the applicant is eligible for certification under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(d) If an incomplete new or renewal vehicle inspection station application is received, notice will be sent to the applicant stating the application is incomplete and specifying the information required for completion.

(e) The new or renewal vehicle inspection station applicant has 60 calendar days after receipt of notice to provide the required information and submit a complete application. If an applicant fails to furnish the information, the application will be considered withdrawn and a new application must be submitted.

(f) A new or renewal vehicle inspection station application is complete when:

(1) It contains all items, including proof of identification, as required by the department.

(2) It conforms to Texas Transportation Code, Chapter 548, this chapter, and the Texas vehicle inspection program's instructions.

(3) All fees are paid pursuant to Texas Transportation Code, Chapter 548 and this chapter.

(4) All requests for additional information are satisfied.

(g) The vehicle inspection station certificate will expire on December 31 of the odd numbered year following the date of issuance and is renewable every two years thereafter.

(h) A renewal of the vehicle inspection station certification issued by the department is conditional upon the receipt of criminal history record information.

(i) For a new or renewal vehicle inspection station application to be approved, the owner must:

(1) be at least 18 years of age;

(2) not be currently suspended or revoked in the Texas vehicle inspection program;

(3) have a facility that meets the standards for the appropriate class set forth in this chapter;

(4) have equipment that meets the standards set forth in §23.13 of this title (relating to Equipment Requirements for Commercial Safety Inspection Stations); and

(5) meet all other eligibility criteria under Texas Transportation Code, Chapter 548 or this chapter.

(j) Certificate holders of vehicle inspection stations must submit a new application, including applicable fees, to change a location or make a change of ownership.

(k) Applicants for new or renewal vehicle inspection station certification must apply for one of the classes defined in paragraphs (1) - (3) of this subsection:

(1) Public--A station open to the public performing inspections on vehicles presented by the public. Stations open to the public will not be issued a fleet vehicle inspection station license unless such stations are currently certified as a public vehicle inspection station;

(2) Fleet--A station not providing vehicle inspection services to the public; or

(3) Government--A station operated by a political subdivision or agency of this state.

(l) Failure to meet the requirements of subsection (i) of this section will result in the denial of the application.

### §23.3. *New or Renewal Vehicle Inspector Applications.*

(a) Applicants for a new or renewal vehicle inspector certificate must apply in a manner prescribed by the department.

(b) By submitting a new or renewal vehicle inspector application, the applicant agrees to allow the department to conduct background checks as authorized by law.

(c) A new or renewal vehicle inspector application must include, but is not limited to, the items listed in paragraphs (1) - (3) ~~and~~ (2)] of this subsection:

(1) Criminal history disclosure of all convictions of the vehicle inspector applicant; ~~and~~

(2) Payment of the new or renewal vehicle inspector non-refundable application fee of \$25; ~~and~~[-];

(3) Proof that the applicant, or if the applicant is an entity other than an individual, the executive officer or other individual as described in paragraph (1) of this subsection, is eligible for a certificate under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(d) If an incomplete new or renewal vehicle inspector application is received, notice will be sent to the applicant stating that the application is incomplete and specifying the information required for completion.

(e) The new or renewal vehicle inspector applicant has 60 calendar days after receipt of notice to provide the required information and submit a complete application. If an applicant fails to furnish the information, the application will be considered withdrawn.

(f) A new or renewal vehicle inspector application is complete when:

(1) It contains all items required by the department.

(2) It conforms to Texas Transportation Code, Chapter 548, this chapter, and the Texas vehicle inspection program's instructions.

(3) All fees are paid pursuant to Texas Transportation Code, Chapter 548 and this chapter.

(4) All requests for additional information are satisfied.

(5) The applicant has completed department provided training as outlined in this chapter.

(6) The applicant has passed an examination with a grade of not less than 80 on Texas Transportation Code, Chapter 548, this chapter, and regulations of the department pertinent to the Texas vehicle inspection program.

(7) The applicant has successfully demonstrated the ability to correctly operate the required testing devices (commercial inspectors only).

(g) The new or renewal vehicle inspector certificate will expire on December 31 of the even numbered year following the date of issuance and is renewable every two years thereafter.

(h) A renewal of the vehicle inspector certification issued by the department is conditional upon the receipt of criminal history record information.

(i) For a new or renewal vehicle inspector application to be approved the applicant must:

(1) be at least 18 years of age;

(2) provide the applicant's driver license number;

(3) not be currently suspended or revoked in the Texas vehicle inspection program; and

(4) meet all other eligibility criteria under Texas Transportation Code, Chapter 548 or this chapter.

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

Filed with the Office of the Secretary of State on April 10, 2026.

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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 424-5848



## CHAPTER 35. PRIVATE SECURITY SUBCHAPTER B. LICENSING

### 37 TAC §§35.21, 35.22, 35.30

The Texas Department of Public Safety (the department) proposes amendments to §§35.21, 35.22, and 35.30, concerning Licensing. The proposed amendments provide that an applicant for a new or renewal private security license must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is \$22, a REAL ID-compliant driver license or identification certificate in Texas is \$33, and a United States passport is \$165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event

there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1702.061, which authorizes the Public Safety Commission to adopt rules necessary to implement Chapter 1702, including determining the qualifications of company license holders, individual license holders, and commissioned security officers.

Texas Government Code, §411.004(3); Texas Occupations Code, §1702.061; and 8 U.S.C. §1621, are affected by this proposal.

§35.21. *Individual License Applications.*

(a) It is the responsibility of the licensed company to ensure an application that meets the requirements of this section is submitted to the department by or on behalf of any employee who is required to be licensed under the Act. An application must include all items required under subsection (b) of this section in order to comply with the requirements of §1702.230(c) of the Act.

(b) The items detailed in this subsection must be submitted in the manner prescribed by the department:

- (1) The required fee;
- (2) A copy of the applicant's Level II certificate of completion when applicable;
- (3) Fingerprints in the form and manner approved by the department; ~~and~~
- (4) The criminal history check fee as provided in this chapter; and [-]
- (5) Proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(c) As part of the department's criminal history check, additional court documents or related materials may be requested of the applicant. Failure to comply with such a request may result in the rejection of the application as incomplete.

§35.22. *Renewal Individual License Applications.*

(a) An application for renewal must be submitted in the manner prescribed by the department. The application must include:

(1) The required fee;

(2) If the fingerprints on file do not meet current Federal Bureau of Investigation or the department's quality standards, applicants will be required to submit a new set of electronic fingerprints to complete the renewal application process; [and]

(3) The criminal history check fee as provided in this chapter; and [-]

(4) Proof that the applicant is eligible for a license as required in §35.21(b)(5) of this title (relating to Individual License Applications).

(b) A complete renewal application must be submitted prior to expiration for the current license to remain in effect pending the approval of the renewal application. If the completed application is not received by the department prior to the expiration date, no regulated services may be performed until a complete renewal application is submitted in compliance with this chapter.

### §35.30. *Company License Application Requirements.*

As provided in §1702.110(a)(6), as part of the company application an applicant for a company license that is an entity other than individual must submit fingerprints of each officer who is to oversee the security-related aspects of the business, or a partner or shareholder who owns at least a 25% interest in the applicant. All such individuals must satisfy the eligibility criteria provided in the Act, [and] in §35.4 of this title (relating to Guidelines for Disqualifying Criminal Offenses), in §35.21(b)(5) of this title (relating to Individual License Applications), and in §35.22(a)(4) of this title (relating to Renewal Individual License Applications). Should an individual fail to meet these requirements, the company application will be denied, or, if the license has been issued, the license will be subject to suspension or revocation, as applicable.

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

Filed with the Office of the Secretary of State on April 10, 2026.

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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

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For further information, please call: (512) 424-5848



## SUBCHAPTER F. COMMISSIONED SECURITY OFFICERS

### 37 TAC §35.81, §35.83

The Texas Department of Public Safety (the department) proposes amendments to §35.81 and §35.83, concerning Commissioned Security Officers. The proposed amendments provide that an applicant for a new or renewal security officer commission must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is \$22, a REAL ID-compliant driver license or identification certificate in Texas is \$33, and a United States passport is \$165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The

proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Conrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to [RSD.Rule.Comments@dps.texas.gov](mailto:RSD.Rule.Comments@dps.texas.gov). Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1702.061, which authorizes the Public Safety Commission to adopt rules necessary to implement Chapter 1702, including determining the qualifications of company license holders, individual license holders, and commissioned security officers.

Texas Government Code, §411.004(3); Texas Occupations Code, §1702.061; and 8 U.S.C. §1621, are affected by this proposal.

*§35.81. Application for a Security Officer Commission.*

(a) A complete security officer commission application must be submitted on the most current version of the form provided by the department. The application must include:

- (1) The required application fee;
- (2) Fingerprints in form and manner approved by the department;
- (3) The required criminal history check fee;
- (4) A copy of the applicant's Level II certificate of completion;
- (5) A copy of the applicant's Level III certificate of completion;
- (6) Non Texas residents must provide a copy of an identification card issued by the state of the applicant's residence, or other government issued identification card;
- (7) Non United States citizens must submit a copy of their current alien registration card. Non-resident aliens must also submit documents establishing the right to possess firearms under federal law; ~~and~~
- (8) Proof of completion of the Minnesota Multiphasic Personality Inventory on the department-prescribed form. The form must be signed by the administering psychologist or psychiatrist and must reflect the psychologist's or psychiatrist's interpretation of the results and the determination that the applicant is not disqualified from the license by reason of a mental health condition; ~~and~~ [-]
- (9) Proof that the applicant is eligible for a security officer commission under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States

(b) Incomplete applications will not be processed and will be returned for clarification or missing information.

*§35.83. Renewal of Security Officer Commission.*

(a) An application for renewal of a security officer commission may not be submitted more than ninety (90) days prior to expiration. A completed renewal application must be submitted on the most current version of the form provided by the department. The application must include:

- (1) The required renewal application fee;
- (2) Non Texas residents must provide a copy of an identification card issued by the state of the applicant's residence, or other government issued identification card;
- (3) Non United States citizens must submit a copy of their current alien registration card. Non resident aliens must also submit a copy of a current work authorization card and documents establishing the right to possess firearms under federal law;
- (4) A valid firearms proficiency certificate issued no more than ninety (90) days prior to date of the renewal application;
- (5) Unless usable prints are on file with the department, fingerprints in a manner approved by the department; ~~and~~ [-]
- (6) The required criminal history check fee; ~~and~~ [-]
- (7) Proof that the applicant is eligible for a security officer commission as required in §35.81(a)(9) of this title (relating to Application for a Security Officer Commissioner).

(b) Incomplete applications will not be processed and will be returned for clarification or missing information.

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

Filed with the Office of the Secretary of State on April 10, 2026.

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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

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For further information, please call: (512) 424-5848



## SUBCHAPTER J. SPECIAL COMPANY LICENSE QUALIFICATIONS

### 37 TAC §§35.121 - 35.124

The Texas Department of Public Safety (the department) proposes amendments to §§35.121 - 35.124, concerning Special Company License Qualifications. The proposed amendments provide that an applicant for an investigations company license, a guard company license, a locksmith company license, or an alarm company and alarm training school license must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is \$22, a REAL ID-compliant driver license or identification certificate in Texas is \$33, and a United States passport is \$165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event

there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to [RSD.Rule.Comments@dps.texas.gov](mailto:RSD.Rule.Comments@dps.texas.gov). Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1702.061, which authorizes the Public Safety Commission to adopt rules necessary to implement Chapter 1702, including determining the qualifications of company license holders, individual license holders, and commissioned security officers.

Texas Government Code, §411.004(3); Texas Occupations Code, §1702.061; and 8 U.S.C. §1621, are affected by this proposal.

§35.121. *Investigations Company License.*

(a) Pursuant to the Act, the department has determined an applicant for licensure as a private investigations company or the prospective company representative of the applicant company, must meet one of the qualifications detailed in this section:

(1) Three (3) consecutive years of investigation related experience;

(2) A bachelor's degree in criminal justice or related course of study;

(3) A bachelor's degree with twelve (12) months of investigation related experience;

(4) An associate degree in criminal justice or related course of study, with twenty-four (24) months of investigation related experience;

(5) A specialized course of study directly designed for and related to the private investigation profession, taught and presented through affiliation with a four (4) year college or university accredited and recognized by the State of Texas. This course of study must be endorsed by the four (4) year college or university's department of criminal justice program and include a departmental faculty member(s) on its instructional faculty. This course of study must consist of a minimum of two hundred (200) instructional hours including coverage of ethics, the Act, and this chapter; or

(6) Other combinations of education and investigation related experience may be substituted for the above at the discretion of the department or its designated representative.

(b) The degrees referenced in subsection (a) of this section must be affiliated with a college or university recognized by the Texas Higher Education Coordinating Board, Southern Association of Colleges and Schools, or other accreditation organization recognized by the State of Texas.

(c) The applicant must provide proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(1) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(2) a valid, unexpired United States passport book or passport card;

(3) a valid, unexpired foreign passport with a visa with a valid I-94;

(4) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(5) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(6) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(7) a United States Citizen Identification Card (form I-179 or I-197);

(8) a valid, unexpired Permanent Resident Card (form I-551);

(9) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(10) a valid, unexpired Employment Authorization Document (EAD) (form I-766); or

(11) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

*§35.122. Guard Company License.*

Pursuant to the Act, the department has determined an applicant for licensure as a guard company or the prospective company representative of the applicant company must meet the qualifications detailed in this section:

(1) Must be at least twenty one (21) years of age at the time of application;

(2) Must have at least three (3) years accumulated employment experience in the field in which the company is licensed; ~~and~~

(3) Must have at least one (1) year of experience in a managerial or supervisory position; and [-]

(4) Must provide proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

§35.123. *Locksmith Company License.*

(a) Pursuant to the Act, the department has determined that an applicant for licensure as a locksmith company, or the prospective company representative of the applicant company, must meet one of the qualifications detailed in this section:

(1) Qualification option one. Two (2) consecutive years of full-time locksmith-related experience; or

(2) Qualification option two.

(A) Successful completion of a department approved forty-eight (48) hour basic locksmith course and a six hundred (600) hour fundamentals of locksmith course, with the curriculum content detailed in this subparagraph:

- (i) Introduction to locksmithing.
- (ii) The Act and this chapter.
- (iii) State of Texas and United States Government business requirements.
- (iv) Key blank identification.
- (v) Key machine and key duplication.
- (vi) Codes and code cutting.
- (vii) Basic lock types.
- (viii) Basic picking.
- (ix) Rim and mortise cylinders.
- (x) Key in knob/key in lever locks.
- (xi) Deadbolts and mortise locks.
- (xii) Installations.
- (xiii) Impressioning.
- (xiv) Basic master-keying.
- (xv) Basic safe servicing.
- (xvi) Small format interchangeable core.
- (xvii) High security and key control cylinders.
- (xviii) Automotive opening.
- (xix) Automotive key generation and programming.
- (xx) Exit/panic device servicing, replacement, and installation.
- (xxi) Door closer servicing, replacement, and installation.
- (xxii) Cabinet and drawer lock servicing, replacement, and installation.
- (xxiii) Safe installation, moving, and anchoring.
- (xxiv) Single door access control service and installation.

(B) Successful completion of a basic locksmith proficiency exam that covers a minimum of twelve (12) locksmith subjects and is approved by the department; and

(C) One (1) year of full-time locksmith related experience.

(b) The applicant must provide proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following

documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(1) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(2) a valid, unexpired United States passport book or passport card;

(3) a valid, unexpired foreign passport with a visa with a valid I-94;

(4) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(5) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(6) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(7) a United States Citizen Identification Card (form I-179 or I-197);

(8) a valid, unexpired Permanent Resident Card (form I-551);

(9) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(10) a valid, unexpired Employment Authorization Document (EAD) (form I-766); or

(11) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

§35.124. *Alarm Company and Alarm Training School Licenses.*

(a) Pursuant to the Act, the department has determined an applicant for licensure as an alarm company, alarm training school, or the prospective company representative of the applicant company must have two (2) consecutive years of alarm related experience, including installation, monitoring, sales, or related supervision.

(b) The applicant must provide proof that the applicant is eligible for a license under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(1) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(2) a valid, unexpired United States passport book or passport card;

(3) a valid, unexpired foreign passport with a visa with a valid I-94;

(4) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(5) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(6) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(7) a United States Citizen Identification Card (form I-179 or I-197);

(8) a valid, unexpired Permanent Resident Card (form I-551);

(9) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(10) a valid, unexpired Employment Authorization Document (EAD) (form I-766); or

(11) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

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

Filed with the Office of the Secretary of State on April 10, 2026.

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D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 424-5848



## CHAPTER 36. METALS RECYCLING ENTITIES

### SUBCHAPTER B. CERTIFICATE OF REGISTRATION

#### 37 TAC §36.11, §36.16

The Texas Department of Public Safety (the department) proposes amendments to §36.11 and §36.16, concerning Certificate of Registration. The proposed amendments provide that an applicant for a new or renewal metals recycling entity certificate of registration must submit proof to the department of the applicant's eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 for certain state or local public benefits, including a professional or commercial license, issued by a state agency, and specifies the type of document the applicant must submit.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing and certification process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is \$22, a REAL ID-compliant driver license or identification certificate in Texas is \$33, and a United States passport is \$165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and certification process, and protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Conrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to RSD.Rule.Comments@dps.texas.gov. Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1956.013, which authorizes the Public Safety Commission to adopt rules to administer Chapter 1956, including rules establishing minimum requirements for registration.

Texas Government Code, §411.004(3); Texas Occupations Code, §1956.013; and 8 U.S.C. §1621, are affected by this proposal.

*§36.11. Application for Certificate of Registration.*

(a) A certificate of registration may only be obtained through the department's online application process.

(b) The application for certificate of registration must include, but is not limited to:

(1) Criminal history disclosure of all convictions for the owner with a controlling interest in the business, or if no owner has a controlling interest in the business, for the entity's on-site representative;

(2) Proof of ownership and current status as required by the department, including but not limited to, a current Certificate of Existence or Certificate of Authority from the Texas Office of the Secretary of State and a Certificate of Good Standing from the Texas Comptroller of Public Accounts;

(3) All fees required pursuant to §36.17 of this title (relating to Fees);

(4) Proof of training pursuant to §36.34 of this title (relating to Texas Metals Program Recycler Training);

(5) A statutory agent disclosure pursuant to §36.12 of this title (relating to Statutory Agent Disclosure);

(6) The physical address of the fixed location at which the applicant will conduct regulated metal recycling activities; ~~and~~

(7) If the applicant's business activity involves catalytic converters removed from motor vehicles, a declaration on the approved department form stating:

(A) whether the applicant will engage in a business activity that involves the conversion of catalytic converters removed from motor vehicles into raw material products by a method that in part requires the use of powered tools and equipment or the use of such raw material products in the manufacture of producer or consumer goods;

(B) whether the applicant will purchase or otherwise acquire catalytic converters removed from motor vehicles for the eventual use of the metal for purposes of the aforementioned business activities but will not actually engage in those activities; or

(C) that the applicant will deal only incidentally with catalytic converters removed from motor vehicles; ~~and~~[-]

(8) Proof that the applicant, or if the applicant is an entity other than an individual, the owner with a controlling interest or on-site representative as described in subsection (b)(1) of this section, is eligible for a certificate of registration under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 by providing one of the following documents verified through the United States Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) Program:

(A) a valid, unexpired REAL ID-compliant driver license or identification certificate issued by a state or territory of the United States;

(B) a valid, unexpired United States passport book or passport card;

(C) a valid, unexpired foreign passport with a visa with a valid I-94;

(D) an original or certified copy of a birth certificate issued by a state bureau of vital statistics or equivalent agency from a United States state, territory, or the District of Columbia;

(E) an original or certified copy of a Consular Report of Birth Abroad, Certification of Birth Abroad, or Certification of Report of Birth issued by the United States Department of State (form FS-240, FS-545, or DS-1350);

(F) a United States Certificate of Naturalization or Certificate of Citizenship with identifiable photo (form N-550, N-560, N-561, N-570, or N-578);

(G) a United States Citizen Identification Card (form I-179 or I-197);

(H) a valid, unexpired Permanent Resident Card (form I-551);

(I) a Machine Readable Immigrant Visa with temporary I-551 language and an Alien Documentation, Identification and Telecommunications System (ADIT) stamp;

(J) a valid, unexpired Employment Authorization Document (EAD) (form I-776); or

(K) any other documentation issued by the appropriate United States agency that authorizes the applicant to be in the United States.

