



1 education and training developed or approved by the department. Proposed new §215.133(k) requires  
2 that a person must complete licensing training developed or approved by the department to be eligible  
3 for an independent motor vehicle GDN. Persons who have completed the required training will not have  
4 to retake the training for subsequent renewals. Persons who have held an independent motor vehicle  
5 distinguishing number for at least ten years as of September 1, 2019, are exempt from the licensing  
6 training requirement.

7 Proposed new §215.161, Licensing Education Course Requirements, implements SB 604 by adding  
8 licensing education course requirements applicable to course providers.

9 Proposed repeal of §215.102, Representatives, implements SB 604, which eliminates the  
10 "representative" license.

11 **3. FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,  
12 has determined that for each year of the first five years the amendments, new section, and repeal will be  
13 in effect, there will be no significant fiscal impact to state or local governments as a result of the  
14 enforcement or administration of the proposal. Daniel Avitia, Director of the Motor Vehicle Division, has  
15 determined that there will be no measurable effect on local employment or the local economy as a result  
16 of the proposal.

17 **4. PUBLIC BENEFIT AND COST NOTE.** Mr. Avitia has also determined that, for each year of the first five  
18 years the amendment, new section, and repeal are in effect, the public will benefit because of enforcing  
19 or administering the proposals.

20 Anticipated Public Benefits. The public, including license applicants and license holders, will  
21 benefit by the simplification of licensing provided in these proposals and the addition of licensing  
22 education provided to independent motor vehicle license applicants and license holders.

1           Anticipated Costs To Comply With The Proposal. While some independent motor vehicle license  
2 holders and applicants may be required to pay a maximum of \$150 to complete a licensing education  
3 class, Mr. Avitia has determined that this cost will be offset by the reduced risk of these license holders  
4 incurring financial penalties due to noncompliance with laws and regulations, benefitting both the license  
5 holders and the public. The department reviewed other states requiring licensing courses for motor  
6 vehicle dealers and determined the \$150 is consistent with the fees charged by other states.

7           **5. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by  
8 Government Code, §2006.002, the department has determined that there may be an adverse economic  
9 effect or disproportionate economic impact on small or micro businesses because of the enforcement or  
10 administration of these proposals. The cost analysis in the Public Benefit and Cost Note section also  
11 applies to these small and micro businesses.

12           The department has determined that the proposed amendment, new section, and repeal will not  
13 have an adverse economic effect or a disproportionate economic impact on rural communities.

14           The department considered the following alternatives to minimize any adverse impact on small  
15 and micro businesses while accomplishing the proposal's objectives: not proposing amendments; and  
16 proposing a different requirement for small and micro businesses.

17           The purpose of new §215.133(k) and §215.161, Licensing Education Course Requirements, is to  
18 implement Senate Bill 604, 86th Legislature, Regular Session, which requires the department to develop  
19 or approve web-based training for an independent motor vehicle dealer applicant. The department  
20 believes that proposing different standards than those included in this proposal would not provide a  
21 better option for small or micro businesses and would not conform to the requirements under SB 604.  
22 Offering education services prior to licensing helps ensure these licensees are knowledgeable in the laws  
23 and regulations meant to protect the public from deceptive business practices and other issues related to

1 the motor vehicle industry. If the department did not propose this rule, independent motor vehicle  
2 dealers would not have the training necessary to ensure that they are knowledgeable in the rules and  
3 regulations affecting their profession. For these reasons, the department has rejected these options.  
4 However, the department is proposing a reasonable maximum fee, and requiring trade association course  
5 providers to charge the same fee to non-members as members to minimize any potential adverse impact.

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

10 **7. GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first  
11 five years the proposed amendments, new section, and repeal are in effect, no government program  
12 would be created or eliminated. Implementation of the proposed amendments, new section, and repeal  
13 would not require the creation of new employee positions or elimination of existing employee positions.  
14 The licensing education training will be provided by a trade association or an institution of higher learning  
15 and the costs to develop and manage the web-based training will be the responsibility of the course  
16 provider. Implementation would not require an increase or decrease in future legislative appropriations  
17 to the department or an increase or decrease of fees paid to the department as fees for licensing training  
18 will be paid to the course providers. The proposed amendment, new section, and repeal will create new  
19 regulations; however, these proposals are necessary to implement HB 3842, HB 1667, and SB 604.  
20 Additionally, the proposed amendment, new section, and repeal do not affect the number of individuals  
21 subject to the rules applicability and will not affect this state's economy.

