Motor Vehicle Division



Summary of Rule Changes, effective August 2, 2012 Title 43, Texas Administrative Code Chapter 215: Subchapters D, E, and F

SUBCHAPTER D. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS AND CONVERTERS

§215.106 Time for Filing Protest

- Eliminates telegram and mailgram as methods of filing timely protests.
- Disallows protests from being filed by email.
- Adds an option of filing a protest through a TxDMV electronic filing system that is planned.
- Clarifies methods of filing protests which must be received within 15 days of the date of notice: US mail, fax, hand delivery and TxDMV planned electronic filing system.
- Allows for protest fees to be submitted up to 5 days past filing deadline (20 days total from mailing) for all methods of filing rather than 5 days following the date of filing as it was previously.
- Clarifies that the require protest fee must be submitted timely or the protest is not allowed.

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

Added clarifying language that after a hearing related to manufacturer or distributor failing to show good
cause for the failure to sell the dealership and related protests, a SOAH ALJ will prepare a PFD and the
final decision is rendered by the Board.

SUBCHAPTER E GENERAL DISTINGUISHING NUMBERS

§215.132 Definitions

• Provides for a definition of House Trailer. The definition uses the term "nonmotorized" for consistency with the statute and clarifies that the term does not include manufactured housing. Towable recreational vehicles and travel trailers, as defined in Occupations Code, §2301.002, are included in the term "house trailer" and are cross referenced in the definitions. **NOTE:** Section 215.134 is proposed to be repealed in order to consolidate the definitions of house trailer, travel trailer, and towable recreational vehicle.

§215.133 General Distinguishing Number

- The requirement for a GDN applicant to submit a copy of the lease or deed for the dealer's location with the application is removed. However, the Department has reserved the option of requesting this later.
- The reference related to the collection of the plate reflector fee which was eliminated on 9/1/11 was removed.
- The requirement for a GDN applicant to submit pictures of the premises and sign are removed.
- Clarifies that a GDN applicant must submit a copy of the assumed name certificates, not the original.
- For a GDN applicant, the options of submitting a passport and current US armed forces identification as proof of identity for the owner, president or managing partner of the dealership were added.
- Clarifies the requirement for corporations applying for a GDN, that the assumed name on the application must be as it appears on the official record by the SOS.
- Clarifies that wholesale dealers cannot have retail sales.
- Clarifies that a GDN license may be denied if the applicant committed an act that could result in license cancellation or revocation under the Occupations Code 2301.001 and department rule in addition to the Transportation Code.
- Removed the bond reference (repeated in §217.137).

§215.140 Established and Permanent Place of Business

- Clarifies that the GDN dealer's business location requirements are required for each licensed location and must be maintained during the license period.
- For retail and wholesale dealers' operating hours, the number of hours open is the same, but the time range restriction is removed.
- A retail dealer is no longer required to notify the division in writing of any change to their business hours.

- For retail and wholesale dealers, more flexibility with the name on the signage is allowed.
- The requirement that a retail sign be readable from the street is removed.
- The rule now allows all dealers to use temporary signs while the permanent sign is on order, provided they can show proof.
- Removes exemptions for applications filed before May 1, 2008 to conform with the office structure rule requirements. All dealers must now comply.
- For retail and wholesale dealers, the following premise requirements have been eliminated:
 - separate mailing address
 - o minimum square foot interior floor space
 - o minimum ceiling heights
 - o providing adequate electricity, heating and lighting
 - o not passing through a food prep area
 - o requiring a file cabinet, printer, and fax machine
 - o requiring phone to be 'land based'
- Removes the requirement for a person who conducts business as a dealer and another business at the same location to maintain a separate phone and fax number for the dealership.
- Provides the option for a non-contiguous storage lot sign to list the telephone number as well as the dealer's name. The signage is still optional.
- Simplifies and clarifies the description of the display area:
 - o cannot be intermingled
 - o still exclusively for the dealer's inventory
 - o still requires barricade, but removes the requirement that the barricade be affixed to the ground
 - o removes GDN dealer's requirement of signage and requirements of where inventory may be placed if the display area is full for display areas that are in conjunction with another business not related to the operation of motor vehicles
 - o may have display area inside a building without gaining the director's approval
- Premise restrictions specific to GDN dealer locations that include gasoline pumps or houses another business that sells gasoline are removed.

§215.142 GDN Sanction and Qualification Hearing

• Clarifies that the Department may investigate all relevant matters related to contested cases, not the board as it is written. The rule makes clear that the investigations are part of the sanction hearings process.

SUBCHAPTER F LESSORS AND LEASE FACILITATORS

§215.174 Application for a License

- Removed the requirement that lessors and lease facilitators submit pictures of their location with the application.
- Clarifies that a lessor or lease facilitator applicant submits a copy of the assumed name certificates with the application, not the original.
- Removes the requirement for lessors and lease facilitators to submit organizing instrument or other proof
 of the business entity.
- Removes the requirement for lessors and lease facilitators to submit business background information for the president, owner, GM etc.

§215.177 Established and Permanent Place of Business

- Removes reference to when a lessor or lease facilitator must be open. This is their choice.
- Removed requirement that a lessor or lease facilitator have a 'land based' phone, only a phone is required.
- For lessors, lessors located in another state and lease facilitators, the following premise requirements have been eliminated:
 - o separate mailing address
 - o minimum square foot interior floor space
 - o minimum ceiling heights
 - o not located in a eating establishment
 - o not located in a storeroom, closet, stock room, or other space not open to the public.
 - o requiring phone to be 'land based' and from a 'fixed, land based telephone company.'