(c) Applicants proposing to conduct business at more than one (1) location must complete an application for each location and obtain a certificate of registration for each location. An applicant proposing to conduct business at more than one (1) location is only required to comply with the requirement of subsection (b)(4) of this section for the initial location at which the applicant is seeking to conduct business.

(d) A new certificate of registration for a metals recycling entity may not be issued if the applicant's immediate family member's registration as a metals recycling entity, at that same location, is currently suspended or revoked, or is subject to a pending administrative action, unless the applicant submits an affidavit stating the family member who is the subject of the suspension, revocation or pending action, has no, nor will have any, direct involvement or influence in the business of the metals recycling entity.

(e) A new certificate of registration may be issued at the same location where a previous owner's registration as a metals recycling entity is currently suspended, is subject to a pending administrative action, or was previously revoked, if the applicant submits an affidavit stating the previous owner who is the subject of the suspension, revocation, or other pending administrative action, will have no direct

involvement or influence in the business of the metals recycling entity. The affidavit must contain the statement that the affiant understands and agrees that in the event the department discovers the previous registration holder is involved in the business of metals recycling entity at that location, the certificate of registration will be revoked pursuant to §36.53 of this title (relating to Revocation of a Certificate of Registration). In addition to the affidavit, when the change of ownership of the metals recycling entity is by lease of the location, the applicant seeking a certificate of registration must provide a copy of the lease agreement included with the application for certificate of registration.

(f) The failure of an applicant to meet any of the conditions of subsections (a) - (e) of this section will result in rejection of the application as incomplete.

(g) An applicant for a certificate of registration is not authorized to engage in any activity for which a certificate of registration is required prior to being issued a certificate of registration by the department.

(h) A metal recycling entity whose business activity substantially changes in the extent to which the entity engages in transactions involving catalytic converters removed from motor vehicles must update the entity's declaration at the time of or prior to the change.

*§36.16. Renewal of Certificate of Registration.*

(a) To renew a certificate of registration, an application for renewal and the appropriate renewal fee must be submitted prior to the certificate's expiration date but not more than forty-five (45) days before the expiration date of the current certificate of registration.

(b) A certificate of registration that has been expired less than one (1) year may be renewed by submitting an application for renewal and the appropriate renewal fee pursuant to §36.17 of this title (relating to Fees).

(c) A certificate of registration that has expired for one (1) year or more may not be renewed. An application for a new certificate of registration must be submitted according to the procedures pursuant to §36.11 of this title (relating to Application for Certificate of Registration) and by paying the appropriate fees pursuant to §36.17 of this title.

(d) To renew a certificate of registration, registrants must submit proof of training pursuant to §36.34 of this title (relating to Texas Metals Program Recycler Training). The department may waive this requirement if there have been no significant updates since the previous training.

(e) Except as authorized pursuant to §36.42 of this title (relating to Extension of Registration Renewal Deadlines for Military Service Members) no extension for registration renewal is authorized.

(f) An applicant for a renewal of certificate of registration that is expired is not authorized to engage in any activity for which a registration is required prior to being issued a renewal certificate of registration by the department. Violation of this subsection may result in the denial of the renewal application.

(g) An applicant for certificate of registration renewal must submit proof that the applicant is eligible for certificate of registration as required in §36.11(b)(8) of this title (relating to Application for Certificate of Registration).

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

Filed with the Office of the Secretary of State on April 10, 2026.  
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D. Phillip Adkins  
General Counsel  
Texas Department of Public Safety  
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For further information, please call: (512) 424-5848

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SUBCHAPTER E. DISCIPLINARY  
PROCEDURES AND ADMINISTRATIVE  
PROCEDURES

**37 TAC §36.51**

The Texas Department of Public Safety (the department) proposes amendments to §36.51 concerning Denial of Application for Certificate of Registration. The amendments update this section to include rule text noting the department may deny an application for a certificate of registration if any applicant is found to have violated any provision of the Act or this chapter. This amendment provides conformity with other sections in this chapter and incorporates the most recent revisions found in §36.11 and §36.16 as a reason for denial.

This proposal is necessary to ensure that the department is able to verify applicant eligibility consistent with federal law in order to maintain the integrity of the licensing and certification process and protect the health, safety, and welfare of the residents of this state. This proposal is consistent with an emphasis across state government to ensure that no individual in the country illegally receives a state or local public benefit, such as a professional or commercial license, in contradiction to federal law.

Amanda Contrino, Senior Policy Analyst, Regulatory Services Division, has determined that for each year of the first five-year period these rules are effect there will be no fiscal implications for state or local government or local economies. There is also no anticipated negative impact on local employment.

Ms. Contrino anticipates that most eligible individuals will already possess one of the specified documents so there is no anticipated economic cost to individuals. In the event that an eligible individual does not already have one of the specified document types, the potential cost to obtain a certified copy of a birth certificate in Texas is \$22, a REAL ID-compliant driver license or identification certificate in Texas is \$33, and a United States passport is \$165. In the event there is a cost to an individual, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino also anticipates that because most eligible individuals will already possess one of the specified documents, there are no anticipated adverse economic effects on small businesses, micro-businesses, or rural communities. Any unanticipated costs would be minimal or for the individual. In the event there is an adverse economic effect on a small business, micro-business, or rural community, this proposal is necessary to comply with federal law, maintain the integrity of the licensing and certification process, and protect the health, safety, and welfare of the residents of this state.

Ms. Contrino has determined that for each year of the first five-year period the rules are in effect the public benefit anticipated as a result of this proposal will be compliance with federal law, maintaining the integrity of the licensing and certification process, and

protecting the health, safety, and welfare of the residents of this state.

The department has determined this proposal is not a "major environmental rule" as defined by Texas Government Code, §2001.0225. "Major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

The department has determined that Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the department is not required to complete a takings impact assessment regarding this proposal.

The department prepared a Government Growth Impact Statement assessment for this proposed rulemaking. The proposed rulemaking does not create or eliminate a government program; will not require the creation of new employee positions nor eliminate current employee positions; will not require an increase or decrease in future legislative appropriations to the agency; nor will it require an increase or decrease in fees paid to the agency. The proposed rulemaking does not create a new regulation. The proposed rulemaking does not limit or repeal an existing regulation, but does expand existing regulations. The proposed rulemaking does not increase or decrease the number of individuals subject to its applicability. During the first five years the proposed rules are in effect, the proposed rules should not impact positively or negatively the state's economy.

Comments on this proposal may be submitted to Amanda Contrino, Regulatory Services Division, Department of Public Safety, P.O. Box 4087, MSC-0240, Austin, Texas 78773-0240, or by email to [RSD.Rule.Comments@dps.texas.gov](mailto:RSD.Rule.Comments@dps.texas.gov). Email submission only is preferred. Comments must be received no later than thirty (30) days from the date of publication of this proposal. Persons required to comply with the proposed rules or any other interested person may provide information to the department related to the cost, benefit, or effect of the proposed rules, including any applicable data, research, or analysis.

This proposal is made pursuant to Texas Government Code, §411.004(3), which authorizes the Public Safety Commission to adopt rules considered necessary for carrying out the department's work; and Texas Occupations Code, §1956.013, which authorizes the Public Safety Commission to adopt rules to administer Chapter 1956, including rules establishing minimum requirements for registration.

Texas Government Code, §411.004(3); Texas Occupations Code, §1956.013; and 8 U.S.C. §1621, are affected by this proposal.

*§36.51. Denial of Application for Certificate of Registration.*

(a) The department may deny an application for a certificate of registration if:

(1) The applicant attempts to obtain a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;

(2) The applicant has sold, bartered, or offered to sell or barter a certificate of registration;

(3) The applicant or, if applicable, the applicant's on-site representative, is ineligible pursuant to §36.55 of this title (relating to Disqualifying Offenses);

(4) The applicant's certificate of registration was revoked within two (2) years prior to the date of application; ~~or~~

(5) The applicant operated a metal recycling entity in violation of §1956.021 of the Act and, after notice of the violation, failed to obtain a registration required by the Act; or [-]

(6) The applicant is found to have violated any provision of the Act or this chapter.

(b) Upon the denial of an application under this section, an applicant may request a hearing before the department pursuant to §36.56 of this title (relating to Informal Hearings).

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

Filed with the Office of the Secretary of State on April 10, 2026.

TRD-202601576

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 424-5848

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**TITLE 40. SOCIAL SERVICES AND ASSISTANCE**

**PART 19. DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES**

**CHAPTER 702. GENERAL ADMINISTRATION  
SUBCHAPTER F. ADVISORY COMMITTEES**

**40 TAC §702.513, §702.515**

The Department of Family and Protective Services (DFPS) proposes to amend rules in Title 40, Texas Administrative Code (TAC), Part 19, Chapter 702, Subchapter F, relating to the Parent Collaboration Group (PCG) and the Youth Leadership Council (YLC) advisory committees.

**BACKGROUND AND PURPOSE**

In 2016, DFPS adopted rules establishing the Youth Leadership Council and the Parent Collaboration Group advisory committees which had already existed, although not uniformly established in rule. Since adoption in 2016, the needs of the agency have evolved with the expansion of community-based care and amendments are needed to ensure the committees continue to serve their intended purpose. Additionally, the committees are set to expire in 2026 and amendments are needed to extend their duration so these committees can continue to provide input to DFPS.

**SECTION-BY-SECTION SUMMARY**

The proposed amendments to §702.513 increase the maximum membership of the Parent Collaboration Group (PCG) from 22 to 24 members; removes the provision requiring two members per department region to serve on the group; incorporates com-

munity-based care regions; and extends the expiration date of the committee to 2036.

The proposed amendments to §702.515 regarding the Youth Leadership Council (YLC) clarifies the purpose and tasks of the YLC to include "young adults" currently or formerly in foster care; expands membership eligibility to include "young adults" who are or were involved in the child welfare system; revises rule language to incorporate community-based care; removes the requirement that two members per region be appointed; amends the meeting requirement to require a joint meeting; and extends the expiration date of the committee to 2036.

#### FISCAL NOTE

Lea Ann Biggar, Chief Financial Officer, has determined that for each year of the first five years that the section(s) will be in effect, there will not be any fiscal implications to state government as a result of enforcing and administering the section(s) as amended. There will be no effect on local government.

#### GOVERNMENT GROWTH IMPACT STATEMENT

DFPS has determined that during the first five years that the section(s) will be in effect:

- (1) the amended rule(s) will not create or eliminate a government program;
- (2) implementation of the amended rule(s) will not affect the number of employee positions;
- (3) implementation of the amended rule(s) will not require an increase in future legislative appropriations;
- (4) the amended rule(s) will not affect fees paid to the agency;
- (5) the amended rule(s) will not create a new rule;
- (6) the amended rule(s) will not expand, limit, or repeal an existing rule
- (7) the amended rule will increase the number of individuals subject to the rule; and
- (8) the amended rule will not affect the state's economy.

#### SMALL BUSINESS, MICRO-BUSINESS, AND RURAL COMMUNITY IMPACT ANALYSIS

Ms. Biggar has also determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as the rule does not apply to small or micro-businesses, or rural communities.

#### ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the section(s) as proposed.

#### COSTS TO REGULATED PERSONS

Texas Government Code, §2001.0045 does not apply to these rule amendments because DFPS is exempt per subsection (c) of §2001.0045.

#### PUBLIC BENEFIT

Ms. Biggar has also determined that for each year of the first five years the section(s) are in effect, the public benefit anticipated as a result of enforcing the sections will be continued operation of the advisory committees which would otherwise expire in 2026. This ensures DFPS can continue to receive input from parents,

youth, and young adults through the advisory committees. The amendments also expand eligibility and clarify and incorporate community-based care regions.

#### TAKINGS IMPACT ASSESSMENT

DFPS has determined that the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Government Code, §2007.043.

#### PUBLIC COMMENT

DFPS invites comments on the amended rule proposals. DFPS requests information related to the cost, benefit, or effect of the proposed new, amended, and repealed rules, including any applicable data, research, or analysis. To be considered, comments, questions, and information must be submitted no later than 30 days after the date of this issue to the *Texas Register*.

Electronic comments and questions may be submitted to Lauren Villa, Policy Attorney at lauren.villa@dfps.texas.gov or RULES@dfps.texas.gov. Hard copy comments may be submitted to the DFPS Rules Coordinator, Legal Services Sanjuanita Maltos, Department of Family and Protective Services E-611, P.O. Box 149030, Austin, Texas 78714-9030.

#### STATUTORY AUTHORITY

The amendments are proposed under Texas Human Resources Code §40.030 which permits the DFPS Commissioner or designee to appoint advisory committees in accordance with Texas Government Code Chapter 2110. Chapter 2110 requires state agency advisory committees to be established by rule and to include provisions on the purpose, tasks, reporting requirements, and duration of each committee. Chapter 2110 also addresses committee composition, presiding officer selection, evaluation, and reporting requirements. Human Resources Code §40.030 permits DFPS to adopt rules governing advisory committee size, membership, appointments, and compliance with Open Meetings.

The amendments are also proposed under Human Resources Code §40.027, which provides that the Department of Family and Protective Services commissioner shall oversee the development of rules relating to the matter within the department's jurisdiction and notwithstanding any other law, shall adopt rules for the operation and provision of services by the department.

§702.513. *Parent Collaboration Group.*

(a) Establishment. The Parent Collaboration Group ("PCG") is established.

(b) Purpose. The purpose of the PCG is to provide a forum for individuals who have had involvement with the child welfare system as parents to discuss their experiences and make recommendations to the Department for improving the system.

(c) Tasks. The PCG performs the following tasks:

(1) Makes recommendations to the Department through regularly scheduled meetings and Department staff assigned to the committee; and

(2) Performs other tasks consistent with its purpose and by-laws.

(d) Reporting requirements and Department action.

(1) The Department will gather information on the PCG activities to compile an annual report.

(2) The annual report may guide Department policy or practice.

(e) Membership.

(1) The PCG consists of no more than 24 [22] members.

(2) Members are appointed by the Regional Directors who may consult with the Single Source Continuum Contractor when making appointments in a Community Based Care catchment area.

(3) Membership requirements:

(A) All members must have previously been involved in the child welfare system as parents.

(B) In general, the member's Child Protective Services case must have been closed for one year; the Regional Director or Single Source Continuum Contractor in a Community Based Care catchment area may make exceptions to this rule if the parent is otherwise qualified.

~~[(C) Two members per Department region will serve on the PCG if possible.]~~

(4) Except as may be necessary to stagger terms, a PCG member serves for a two-year term and may be appointed for additional terms, not to exceed three terms.

(f) Meetings. The PCG will meet a minimum of three times per year.

(g) Decision-making. The committee will make decisions by consensus.

(h) Abolition. The PCG is abolished, and this section expires, August 31, 2036 [2026].

(i) The PCG is not a "governmental body" for purposes of the Open Meetings Act, Texas Government Code Chapter 551.

§702.515. State Youth Leadership Council.

(a) Establishment. The State Youth Leadership Council is established.

(b) Purpose. The State Youth Leadership Council provides a forum for youth and young adults who are currently or were formerly in foster care to discuss their experiences with the Texas foster care system and make recommendations to the Department for improving the system.

(c) Tasks. The State Youth Leadership Council performs the following tasks:

(1) Makes recommendations to the Department through scheduled meetings based on the availability of the youth or young adults currently [current] or formerly [former] in foster care [youth]; and

(2) Performs other tasks consistent with its purpose.

(d) Reporting requirements and Department action.

(1) The Department will gather information on the State Youth Leadership Council's activities to compile an annual report.

(2) The annual report may guide Department policy and practice.

(e) Membership.

(1) The State Youth Leadership Council consists of no more than 24 members.

(2) Members for the State Youth Leadership Council are comprised of [~~recommended by~~] regional youth leadership group mem-

bers from both Department regions and Single Source Continuum Contractor catchment areas [councils], Regional Youth Specialists, Preparation for Adult Living staff, or other individuals familiar with the youth or young adults currently [current] or formerly [former] in foster care [youth].

(3) Membership requirements:

(A) Members should be chosen so that the statewide council represents all regions of the state including Community Based Care catchment areas. [~~Two members will be appointed per region if possible~~].

(B) Members must be youth or young adults who are currently or were formerly in foster care and who are at least age 16 but under the age of 21 when appointed.

(f) Meetings. The State Youth Leadership Council shall convene at a minimum annually. [~~will meet a minimum of two times per year.~~] At least one statewide meeting shall include regional youth leadership group representatives from both Department regions and Single Source Continuum Contractor catchment areas.

(g) Decision-making. The State Youth Leadership Council will make decisions by consensus.

(h) Abolition. The State Youth Leadership Council is abolished, and this section expires, on August 31, 2036 [2026].

(i) The State Youth Leadership Council is not a "governmental body" for purposes of the Open Meetings Act, Texas Government Code Chapter 551.

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

Filed with the Office of the Secretary of State on April 9, 2026.

TRD-202601534

Sanjuanita Maltos

Rules Coordinator

Department of Family and Protective Services

Earliest possible date of adoption: May 24, 2026

For further information, please call: (512) 945-5978



## TITLE 43. TRANSPORTATION

### PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

#### CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 Texas Administrative Code (TAC) Subchapter A, General Provisions, §215.2 and repeal of §215.1; proposes amendments to Subchapter B, Licenses Generally, §§215.82 - 215.85, 215.89 and 215.91 and repeal of §215.81; proposes amendments to Subchapter C, Franchised Dealers, Manufacturers, Distributors, and Converters, §§215.104, 215.105, 215.108, 215.110, 215.113 - 215.115, 215.120, and 215.121, proposes new §215.107, and repeal of §215.101; proposes amendments to Subchapter D, General Distinguishing Numbers and In-transit Licenses, §§215.132 - 215.134, 215.137, 215.140, 215.141, 215.144, 215.145,

215.152, 215.154, 215.155, 215.157, and 215.158, proposes new §215.153 and §215.159, and repeal of §215.131; proposes amendments to Subchapter E, Lessors and Lease Facilitators, §§215.175, 215.177, and 215.181, and repeal of §215.171; proposes amendments to Subchapter F, Advertising, §§215.242, 215.244, 215.246, 215.264, and 215.270, and repeals of §§215.241, 215.243, and 215.269; and proposes amendments to Subchapter G, Administrative Sanctions, §215.500.

The proposed amendments are necessary to enhance the enforceability of the Motor Vehicle Records Disclosure Act in Transportation Code, Chapter 730; to modify language to be consistent with statutes and other chapters in Title 43 of the Texas Administrative Code; to modify language to be consistent with current practice; to improve readability through the use of consistent terminology; to clarify or delete unused, archaic, or inaccurate definitions, terms, references or other language; to establish or clarify existing requirements for license plate use, management, and storage; and to streamline and modernize language.

Three new sections are also being proposed. Proposed new §215.107 would document licensing requirements when a manufacturer or distributor sells or transfers a line-make; proposed new §215.153, would clarify a dealer's use of buyer's provisional license plates, and proposed new §215.159 would establish when a dealer with multiple locations may store or manage license plates from a location other than the licensed location.

On December 8, 2025, the department provided an early draft of the proposed new rules and other rules with substantive changes to the Motor Vehicle Industry Regulation Advisory Committee (MVIAC). Committee members then voted on formal motions and provided informal comments on other provisions. The department has incorporated input from this committee in proposed §§215.104, 215.145, 215.153, 215.159, and 215.244.

Redundant or unnecessary rules identified in the course of the department's work with the Texas Regulatory Efficiency Office are proposed for repeal, including §§215.1, 215.81, 215.101, 215.131, 215.171, 215.241, 215.243, and 215.269.

#### EXPLANATION.

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

#### Subchapter A. General Provisions

##### §215.1

This section describing the purpose and scope of the chapter is proposed for repeal because the section is unnecessary, as relevant statutory references may be incorporated into each rule.

##### §215.2

Proposed amendments to §215.2(a) would add a reference to Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, to clarify that the definitions in Chapter 730 would apply to Chapter 215 because the rules in this proposal would enforce that act. The proposed amendments would also amend related punctuation. A proposed amendment to §215.2(b)(7) would clarify that the definition of standard license plate does not include a dealer's temporary license plate issued under Transportation Code, §503.062. A dealer's temporary license plate may only be used for the purposes authorized in Transportation

Code, §503.062, whereas a dealer's standard license plate, authorized under Transportation Code, §503.061, may be used for a broader set of purposes.