22 **8. REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written  
23 comments by 5:00 p.m. CST on September 23, 2019. A request for a public hearing must be sent separately from

1 your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by  
2 mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin,  
3 Texas 78731. If a hearing is held, the department will consider written comments and public testimony  
4 presented at the hearing.

5 **9. STATUTORY AUTHORITY.** The amendment, new section, and repeal are proposed under  
6 Transportation Code, §503.002, which authorizes the board of the Texas Department of Motor Vehicles  
7 to adopt rules for the administration of Transportation Code, Chapter 503; under Transportation Code,  
8 §1002.001, which requires and authorizes the department to administer and enforce the provisions of the  
9 Occupations Code, Chapter 2301; under Transportation Code, §1002.001, which authorizes the board to  
10 adopt rules necessary and appropriate to implement the powers and duties of the department under the  
11 Transportation Code and other Texas laws; under Occupations Code, §§2301.151-2301.153 and 2301.155,  
12 which provide the board's jurisdiction, require the board to ensure that the regulation of motor vehicles  
13 in Texas is conducted as required by board rules, empower, authorize, and require the board to adopt  
14 rules under Occupations Code, Chapter 2301, necessary or convenient to administer Chapter 2301, and  
15 govern practice and procedure before the board; and under Occupations Code §2301.351, which  
16 prohibits a dealer from violating a board rule.

17 **10. CROSS REFERENCE TO STATUTE.** Transportation Code, Chapter 1002.

18 **11. TEXT**

19 **SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS**

20 **43 TAC §215.133 and §215.161**

21 §215.133. General Distinguishing Number.

22 (a) No person may engage in business as a dealer unless that person has a currently valid  
23 general distinguishing number assigned by the department for each location from which the person

1 engages in business. ~~A [If a dealer consigns more than five vehicles in a calendar year for sale from~~  
2 ~~a location other than the location for which the dealer holds a general distinguishing number, the]~~  
3 dealer must also hold a general distinguishing number for a [the]consignment location, unless the  
4 consignment location is a wholesale motor vehicle auction.

5 (b) The provisions of subsection (a) of this section do not apply to:

6 (1) a person who sells or offers for sale fewer than five vehicles of the same type as  
7 herein described in a calendar year and such vehicles are owned by him and registered and titled in  
8 his name;

9 (2) a person who sells or offers to sell a vehicle acquired for personal or business use  
10 if the person does not sell or offer to sell to a retail buyer and the transaction is not held for the  
11 purpose of avoiding the provisions of Transportation Code, §503.001 et seq., and this subchapter;

12 (3) an agency of the United States, this state, or local government;

13 (4) a financial institution or other secured party selling a vehicle in which it holds a  
14 security interest, in the manner provided by law for the forced sale of that vehicle;

15 (5) a receiver, trustee, administrator, executor, guardian, or other person appointed  
16 by or acting pursuant to the order of a court;

17 (6) an insurance company selling a vehicle acquired from the owner as the result of  
18 paying an insurance claim;

19 (7) a person selling an antique passenger car or truck that is at least 25 years old or  
20 a collector selling a special interest motor vehicle as defined in Transportation Code, §683.077, if  
21 the special interest vehicle is at least 12 years old;

22 (8) a licensed auctioneer who, as a bid caller, sells or offers to sell property to the  
23 highest bidder at a bona fide auction if neither legal nor equitable title passes to the auctioneer and

1 if the auction is not held for the purpose of avoiding another provision of Transportation Code,  
2 §503.001 et seq., and this subchapter; and provided that if an auction is conducted of vehicles  
3 owned, legally or equitably, by a person who holds a general distinguishing number, the auction may  
4 be conducted only at a location for which a general distinguishing number has been issued to that  
5 person or at a location approved by the department as provided in §215.135 of this subchapter  
6 (relating to More than One Location); and

