

1 military spouse's license, and to ensure the military spouse meets the qualification requirements of
2 Occupations Code, §55.0041. Proposed new §215.83(j)(2) provides that that upon the receipt of a military
3 spouse's notice of intent to engage in business in a business or occupation for which the department
4 requires a license, the department will determine whether the military spouse is currently licensed in
5 good standing in another jurisdiction with substantially equivalent licensing requirements to Texas.
6 Proposed new §215.83(j)(2) subparagraphs (A) and (B), describe the process by which the department will
7 verify that a military spouse is licensed and in good standing in a jurisdiction determined to have
8 substantially equivalent licensing requirements.

9 Proposed new §215.83(j)(3) implements the discretionary rulemaking authority in SB 1200,
10 specifically new Occupations Code, §55.0041(f), which authorizes a state agency to adopt rules providing
11 for the issuance of a license to a military spouse for whom the agency has confirmed licensure in good
12 standing in a jurisdiction with substantially equivalent licensing requirements. The department's issuance
13 of a license will help clarify that a military spouse authorized to practice a business or occupation in Texas,
14 based on the department's confirmation under this section, is entitled to a license and will be subject to
15 the same requirements for maintaining a license as a licensee who was granted a license under the
16 standard licensure application process.

17 **3. FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
18 has determined that for each year of the first five years the amendments will be in effect, there will be no
19 fiscal impact to the state or local governments as a result of the enforcement or administration of the
20 proposal. Daniel Avitia, Director of the Motor Vehicle Division, has determined that there will be no
21 measurable effect on local employment or the local economy as a result of the proposal.

22 **4. PUBLIC BENEFIT AND COST NOTE.** Mr. Avitia has also determined that, for each year of the first five
23 years the amended section is in effect, public benefits are anticipated. The public benefits anticipated as

1 a result of the proposed amendments include helping military spouses relocating to Texas quickly make
2 the transition to doing business in Texas under their licenses as well as bringing additional qualified
3 individuals into Texas to work in the motor vehicle industry. Mr. Avitia anticipates that there will be no
4 costs to comply with this rule.

5 **5. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by the
6 Government Code, §2006.002, the department has determined that the proposed amendments will not
7 have an adverse economic effect on small businesses, micro- business, and rural. The proposed new
8 amendments do not require small business, micro businesses, or rural communities to comply with any
9 new regulations. Therefore, in accordance with the Government Code, §2006.002, the department is not
10 required to prepare a regulatory flexibility analysis.

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

15 **7. GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first
16 five years the proposed amendments are in effect, no government program will be created or eliminated.
17 Implementation of the proposed amendments will not require the creation of new employee positions or
18 elimination of existing employee positions. Implementation will not require an increase or decrease in
19 future legislative appropriations to the department or an increase or decrease of fees paid to the
20 department. The proposed amendments will not create or expand an existing regulation, but will limit an
21 existing regulation to implement SB 1200. Additionally, the proposed amendments do not affect the
22 number of individuals subject to the rule's applicability and will not affect this state's economy.

1 **8. REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written
2 comments by 5:00 p.m. CST on September 23, 2019. A request for a public hearing must be sent
3 separately from your written comments. Send written comments or hearing requests by email to
4 *rules@txdmv.gov* or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000
5 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments
6 and public testimony presented at the hearing.

7 **9. STATUTORY AUTHORITY.** The amendments are proposed under Transportation Code, §1002.001,
8 which provides the board of the Texas Department of Motor Vehicles (board) with the authority to adopt
9 rules that are necessary and appropriate to implement the powers and the duties of the department;
10 Occupations Code, §2301.153(8), which provides the board authority to adopt rules; and more
11 specifically, Occupations Code, §55.0041(e), which provides specific authority for this rule.

12 **10. CROSS REFERENCE TO STATUTE.** Occupations Code, §55.0041 and Chapter 2301.

13 **11. TEXT.**

14 **Subchapter C. Licenses, Generally**

15 **43 TAC §215.83**

16 §215.83. License Applications, Amendments, or Renewals.

17 (a) An application for a new license, license amendment, or license renewal filed with the
18 department must be:

19 (1) on a form approved by the department;

20 (2) completed by the applicant, license holder, or authorized representative who is an
21 employee, a licensed attorney, or a certified public accountant;

22 (3) accompanied by the required fee, paid by check, credit card, or by electronic funds
23 transfer, drawn from an account held by the applicant or license holder, or drawn from a trust account of

1 the applicant's attorney or certified public accountant; and

2 (4) accompanied by proof of a surety bond, if required.

3 (b) An authorized representative of the applicant or license holder who files an application with
4 the department may be required to provide written proof of authority to act on behalf of the applicant or
5 license holder.

6 (c) The department will not provide information regarding the status of an application, application
7 deficiencies, or new license numbers to a person other than a person listed in subsection (a)(2) of this
8 section, unless that person files a written request under Government Code, Chapter 552.