#### Subchapter B. Licenses, Generally

##### §215.81

This section describing the purpose and scope of the subchapter is proposed for repeal because it is unnecessary, as relevant statutory references may be incorporated into each rule.

##### §215.82

Proposed amendments to §215.82 would add "and Dealer's Temporary" to the title of the section and would add a dealer's temporary license plate to the rule text to include this license plate type as an additional type for which a dealer could get a replacement license plate or sticker at no charge if the dealer did not receive the original license plate the dealer ordered and the dealer made a request for a replacement within 45 days of the department mailing the license plate in the license plate system designated by the department. Proposed amendments would also delete unnecessary references to the specific types of license holders eligible to receive a standard license plate because the phrase "standard license plate" is already defined in §215.2(b)(7) of this title (relating to Definitions; Conformity and Statutory Requirements) as a license plate issued to a license holder. Additional proposed amendments would delete "standard" from the description of the license plate in §215.82(1) and §215.82(2) because these provisions would apply to both standard license plates and dealer's temporary license plates. These proposed amendments would allow a dealer to receive a replacement at no charge if a dealer's temporary license plate is lost in the mail and a dealer promptly requests a replacement.

##### §215.83

Proposed amendments to §215.83 would create new paragraph §215.83(a) to document existing requirements for a new applicant to register for an account in the department-designated licensing system by accessing the licensing system through the department's website. These proposed amendments would require an applicant to designate an account administrator, provide the name and email address for that person, and provide the business telephone number, name, business type, and social security number or employer identification number, as applicable, and would specify that the applicant's licensing account administrator must be an owner, officer, manager, or bona fide employee. These proposed amendments reflect existing requirements for setting up an account that an applicant may then use to submit a license application. The remaining paragraphs of §215.83 would be renumbered to accommodate new §215.83(a).

##### §215.84

Proposed amendments to §215.84 would delete subsection (a) and reletter the remaining subsections because the text in this subsection unnecessarily duplicates language in Occupations Code, §2301.002(3) and §2301.006.

##### §215.85

Proposed amendments to §215.85 would streamline the language throughout the section to improve readability without changing meaning, delete language found in statute, and clarify the requirements for buyer referrals. Proposed amendments to §215.85(a) would streamline this subsection by moving a descriptive phrase to eliminate unnecessary words and punctuation, and would delete an unnecessary phrase and an

unnecessary sentence because that language is included in statute. Proposed amendments to §215.85(b) would substitute a phrase to clarify that a referral service, program, plan, or club must meet each of the criteria listed for the referral service to be considered compliant. Proposed amendments to §215.85(b)(1) through §215.85(b)(7) would streamline these paragraphs by deleting unnecessary words without changing meaning. Proposed amendments to §215.85(c) would substitute "under" for "pursuant to" to streamline and modernize the phrase and would add "motor" to more accurately describe the type of vehicles that a GDN holder under Transportation Code, §503.029(a)(6)(B) is authorized to sell.

#### §215.89

Proposed amendments to §215.89(a) would delete an unnecessary phrase to streamline the subsection language. A proposed amendment to §215.89(b)(2) would update for ease of reference a citation to the criminal offense guidelines for the motor vehicle industry in 43 TAC Chapter 211, which was renumbered on November 1, 2025. A proposed amendment to §215.89(b)(5) would add a modifying phrase to identify a specific factor--consumer harm--which the department may consider when evaluating if a license holder or applicant is unfit to hold a license due to insolvency or failure to obtain or maintain financial resources sufficient to meet financial obligations. Consideration of this factor is important as a license holder may need to reorganize finances due to a business setback but may not be considered unfit if no consumer harm resulted. A proposed amendment to §215.89(b)(8) would delete an unnecessary introductory verb and connector as a previous license is referenced later in the paragraph, and would update a citation to the section referring to the criminal offense guidelines because this section is proposed for renumbering to §211.9 in a rule proposal which the Board approved for publication on December 11, 2025, and will consider adopting at the same board meeting in which this proposal is being considered.

#### §215.91

Occupations Code, §55.004(b-1), as amended by Senate Bill 1818, 89th Texas Legislature, Regular Session, requires all state licensing agencies including the department to issue a provisional license to military service members, veterans and military spouses while the agency processes the application for licensure. Proposed amendments to §215.91(b) would clarify the license application process for a military service member, military spouse, or military veteran to obtain a provisional license. These clarifications are necessary for the department to be able to identify and process these applications on an expedited basis as required by Occupations Code, §55.0041, as amended by House Bill (HB) 5629, 89th Legislature, Regular Session. Proposed amendments to §215.91(b)(1) would align the rule with Occupations Code, §55.004, as amended by Senate Bill (SB) 1818, 89th Legislature, Regular Session, to require licensing agencies to issue a provisional license while the agency reviews the application of military service members, spouses and veterans who are currently licensed and in good standing in another state or have been licensed in Texas within the past five years. The proposed amendments to §215.91(b)(1) would establish less onerous application requirements for a provisional license, as specified by Occupations Code, §55.004 and §55.0041, and would clarify that a military service member, military spouse, or military veteran may apply for a provisional license by downloading and completing the application form from the department website or contacting the department. Proposed

amendments to §215.91(b)(1) would also require the applicant to submit the completed provisional license application to the department at the email address designated in the application form, delete a requirement to submit the more comprehensive online application specified in §215.83, and would reletter the required attachments that must be submitted with the provisional license application. The proposed amendments would also add a new §215.91(b)(1)(C) and amend relettered §215.91(b)(1)(A) to clarify and separate the documentation requirements for military veterans from the documents that active-duty military and spouses need to submit to prove their military service status. Proposed amendments to §215.91(b)(1)(D) would clarify that the affidavit requirement of Occupations Code, §55.0041(b)(3) for applicants who have previously been licensed by another state applies to not only military active duty and spouses but also veterans seeking provisional licensure, as a standard method for the department to get the information it needs to determine eligibility for a provisional license. Proposed amendments to §215.91(b)(2) would add the phrase "provisional license" to describe the application type, to align with Occupations Code, §55.004 as amended by SB 1818. Proposed amendments in §215.91(b)(2)(A) would add a reference to military veteran to align with Occupations Code, §55.004 as amended by HB 5629, and update related punctuation and a conjunction. Proposed amendments in §215.91(b)(2)(B) would change a verb to "confirm" for consistency with proposed language in §215.91(b)(2)(C). Proposed amendments in §215.91(b)(2)(C) would add that if the department confirms the information in subparagraphs (A) and (B), that the department will notify the applicant to submit a sufficient application as described in §215.83 at the time the department issues the provisional license, to align with Occupations Code, §55.0041(b-1) as amended by HB 5629. Proposed amendments to §215.91(b)(3) would clarify that the department will issue a license within 10 days of receiving a sufficient application--or notify the applicant why a license cannot currently be issued--as required under Occupations Code, §55.0041(b-1) as amended by HB 5629, when an applicant holds a provisional license, was licensed in good standing in another state with similar licensing requirements, or was licensed in good standing in Texas in the last five years. Another proposed amendment to §215.91(b)(3) would move the last sentence to a new §215.91(c) to improve readability and would reletter current §215.91(c) to §215.91(d). These proposed amendments would streamline the process for military members, military spouses, and military veterans to apply for and obtain a provisional license consistent with the requirements of Occupations Code, Chapter 55 as amended by HB 5629 and SB 1818, without requiring substantial licensing system changes that would impact implementation.

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

#### §215.101

This section describing the purpose and scope of the subchapter is proposed for repeal because it is unnecessary, as relevant statutory references may be incorporated into each rule.

#### §215.104

Proposed amendments to §215.104(a) and §215.104(b) would modernize and simplify text to improve readability without changing meaning. Proposed amendment to §215.104(a)(2) would remove a typographical error. Proposed amendments to §215.104(c) would add a requirement for a franchised dealer to file a license amendment application within ten days if the

person responsible for a franchised dealer's business activities changes due to the appointment of a receiver or filing for bankruptcy, and would make related changes in punctuation and placement of a conjunction. These proposed amendments would help ensure that the proper representative receives department licensing and enforcement notices and can act within the time limits established by statute and rule. Proposed amendments to §215.104(d) would modernize and simplify text to improve readability without changing meaning.

#### §215.105

Proposed amendments throughout §215.105 would modernize and simplify text to improve readability without changing meaning.

#### §215.107

Proposed new §215.107 would describe the licensing requirements when a manufacturer or distributor purchases, licenses, or otherwise accepts the transfer of an existing line-make from another manufacturer or distributor. Proposed new §215.107(a) would require the manufacturer or distributor acquiring the line-make to either apply for a manufacturer or distributor license or submit a license amendment to add the transferred line-make. Proposed new §215.107(b) would require the acquiring manufacturer or distributor to identify the effective date of the transfer, identify the franchised dealers authorized to sell and service the line-make, identify the person responsible for warranty and franchised dealer obligations incurred prior to the transfer, and certify compliance with Occupations Code, Chapter 2301, Subchapter J. This proposed new section would enable the department to more efficiently transition a line-make and clarify the manufacturer or distributor responsible for statutory warranty and dealer obligations under Occupations Code, Chapter 2301.

#### §215.108

Proposed amendments to §215.108 would modernize and simplify text to improve readability without changing meaning and would add "or relocated" for consistency.

#### §215.110

A proposed amendment to §215.110(b) would clarify that the information described is in subsection (a) of the section, and not in other subsections, to prevent any reader confusion.

#### §215.113

Proposed amendments to §215.113(c) would update the Subchapter designation in 43 TAC, Chapter 224, and delete "License" in a referenced section title to correct the name and subchapter reference.

#### §215.114

Proposed amendments to §215.114 would modernize and simplify text to improve readability without changing meaning.

#### §215.115

Proposed amendments to §215.115(e) would add "if applicable" and related punctuation because certain records listed may not be relevant to an individual license holder's business.

#### §215.120

Proposed amendments to §215.120(a) and (b) would remove the phrases "manufacturer's" and "manufacturer or converter" from modifying "standard license plate" because they are unnecessary since the definition of "standard license plate" in

§215.2(b)(7) includes plates issued to these types of license holders. A proposed amendment to §215.120(d) would substitute "license holder" for "manufacturer, distributor, or converter" to simplify rule text without changing meaning. A proposed amendment to §215.120(d)(2) would substitute "secured" for "affixed" for consistency in terminology. A proposed amendment to §215.120(g) would delete the phrase referencing a franchised or other GDN dealer because this phrase is unnecessary as §215.139 addresses the process for license holders to request and receive additional standard license plates. A proposed amendment to §215.120(g)(1) would clarify that a business justification that a license holder could provide to receive additional standard license plates would include the number of vehicles assembled or modified only in the prior twelve months and only at facilities located in Texas or serving the Texas market. The proposed language would clarify the relevant information that the department would consider and address a common question posed by manufacturers when requesting additional standard license plates. A proposed amendment to §215.120(h) would correct a capitalization error.

#### §215.121

Proposed amendments to §215.121(a) would delete that subsection as unnecessary because the sanction actions the board or department may take are included in statute, and would delete the orphaned remaining subsection designation. Further proposed amendments to §215.121 would substitute "sanction" for a reference to deleted subsection (a) and would add "if the person:" before listing common violations in the succeeding paragraphs to improve readability. Proposed amendments to unlettered §215.121(10) would update references to relevant Transportation Code chapters that may result in a license holder receiving a sanction if a provision is violated. A proposed amendment to unlettered §215.121(11) would update a citation to the criminal offense guidelines in 43 TAC Chapter 211, which was renumbered to §211.10 on November 1, 2025.

Proposed amendments would add new §215.121(19) to enforce Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, by adding a sanction if a manufacturer, distributor, converter, or franchised dealer, or employee or agent violates the Act, and would make related changes in punctuation and placement of a conjunction. These license holders and their employees and agents have access to motor vehicle records protected under the Motor Vehicle Records Disclosure Act and disclosure in violation of the Act may cause significant consumer harm.

Subchapter D. General Distinguishing Numbers and In-Transit Licenses

#### §215.131

This section describing the purpose and scope of the subchapter is proposed for repeal because it is unnecessary, as relevant statutory references may be incorporated into each rule.

#### §215.132

Proposed amendments would update definitions consistent with other proposed rule changes in Subchapter D. Proposed amendments would delete the definition of "barrier" in §215.132(1) because a proposed amendment in §215.140 would delete that term, and would renumber the following definitions accordingly. A proposed amendment to renumbered §215.132(1) would delete the last sentence that references a "buyer's provisional license plate" to align with the proposal of a new definition for a

"buyer's provisional license plate" in renumbered §215.132(2). Proposed amendments to renumbered §215.132(2) would define a "buyer's provisional license plate" as a license plate a dealer uses when the general issue license plate for that vehicle or motor vehicle type is not in a dealer's license plate inventory, a dealer has submitted an application for an exempt license plate for the vehicle and that application is pending department approval, or a retail buyer requires a commercial fleet specific-use license plate and will obtain that license plate through the Motor Carrier division or other department system. This proposed definition would clarify the uses of a buyer's provisional license plate and would allow a dealer to more efficiently process retail sales for various types of vehicles.

#### §215.133

Proposed amendments to §215.133 would delete subsections (a) and (b) and reletter subsequent subsections because the deleted subsections unnecessarily repeat statutory requirements. Proposed amendments to relettered §215.133(a) would add "license" to clarify the application type referenced. The proposed amendments to relettered §215.133(a) would also clarify that a dealer or wholesale motor vehicle auction reapplying for a GDN after the GDN expires or is closed must enter or verify information in the application, provide related information and documents for any new requirements, and pay required fees including any outstanding civil penalties owed the department under a final order. A proposed amendment to relettered §215.133(b) would update a citation to the criminal offense guidelines in 43 TAC Chapter 211, which was renumbered to §211.13 on November 1, 2025. Proposed amendments would delete §215.133(i) because that language unnecessarily duplicates statutory language, and would reletter the remaining subsections accordingly. Proposed amendments would also delete an unnecessary reference to subsection §215.133(i) in relettered §215.133(g).

#### §215.134

Proposed amendments to §215.134 would delete subsection (a) and reletter subsequent subsections because the deleted subsection unnecessarily repeats statutory requirements. A proposed amendment to relettered §215.134(e) would update a citation to the criminal offense guidelines in 43 TAC Chapter 211, which was renumbered to §211.13 on November 1, 2025.

#### §215.137

Proposed amendments would delete §215.137(f) because Transportation Code, §503.033 describes the GDN holders to whom the security requirement applies, so describing the GDN holders to which the surety bond does not apply is unnecessary.

#### §215.140

Proposed amendments to §215.140(a)(3)(A), §215.140(a)(4)(A)(i), and §215.140(b)(3)(A) would add "legible" to describe the requirements for letters on a sign to ensure that the public and the department can read the sign and identify the GDN holder. Proposed amendments to §215.140(a)(3)(B), §215.140(a)(4)(A)(ii), and §215.140(b)(3)(B) would add flexibility to dealer and auction signage requirements by adding a sign "permanently affixed or etched on an exterior window, wall, or door" to the definition of a permanently mounted sign as an alternative to a sign "permanently installed in the ground." Proposed amendments to §215.140(a)(5)(F) would add "licensed" to describe a dealer's physical location and add language that would allow the department to mail or deliver license plates to another physical location

included in the dealer's license record and approved by the department. This amendment was requested by dealers to allow a dealer with multiple locations to centralize inventory and management of license plates, if desired, in accordance with proposed new §215.159. Proposed amendments to §215.140(a)(6)(E) would delete unnecessary license plate descriptors to improve readability of the text without changing meaning. Proposed amendments to §215.140(a)(11)(B)(iv) and §215.140(a)(11)(B)(vii) would remove the requirement that a dealer install and maintain a material object or barrier that cannot be readily removed and that must be in place on all sides except for the space necessary to allow vehicle entry and exit. The department received feedback that the current barrier requirement was difficult for dealers in shared spaces to implement and manage on an ongoing basis. In response, the department is proposing a simpler requirement: the proposed amendments to §215.140(a)(11)(B)(iv) and §215.140(a)(11)(B)(vii) would require a dealer to have permanent signage identifying the dealer's reserved display space if sharing a location with another business, including another dealer. Dealers should find it easier and cheaper to comply with the proposed new requirement, while the department and the public will still be able to identify which portions of a shared location belong to a specific dealer.

#### §215.141

Proposed amendments to §215.141(a) would delete that subsection because the actions the board or department may take are stated in statute, and would delete the orphaned remaining subsection designation. Further proposed amendments to §215.141 would substitute "sanction" for a reference to subsection (a) and add "if the person:" before listing common violations in the succeeding paragraphs for readability. Proposed amendments to unlettered §215.141(16) would add references to relevant Transportation Code Chapters and delete references to irrelevant Transportation Code Chapters because a license holder could not violate a provision in those chapters. A proposed amendment to unlettered §215.141(17) would update a citation to the criminal offense guidelines in 43 TAC Chapter 211, which was renumbered to §211.10 on November 1, 2025. Proposed amendments to unlettered §215.141(26), §215.141(28), and §215.141(34) would delete archaic references in the text that are no longer necessary due to the passage of time or changes in the law. Proposed amendments would add new §215.141(36) to enforce Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, by adding a sanction if a general distinguishing number (GDN) holder, or employee or agent violates the Act, and would make related changes in punctuation and placement of a conjunction. These license holders and their employees and agents have access to motor vehicle records protected under the Motor Vehicle Records Disclosure Act and disclosure in violation of the Act may cause significant consumer harm. Proposed amendments would add new §§215.141(37) - (39) to specify that the following actions by a dealer would be a violation: issuing the wrong type of license plate for a vehicle transaction; securing a license plate to a sold vehicle but failing to assign the license plate in the system designated by the department; and voiding and reissuing the same license plate to a buyer to extend a title or registration filing deadline. While investigating consumer complaints received after July 1, 2025, when temporary tags were eliminated, department investigators have discovered evidence of dealers taking these actions, which may cause law enforcement to make unnecessary vehicle stops and cause consumer harm by delaying proper titling and registration.

#### §215.144

Proposed amendments to §215.144(e)(8)(L) would add a phrase to clarify that a dealer is not required to copy a purchaser's photo identification document if doing so would violate federal law, to address dealers' concerns about a potential conflict between state and federal requirements. Proposed amendments to §215.144(e)(8)(M) would add a requirement that the odometer disclosure agreement be properly executed by the seller of the motor vehicle and acknowledged by the purchaser, and would delete the phrase "signed by the buyer" for consistency with 43 TAC §217.4(d)(2), relating to Initial Application for Title. Proposed amendments to §215.144(e)(8)(M) and §215.144(e)(8)(N) would move a conjunction and add punctuation to accommodate proposed new §215.144(e)(8)(O), which would require that a dealer retain the dealer's copy of the buyer's license plate receipt in the dealer's record. Adding this requirement will ensure a complete record is available to a department investigator should a complaint be filed about the transaction. A proposed amendment to §215.144(l)(1) would remove redundant language. A proposed amendment to §215.144(l)(2) would change "Buyer's License Plates" to "License Plate" in the reference to §215.151 to correct the title of that section.

#### §215.145

Proposed amendments to §215.145(d)(1) and §214.145(e)(1) would simplify the wording to "amendment application" to improve readability without changing meaning. A proposed amendment to §215.145 would add new subsection (h), which would require a dealer to file a license amendment application with the department within ten days if the dealer has a change in the person responsible for overseeing the business due to a receiver being appointed or after filing for bankruptcy. These proposed amendments would help ensure that the proper representative receives department licensing and enforcement notices and can act on behalf of the license holder within the time limits established by statute and rule.

#### §215.152

A proposed amendment to §215.152(e) would revise wording to increase readability without changing meaning. A proposed amendment to §215.152(h) would delete an extraneous word to improve readability without changing meaning. Proposed amendments to §215.152(i)(6) would add a requirement that the delivery service notify the department that a license plate shipment is undeliverable before a dealer is considered ineligible for a quarterly allocation delivered to the dealer's licensed location. Proposed amendments would add new §215.152(i)(8), which would make an applicant or dealer ineligible for a quarterly allocation delivered to the licensed location if the person has filed a change of address with the department and the department has not yet approved the new location. The proposed amendments would change punctuation and conjunctions as necessary to accommodate new §215.152(i)(8). Proposed amendments to §215.152(l) and §215.152(m) would replace the term "general issue plates" with "buyer's license plates" because buyer's license plates include more than just general issue license plates, and would substitute the possessive term "buyer's" for the singular term "buyer" for consistency in terminology. An amendment to §217.152(n) would replace "receive" with "request" for consistency in terminology. A proposed amendment to §215.152(o)(1) would substitute "dealer's" for "requestor's" for clarity and specificity, and because a dealer's license plate activity is a relevant factor the department may consider in evaluating a request to change the number of license plates

allocated to a dealer. A proposed amendment to §215.152(p) would correct a cross-reference to a subsection.