7 (9) a person who is a domiciliary of another state and who holds a valid dealer license  
8 and bond, if applicable, issued by an agency of that state, when the person buys a vehicle from, sells  
9 a vehicle to, or exchanges vehicles with a person who:

10 (A) holds a current valid general distinguishing number issued by the  
11 department, if the transaction is not intended to avoid the terms of Transportation Code, §503.001  
12 et seq.; or

13 (B) is a domiciliary of another state if the person holds a valid dealer license  
14 and bond, if applicable, issued by that state, and if the transaction is not intended to avoid the terms  
15 of Transportation Code, §503.001 et seq.

16 (c) Application for a general distinguishing number shall be on a form prescribed by the  
17 department properly completed by the applicant showing all information requested thereon and  
18 shall be submitted to the department accompanied by the following:

19 (1) proof of a \$25,000 surety bond as provided in §215.137 of this title (relating to  
20 Surety Bond);

21 (2) the fee for the general distinguishing number as prescribed by law for each type  
22 of license requested;

1 (3) the fee as prescribed by law for each metal dealer plate requested as prescribed  
2 by law;

3 (4) a copy of each assumed name certificate on file with the Office of the Secretary  
4 of State or county clerk; and

5 (5) a photocopy of at least one of the following documents for the owner, president,  
6 or managing partner of the dealership:

7 (A) current driver's license;

8 (B) current Department of Public Safety identification;

9 (C) current concealed handgun license or license to carry a handgun issued  
10 by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

11 (D) current passport; or

12 (E) current United States armed forces identification.

13 (d) A person who applies for a general distinguishing number and will operate as a dealer  
14 under a name other than the name of that person shall use the name under which that person is  
15 authorized to do business, as filed with the Office of the Secretary of State or county clerk, and the  
16 assumed name of such legal entity shall be recorded on the application using the letters "DBA."

17 (e) If the general distinguishing number is issued to a corporation, the dealer's name and  
18 assumed name used by the dealer, as on file with the Office of the Secretary of State, shall be  
19 recorded on the application.

20 (f) A wholesale dealer license holder may buy, sell, or exchange vehicles with licensed  
21 dealers. A wholesale dealer license holder may not sell or exchange vehicles at retail.

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

4 (h) An application for a general distinguishing number may be denied if an applicant for such  
5 license has committed any act that could result in license cancellation or revocation under  
6 Transportation Code, §503.001 et seq.; Occupations Code, §2301.001 et seq.; or any rule or  
7 regulation of the department.

8 (i) Upon request by the department, the applicant shall submit documents demonstrating that  
9 the applicant owns the real property on which the business is situated or has a written lease for the  
10 property that has a term of not less than the term of the license.

11 (j) A person holding an independent motor vehicle general distinguishing number license does not  
12 have to hold a salvage dealer license to:

13 (1) act as a salvage vehicle dealer or rebuilder, or

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

15 (k) To be eligible for an independent motor vehicle general distinguishing number license, a  
16 person must complete licensing training specified by the department, except as provided herein:

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

20 (2) a person holding an independent motor vehicle general distinguishing number license for  
21 at least 10 years as of September 1, 2019, is exempt from the licensing training requirement.

22 §215.161. Licensing Education Course Requirements.



1 ~~personnel, etc., whose duties do not include contacting motor vehicle dealers or dealership employees.]~~

2 ~~[(c) A "person" who meets the definition of representative can also be other than a natural person~~  
3 ~~such as a corporation. Employees of an entity licensed as a representative that perform representative~~  
4 ~~functions in the scope of their employment for the licensed representative are required to obtain a~~  
5 ~~representative's license in their individual capacity, except for the president/chief executive officer of the~~  
6 ~~corporation. A licensed representative may identify and perform representative functions for more than~~  
7 ~~one manufacturer, distributor, or converter.]~~

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

10 Issued at Austin, Texas, on August 12, 2019.

11 /s/ Tracey Beaver  
12 **Tracey Beaver, General Counsel**