9 (d) Prior to the expiration of a license, a license holder or authorized representative must file with
10 the department a sufficient license renewal application. Failure to receive notice of license expiration
11 from the department does not relieve the license holder from the responsibility to timely file a sufficient
12 license renewal application. A license renewal application is timely filed if:

13 (1) the department receives a sufficient license renewal application on or before the date
14 the license expires; or

15 (2) a legible postmark on the envelope transmitting the sufficient license renewal
16 application clearly indicates that the license holder or authorized representative mailed the license
17 renewal application on or before the date the license expires.

18 (e) An application for a new license or license amendment filed with the department must be
19 sufficient. An application is sufficient if the application:

20 (1) includes all information and documentation required by the department; and

21 (2) is filed in accordance with subsection (a) of this section.

22 (f) A license renewal application received by the department is sufficient if:

23 (1) the renewal application form is completed by the license holder or authorized

1 representative of the license holder who is an employee, an unpaid agent, a licensed attorney, or certified
2 public accountant;

3 (2) accompanied by the required license renewal application fee payment; and

4 (3) accompanied by proof of a surety bond, if required.

5 (g) If an applicant, license holder, or authorized representative does not provide the information
6 or documentation required by the department, the department will issue a written notice of deficiency.
7 The information or documentation requested in the written notice of deficiency must be received by the
8 department within 20 calendar days of the date of the notice of deficiency, unless the department issues
9 a written extension of time. If an applicant, license holder, or authorized representative fails to respond
10 or fully comply with all deficiencies listed in the written notice of deficiency within the time prescribed by
11 this subsection, the application will be deemed withdrawn and will be administratively closed.

12 (h) The department will evaluate a sufficient application for a new license, license amendment,
13 or license renewal in accordance with applicable rules and statutes to determine whether to approve or
14 deny the application. If the department determines that there are grounds for denial of the application,
15 the department may pursue denial of the application in accordance with Subchapter J of this chapter
16 (relating to Administrative Sanctions).

17 (i) The department will process an application for a new license, license amendment, or license
18 renewal filed by a military service member, military spouse, or military veteran in accordance with
19 Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient application for a license
20 renewal because that license holder was on active duty is exempt from any increased fee or penalty
21 imposed by the department for failing to renew the license in a timely manner.

22 (j) A military spouse may engage in a business or occupation for which a department issued license
23 is required if the military spouse meets the requirements of Occupations Code, §55.0041 and this section.

1 (1) To meet the requirements of Occupations Code, §55.0041, a military spouse must
2 submit to the department:

3 (A) notice of the military spouse’s intent to engage in a business or occupation in
4 Texas for which a department issued license is required;

5 (B) proof of the military spouse’s residency in Texas and a copy of the military
6 spouse’s military identification card, as required by Occupations Code, §55.0041(b)(2); and

7 (C) documentation demonstrating that the military spouse is licensed and in good
8 standing in another jurisdiction for the relevant business or occupation.

9 (2) Upon receipt of the notice and documentation required by paragraphs (1)(B) and (1)(C)
10 of this subsection, the department shall:

11 (A) confirm with the other licensing jurisdiction that the military spouse is
12 currently licensed and in good standing for the relevant business or occupation; and

13 (B) conduct a comparison of the other jurisdiction’s license requirements,
14 statutes, and rules with the department’s licensing requirements to determine if the requirements are
15 substantially equivalent.

16 (3) If the department confirms that a military spouse is currently licensed in good standing
17 in another jurisdiction with substantially equivalent licensing requirements, the department may issue a
18 license to the military spouse for the relevant business or occupation. The license is subject to
19 requirements in Chapter 215 of this title and Occupations Code, Chapter 2301 in the same manner as a
20 license issued under the standard application process, unless exempted under Occupations Code, Chapter
21 55.

22 (k) [(j)] A license holder who timely files a sufficient license renewal application in accordance with
23 subsection (d) of this section may continue to operate under the expired license until the license renewal

1 application is determined.

2 (l) [~~(k)~~] A license holder who fails to timely file a sufficient license renewal application in
3 accordance with subsection (d) of this section is not authorized to continue licensed activities after the
4 date the license expires. A license holder may dispute a decision that a license renewal application was
5 not timely or sufficient by submitting evidence to the department demonstrating that the license renewal
6 application was timely and sufficient. Such evidence must be received by the department within 10
7 calendar days of the date the department issues notice that a timely or sufficient license renewal
8 application was not received by the department.

9 (m) [~~(h)~~] The department shall accept a late license renewal application up to 90 days after the
10 date the license expires. In accordance with subsection (l) [~~(k)~~] of this section, the license holder is not
11 authorized to continue licensed activities after the date the license expires until the department approves
12 the late license renewal application. If the department grants a license renewal under this section, the
13 licensing period begins on the date the department issues the renewed license. The license holder may
14 resume licensed activities upon receipt of the department's written verification or upon receipt of the
15 renewed license.

16 (n) [~~(m)~~] If the department has not received a late license renewal application within 90 days after
17 the date the license expires, the department will close the license. A person must apply for and receive a
18 new license before that person is authorized to resume activities requiring a license.

19 (o) [~~(n)~~] A metal dealer's license plate issued in accordance with Transportation Code, Chapter
20 503, Subchapter C expires on the date the associated license expires or when a license renewal application
21 is determined, whichever is later.

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

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

4 /s/ Tracey Beaver
5 **Tracey Beaver, General Counsel**