#### §215.153

Proposed new §215.153 would describe a dealer's responsibilities when issuing a buyer's provisional license plate, which is a type of buyer's license plate that a dealer may assign to a sold vehicle if the dealer does not have an appropriate license plate in inventory. This license plate type was largely implemented after the initial House Bill 718 rules were published on November 8, 2024. The purposes for this license plate type are to facilitate retail sales for dealers who have depleted their inventory of general issue license plates and not yet received a shipment of these license plates, to facilitate retail sales for vehicles that are eligible for an exempt license plate, and to facilitate retail sales of commercial fleet vehicles.

Proposed new §215.153(a) would specify that a dealer is responsible for managing the dealer's inventory of buyer's provisional license plates within the buyer's license plate allocation provided in §215.152, and that a dealer may order buyer's provisional license plates for any class of vehicle for which the dealer holds a GDN by submitting a request in the license plate system designated by the department. Proposed new §215.153(a) would also specify that a dealer may be required to submit information to explain a request for buyer's provisional license plates such as fleet sales orders or fleet sales history, to allow the department to identify unnecessary requests that would create additional license plate manufacturing and delivery costs for the department and would increase the risk of license plate fraud by allowing an excess supply of unassigned license plates.

Proposed new §215.153(b) would require a dealer to issue a buyer's provisional license plate when the dealer does not have a general issue license plate in inventory and the retail purchaser does not have a license plate eligible to be assigned to the vehicle at the time of a retail sale. Proposed new §215.153(b) would also require the dealer to secure the license plate and enter the license plate information into the system designated by the department, consistent with 43 TAC §215.151, relating to License Plate General Use Requirements, and §215.155, relating to Buyer's License Plates.

Proposed new §215.153(c) would authorize a dealer to issue a buyer's provisional license plate for use on a vehicle eligible for an exempt license plate until the department processes the exempt license plate application submitted by the dealer. If the department does not approve the application for an exempt license plate, this proposed new subsection would require a dealer to issue a general issue license plate and charge the retail buyer a registration fee.

Proposed new §215.153(d) would allow a dealer to issue a buyer's provisional license plate when a purchased vehicle is eligible for a commercial fleet license plate, which is a license plate that a retail purchaser is responsible for ordering in the department's designated system known as TxFLEET. For all vehicles that are not part of a commercial fleet, proposed new §215.153(e) would ensure that the dealer fulfills the requirements of Transportation Code, §503.063 by requiring the selling dealer to promptly obtain a general issue license plate to assign to the vehicle, remove the provisional license plate if secured to the vehicle, and secure a license plate provided by the retail purchaser or the tax assessor-collector. Proposed new §215.153(f) would specify that a buyer's provisional license plate is for temporary use only and expires fourteen days after

a general issue, exempt, or a commercial fleet license plate, or other eligible license plate is assigned to the vehicle, to prevent unexpired plates from creating an opportunity for fraud. Proposed new §215.153(g) would require a dealer to mark and destroy the expired buyer's provisional license plate as provided in 43 TAC §215.158, relating to General Requirements for Buyer's License Plates, to further deter fraud.

#### §215.154

Proposed amendments to the attached graphic in §215.154(b) would increase the initial allocation of dealer's temporary license plates for GDN dealers that sell trailers and semi-trailers and for wholesale motor vehicle dealers who also hold a wholesale auction GDN. The department received a substantial number of requests for additional dealer's temporary license plates from these two types of license holders during the initial license plate implementation, suggesting that a higher initial allocation is necessary for these two groups. Proposed amendments to the attached graphic in §215.154(b) would increase the allocation of dealer's temporary license plates for GDN holders that sell trailers and semi-trailers from 5 to 15, add a category for wholesale motor vehicle dealers who also hold a wholesale motor vehicle auction, and establish an allocation of 40 dealer's temporary license plates for this new category.

Proposed amendments would delete §215.154(c) and reletter subsequent subsections because a dealer licensed on July 1, 2025, has already received an initial allocation, so that subsection is no longer necessary. Proposed amendments to relettered §215.154(f) would add a requirement for a dealer to include proof of the number of vehicles transported within the last 12-month period, if applicable, so the Motor Vehicle Division director may consider that information when evaluating a dealer's waiver request to receive additional dealer's temporary license plates. This requirement would apply to a wholesale motor vehicle dealer who also holds a wholesale motor vehicle auction general distinguishing number. The number of vehicles transported is an important consideration for the department in evaluating a waiver request for this type of license holder, to help the department determine whether a request is necessary and avoid an excess of unassigned plates that create an avenue for fraud.

#### §215.155

Proposed amendments to §215.155(b) would delete the term "general issue" to describe buyer's license plates because buyer's license plates may include provisional license plates. Proposed amendments to §215.155(e) would delete the requirement for a dealer to remit the registration fee with the title transfer application because each transaction is handled separately.

#### §215.157

Proposed amendments to §215.157 would streamline the text by deleting language that restates statute, and refer instead to Transportation Code, §503.0631(d) and §215.156, relating to Buyer's License Plate Receipt, to improve readability.

#### §215.158

Proposed amendments to §215.158 would delete the unnecessary phrase "buyer's license plate or buyer's temporary" to describe license plates to clarify that the loss, theft, or destruction of any license plate must be reported to the department to deter fraud.

#### §215.159

Proposed new §215.159 would set out the options and requirements for a dealer with two or more licensed locations to store and manage license plate inventory away from the licensed location. This new proposed rule would provide operational flexibility while ensuring security of license plates and access by delivery services and department staff. Proposed new §215.159(a) would require such a dealer to disclose the physical address of the license plate storage location in a license application, which could be a new, renewal, or amendment application, and certify that the license plate storage location satisfies all location requirements in new proposed subsection (b). Proposed new §215.159(b)(1) confirms that if a dealer chooses to manage license plate inventory for a licensed location at another licensed location, then that location must comply with the requirements of §215.140, regarding Established and Permanent Place of Business Premises Requirements.

Proposed new §215.159(b)(2) contains the requirements for a license plate storage location that is not located at another licensed location. Proposed new §215.159(b)(2)(A) would require the license plate storage location to be in Texas, at an address recognized by the U.S. Postal Service that is capable of receiving U.S. mail, and has an assigned emergency services property address. These requirements would ensure that the department has jurisdiction over the location, that a dealer can receive mailed department notices, and that the location is not a post office box. These requirements are important to deter fraud and ensure department access to the location so the department may monitor compliance under Transportation Code, §503.063(d). Proposed new §215.159(b)(2)(B) would require the storage location to be in a building with a permanent roof and connecting exterior walls on all sides. These requirements are consistent with the requirements for a licensed location and deter fraud by requiring a location that can be secured. Proposed new §215.159(b)(2)(C) would require that the licensed location be equipped with a computer, internet access, a working telephone number listed in the business name or assumed name, and a locked and secured room or closet or a least one securely locked and substantially constructed safe or steel cabinet bolted or secured to a floor or wall and of sufficient size to store all plates in the dealer's possession. These equipment requirements are necessary to allow a dealer to access the department's license plate database, to allow dealer personnel to promptly respond to inquiries, and to provide secure storage to prevent license plate inventory discrepancies and theft and fraud of license plates. Proposed new §215.159(b)(2)(D) would require that the license plate inventory be organized so that the inventory assigned to each licensed location is separate and easily identifiable, which would assist both the dealer and the department in efficiently fulfilling their respective responsibilities under Transportation Code, §§503.063, 503.0631, and 503.0633. Proposed new §215.159(b)(2)(E) - (G) would require the address to be clearly visible from the street, would require business hours to be posted in a public area, would set minimum business hours consistent with the requirements for a retail dealer's licensed location, and would require an owner or bona fide employee to be present at the license plate storage location. These requirements ensure that delivery services will have reasonable access to the location to deliver and transport license plates, and that department staff may fulfill their responsibilities under Transportation Code, §503.063(d). Proposed new §215.159(b)(2)(H) would require the telephone to be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. This requirement ensures that the department and others may contact the

location and speak to a person or leave a message. Proposed new §215.159(b)(2)(I) would allow a portable office building to be used as a license plate storage location if the building meets the other requirements and is not readily moveable. This flexibility is consistent with premises requirements in §215.140 for licensed locations and provides fraud prevention while providing flexibility which especially benefits small dealers. Proposed new §215.159(b)(2)(I) and §215.159(2)(J) would restrict where a license plate storage location may be located to prevent fraud and deter theft consistent with existing requirements for a licensed location. Proposed new §215.159(c) would notify dealers that the department may visit a license plate storage location prior to approving a dealer's request to add that location to a dealer's license and during the license term to monitor compliance with department rules as authorized by Occupations Code, §2301.256 and Transportation Code, §503.063(d), because a department visit may be necessary to confirm a dealer's compliance with statute and rule.

#### Subchapter E. Lessors and Lease Facilitators

##### §215.171

This section describing the purpose and scope of the subchapter is proposed for repeal because it is unnecessary, as relevant statutory references may be incorporated into each rule.

##### §215.175

Proposed amendments to §215.175(a) would delete that subsection as redundant because the actions the board or department may take are stated in statute; the proposed amendments would reletter the remaining subsections accordingly. Proposed amendments to §215.175 would add punctuation, substitute "sanction" for a reference to deleted subsection (a), and add "if the person:" before listing common violations in the succeeding paragraphs for readability. A proposed amendment to relettered §215.175(a)(10) would update a reference to the applicable criminal offense guidelines in Chapter 211 of this title, which are proposed to be renumbered in an adoption proposal also being considered by the board. Proposed amendments would add new §215.175(a)(14) to enforce Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, by adding a sanction if a vehicle lessor, a vehicle lease facilitator, or their employee or agent violates the Act, and proposes related changes in punctuation and placement of a conjunction. Vehicle lessor and vehicle lease facilitator license holders and their employees and agents have access to motor vehicle records protected under the Motor Vehicle Records Disclosure Act, and disclosure in violation of the Act may cause significant consumer harm.

##### §215.177

A proposed amendment to §215.177(a)(2) would add "legible" to describe the requirements for letters on a sign to ensure that the public and the department can read the sign and identify the license holder.

##### §215.181

Proposed amendments to §215.181 would add a subject and rephrase a sentence to modernize and improve readability without changing meaning.

#### Subchapter F. Advertising

##### §215.241

This section describing the purpose and scope of the subchapter is proposed for repeal because it is unnecessary, as relevant statutory references may be incorporated into each rule.

##### §215.242

Proposed amendments to §215.242 would delete unnecessary phrases to improve readability without changing meaning.

##### §215.243

This section is proposed for repeal because it is unnecessary and redundant to consider an advertising rule violation a prima facie violation of Occupations Code, Chapter 2301. Occupations Code, §2301.263 states that a license issued under Chapter 2301 is subject to both Chapter 2301 and board rules in effect on the date the license is issued, and to any statutory or rule change that takes effect during the term of the license. Thus, considering an advertising rule violation to also be prima facie violation of Occupations Code, Chapter 2301 is unnecessary because it is a restatement of the statute.

##### §215.244

Proposed amendments to §215.244 would add and modify definitions found in the advertising rules. Proposed amendments would add §215.244(1)(A)(vi) and (vii) to modernize the definition of advertisement by including in the definition a statement or representation displayed on an internet website, social media platform, other digital application or platform, or sent electronically, such as in email. Use of electronic forms of advertisement have changed and expanded and these amendments would modernize the language to include the most common forms of digital advertisement. The proposed amendments to §215.244 would also move a conjunction and change punctuation to accommodate new §215.244(1)(A)(vi) and (vii).

Proposed new §215.244(6) would add a definition for what would constitute a "cure" to an alleged advertising violation in accordance with Occupations Code, §2301.203, which requires the department to notify a license holder of an alleged advertising violation and give the license holder an opportunity to cure the violation before sending a notice of violation and recommended sanction to the license holder. The proposed new provision would define a cure as a license holder's agreement to not violate the advertising rule cited in a department-issued opportunity-to-cure letter for a two-year period, and would require the license holder to correct any consumer harm caused by the alleged violation. Defining the term "cure" would provide license holders with a consistent way in which to cure an alleged violation and avoid receiving a notice of violation and related sanction. Proposed amendments would renumber subsequent paragraphs to accommodate proposed new §215.244(6) and update cross-references within those paragraphs to the definition of "Monroney Label." Proposed amendments to renumbered §215.224(18) would modify the definition of "subsequent violation" to be a violation of the same advertising rule previously identified in an opportunity to cure notice within two years, for consistency with the proposed new definition of "cure" in §215.244(6) and the requirements of Occupations Code, §2301.203.

##### §215.246

Proposed amendments to §215.246 would delete a redundant and unnecessary sentence because the requirement for an advertisement not to be false, deceptive, or misleading is already stated in §215.242 of this title, relating to General Prohibition.

## §215.264

Proposed amendments to §215.264(h) and §215.264(j) would modernize the options for a dealer to provide the required disclosures in radio and television advertisements for leased vehicles. Instead of a dealer's advertisement referring only to a written advertisement published in the community served by the media station during a certain time period before and after the advertisement airs, a dealer will have the option to include all information required by this section in the radio or television advertisement itself without having to publish a concurrent written advertisement. These proposed amendments would provide more flexibility for dealers in markets without a general circulation community publication and would modernize the rule while still requiring dealers to provide consumers with important information about vehicle leasing terms.

## §215.269

This section is proposed for repeal because the procedures for finding a violation under department rules were moved to 43 TAC Chapter 224. Therefore, this rule is redundant and no longer required.

## §215.270

Proposed amendments to §215.270(a)(1) would streamline rule language to improve readability, and modernize the methods the department uses to contact licensees to include email. Proposed amendments to §215.270(a)(2) would add subparagraphs (A) and (B) and related punctuation to state that the department may issue a Notice of Department Decision to a license holder who did not timely respond to a notice of an opportunity to cure letter, or who agreed to cure the violation but failed complete the cure process by either not correcting a consumer harm or by committing a subsequent advertising violation. Another proposed amendment to §215.270(a)(2) would delete existing language regarding a subsequent violation of the same advertising violation for consistency with proposed amendments to the definitions of "cure" and "subsequent violation" in §215.244 of this title, relating to Definitions. Proposed amendments to §215.270(b) would amend §215.270(b)(3), and amend related punctuation and a conjunction, for consistency with proposed amendments to the definitions of "cure" and "subsequent violation" in §215.244. Proposed amendments would delete §215.270(c) and reletter the remaining subsection accordingly because printing a retraction notice in a local newspaper is no longer an effective or efficient method to put the public on notice or cure an alleged advertising violation.

## Subchapter G. Administrative Sanctions

### §215.500

Proposed amendments to §215.500 would add in the first sentence a clarifying phrase that an administrative sanction may include one or more penalties authorized by statute and rule, and would add corresponding references to Occupations Code, Chapter 2301, Transportation Code, Chapter 503, and §215.504, relating to Buyer or Lessee Refund. Proposed amendments to §215.500 would also delete paragraphs (1) through (5) because these paragraphs duplicate language found in statute or this proposed rule, and would delete unnecessary punctuation.

**FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer, has determined that for each year of the first five years the new sections and amendments will be in effect, there will be no significant fiscal

impact to state or local governments as a result of the enforcement or administration of the proposal.

Monique Johnston, Director of the Motor Vehicle Division (MVD), and Corrie Thompson, Director of the Enforcement Division (ENF), have determined that there will be not be a measurable effect on local employment or the local economy as a result of the proposal because the overall number of motor vehicle sales will not be reduced.

**PUBLIC BENEFIT AND COST NOTE.** Ms. Johnston, Ms. Thompson, and Ms. Bowman have also determined that, for each year of the first five years amended and new sections are in effect, there are multiple public benefits anticipated because these amendments will facilitate consumer vehicle sales, and reduce opportunities for license plate fraud, and that vehicle registrants and certain applicants and license holders may incur costs to comply with the proposal. The department prioritized the public benefits associated with facilitating sales and reducing fraud and related crime, while carefully considering potential costs to license holders, vehicle registrants, and the public consistent with board and department responsibilities.

**Anticipated Public Benefits.** The public benefits anticipated as a result of the proposal include facilitating retail vehicle sales; limiting the criminal activity of a small subset of dealers who may seek to fraudulently obtain, sell, or issue license plates to persons seeking to engage in violent criminal activity, including armed robbery, human trafficking, and assaults on law enforcement, or to criminally operate uninsured and uninspected vehicles as a hazard to Texas motorists and the environment; to reduce the misuse of motor vehicle record information by licensees; to reduce false or misleading advertising by licensees; and to enhance clarity and readability of the rules for the public.

**Anticipated Costs to Comply With The Proposal.** Ms. Johnston anticipates that certain license holders may incur costs to comply with these rules. Amendments to §215.104 and §215.145 would require a dealer to incur a \$25 statutorily required license amendment fee when a dealer principal or other person overseeing the dealer's business activities changes. Ms. Johnston has determined that this cost is offset by the reduced risk of a dealer incurring civil penalties, including a fine and the potential loss of a license, if the person authorized to act on a dealer's behalf does not timely receive a department notice regarding an enforcement or licensing matter. Amendments to §215.107 would require a manufacturer or distributor who acquires an existing line-make to provide more information in the license amendment application. Ms. Johnston has determined these costs will be offset by the reduced risk of a manufacturer or distributor being required to respond to a protest or department notice for an alleged statutory or rule violation for which the manufacturer or distributor is not responsible and will enable the department to more efficiently process line-make-related dealer and consumer complaints. Amendments to §215.140 would require a dealer sharing a location with another business to post permanent signage to identify the dealer's reserved vehicle display space rather than use barriers that cannot be readily removed. Department research suggests that purchasing a sign for each of the five required spaces could range from \$22 to \$40 for a 12-inch by 18-inch sign or between \$110 and \$200 in total. The cost of two larger signs, such as 24-inch or 30-inch by 36-inch sign to cover multiple spaces could range from \$100 to \$225 per sign. Department research suggests that purchasing signage is less expensive than purchasing barriers for each space which may cost between \$100 and \$125 per vehicle space for a total

of \$500 to \$625 for five spaces and which may be more susceptible to damage or loss. Ms. Johnston has determined that going forward this signage requirement is less expensive for dealers sharing a location, easier for these dealers to implement, and a standard that is easier to interpret and enforce.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government Code, §2006.002, the department has determined that this proposal may have an adverse economic effect or disproportionate economic impact on small or micro-businesses. More specifically, the department believes that the proposed amendments in §215.140 for dealers that share a location may have an adverse impact if the dealer is a small or micro-business. The department believes the costs associated with purchasing permanent signage for the dealer's display space may create an adverse economic impact on a short-term basis but that this cost will be offset in the future because the dealer will be more likely to not incur replacement or repair costs that would have been incurred under the prior rule which required barriers be put in place for each vehicle display space.

The department has determined that the proposed amendments will not have an adverse economic effect on rural communities because rural communities are exempt from the requirement to hold a GDN under Transportation Code, §503.024.

The cost analysis in the Public Benefit and Cost Note section of this proposal determined that the proposed new rule may result in additional costs for existing license holders. Based on data from the Comptroller and the Texas Workforce Commission, the department estimates that most dealers are small or micro-businesses, especially those dealers that share a location, which the department estimates to be approximately 29% of all dealers. The department has tried to minimize costs for these dealers by proposing a rule that is anticipated to be lower cost over time and by proposing other signage changes that are more flexible and may be less expensive. The proposed new requirements are designed to set minimum standards that will satisfy the requirements of Transportation Code, §503.032(3) and allow these dealers to operate without incurring significant ongoing or unreasonable costs in the future. These requirements do not include requirements that will cause a dealer to incur unnecessary or burdensome costs, such as employing additional persons.

Under Government Code §2006.002, the department must perform a regulatory flexibility analysis. The department considered the alternatives of not adopting amendments, exempting small and micro-business license holders from these amendments, and adopting a limited version of these amendments for small and micro-business applicants and license holders. The department rejects all three options. The department reviewed licensing records, including records for dealers who share locations with other dealers and determined that these small and micro-business license holders are more likely to violate department rules, including premises requirements under Transportation Code, §503.032. The department, after considering the purpose of the authorizing statutes, does not believe it is feasible to waive or limit the requirements of the proposed amendments for small or micro-business GDN dealers. Also, Government Code §2006.002(c-1) does not require the department to consider alternatives that might minimize possible adverse impacts on small businesses and micro-businesses if the alternatives would not be protective of the health and safety of the state. The department has determined that the proposed amendments will not have an adverse economic effect on rural communities because

rural communities are exempt from the requirement to hold a GDN under Transportation Code, §503.024.

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

**GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first five years the proposed new sections and amendments are in effect, no government program would be created or eliminated. Implementation of the proposed new sections and amendments would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department and would not increase fees paid to the department. The proposed new sections and amendments do create new regulations and expand existing regulations to provide more flexibility to license holders, protect consumers, and facilitate the department's obligation to monitor compliance with existing statutes. Lastly, the proposed new sections and amendments do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

#### REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on May 26, 2026. The department requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. 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.

## SUBCHAPTER A. GENERAL PROVISIONS

### 43 TAC §215.1

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

of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

**CROSS REFERENCE TO STATUTE.** This proposed repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, and 1002.

*§215.1. Purpose and Scope.*

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

Filed with the Office of the Secretary of State on April 9, 2026.

TRD-202601519

Laura Moriarty  
General Counsel  
Texas Department of Motor Vehicles  
Earliest possible date of adoption: May 24, 2026  
For further information, please call: (512) 465-4160



**43 TAC §215.2**

**STATUTORY AUTHORITY.** The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the

surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

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

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

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

**CROSS REFERENCE TO STATUTE.** These proposed amendments would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, 730, and 1002.

*§215.2. Definitions; Conformity with Statutory Requirements.*

(a) The definitions contained in Occupations Code, Chapters 2301 and 2305, and Transportation Code, Chapters 503, 520, 730, and 1001-1005 govern this chapter. In the event of a conflict, the definition or procedure referenced in Occupations Code, Chapter 2301 controls.

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

- (1) Board--The Board of the Texas Department of Motor Vehicles, including department staff to whom the board delegates a duty.
- (2) Day--The word "day" refers to a calendar day.
- (3) Director--The director of the division that regulates the distribution and sale of motor vehicles, including any department staff to whom the director delegates a duty assigned under this chapter.
- (4) Employee--A natural person employed directly by the license holder for wages or a salary.
- (5) GDN--General distinguishing number, a license issued under Transportation Code, Chapter 503.
- (6) Governmental agency--A state agency other than the department, all local governmental agencies, and all agencies of the United States government, whether executive, legislative, or judicial.
- (7) Standard license plate--A motor vehicle license plate issued by the department to a license holder for use by the license holder that is not a personalized prestige dealer's license plate issued under

Transportation Code §503.0615 or a dealer's temporary license plate issued under Transportation Code, §503.062.

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

Filed with the Office of the Secretary of State on April 9, 2026.

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Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: May 24, 2026

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



## SUBCHAPTER B. LICENSES, GENERALLY

### 43 TAC §215.81

**STATUTORY AUTHORITY.** The department proposes a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules

for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

**CROSS REFERENCE TO STATUTE.** This proposed repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501–503, and 1002.

*§215.81. Purpose and Scope.*

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

Filed with the Office of the Secretary of State on April 9, 2026.

TRD-202601522

Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: May 24, 2026

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



**43 TAC §§215.82 - 215.85, 215.89, 215.91**

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

Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

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

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code,

§2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. The proposed amendments would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, 730, and 1002.

*§215.82. Replacement Standard and Dealer's Temporary License Plates and Stickers.*

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

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

*§215.83. License Applications, Amendments, or Renewals.*

(a) An applicant for a new license must register for an account in the department-designated licensing system by:

- (1) accessing the licensing system through the department's website;
- (2) designating the account administrator, which must be an owner, officer, manager, or bona fide employee;
- (3) providing the name and email address for the account administrator; and
- (4) providing the applicant's business telephone number, name, business type, and social security number or employer identification number, as applicable.

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

- (1) filed electronically in the department-designated licensing system on a form approved by the department;
- (2) completed by the applicant, license holder, or authorized representative who is an employee, a licensed attorney, or a certified public accountant;
- (3) accompanied by the required fee, paid by credit card or by electronic funds transfer, drawn from an account held by the applicant or license holder, or drawn from a trust account of the applicant's attorney or certified public accountant; and
- (4) accompanied by proof of a surety bond, if required.

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

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

(e) [(d)] Prior to the expiration of a license, a license holder or authorized representative must electronically file with the department a sufficient license renewal application. Failure to receive notice of license expiration from the department does not relieve the license holder from the responsibility to timely file a sufficient license renewal application. A license renewal application is timely filed if the department receives a sufficient license renewal application on or before the date the license expires.

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

- (1) includes all information and documentation required by the department; and
- (2) is filed in accordance with subsection (a) of this section.

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

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

(i) [(h)] The department will process an application for a new license, license amendment, or license renewal filed by a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55 and §215.91 of this title (relating to License Processing for Military Service Members, Spouses, and Veterans).

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

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

(l) [(k)] The department shall accept a late license renewal application up to 90 days after the date the license expires. In accordance with subsection (j) of this section, the license holder is not authorized to continue licensed activities after the date the license expires until the department approves the late license renewal application. If the department grants a license renewal under this section, the licensing period

begins on the date the department issues the renewed license. The license holder may resume licensed activities upon receipt of the department's written verification or upon receipt of the renewed license.

(m) [(4)] If the department has not received a late license renewal application within 90 days after the date the license expires, the department will close the license. A person must apply for and receive a new license before that person is authorized to resume activities requiring a license.

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

#### §215.84. *Brokering, New Motor Vehicles.*

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

(a) [(b)] For purposes of this chapter, the phrase "arranges or offers to arrange a transaction," as used in the definition of broker in Occupations Code, §2301.002, includes the practice of arranging or offering to arrange a transaction involving the sale of a new motor vehicle for a fee, commission, or other valuable consideration. Advertising is not acting as a broker, provided the person's business primarily is broadcasting, printing, publishing, or advertising for others in their own names.

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

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

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

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

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

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

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

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

(c) [(4)] This section does not apply to a person who is not a broker as defined in Occupations Code, §2301.002.

#### §215.85. *Brokering, Used Motor Vehicles.*

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

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

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

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

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

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

(5) No motor vehicle or trade-in price is set or suggested to the dealer. [The program does not set or suggest to the dealer any price of a motor vehicle or a trade-in.]

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

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

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

(1) purchasing a motor vehicle from the dealer; or

(2) the referral of a new potential purchaser.

#### §215.89. *Fitness.*

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

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

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

(3) any specific statutory licensing criteria or requirements;

(4) mitigating factors; and

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

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

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

(2) is convicted, or considered convicted under Occupations Code §53.021(d), by any local, state, federal, or foreign authority of an offense that directly relates to the duties or responsibilities of the licensed occupation as described in §211.10 [~~§211.3~~] of this title (relating to Criminal Offense Guidelines) or is convicted, or considered convicted under Occupations Code §53.021(d), of an offense that is independently disqualifying under Occupations Code §53.021;

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

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

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

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

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

(8) [~~was or~~] is a person described in §211.9 of this title (relating to Application of Subchapter B) [~~§211.2 of this title (relating to Application of Subchapter)~~] whose actions or omissions could be considered unfit, who is ineligible for licensure, or whose current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority has been subject to disciplinary action including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment;

(9) has an ownership, organizational, managerial, or other business arrangement, that would allow a person the power to direct or cause the direction of the management, policies, and activities, of an applicant or license holder, whether directly or indirectly, when the person could be considered unfit, ineligible for licensure, or whose current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority, has been subject to disciplinary action, including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment, by the board, department, or any local, state, or federal regulatory authority;

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

*§215.91. License Processing for Military Service Members, Spouses, and Veterans.*

(a) The department will process a license, amendment, or renewal application submitted for licensing of a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient renewal application because the license holder was on active duty is exempt from any increased fee or penalty imposed by the department.

(b) A military service member, ~~or~~ military spouse, or military veteran may engage in a business or occupation for which a department-issued license is required if the person [~~military service member or military spouse~~] meets the requirements of Occupations Code, §55.004 or §55.0041 and this section.

(1) To receive a provisional license a [A] military service member, ~~or~~ military spouse, or military veteran must submit to the department a completed provisional license application. The applicant may download the provisional license application form from the department website or contact the department to request the form. The applicant must submit the completed application to the department email address listed in the application form and attach the following:

~~[(A) a sufficient application as described in §215.83(e) of this title (relating to License Applications, Amendments, or Renewals);]~~

(A) ~~[(B) if the applicant is a military service member or a military spouse, proof of the military service member being stationed in Texas and a copy of the military service member or military spouse's military identification card;~~

(B) ~~[(C) if the applicant is a military spouse, a copy of the military spouse's marriage license; and]~~

(C) if the applicant is a military veteran, a copy of the applicant's discharge certificate or other official document verifying military service and an identification document listed in the applicable license application rule; and

(D) if the applicant is licensed by another state, a notarized affidavit that meets the requirements of [as required by] Occupations Code, § 55.0041(b)(3).

(2) Upon receipt of the provisional license application and documentation required by paragraph (1) of this subsection the department shall:

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

(B) conduct a comparison of the other state's license requirements, statutes, and rules with the department's licensing requirements to confirm [~~determine~~] if the requirements are similar in scope of practice; and

(C) if both subparagraphs (A) and (B) of this paragraph are confirmed, promptly issue a provisional license and notify the applicant to submit a sufficient application as described in §215.83(f) of this title (relating to License Applications, Amendments, or Renewals).

(3) The department shall issue a license, or notify the applicant why the department is currently unable to issue a license, within 10 days of receiving a complete application as described in §215.83(f) of

this title (relating to License Applications, Amendments, or Renewals) if the applicant:

(A) has been issued a provisional license;

(B) is currently licensed in good standing in another state with licensing requirements that are similar in scope and practice; or

(C) was licensed in good standing in Texas in the last five years.

[If the department confirms that a military service member or military spouse is currently licensed in good standing in another state with licensing requirements that are similar in scope and practice, or was licensed in good standing in Texas in the last five years, the department shall issue a license to the military service member or military spouse for the relevant business or occupation, or notify the applicant why the department is currently unable to issue a license pursuant to Occupations Code, §55.0041(b-1), within 10 days.]

(c) The license is subject to the requirements of this chapter and Occupations Code, Chapter 2301, and Transportation Code, Chapter 503, in the same manner as a license issued under the standard application process, unless exempted or modified under Occupations Code, Chapter 55.

(d) [(e)] This section establishes requirements and procedures authorized or required by Occupations Code, Chapter 55, and does not modify or alter rights that may be provided under federal law.

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

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



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

### 43 TAC §215.101

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

Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which authorizes the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, § 503.0631, which require the board to adopt rules necessary to implement and manage the department's database of dealer-issued license plates; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This proposed repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, and 1002.

§215.101. *Purpose and Scope.*

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

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Texas Department of Motor Vehicles

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



**43 TAC §§215.104, 215.105, 215.107, 215.108, 215.110, 215.113 - 215.115, 215.120, 215.121**

STATUTORY AUTHORITY. The department proposes amendments and new sections to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011, which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.0071, which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021, which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

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

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

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

CROSS REFERENCE TO STATUTE. These proposed new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-504, 520, and 1002.

*§215.104. Changes to Franchised Dealer's License.*

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

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

- (A) the executed franchise agreement;
- (B) the required excerpt from the executed franchise agreement; or
- (C) an evidence of franchise form completed by the manufacturer, distributor, or representative.

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

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

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

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

(3) A publicly-held corporation must file an amendment application if one person or entity acquires 10% or greater interest in the licensed entity.

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

- (1) deletion of a line-make from the dealer's license;
- (2) a change of assumed name on file with the Office of the Secretary of State or county clerk;
- (3) a change of mailing address;
- (4) a change of telephone number; ~~[or]~~
- (5) a change of email address; ~~or~~[-]
- (6) a change in the person responsible for a franchised dealer's business activities due to a receiver being appointed or a dealer filing bankruptcy.

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

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

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

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

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

*§215.105. Notification of License Application; Protest Requirements.*

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

(b) Upon receipt of a franchised dealer's license ~~[an]~~ application ~~[for a franchised dealer's license]~~, including a relocation ~~[an]~~ application ~~[filed with the department by reason of the relocation]~~ of an existing dealership, the department shall notify ~~[give notice of the filing of the application to]~~ each franchised dealer that may have standing to protest the application. The department shall send notice electronically and by certified mail, return receipt requested, to the email address and mailing address in the franchised dealer's license record.

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

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

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

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

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

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

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

*§215.107. Sale or Transfer of a Line-Make.*

(a) If a manufacturer or distributor sells, licenses, or otherwise transfers an existing line-make to another person, the acquiring person must:

(1) apply for a manufacturer or distributor license and add that line-make to the license; or

(2) amend an existing license to add that line-make.

(b) As part of the application or license amendment application process the person acquiring the line-make must:

(1) identify the effective date of the transfer;

(2) identify the franchised dealers authorized to sell and service the line-make;

(3) identify the person responsible for warranty and franchised dealer obligations incurred prior to the transfer; and

(4) certify compliance with Occupations Code, Chapter 2301, Subchapter J, which includes manufacturer or distributor responsibilities to existing dealers of that line-make if a franchise agreement is changed or terminated.

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

A franchised dealer's amendment application to add or relocate a line-make to an existing dealership ~~[An application to amend an existing franchised dealer's license for the addition of another line-make at the existing dealership or for the relocation of a line-make to the existing~~

dealership] shall be deemed an "application to establish a dealership" insofar as the line-make to be added or relocated is concerned, and shall be subject to the provisions of §215.105 of this title (relating to Notification of License Application; Protest Requirements) and §215.106 of this title (relating to Time for Filing Protest).

*§215.110. Evidence of Franchise.*

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

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

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

(c) The applicant must submit the required franchise agreement pages described in this section immediately upon the applicant's receipt of the franchise agreement as the department will not issue a license without verifying that the franchise agreement has been executed.

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

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

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

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

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

(c) A request for an extension of the initial 12-month period for manufacturer or distributor ownership or control of a franchised dealership, in accordance with Occupations Code, §2301.476(e), must be submitted to the department in accordance with subsection (a) of this section along with a sufficient application to renew the new motor vehicle dealer's license. The request must contain a detailed explanation, including appropriate documentary support, to show the manu-

facturer's or distributor's good cause for failure to sell the dealership within the initial 12-month period. The director shall evaluate the request and determine whether the license should be renewed for a period not to exceed 12 months or deny the renewal application. If the renewal application is denied, the manufacturer or distributor may request a hearing on the denial in accordance with Occupations Code, Chapter 2301, Subchapter O and the matter will be referred to SOAH for a hearing under Chapter 224, Subchapter B [C] of this title (relating to Motor Vehicle, Salvage Vehicle, and Trailer Industry [License Enforcement]).

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

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

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

(f) A hearing under subsection (d) of this section will be referred to SOAH for a hearing under Chapter 224, Subchapter C of this title (relating to Contested Cases Between Motor Vehicle Industry License Holders or Applicants). The franchised dealer's license that is the subject of the hearing will continue in effect until a final decision on the request for a subsequent extension is issued by the board.

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

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

*§215.114. Sale of a Vehicle by a Manufacturer or Distributor at a Wholesale Motor Vehicle Auction.*

A licensed manufacturer or distributor [~~licensed under Occupations Code, Chapter 2301~~] or a wholly owned subsidiary [~~of a manufacturer or distributor~~], may sell motor vehicles it owns to dealers through a licensed Texas wholesale motor vehicle auction. The department shall cancel a [A] GDN issued to a licensed manufacturer, distributor, or wholly owned subsidiary of a manufacturer or distributor [shall be

anceled,] unless otherwise allowed under Occupations Code, Chapter 2301.

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

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

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

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

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

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

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

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

§215.120. *Standard License Plates.*

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

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

(b) A manufacturer may use a [~~manufacturer's~~] standard license plate to test a prototype motor vehicle on a public street or highway including a commercial motor vehicle prototype designed to carry a load. A [~~manufacturer's~~] standard license plate may not be used on

a commercial motor vehicle prototype or new commercial motor vehicle to carry a load for which the manufacturer or other person receives compensation.

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

(d) A manufacturer, distributor, or converter shall maintain a record of each standard license plate issued to the license holder [~~manufacturer, distributor, or converter~~] by the department either in the license holder's recordkeeping system or in the department-designated system. The license plate record must contain:

- (1) the license plate number;
- (2) the year and make of the vehicle to which the license plate is secured [~~affixed~~];
- (3) the VIN of the vehicle, if one has been assigned; and
- (4) the name of the person in control of the license plate.

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

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

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

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

- (1) the number of vehicles assembled or modified in the prior 12 months at facilities in or serving the Texas market;
- (2) the highest number of motor vehicles in inventory in the prior 12 months;
- (3) the size and type of business;
- (4) how the license holder typically uses standard licenses plates;
- (5) the license holder's record of tracking and reporting missing or damaged license plates to the department; and
- (6) any other factor the Department in its discretion deems necessary to support the number of license plates requested.

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

§215.121. *Sanctions.*

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

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

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

- (1) fails to maintain records required under this chapter;
- (2) refuses or fails within 15 days to comply with a request for records made by a representative of the department;
- (3) sells or offers to sell a motor vehicle to a retail purchaser other than through a licensed or authorized dealer;
- (4) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a change of the license holder's physical address, mailing address, telephone number, or email address within 10 days of the change;
- (5) fails to timely submit a license amendment application in the electronic licensing system designated by the department to notify the department of a license holder's business or assumed name change, deletion of a line-make, or management or ownership change;
- (6) fails to notify the department or pay or reimburse a franchised dealer as required by law;
- (7) misuses or fails to display a license plate as required by law, or fails to report a lost, stolen, or damaged license plate within the time designated by rule;
- (8) is a manufacturer or distributor and fails to provide a manufacturer's certificate for a new vehicle;
- (9) fails to remain regularly and actively engaged in the business of manufacturing, assembling, or modifying a new motor vehicle of the type and line make for which a license has been issued by the department;
- (10) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 501-504 [~~501-503~~] or 520 [~~4001-4005~~]; a board order or rule; or a regulation of the department relating to the manufacture, assembly, sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F of this chapter (relating to Advertising);
- (11) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.10 [~~§241.3~~] of this title (relating to Criminal Offense Guidelines);
- (12) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;
- (13) omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

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

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

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

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

(18) fails to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D; or [-]

(19) violates a provision of Transportation Code, Chapter 730, Motor Vehicle Records Disclosure Act, including a violation by an employee or other agent.

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

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



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

### 43 TAC §215.131

STATUTORY AUTHORITY. The department proposes a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from

DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes a repeal under the authority Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

**CROSS REFERENCE TO STATUTE.** This proposed repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, and 1002.

*§215.131. Purpose and Scope.*

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

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General Counsel

Texas Department of Motor Vehicles

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



**43 TAC §§215.132 - 215.134, 215.137, 215.140, 215.141, 215.144, 215.145, 215.152 - 215.155, 215.157 - 215.159**

**STATUTORY AUTHORITY.** The department proposes amendments and new sections to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011, which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.0071, which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021, which allows the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

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

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

503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

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

CROSS REFERENCE TO STATUTE. These proposed new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501-504, 520, 730, and 1002.

§215.132. *Definitions.*

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

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

~~(1) [(2)] Buyer's license plate--A general issue license plate or set of license plates issued by a dealer to a vehicle buyer under Transportation Code, §503.063 for a vehicle that will be titled and registered in Texas. [This term also includes a buyer's provisional license plate that a dealer issues when the general issue license plate or set of license plates for that vehicle or motor vehicle type is not in a dealer's license plate inventory at the time of retail sale.]~~

~~(2) Buyer's provisional license plate--A license plate that a dealer issues when at the time of a retail sale:~~

~~(A) the general issue license plate for that vehicle or motor vehicle type is not in a dealer's license plate inventory;~~

~~(B) the dealer has submitted an application for an exempt license plate for the vehicle and that application is pending department approval; or~~

~~(C) a retail buyer requires a commercial fleet specific use license plate and will obtain that license plate from the department.~~

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

(4) Consignment sale--The owner-authorized sale of a motor vehicle by a person other than the owner.

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

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

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

(8) Person--Has the meaning assigned by Occupations Code, §2301.002.

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

(10) Towable recreational vehicle--Has the same meaning as "house trailer" defined by this section.

(11) Travel Trailer--Has the same meaning as "house trailer" defined by this section.

(12) Vehicle--Has the meaning assigned by Transportation Code, §503.001.

(13) VIN--Vehicle identification number.

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

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

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

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

(1) Required information:

(A) type of GDN requested;

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

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

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

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

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

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

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

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

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

(K) military service status;

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

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

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

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

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

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

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

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

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

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

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

(i) driver license;

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

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

(iv) passport; or

(v) United States military identification card.

(E) a certificate of occupancy, certificate of compliance, or other official documentation confirming the business location com-

plies with municipal ordinances, including zoning, occupancy, or other requirements for a vehicle business;

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

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

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

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

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

(3) Required fees:

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

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

(b) ~~[(4)]~~ An applicant for a dealer or wholesale auction GDN must also comply with fingerprint requirements in §211.13 ~~[(211-6)]~~ of this title (relating to Fingerprint Requirements for Designated License Types), as applicable.

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

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

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

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

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

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

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

(g) ~~[(j)]~~ A person holding an independent motor vehicle dealer GDN and performing salvage activities ~~[under subsection (i)]~~ must apply for a National Motor Vehicle Title Information System (NMVTIS)

identification number and provide the number to the department in the GDN application.

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

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

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

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

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

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

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

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

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

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

(1) Required information:

(A) type of license requested;

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

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

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

(E) the name, social security number, date of birth, identity document information, and ownership percentage for each

owner, partner, member, beneficiary, or principal if the applicant is not a publicly traded company;

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

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

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

(I) military service status;

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

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

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

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

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

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

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

(i) driver license;

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

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

(iv) passport; or

(v) United States military identification card;

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

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

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

(3) Required fees:

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

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

(c) [(f)] An applicant for a drive-a-way operator in-transit license must also comply with fingerprint requirements in §211.13

[§211.6] of this title (relating to Fingerprint Requirements for Designated License Types).

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

§215.137. *Surety Bond.*

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

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

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

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

(2) unknown.

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

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

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

[(1) franchised motor vehicle dealer licensed by the department;]

[(2) franchised motoreyele dealer licensed by the department;]

[(3) franchised house trailer or travel trailer dealer licensed by the department; or]

[(4) trailer or semitrailer dealer licensed by the department.]

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

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

(1) Business hours for retail dealers.

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

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

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

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

(3) Business sign requirements for retail dealers.

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

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

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

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

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

(A) Exterior Sign

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

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

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

(B) Interior Sign

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

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

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

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

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

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

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

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

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

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

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

(H) The dealer's office space must:

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

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

(iii) accommodate required office equipment; and

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

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

(A) a desk;

(B) two chairs;

(C) internet access;

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

(E) a locked and secured room or closet or at least one securely locked, substantially constructed safe or steel cabinet bolted or affixed to the floor or wall in such a way that the safe or steel cabinet cannot be readily removed and of sufficient size to store all ~~dealer's and buyer's~~ license plates ~~[in a dealer's possession including unissued and unassigned buyer's license plates].~~

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

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

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

(10) Dealer housed with other business.

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

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

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

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

(11) Display area and storage lot requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) a wholesale motor vehicle auction GDN holder must hold a motor vehicle auction on a regular periodic basis at the licensed

location, and an owner or bona fide employee must be available at the business location during each auction and during posted business hours. If the owner or a bona fide employee is not available to conduct business during the posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time operations will resume.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) a desk;

(B) a chair;

(C) internet access; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§215.141. *Sanctions.*

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

~~[(1) deny an application;]~~

~~[(2) revoke a license;]~~

~~[(3) suspend a license;]~~

~~[(4) assess a civil penalty;]~~

~~[(5) issue a cease and desist order; or]~~

~~[(6) take other authorized action.]~~

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

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

(2) fails to meet or maintain the requirements of §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements);

(3) fails to maintain records required under this chapter;

(4) refuses or fails to comply with a request by the department for electronic records or to examine and copy electronic or physical records during the license holder's business hours at the licensed business location:

(A) sales records required to be maintained by §215.144 of this title (relating to Vehicle Records);

(B) ownership papers for a vehicle owned by that dealer or under that dealer's control;

(C) evidence of ownership or a current lease agreement for the property on which the business is located; or

(D) the Certificate of Occupancy, Certificate of Compliance, business license or permit, or other official documentation confirming compliance with county and municipal laws or ordinances for a vehicle business at the licensed physical location.

(5) refuses or fails to timely comply with a request for records made by a representative of the department;

(6) holds a wholesale motor vehicle dealer's license and sells or offers to sell a motor vehicle to a person other than a licensed or authorized dealer;

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

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

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

(10) issues more than one buyer's license plate or buyer's temporary license plate for a vehicle sold on or after July 1, 2025, or more than one temporary tag for a vehicle sold before July 1, 2025, for the purpose of extending the purchaser's operating privileges for more than 60 days;

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

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

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

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

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

(16) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 501 - 504, or 520 [~~503 or 4001-4005~~]; a board order or rule; or a regulation of the department relating to the sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F of this chapter (relating to Advertising);

(17) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.10 [~~§241.3~~] of this title (relating to Criminal Offense Guidelines);

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

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

(20) files or provides a false or forged:

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

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

(21) uses or allows use of that dealer's license or location for the purpose of avoiding a provision of Occupations Code, Chapter 2301, 2302, 2305; Transportation Code, Chapters 503 [~~and 4001-4005~~]; or other laws;

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

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

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

(25) fails to comply with a dealer responsibility under §215.150 of this title (relating to Dealer Authorization to Issue License Plates);

(26) [~~on or after July 1, 2025,~~] fails to securely store a license plate or fails to destroy a [~~previously issued but currently unassigned~~] license plate within the time prescribed by statute;

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

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

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

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

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

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

(33) fails to acquire or maintain a required certificate of occupancy, certificate of compliance, business license or permit, or other official documentation for the licensed location confirming compliance with county or municipal laws or ordinances or other local requirements for a vehicle business;

(34) [~~on or after July 1, 2025,~~] fails to remove a license plate from a vehicle as required by statute or rule; [~~or~~]

(35) fails to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D or to allow an inspection of these records by the department; [~~-~~]

(36) violates a provision of Transportation Code, Chapter 730, Motor Vehicle Records Disclosure Act, including a violation by an employee or other agent; or

(37) issues the wrong type of license plate based on the transaction or vehicle type;

(38) secures a license plate to a sold vehicle but fails to assign the license plate to the vehicle in the system designated by the department; or

(39) voids and reissues the same license plate to a buyer to extend a title or registration filing deadline.

§215.144. *Vehicle Records.*

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

(b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer shall keep a complete written record of each vehicle purchase, vehicle sale, and any adaptive work performed on each vehicle for a minimum period of 36 months after the date the adaptive work is performed on the vehicle. An independent mobility motor vehicle dealer shall also retain and produce for inspection all records relating to license requirements under Occupations Code, §2301.002(17-b) and all information and records required under Transportation Code §503.0295.

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

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

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

(1) the date of the purchase;

(2) the date of the sale;

(3) the VIN;

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

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

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

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

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

(A) the title application;

(B) the work-up sheet;

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

(D) the front and back of the title for the purchase and the sale, unless the dealer enters or obtains the title through webDEALER as defined in §217.71 of this title;

(E) the factory invoice, if applicable;

(F) the sales contract;

(G) the retail installment agreement;

- (H) the buyer's order;
- (I) the bill of sale;
- (J) any waiver;
- (K) any other agreement between the seller and purchaser;

(L) the purchaser's photo identification, unless prohibited by federal law;

(M) the odometer disclosure statement properly executed by the motor vehicle seller and acknowledged by the purchaser [signed by the buyer], unless the vehicle is exempt; [and]

(N) the rebuilt salvage disclosure, if applicable; and [-]

(O) the dealer's copy of the buyer's license plate receipt.

(9) the original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for a motor vehicle offered for sale by a dealer which must be properly stamped if the title transaction is entered into webDEALER as defined in §217.71 of this title by the dealer;

(10) the dealer's monthly Motor Vehicle Seller Financed Sales Returns, if any; and

(11) if the vehicle sold is a motor home or a towable recreational vehicle subject to inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

(f) Title assignments.

(1) For each vehicle a dealer acquires or offers for sale, the dealer must properly take assignment in the dealer's name of any:

- (A) title;
- (B) manufacturer's statement of origin;
- (C) manufacturer's certificate of origin; or
- (D) other evidence of ownership.

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

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

- (A) 30 days of the vehicle sale date; or
- (B) 45 days of the vehicle sale date for a dealer-financed transaction; or
- (C) 60 days of the vehicle sale date for a vehicle purchased by a member or reserve member of the United States armed forces, Texas National Guard, or National Guard of another state serving on active duty.

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

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

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

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

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

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

(i) Public motor vehicle auctions.

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

(2) A GDN holder that acts as a public motor vehicle auction:

(A) is not required to take assignment of title of a vehicle before offering the vehicle for sale at auction;

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

(C) must make application for title on behalf of the purchaser and remit motor vehicle sales tax within a reasonable time as defined in subsection (f) of this section.

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

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

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

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

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

- (A) the date of sale;
- (B) the VIN;
- (C) the name and address of the person selling the vehicle;
- (D) the name and address of the person purchasing the vehicle;

(E) the dealer's license number of both the selling dealer and the purchasing dealer, unless either is exempt from holding a license;

(F) all information necessary to comply with the federal odometer disclosure requirements in 49 CFR Part 580;

(G) auction access documents, including the written authorization and revocation of authorization for an agent or employee, in accordance with §215.148 of this title (relating to Dealer Agents);

(H) invoices, bills of sale, checks, drafts, or other documents that identify the vehicle, the parties, or the purchase price;

(I) any information regarding the prior status of the vehicle such as the Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and

(J) a copy of any written authorization allowing an agent of a dealer to enter the auction.

(k) Electronic records. A license holder may maintain a record in an electronic format if the license holder can print the record at the licensed location upon request by the department, except as provided by subsection (l) of this section.

(l) Use of department electronic titling and registration systems:

(1) webDEALER. A license holder utilizing the department's web-based title application known as webDEALER, as defined in §217.71 of this title [~~relating to Automated and Web-Based Vehicle Registration and Title Systems~~], shall comply with §217.74 of this title (relating to Access to and Use of webDEALER). Original hard copy titles are not required to be kept at the licensed location but must be made available to the department upon request.

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

#### §215.145. *Change of Dealer's Status.*

(a) A dealer's name change requires a new bond or a rider to the existing bond reflecting the new name, unless the dealer is not otherwise required to purchase a bond.

(b) A dealer shall notify the department in writing within 10 days of a change of ownership by submitting a license amendment application in the department-designated electronic licensing system. A licensed dealer that proposes to sell or assign to another any interest in the licensed entity, whether a corporation or otherwise, and provided the physical location of the licensed entity remains the same, shall notify the department in writing within 10 days of the change by filing an application to amend the license in the department-designated electronic licensing system. If the sale or assignment of any portion of the business results in a change of entity, then the new entity must apply for and obtain a new license. A publicly held corporation only needs to inform the department of a change in ownership if one person or entity acquires a 10% or greater interest in the licensed entity.

(c) Upon the death of a dealer operating as a sole proprietor, either the surviving spouse of the deceased dealer or other individual deemed qualified by the department shall submit to the department a bond rider adding the name of the surviving spouse or other qualifying person to the bond for the remainder of the bond and license term. The surviving spouse or other qualifying person may continue operating under the current dealer license until the end of the license term.

(d) For purposes of subsection (c) of this section, the sole proprietor's surviving spouse may change the ownership of the dealership at the time the license is renewed without applying for a new GDN. At the time the renewal application is filed, the sole proprietor's surviving spouse must submit to the department:

(1) an amendment application [~~to amend the business entity~~];

(2) a copy of the sole proprietor's certificate of death, naming the surviving spouse;

(3) the required ownership information; and

(4) if applicable, a bond in the name of the surviving spouse.

(e) For purposes of subsection (c) of this section, a qualifying person who is not the surviving spouse may operate the sole proprietorship business during the term of the license. The qualifying person must file with the department:

(1) an amendment application [~~to amend the business entity~~], identifying the qualifying person as the manager;

(2) an ownership information form, indicating that the qualifying person has no ownership interest in the business; and

(3) a bond rider adding the qualified person's name to the existing bond.

(f) For purposes of subsection (c) of this section, a qualifying person who is not the surviving spouse must file with the department an application for a new GDN on or before the expiration of the license term in the department-designated electronic licensing system.

(g) A determination made under this section does not impact a decision made by the board under Occupations Code, §2301.462 (relating to Succession Following Death of Franchised Dealer).

(h) A dealer shall notify the department in writing within 10 days of a change in dealer principal or other person who oversees a dealer's business activities, including a change resulting from a receiver being appointed or a dealer filing bankruptcy, by submitting a license amendment application in the electronic licensing system designated by the department.

#### §215.152. *Obtaining Dealer-Issued Buyer's License Plates.*

(a) A dealer or governmental agency is required to have internet access to connect to webDEALER and the license plate system maintained by the department and is responsible for verifying receipt of license plates in the license plate system.

(b) Except as provided by §215.157 of this title (relating to Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available) before a license plate may be issued or secured on a vehicle, a dealer or governmental agency must enter in the license plate system true and accurate information about:

(1) the vehicle;

(2) the buyer; and

(3) the license plate number issued or assigned to the vehicle.

(c) The department will inform each dealer annually of the maximum number of new buyer's license plates the dealer is authorized to obtain during the calendar year under Transportation Code, §503.063, including:

(1) an allotment of buyer's license plates to be issued to a buyer of a vehicle that is to be titled and registered in Texas, and

(2) a separate allotment of buyer's temporary license plates to be issued to a non-resident buyer for a vehicle that will be registered and titled in another state.

(d) The department will calculate a dealer's maximum annual allotment of new buyer's license plates and buyer's temporary license plates based on the following formula:

(1) Vehicle title transfers, sales, or license plate issuance data determined from the department's systems from the previous fiscal year;

(2) the total value of paragraph (1) of this subsection will be increased by a multiplier based on the dealer's time in operation giving a 10 percent increase for each year the dealer has been in operation up to 10 years; and

(3) the total value of paragraph (2) of this subsection will be increased by a multiplier that is the greater of:

(A) the dealer's actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of in-state or out-of-state sales transactions processed through the department-designated registration and title system or license plate system, except that it may not exceed 200 percent; or

(B) the statewide actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of relevant transactions processed through the department-designated registration and title system or license plate system, not less than zero, to determine the dealer's annual allotment; and

(4) the department may increase or decrease the annual allotment for dealers in the state, in a geographic or population area, or in a county, based on:

(A) changes in the market;

(B) temporary conditions that may affect sales; and

(C) any other information the department considers relevant.

(e) A dealer licensed after the commencement of a calendar year shall be allocated the number of buyer's license plates and buyer's temporary plates allocated in this subsection prorated on all or part of the remaining months until the commencement of the calendar year after the dealer's initial license expires. The department shall determine the initial allocations [~~The initial allocations shall be as determined by the department~~] in granting the license, but not more than:

(1) 200 buyer's license plates and 100 buyer's temporary license plates for a franchised dealer unless the dealer provides credible information indicating that a greater number of buyer's license plates is warranted based on anticipated sales, and growth, to include new and used vehicle sales, including information from the manufacturer or distributor, or as otherwise provided in this section.

(2) 100 buyer's license plates and 48 buyer's temporary license plates for a nonfranchised dealer unless the dealer provides credible information indicating that a greater number of license plates is warranted based on anticipated sales as otherwise provided in this section.

(f) An existing dealer that is:

(1) moving its operations from one location to a different location will continue with its allotment of buyer's license plates and buyer's temporary license plates and not be allocated license plates under subsection (e) of this section;

(2) opening an additional location will receive a maximum allotment of buyer's license plates and buyer's temporary license plates based on the greater of the allotment provided to existing locations, including franchised dealers opening additional locations for different line makes, or the amount under subsection (e) of this section;

(3) purchased as a buy-sell ownership agreement will receive the maximum allotment of buyer's license plates and buyer's temporary license plates provided to the location being purchased and not be allocated license plates under subsection (e) of this section; and

(4) inherited by will or laws of descent will receive the maximum allotment of buyer's license plates and buyer's temporary license plates provided to the location being inherited and not be allocated license plates under subsection (e) of this section.

(g) A new dealer may also provide credible information supporting a request for additional or fewer buyer's license plates and buyer's temporary license plates to the amount allocated under subsection (e) of this section based on:

(1) franchised dealer, manufacturer, or distributor sales expectations;

(2) a change in GDN required by death or retirement, except as provided in subsection (f) of this section;

(3) prior year's sales by a dealer moving into the state; or

(4) other similar change of location or ownership that indicates some continuity in existing operations.

(h) The annual allotment of buyer's [issue] license plates and buyer's temporary license plates will each be divided by four and allocated to a dealer on a quarterly basis, unless a dealer sells only antique or special interest vehicles as defined by Transportation Code, §683.077(b), in which case each allocation may be divided by two and allocated on a half-yearly basis. A dealer's remaining unissued license plates at the end of the allocation period will count towards the dealer's next allotment.

(i) A dealer is not eligible to receive a quarterly allocation in the following circumstances:

(1) the dealer's license has been closed, canceled, or revoked in a final order;

(2) the department has issued a notice of department decision under §224.56 of this title (relating to Notice of Department Decision), alleging that the dealer is in violation of §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements) and appears to have abandoned the licensed location;

(3) the department has denied the dealer access to the temporary tag system or the license plate system in accordance with §224.58 of this title (relating to Denial of Dealer Access to License Plate System) and Transportation Code, §503.0633(f);

(4) a dealer fails a compliance review performed by the department under Transportation Code, §503.063(d);

(5) the dealer license expires during that quarter and the dealer has not submitted a license renewal application to the department;

(6) a dealer does not have an owner or bona fide employee at the licensed location during posted business hours to accept a license plate delivery and the delivery service has notified the department that a license plate shipment is undeliverable; [or]

(7) a dealer fails to keep license plates or the license plate system secure; or [-]

(8) an applicant or licensed dealer has filed a change of address with the department for the licensed location and the new location has not been approved by the department.

(j) A dealer with an active license and access to the license plate database who is ineligible to receive a quarterly allocation under subsection (i) of this section may request the department conduct a compliance review under Transportation Code, §503.063(d) to determine if the dealer is eligible to receive a future allocation by submitting a request to DealerCompliance@txdmv.gov. The department will conduct the compliance review within 14 days of the dealer's request.

(k) A dealer who has an active license but is not eligible to receive a quarterly allocation under subsection (i) of this section may obtain buyer's license plates from a county tax assessor-collector or department regional service center, as directed by the department.

(l) A dealer may request more buyer's license plates or buyer's temporary license plates:

(1) after using 50 percent of the quarterly allocation of buyer's license [general issue] plates or buyer's [buyer] temporary plates, a dealer may request an advance on the next quarter's allotment; or

(2) after using 50 percent of the allotted annual maximum number of buyer's license [general issue] plates or buyer's [buyer] temporary plates a dealer may request an increase in the annual allotted number of license plates.

(m) A dealer may request fewer buyer's license plates or buyer's temporary license plates:

(1) after using less than 50 percent of the quarterly allocation of buyer's [general issue] license plates or buyer's [buyer] temporary license plates in a quarter; or

(2) after using less than 50 percent of the allotted annual maximum number of buyer's [general issue] license plates or buyer's [buyer] temporary license plates in a year.

(n) To request [receive] more buyer's license plates or buyer's temporary license plates or to request a decrease in a quarterly or annual allocation, a dealer must submit a request in the department's designated license plate system.

(o) A dealer requesting an increase or decrease in the maximum annual allotment of buyer's license plates or buyer's temporary license plates must provide information demonstrating the need for additional license plates results from business operations, including anticipated needs, as required by Transportation Code, §503.0633(c). Information may include documentation of sales and tax reports filed as required by law, information of anticipated need, or other information of the factors listed in Transportation Code, §503.0633(b).

(1) The department shall consider the information presented and may consider information not presented that may weigh for or against granting the request that the department in its sole discretion determines to be relevant in making its determination. Other relevant information may include information of the factors listed in Transportation Code, §503.0633(b), the timing of the request, and the dealer's [requestor's] license plate activity.

(2) The department may allocate a lesser or greater number of license plates than the amount requested. Allocation of a lesser or greater number of license plates is not a denial of the request. Allocation of license plates under this paragraph does not limit the dealer's ability to submit additional requests.

(3) If a request is denied, the denial will be sent to the dealer by email to the requestor's email address.

(A) A dealer may appeal the denial to the designated director in the Vehicle Titles and Registration Division.

(B) The appeal must be requested though the designated license plate system within 15 days of the date the department emailed the denial to the dealer.

(C) The appeal may discuss information provided in the request but may not include additional information.

(D) The designated director in the Vehicle Titles and Registration Division will review the appeal and any additional statements concerning the information submitted in the original request and render an opinion within 15 days of receiving the appeal. The designated director in the Vehicle Titles and Registration Division may decide to deny the appeal or award an amount of license plates that is lesser, equal to, or greater than the request.

(E) The requesting dealer will be notified as follows:

(i) If the designated director in the Vehicle Titles and Registration Division decides to deny the appeal, the department will contact the requesting dealer by email regarding the decision and options to submit a new request with additional relevant credible supporting documentation or to pursue a claim in district court; or

(ii) If the designated director in the Vehicle Titles and Registration Division awards an amount of license plates that is lesser, equal to, or greater than the request, the dealer's allocation will be adjusted and the dealer will be contacted by email regarding the decision, informed that the request has not been denied, and informed about options to submit a new request.

(4) The designated director in the Vehicle Titles and Registration Division's decision on appeal is final.

(5) Once a denial is final, a dealer may only submit a subsequent request during that calendar year if the dealer is able to provide additional information not considered in a prior request.

(p) A change in the allotment under subsection (l) [(+)] of this section does not create a dealer base for subsequent year calculations.

(q) The department may at any time initiate an enforcement action against a dealer if license plate system activity suggests that misuse or fraud has occurred as described in Transportation Code §503.0633(f) or §503.0671.

§215.153. Dealer's Use of Buyer's Provisional License Plates.

(a) In the license plate system designated by the department, a dealer may order buyer's provisional license plates for the class of vehicle for which the dealer holds a GDN, and must manage buyer's provisional license plate inventory within the buyer's license plate allocation provided by §215.152 of this title (relating to Obtaining Dealer-Issued Buyer's License Plates). A dealer may be required to submit information supporting a request for buyer's provisional license plates, such as anticipated fleet vehicle sales based on sales history or orders in process.

(b) When a purchased vehicle is eligible for a general issue license plate and a general issue license plate for that vehicle type is not in a dealer's license plate inventory and the purchaser does not have an existing license plate eligible to be reassigned, a dealer must assign a buyer's provisional license plate to the vehicle by securing the provisional license plate to the vehicle and entering the license plate information into the license plate system designated by the department consistent with the requirements of §215.151 of this title (relating to License Plate General Use Requirements) and §215.155 of this title (relating to Buyer's License Plates).

(c) When a purchased vehicle is eligible for an exempt license plate, a dealer may issue a buyer's provisional license plate for use on the vehicle until the department processes the exempt license plate application. If the department does not approve the exempt license plate application, a dealer must issue a general issue license plate, and the retail buyer must pay the related registration fee.

(d) When a purchased vehicle is eligible for a commercial fleet license plate, such as an apportioned, forestry, token, combination, extended trailer, or multi-year license plate, a dealer may issue a buyer's provisional license plate for use on the vehicle. The retail purchaser is responsible for requesting the appropriate commercial fleet license plate in the department's designated system.

(e) Unless the sale is of a commercial fleet vehicle, the selling dealer is responsible for promptly:

(1) submitting the title and registration application to the county tax assessor-collector;

(2) removing the buyer's provisional license plate if secured to the vehicle; and

(3) securing the assigned license plate to the vehicle if that license plate is provided to the dealer by either the county tax assessor-collector or the retail buyer.

(f) A buyer's provisional license plate is for temporary use only and expires 14 days after a general issue, exempt, commercial fleet, or other eligible license plate is assigned to the vehicle.

(g) A dealer must mark and destroy an expired buyer's provisional license plate in the dealer's possession as provided in §215.158 of this title (relating to General Requirements for Buyer's License Plates).

*§215.154. Dealer's Temporary License Plate Allocation.*

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

(b) Unless otherwise qualified under this section, the maximum number of dealer's temporary license plates the department will issue to a new license applicant during the applicant's first license term is indicated in the following table.

Figure: 43 TAC §215.154(b)

[Figure: 43 TAC §215.154(b)]

~~[(e) A person holding a dealer license on July 1, 2025, is eligible to receive the following maximum number of dealer's temporary plates:]~~

~~[(1) the number designated for that license type in subsection (b) of this section; and]~~

~~[(2) the number designated in subsection (e) of this section based on vehicle sales in the last 12-month period.]~~

~~(c) [(d)] A dealer that applies for a license is not subject to the initial allotment limits described in this section and may rely on that dealer's existing allocation of dealer's temporary license plates if that dealer is:~~

~~(1) a franchised dealership subject to a buy-sell agreement, regardless of a change in the entity of ownership;~~

~~(2) any type of dealer that is relocating and has been licensed by the department for a period of one year or longer; or~~

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

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

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

Figure: 43 TAC §215.154(d)(1)

[Figure: 43 TAC §215.154(e)(1)]

~~(2) For purposes of this section, proof of sales for the previous 12-month period may consist of a copy of the most recent vehicle inventory tax declaration or monthly statements filed with the taxing authority in the county of the dealer's licensed location. Each copy must be stamped as received by the taxing authority.~~

~~(e) [(f)] A wholesale motor vehicle dealer may obtain more than the maximum number of dealer's temporary license plates provided by this section by submitting to the department proof of the number of vehicles the dealer has purchased in the previous 12-month period that justifies additional license plates.~~

~~(1) Evidence of the wholesale motor vehicle dealer's vehicle purchases for the previous 12-month period must include the date of purchase, VIN of the vehicle purchased, and the selling dealer's name, and any other information the department in its discretion deems necessary to determine the need for additional dealer's temporary license plates for the wholesale motor vehicle dealer.~~

~~(2) Upon review and approval of a wholesale motor vehicle dealer's proof of vehicle purchases documentation, the department shall issue up to 5 additional dealer's temporary license plates to the dealer.~~

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

~~(1) A request for a waiver must be submitted to the director in writing and specifically state why the additional dealer's temporary license plates are necessary for the continuation of the dealer's business.~~

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

*§215.155. Buyer's License Plates.*

(a) A dealer may issue and secure a buyer's license plate or a buyer's temporary license plate only on a vehicle:

(1) from the selling dealer's inventory;

(2) that can be legally operated on the public streets and highways;

(3) for which a sale or lease has been consummated; and

(4) that has a valid inspection in accordance with Transportation Code Chapter 548, unless:

(A) an inspection is not required under Transportation Code §503.063(i) or (j); or

(B) the vehicle is exempt from inspection under Chapter 548.

(b) A dealer may not issue a buyer's license plate or a buyer's ~~[general issue or]~~ temporary license plate to the buyer of a vehicle that is to be titled but not registered.

(c) For a wholesale transaction, a dealer may not issue a buyer's license plate; rather the purchasing dealer places on the motor vehicle its own:

- (1) dealer's temporary license plate; or
- (2) dealer's standard or personalized prestige license plate.

(d) A buyer's temporary license plate is valid until the earlier of:

- (1) the date on which the vehicle is registered; or
- (2) the 60th day after the date of purchase.

(e) A dealer shall charge a buyer a fee of \$10, unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. A dealer shall remit the fee to the county [with the title transfer application] for deposit to the credit of the Texas Department of Motor Vehicles fund. If the vehicle is sold by a dealer to an out-of-state resident:

(1) the dealer shall remit the entire fee to the department for deposit to the credit of the Texas Department of Motor Vehicles fund if payment is made through the department's designated electronic system; or

(2) the dealer shall remit the fee to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

(f) A governmental agency may charge a buyer a fee of \$10 unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. If collected by a governmental agency, the fee must be sent to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

*§215.157. Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available.*

If [In accordance with Transportation Code, §503.0631(d), if] a dealer or governmental agency is unable to access the internet at the time of a sale, the dealer or governmental agency must comply with Transportation Code, §503.0631(d) [document the issuance of a buyer's license plate or a buyer's temporary license plate on a receipt form prescribed by the department and enter the required information regarding the sale in the license plate system not later than the close of the next business day. The buyer's receipt must include a statement that the dealer or governmental agency, has internet access but, at the time of the sale, the dealer or governmental agency, was unable to access the internet or the license plate system] and [meet] the requirements in §215.156 of this title (relating to Buyer's License Plate Receipt).

*§215.158. General Requirements for Buyer's License Plates*

(a) A dealer or governmental agency is responsible for the safekeeping of all license plates in the dealer's or governmental agency's possession consistent with the requirements in §215.150 of this title (relating to Dealer Authorization to Issue License Plates). A dealer or governmental agency shall report any loss, theft, or destruction of a [buyer's license plate or buyer's temporary] license plate to the department in the system designated by the department within 24 hours of discovering the loss, theft, or destruction.

(b) When a dealer is required to void a previously assigned buyer's license plate or other type of license plate from a vehicle, the dealer shall render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X"; and within 10 days:

- (1) destroy the license plate;
- (2) recycle the license plate using a metal recycler registered under Occupations Code, Chapter 1956; or

(3) return the license plate to the department or county tax assessor-collector.

(c) A dealer or governmental agency must return all license plates in the dealer's possession to the department within 10 days of closing the associated license or within 10 days of the associated license being revoked, canceled, or closed by the department.

*§215.159. License Plate Storage Away from the Licensed Location.*

(a) Application Requirements. A dealer with two or more licensed locations may store and manage license plate inventory at one of the licensed locations or from another location if, in a license application, the dealer:

(1) discloses the physical address of the license plate storage location; and

(2) certifies that the license plate storage location satisfies all requirements in subsection (b) of this section.

(b) Location Requirements.

(1) If the license plate storage location is at a licensed location, the location must comply with the requirements of §215.140 of this title (related to Established and Permanent Place of Business Premises Requirements).

(2) If the license plate storage location is not at a licensed location, the location must:

(A) be located in Texas at an address recognized by the U.S. Postal Service and which is capable of receiving U.S. mail, and has an assigned emergency services property address;

(B) be located in a building with a permanent roof and connecting exterior walls on all sides;

(C) be equipped with:

(i) a computer;

(ii) internet access;

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

(iv) a locked and secured room or closet or at least one securely locked, substantially constructed safe or steel cabinet bolted or affixed to the floor or wall in such a way that the safe or steel cabinet cannot be readily removed and of sufficient size to store all license plates in a dealer's possession;

(D) be organized so the license plate inventory for each licensed location is separate and easily identifiable and is properly assigned to a location in the license plate management system;

(E) have the address clearly visible from the street;

(F) have business hours posted at the main entrance in a manner and place accessible to delivery services and department staff;

(G) be open at least four days per week for at least four consecutive hours per day and may not be open solely by appointment, with the owner or a bona fide employee at the license plate storage location during the posted business hours for purposes of processing license plates, including acceptance of license plate deliveries;

(H) have a telephone that is answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine, so that a caller is able to speak to a natural person or leave a message during these hours;

(I) not be in a residence, apartment, hotel, motel, rooming house, provided by a subscription for office or storage space, or in

a rented storage unit, but it may be in a portable-type office building if the building meets the requirements of this subsection and is not a readily moveable trailer or other vehicle; and

(J) not be in a restaurant, gas station, or convenience store, unless the location has a separate entrance door that does not require a person to pass through the other business.

(c) Site Visit. The department may visit the location prior to approving a dealer's application to add a license plate storage location and during the term of the license to monitor compliance with department rules as authorized under Occupations Code, §2301.256 and Transportation Code, §503.063(d).

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

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Laura Moriaty

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Texas Department of Motor Vehicles

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



## SUBCHAPTER E. LESSORS AND LEASE FACILITATORS

### 43 TAC §215.171

STATUTORY AUTHORITY. The department proposes a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations

Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also proposes a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This proposed repeal would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501-503, and 1002.

§215.171. *Purpose and Scope.*

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

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### 43 TAC §§215.175, 215.177, 215.181

STATUTORY AUTHORITY. The department proposes amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority;

Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

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

CROSS REFERENCE TO STATUTE. These proposed amendments would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters Occupations Code, Chapters 53, 55, 2301, and 2302; and Transportation Code, Chapters 501-503, 730, 1001-1003, and 1005.

§215.175. *Sanctions.*

~~[(a) The board or department may:]~~

~~[(1) deny a vehicle lessor or vehicle lease facilitator application;]~~

~~[(2) revoke or suspend a vehicle lessor or vehicle lease facilitator license; or]~~

~~[(3) assess a civil penalty or take other action on a vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or vehicle lease facilitator license is required.]~~

~~(a) [(b)] The board or department may sanction [take action described in subsection (a) of this section if] a vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or vehicle lease facilitator license is required, if the person:~~

~~(1) fails to maintain an established and permanent place of business required by §215.177 of this title (relating to Established and Permanent Place of Business);~~

~~(2) fails to maintain records required under this subchapter;~~

~~(3) refuses or fails to comply with a request by a representative of the department to examine during the vehicle lessor's or vehicle lease facilitator's posted business hours at the vehicle lessor's or vehicle lease facilitator's licensed location:~~

~~(A) a vehicle leasing record required to be maintained by §215.178 of this title (relating to Records Required for Vehicle Lessors and Vehicle Lease Facilitators);~~

~~(B) ownership papers for a vehicle owned, leased, or under that vehicle lessor's or vehicle lease facilitator's control; or~~

~~(C) evidence of ownership or a current premises lease agreement for the property upon which the business is located;~~

~~(4) refuses or fails to timely comply with a request for records made by a representative of the department;~~

~~(5) fails to notify the department in writing by electronically submitting a license amendment in the licensing system designated by the department within 10 days of a change of the vehicle lessor or vehicle lease facilitator license holder's:~~

~~(A) mailing address;~~

~~(B) physical address;~~

~~(C) telephone number; or~~

~~(D) email address;~~

~~(6) fails to notify the department in writing by electronically submitting a license amendment in the licensing system designated by the department within 10 days of a change of the vehicle lessor or vehicle lease facilitator license holder's name, assumed name, management, or ownership;~~

~~(7) fails to comply with the fee restrictions or other requirements under Occupations Code, §2301.357 or Chapter 2301, Subchapter L. Vehicle Lessors and Vehicle Lease Facilitators;~~

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

~~(A) §215.178; or~~

~~(B) Subchapter F of this chapter (relating to Advertising);~~

~~(9) violates any law relating to the sale, lease, distribution, financing, or insuring of motor vehicles;~~

~~(10) is convicted of an offense that, in accordance with Occupations Code, Chapter 53 and with §211.10 [§211.3] of this title (relating to Criminal Offense Guidelines), directly relates to the duties or responsibilities of the licensed occupation;~~

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

(12) uses or allows use of a vehicle lessor or vehicle lease facilitator license in violation of any law or for the purpose of avoiding any provision of Occupations Code, Chapter 2301; [øf]

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

(14) violates a provision of Transportation Code, Chapter 730, Motor Vehicle Records Disclosure Act, including a violation by an employee or other agent.

(b) [(e)] The board or department may take action on a vehicle lessor's license or assess civil penalties for the vehicle lessor's failure to notify the department in writing by electronically submitting a license amendment in the licensing system designated by the department within 10 days of any change, addition, or deletion to the list of vehicle lease facilitators with whom the vehicle lessor conducts business, including any change to a vehicle lease facilitator's mailing address, physical address, telephone number, or email address.

(c) [(d)] The board or department may take action on a vehicle lease facilitator's license or assess civil penalties for the failure to notify the department in writing within 10 days by electronically submitting a license amendment in the licensing system designated by the department of any change, addition, or deletion to the list of vehicle lessors for whom the vehicle lease facilitator conducts business, including any change to a vehicle lessor's mailing address, physical address, telephone number, or email address.

(d) [(e)] The board or department may take action on a vehicle lessor's or vehicle lease facilitator's license if the vehicle lessor or vehicle lease facilitator accepts a fee from a dealer, directly or indirectly, for referring a customer who purchases or considers purchasing a motor vehicle.

*§215.177. Established and Permanent Place of Business Premises Requirements.*

(a) A vehicle lessor or vehicle lease facilitator operating within Texas must meet the following requirements at each location where vehicles are leased or offered for lease.

(1) Physical location requirements.

(A) A vehicle lessor or vehicle lease facilitator operating within Texas must be open to the public. The vehicle lessor's or vehicle lease facilitator's business hours for each day of the week must be posted at the main entrance of the office. The business telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours. The owner or an employee of the vehicle lessor or vehicle lease facilitator must be at the location during the posted business hours for the purpose of leasing vehicles. In the event the owner or an employee is not available to conduct business during the posted business hours, a separate sign must be posted indicating the date and time such owner or employee will resume vehicle leasing operations.

(B) A vehicle lessor's or vehicle leasing facilitator's office structure must be of sufficient size to accommodate the following required equipment:

(i) a desk and two chairs from which the vehicle lessor or vehicle lease facilitator transacts business;

(ii) a working telephone number listed in the business name or assumed name under which the vehicle lessor or vehicle lease facilitator conducts business; and

(iii) internet access.

(C) A vehicle lessor or vehicle lease facilitator that files an application for a new license or a vehicle lessor that files an application for a satellite location must comply with the following requirements:

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

(ii) The office must comply with all applicable local zoning ordinances and deed restrictions.

(iii) The office may not be located within a residence, apartment, hotel, motel, or rooming house or building not open to the public.

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

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

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

(E) One or more licensed vehicle lessors or vehicle lease facilitators, or a combination of one or more licensed vehicle lessors and vehicle lease facilitators may occupy the same business structure and conduct vehicle leasing operations in accordance with the license held by the vehicle lessor or licensed vehicle lease facilitator. Each vehicle lessor or vehicle lease facilitator must have:

(i) a separate desk from which that vehicle lessor or vehicle lease facilitator transacts business;

(ii) a separate working telephone number listed in the vehicle lessor or vehicle lease facilitator's business name or assumed name;

(iii) a separate right of occupancy that meets the requirements of this section; and

(iv) a vehicle lessor or vehicle lease facilitator license issued by the department in the name of the vehicle lessor or vehicle lease facilitator.

(F) A vehicle lease facilitator's established and permanent place of business must be physically located within Texas.

(2) Business Sign requirements. A vehicle lessor or vehicle lease facilitator shall display a conspicuous and permanent business sign at the licensed location showing the name under which the vehicle lessor or vehicle lease facilitator conducts business. Outdoor business signs must contain legible letters that are at least six inches in height. The business name or assumed name on the sign must be substantially similar to the name reflected on the license issued by the department. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(3) Premises lease requirements. If the premises from which a licensed vehicle lessor or vehicle lease facilitator conducts business is not owned by the license holder, the license holder must maintain for the licensed location a valid premises lease that is continuous during the period of time for which the vehicle lessor's or vehicle lease facilitator's license will be issued. The premises lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the property owner of the premises and the name of the vehicle lease facilitator as the tenant or lessee of the premises;

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

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

(D) the period of time for which the premises lease is valid; and

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

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

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

(b) A vehicle lessor or vehicle lease facilitator shall be independent of financial institutions and dealerships in location and in business activities, unless that vehicle lessor or vehicle lease facilitator is an:

(1) employee or legal subsidiary of the financial institution or dealership; or

(2) entity wholly owned by the financial institution or dealership.

(c) For purposes of this section, an employee is a person who meets the requirements of §215.173(b) of this title (relating to License).

*§215.181. General Distinguishing Number Exception.*

A licensed vehicle lessor is not required to hold a GDN in order to sell a motor vehicle that the vehicle lessor owns to the lessee or to a duly licensed dealer, either directly or through a licensed wholesale motor vehicle auction. A licensed vehicle lessor may not purchase a motor vehicle at a wholesale motor vehicle auction. The department shall cancel a vehicle lessor's GDN if the vehicle lessor is not qualified to hold the GDN. [~~Any existing GDN held by a vehicle lessor that does not otherwise qualify for a GDN shall be canceled.~~] A vehicle lessor whose GDN has been canceled under this section may reapply for a GDN once all the qualifications for a GDN are met.

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

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Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

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

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SUBCHAPTER F. ADVERTISING

43 TAC §§215.241, 215.243, 215.269

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

the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

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

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

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

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

§215.241. *Purpose and Scope.*

§215.243. *Specific Rules.*

§215.269. *Finding of Violation.*

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

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Texas Department of Motor Vehicles

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### 43 TAC §§215.242, 215.244, 215.246, 215.264, 215.270

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

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

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

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

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

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

§215.242. *General Prohibition.*

[A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading advertising.] In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the department to be false, deceptive, or misleading, [~~whether herein described,~~] shall be deemed a violation of Occupations Code, Chapter 2301 and [~~shall also be deemed a violation of~~] this rule.

§215.244. *Definitions.*

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

(1) Advertisement--

(A) An oral, written, graphic, or pictorial statement or representation made in the course of soliciting business, including, but not limited to a statement or representation:

- (i) made in a newspaper, magazine, or other publication;
- (ii) contained in a notice, sign, poster, display, circular, pamphlet, business card, or letter;
- (iii) aired on the radio;
- (iv) broadcast on the internet or television; [øf]
- (v) streamed via an online service;[-]
- (vi) displayed on an internet website, social media platform, or other digital application or platform; or
- (vii) transmitted electronically.

(B) Advertisement does not include direct communication between a person or person's representative and a prospective purchaser.

(2) Advertising provision--

(A) A provision of Occupations Code, Chapter 2301, relating to the regulation of advertising; or

(B) A rule relating to the regulation of advertising, adopted pursuant to the authority of Occupations Code, Chapter 2301.

(3) Bait advertisement--An alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain a lead to a person interested in buying or leasing merchandise of the type advertised and to switch a consumer from buying or leasing the advertised product in order to sell or lease some other product at a higher price or on a basis more advantageous to the dealer.

(4) Balloon payment--Any scheduled payment made as required by a consumer credit transaction that is more than twice as large as the average of all prior scheduled payments except the down payment.

(5) Clear and conspicuous--The statement, representation, or term being disclosed is of such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning.

(6) Cure--A license holder's agreement to not violate for a two-year period an advertising rule cited in a department opportunity-to-cure notice, and if applicable, any action necessary to correct a consumer harm caused by the alleged advertising violation, such as issuing a consumer refund.

(7) [(6)] Dealership addendum--A form that is displayed on a window of a motor vehicle when a dealership installs special features, equipment, parts, or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a motor vehicle for delivery to a buyer.

(A) The purpose of the addendum is to disclose:

- (i) that it is supplemental;

(ii) any added feature, service, equipment, part, or accessory, including the retail price, charged and added by the dealership;

(iii) any additional charge to the selling price such as additional dealership markup; and

(iv) the total dealer selling price.

(B) The dealership addendum form shall not be deceptive similar in appearance to the Monroney label, as defined by paragraph (14) [(43)] of this section.

(8) [(7)] Demonstrator--A new motor vehicle that is currently in the inventory of the automobile dealership and used primarily for test drives by customers and for other purposes designated by the dealership.

(9) [(8)] Disclosure--Required information that is clear, conspicuous, and accurate.

(10) [(9)] Distributor Suggested Retail Price (DSRP)--means the total price shown on the Monroney Label as specified by subparagraph (D) of paragraph (14) [(43)] of this section.

(11) [(10)] Factory executive/official motor vehicle--A new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor, or their subsidiaries.

(12) [(11)] Limited rebate--A rebate that is not available to every consumer purchasing or leasing a motor vehicle because qualification for receipt of the rebate is conditioned or restricted in some manner. A rebate conditioned or restricted to purchasers who are residents of the contiguous United States is not a limited rebate.

(13) [(12)] Manufacturer's Suggested Retail Price (MSRP)--Means [means] the total price shown on the Monroney Label as specified by subparagraph (D) of paragraph (14) [(43)] of this section.

(14) [(13)] Monroney Label--The label required by the Automobile Information Disclosure Act, 15 U.S.C. §§1231 - 1233, to be affixed to the windshield or side window of certain new motor vehicles delivered to the dealer and that contains information about the motor vehicle, including, but not limited to:

(A) the retail price of the motor vehicle suggested by the manufacturer or distributor, as applicable;

(B) the retail delivered price suggested by the manufacturer or distributor, as applicable, for each accessory or item of optional equipment, physically attached to the motor vehicle at the time of its delivery to a dealer, which is not included within the price of the motor vehicle as stated in subparagraph (A) of this paragraph;

(C) the amount charged, if any, to a dealer for the transportation of the motor vehicle to the location at which it is delivered to the dealer; and

(D) the total of the amounts specified pursuant to subparagraphs (A), (B), and (C) of this paragraph.

(15) [(14)] Online service--A network that connects computer users.

(16) [(15)] Rebate or cash back--A sum of money applied to the purchase or lease of a motor vehicle or refunded after full payment has been rendered for the benefit of the purchaser.

(17) [(16)] Savings claim or discount--An offer to sell or lease a motor vehicle at a reduced price, including, but not limited to,

a manufacturer's or distributor's customer rebate, a dealer discount, or a limited rebate.

(18) [(17)] Subsequent violation--A license holder's violation of the same advertising rule cited in an opportunity to cure notice within a two-year period. [Conduct that is the same or substantially the same as conduct the department has previously alleged in a notice of an opportunity to cure to be a violation of an advertising provision.]

*§215.246. Accuracy.*

Advertisements shall be accurate, clear, and conspicuous. ~~[Advertisements shall not be false, deceptive, or misleading.]~~ For an internet advertisement, a disclosure may be considered accurate, clear, and conspicuous if:

(1) the viewer highlights, hovers a mouse or cursor over, or otherwise selects certain text or images on a screen that results in an immediate and legible visible disclosure; or

(2) only one click on select text or image(s) is required to view the disclosure; and

(3) the internet advertisement clearly and conspicuously indicates where to hover or click for the disclosure and is in close proximity to the information being disclosed.

*§215.264. Payment Disclosure - Vehicle Lease.*

(a) An advertisement that promotes a consumer lease and contains the amount of any payment or that contains either a statement of any capitalized cost reduction or other payment or a statement that no payment is required at consummation or prior to consummation or delivery, if delivery occurs after consummation, must clearly and conspicuously include the following:

(1) that the transaction advertised is a vehicle lease;

(2) the total amount due at consummation or prior to consummation or delivery, if delivery occurs after consummation;

(3) the number, amount, and due date or period of scheduled payments under the vehicle lease;

(4) a statement of whether a security deposit is required; and

(5) a statement that an extra charge may be imposed at the end of the vehicle lease term where the lessee's liability, if any, is based on the difference between the residual value of the leased property and its realized value at the end of the vehicle lease term.

(b) Except for a periodic payment, a reference to a charge described in subsection (a)(2) of this section cannot be more prominently advertised than the disclosure of the total amount due at vehicle lease signing or delivery.

(c) Except for disclosures of limitations on rate information, if a percentage rate is advertised, that rate shall not be more prominently advertised than any other disclosure or deal term.

(d) If a vehicle lessor provides a percentage rate in an advertisement, a notice stating "this percentage may not measure the overall cost of financing this lease" shall accompany the rate disclosure. The vehicle lessor shall not use the terms "annual percentage rate," "annual lease rate," or any equivalent terms in any advertisement containing a percentage rate.

(e) A multi-page advertisement that provides a table or schedule of the required disclosures is considered a single advertisement, provided that for vehicle lease terms appearing without all of the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.

(f) A merchandise tag stating any item listed in subsection (a) of this section must comply with subsection (a) of this section by referring to a sign or to a display prominently posted in the vehicle lessor's place of business. The sign or display must contain a table or schedule of the required disclosures under subsection.

(g) An advertisement made through television or radio stating any item listed in subsection (a) of this section, must include the following statements:

(1) that the transaction advertised is a vehicle lease;

(2) the total amount due at consummation or due prior to consummation or delivery, if delivery occurs after consummation; and

(3) the number, amount, and due date or period of scheduled payments under the vehicle lease.

(h) In addition to the requirements of subsection (g) of this section, an advertisement made through television or radio stating any item listed in subsection (a) of this section, must:

(1) provide a toll-free telephone number along with a statement that the telephone number may be used by consumers to obtain the information in subsection (a) of this section; or

(2) include all information required by this section in the advertisement. ~~[direct the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and the date of the publication, with a statement that the required disclosures in subsection (a) of this section are included in the advertisement.]~~

(i) The toll-free telephone number required by subsection (h)(1) of this section shall be available for at least 10 days, beginning on the date of the broadcast. Upon request, the vehicle lessor shall provide the information in subsection (a) of this section orally or in writing.

~~[(j) The written advertisement required by subsection (h)(2) of this section shall be published beginning at least three days before the broadcast and ending at least 10 days after the broadcast.]~~

*§215.270. Enforcement.*

(a) The department may file a Notice of Department Decision against a license holder alleging a violation of an advertising provision pursuant to Occupations Code, §2301.203, provided the department can show:

(1) that the department notified the license holder of the opportunity to cure the alleged violation ~~[who allegedly violated an advertising provision has received from the department a notice of an opportunity to cure the violation]~~ by email and certified mail, return receipt requested, and that the notice complied ~~[in compliance]~~ with subsection (b) of this section; and

(2) that the license holder:

(A) did not timely respond to the notice of an opportunity to cure, or

(B) agreed to cure the violation but violated the cure agreement by failing to correct a consumer harm or by committing a subsequent violation. ~~[committed a subsequent violation of the same advertising provision.]~~

(b) An effective notice of an opportunity to cure issued under subsection (a)(1) of this section must:

(1) state that the department has reason to believe that the license holder violated an advertising provision and must identify the provision;

(2) set forth the facts upon which the department bases its allegation of a violation; and

(3) state that if the license holder does not timely agree to cure the violation or violates a cure agreement [~~commits a subsequent violation of the same advertising provision~~], the department will file a Notice of Department Decision under §224.56 of this title (relating to Notice of Department Decision).

~~[(e) As a part of the cure procedure, the department may require a license holder who allegedly violated an advertising provision to publish a retraction notice to effect an adequate cure of the alleged violation. A retraction notice must:]~~

~~[(1) appear in a newspaper of general circulation in the area in which the alleged violation occurred;]~~

~~[(2) appear in the portion of the newspaper devoted to motor vehicle advertising, if any;]~~

~~[(3) identify the date and the medium of publication, print, electronic, or other, in which the advertising alleged to be a violation appeared; and]~~

~~[(4) identify the alleged violation of the advertising provision and contain a statement of correction.]~~

~~(c) [(d)] A cure is made solely for the purpose of settling an allegation and is not an admission of a violation of these rules; Occupations Code, Chapter 2301; or other law.~~

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

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Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

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



## SUBCHAPTER G. ADMINISTRATIVE SANCTIONS

### 43 TAC §215.500

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

place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the board to adopt rules necessary to implement and manage the department's temporary tag databases; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

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

CROSS REFERENCE TO STATUTE. These amendments would implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501-503, 730, 1001-1003, and 1005.

§215.500. *Administrative Sanctions.*

An administrative sanction may include one or more penalties authorized by Occupations Code, Chapter 2301 or Transportation Code, Chapter 503, including a refund under §215.504 of this title (relating to Buyer or Lessee Refund).[:]

~~[(1) denial of an application for a license;]~~

~~[(2) suspension of a license;]~~

~~[(3) revocation of a license;]~~

~~[(4) the imposition of civil penalties; or]~~

~~[(5) a refund under §215.504 of this title (relating to Buyer or Lessee Refund).]~~

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

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Laura Moriarty

General Counsel

Texas Department of Motor Vehicles

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



## CHAPTER 221. SALVAGE VEHICLE DEALERS

### SUBCHAPTER B. LICENSING

#### 43 TAC §221.17

**INTRODUCTION.** The Texas Department of Motor Vehicles (department) proposes amendments to 43 Texas Administrative Code (TAC) Subchapter B, Licensing; §221.17, License Processing for Military Service Members, Spouses, and Veterans. These proposed amendments are necessary for the department to be able to identify and expedite the processing of these applications as required by Occupations Code, §55.0041, without significant licensing system programming changes.

#### EXPLANATION.

Occupations Code, §55.004(b-1), as amended by Senate Bill 1818, 89th Texas Legislature, Regular Session, requires all state licensing agencies including the department to issue a provisional license to military service members, veterans and military spouses while the agency processes the application for licensure. Proposed amendments to §221.17(b) would clarify the license application process for a military service member, military veteran, or a military spouse to obtain a provisional license as a salvage vehicle dealer. These clarifications are necessary for the department to be able to identify and process these applications on an expedited basis as required by Occupations Code, §55.0041. Proposed amendments to §221.17(b)(1) would establish less-onerous application requirements for a provisional license to align the rule with Occupations Code, §55.0041, which sets the specific requirements for this temporary license type. The proposed amendments to §221.17(b)(1) would also clarify that a military service member, military spouse, or military veteran may apply for a provisional license by downloading and completing the form from the department website or contacting the department. Proposed amendments to §221.17(b)(1) would also require the applicant to submit a completed provisional license application to the department at the email address designated in the application form, would delete a requirement to submit a more comprehensive online application as specified in 43 Texas Administrative Code §221.15 and §221.16, would reletter the required attachments that must be submitted with the provisional license application, and would clarify the circumstances in which a certain attachment is required.

Proposed amendments to §221.17(b)(2) would add the phrase "provisional license" to describe the application type, would add in §221.17(b)(2)(A) military veteran to the list of those eligible and amend related prepositions, and would change a verb in §221.17(b)(2)(B) to align with the language used in

§221.17(b)(2)(A) and (C) and in Occupations Code, §55.0041. Proposed amendments in new §221.17(b)(2)(C) would add that if the department confirms that the applicant is licensed in good standing in a state with licensing requirements that are similar in scope and practice, the department will promptly issue the provisional license and notify the applicant to submit a sufficient application as described in §221.15 and §221.16.

Proposed amendments to §221.17(b)(3) would align the rule with Occupations Code, §55.0041(b-1) and §55.005(a), both as amended by House Bill 5629, 89th Legislature, Regular Session, which require that all licensing agencies issue a license within 10 business days of an application or explain why the agency is unable to issue the license. The proposed amendments to §221.17(b)(3) would clarify that the department will issue a license within 10 days of receiving a complete application as described in §221.15 and §221.16 or notify the applicant why a license cannot currently be issued- if an applicant holds a provisional license, is currently licensed in good standing in another state with similar licensing requirements, or was licensed in good standing in Texas in the last five years. These proposed amendments would streamline and standardize the salvage dealer licensing process for military members, military spouses, and military veterans consistent with the requirements of Occupations Code, Chapter 55, without requiring substantial licensing system changes that would delay implementation. The remaining text of current §221.17(b)(3) is proposed to be re-lettered as §221.17(c), and current §221.17(c) is proposed to be re-lettered as §221.17(d).

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

**PUBLIC BENEFIT AND COST NOTE.** Ms. Johnston has also determined that, for each year of the first five years the amended section is in effect, the public may benefit because these amendments may encourage military service members or military spouses to apply for a license and build a business serving Texas citizens.

**Anticipated Public Benefits.** The public benefits anticipated as a result of the proposal include economic benefits resulting from increasing the number of licensed businesses that serve Texas citizens.

**Anticipated Costs to Comply With The Proposal.** Ms. Johnston anticipates that there will be no costs to comply with these rules.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by the Government Code, §2006.002, the department has determined that the proposed amendments will not have an adverse economic effect on small businesses, micro-businesses, and rural communities because rural communities are not subject to licensing requirements and the proposal does not require any additional costs for license holders. The department has an electronic licensing system available to all applicants that allows an applicant to apply online for a license and upload any required documents. This rule proposal does not impact small businesses or micro-businesses.

Therefore, the department is not required to prepare a regulatory flexibility analysis under Government Code, §2006.002.

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

**GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first five years the proposed amendments are in effect, no government program would be created or eliminated. Implementation of the proposed amendments would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease in fees paid to the department. The proposed amendments do not create a new regulation, or expand, limit, or repeal an existing regulation. Lastly, the proposed amendments do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

#### REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on May 26, 2026. The department requests information related to the cost, benefit, or effect of the proposed rule, including any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. 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.

**STATUTORY AUTHORITY.** The department proposes amendments to Chapter 221 under Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Occupations Code, §2302.052, which assigns the board a duty to set reasonable and necessary application fees, license fees, renewal fees, and other fees as required to implement Chapter 2302; Occupations Code, §2302.103, which requires a salvage vehicle dealer to apply for a license on a form prescribed by the department and pay an application fee; Occupations Code, §2302.104, which prescribes content that must be included in an application; Occupations Code, §2302.105, which requires the department to complete an investigation of the applicant's qualifications before issuing a license; Occupations Code, §2302.108, which authorizes the department to deny, suspend, revoke, or reinstate a license issued under Chapter 2302 consistent with the requirements of Government Code, Chapter 2001; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

The department also proposes amendments under the authority of Transportation Code, §§501.0041, 502.0021, and 503.002; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the department to adopt rules to administer Transportation Code, Chapter 503.

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

**CROSS REFERENCE TO STATUTE.** These rule revisions would implement Government Code, Chapter 2001; Occupations Code, Chapters 53, 55, and 2302; and Transportation Code, Chapters 501-503, and 1002.

*§221.17. License Processing for Military Service Members, Spouses, and Veterans.*

(a) The department will process a license, amendment, or renewal application submitted for licensing of a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient renewal application because the license holder was on active duty is exempt from any increased fee or penalty imposed by the department.

(b) A military service member, ~~or~~ military spouse, or military veteran may engage in a business or occupation for which a department-issued [department issued] license is required if the person [military service member or military spouse] meets the requirements of Occupations Code, §55.004 or §55.0041 and this section.

(1) To receive a provisional license a [A] military service member, ~~or~~ military spouse, or military veteran must submit to the department a completed provisional license application. The applicant may download the provisional license application form from the department website or contact the department to request the form. The applicant must submit the completed application to the department email address listed in the application form and attach the following:

~~[(A) a complete application;]~~

(A) ~~[(B)]~~ if the applicant is a military service member or a military spouse, proof of the military service member being stationed in Texas and a copy of the military service member or military spouse's military identification card;

(B) ~~[(C)]~~ if the applicant is a military spouse, a copy of the military spouse's marriage license; ~~and~~

(C) if the applicant is a military veteran, a copy of the applicant's discharge certificate or other official document verifying military service and an identification document listed in §221.16 of this title (relating to Required Attachments to the License Application); and

(D) if the applicant is licensed by another state, a notarized affidavit that meets the requirements of [as required by] Occupations Code, § 55.0041(b)(3).

(2) Upon receipt of the provisional license application and documentation required by paragraph (1) of this subsection, the department shall:

(A) confirm with the other licensing state that the military service member, ~~or~~ military spouse, or military veteran is cur-

rently licensed and in good standing for the relevant business or occupation; and

(B) conduct a comparison of the other state's license requirements, statutes, and rules with the department's licensing requirements to confirm [determine] if the requirements are similar in scope of practice; and

(C) if subparagraphs (A) and (B) of this paragraph are confirmed, promptly issue a provisional license and notify the applicant to submit a complete application as described in §221.15 of this title (relating to Required License Application Information) and §221.16 of this title.

(3) The department shall issue a license, or notify the applicant why the department cannot or is currently unable to issue a license, within 10 days of receiving a complete application as described in §221.15 of this title and §221.16 of this title if the applicant:

(A) has been issued a provisional license;

(B) is currently licensed in good standing in another state with licensing requirements that are similar in scope and practice; or

(C) was licensed in good standing in Texas in the last five years.

~~(C) If the department confirms that a military service member or military spouse is currently licensed in good standing in another state with licensing requirements that are similar in scope and~~

~~practice, or was licensed in good standing in Texas in the last five years, the department shall issue a license to the military service member or military spouse for the relevant business or occupation, or notify the applicant why the department is currently unable to issue a license pursuant to Occupations Code, §55.0041(b-1), within 10 days.]~~

~~(c) The license is subject to the requirements of this chapter and Occupations Code, Chapter 2302 in the same manner as a license issued under the standard application process, unless exempted or modified under Occupations Code, Chapter 55.~~

~~(d) [(e)] This section establishes requirements and procedures authorized or required by Occupations Code, Chapter 55, and does not modify or alter rights that may be provided under federal law.~~

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

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Laura Moriaty

General Counsel

Texas Department of Motor Vehicles

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

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