

1 Proposed amendments to §221.1 eliminate references to salvage vehicle dealer license
2 endorsements and the salvage vehicle agent license.

3 Proposed amendments to §221.2 eliminate references to salvage vehicle dealer license
4 endorsements, correct the spelling of "nonrepairable", and eliminate references to salvage vehicle agent.

5 Proposed amendments to §221.11 implement HB 1667. House Bill 1667 added Occupations Code,
6 §2302.009 and amended §2302.101 to provide that a person holding an independent motor vehicle
7 (general distinguishing number) GDN is exempt from the requirement that the person also hold a salvage
8 dealer license to act as a salvage vehicle dealer or rebuilder, and store or display a motor vehicle as an
9 agent or escrow agent of an insurance company. Conforming changes are proposed to the title to remove
10 the reference to "endorsements" and to the rule text to eliminate references to "salvage vehicle dealer
11 license endorsements." Proposed amendments to §221.11 also describe those activities that require a
12 salvage vehicle dealer license to implement HB 1667 and correct the spelling of "nonrepairable."

13 Proposed amendments to §221.13 increase the term for a salvage vehicle dealer license from
14 twelve months to two years, make conforming changes to the fee of \$190, and eliminate references to
15 salvage vehicle dealer license endorsements.

16 Proposed amendments to §221.20 eliminate references to endorsements and salvage vehicle
17 agent licenses, change the renewal period to two years, and make conforming changes to the renewal
18 late fees. The requirement that an expiration notice for salvage vehicle agent licenses be sent to the
19 authorizing salvage vehicle dealer's mailing address was deleted and replaced with email because the
20 applicants agree to receive electronic communications when applying through the department licensing
21 system under Business and Commerce Code, Chapter 322.

1 Proposed amendments to §221.20(e) change the renewal fee from the current \$85 for a one-year
2 license term to \$170 for the proposed new two-year license term to ensure that the implementation of
3 the proposed amendments is cost neutral. Under Occupations Code, §2302.153, a person must pay a
4 renewal fee to the department on or before the expiration of the license.

5 Proposed amendments to §221.20(f) change the late renewal fee from \$42.50 for the current
6 one-year license term to \$85 for the proposed two-year license term for renewal applications that are 1-
7 90 days late to ensure that the implementation of the proposed amendments is cost neutral. Under
8 Occupations Code, §2302.153, a person whose license has been expired 90 days or fewer may renew the
9 license by paying the department a renewal fee that is equal to 1-1/2 times the normal required renewal
10 fee.

11 Proposed amendments to §221.20(g) change the late renewal fee from \$85 for the current one-
12 year license term to \$170 for the proposed two-year license term for renewal applications that are 91-
13 364 days late to ensure that the implementation of the proposed amendments is cost neutral. Under
14 Occupations Code, §2302.153, a person whose license has been expired for more than 90 days but less
15 than a year may renew the license by paying the department a renewal fee that is equal to two times the
16 normally required renewal fee.

17 Proposed amendments to §221.41 eliminate references to salvage vehicle dealer license
18 endorsements and correct a reference to a salvage vehicle dealer.

19 Proposed new §221.54 implements a Sunset Advisory Commission recommendation to identify
20 risk-based criteria for determining when the department will consider visiting the business location of a
21 licensed salvage dealer. This new rule identifies three criteria for determining when a site visit may be
22 scheduled: if a salvage vehicle dealer fails to respond to a records request, fails to operate from the

1 licensed location, or has an enforcement history that reveals failed compliance inspections or multiple
2 complaints received with administrative sanctions imposed.

3 Proposed repeal of §221.12, Salvage Vehicle Agent, implements SB 604 by eliminating reference
4 to salvage vehicle agent.

5 **3. FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
6 has determined that for each year of the first five years the amendments, new section, and repeal will be
7 in effect, there will be no significant fiscal impact to state or local governments because of the
8 enforcement or administration of the proposal.

9 Daniel Avitia, Director of the Motor Vehicle Division, has determined that there will be no
10 measurable effect on local employment or the local economy because of the proposal.

11 **4. PUBLIC BENEFIT AND COST NOTE.** Mr. Avitia has also determined that, for each year of the first five
12 years the amendments, new section, and repeal are in effect, administering the proposal will have the
13 public benefit of ensuring that the department's rules comply with Occupations Code, Chapter 2302, as
14 amended by SB 604. The public, including license applicants and license holders, will benefit by the
15 simplification of licensing rules.

16 Anticipated Costs to Comply With The Proposal. Mr. Avitia anticipates that there will be no costs
17 to comply with these rules because they do not impose requirements beyond those in the statute.

18 **5. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by
19 Government Code, §2006.002, the department has determined that the proposed amendments, new
20 section, and repeal will not have an adverse economic effect on small businesses, micro-business, and
21 rural communities because the amendments, new section, and repeal simplify the statutory provisions

1 controlling the department's review of a license. Therefore, in accordance with the Government Code,
2 §2006.002, the department is not required to prepare a regulatory flexibility analysis.

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

7 **7. GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first
8 five years the proposed amendments, new section, and repeal are in effect, no government program
9 would be created or eliminated. Implementation of the proposed amendments, new section, and repeal
10 would not require the creation of new employee positions or elimination of exiting employee positions.
11 Implementation would not require an increase or decrease in future legislative appropriations to the
12 department or an increase or decrease of fees paid to the department. The proposed amendments, new
13 section, and repeal will create new regulations, and alter existing regulations. However, the proposed
14 amendments, new section, and repeal will implement SB 604 and HB 1667. Additionally, the proposed
15 amendments, new section, and repeal do not affect the number of individuals subject to the rules'
16 applicability and will not affect this state's economy.

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

1 **9. STATUTORY AUTHORITY.** The amendments, new section, and repeal are proposed under
2 Transportation Code, §503.002, which authorizes the board of the Texas Department of Motor Vehicles
3 (board) to adopt rules for the administration of Transportation Code; Transportation Code, §1002.001,
4 which authorizes the board to adopt rules necessary and appropriate to implement the powers and duties
5 of the department under the Transportation Code and other Texas laws; and Occupations Code,
6 §2302.051, which authorizes the board to adopt rules necessary to administer Chapter 2302.

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

8 **11. TEXT.**

9 **CHAPTER 221. SALVAGE VEHICLE DEALERS [~~SALVAGE POOL OPERATORS AND SALVAGE VEHICLE~~**
10 **REBUILDERS]**

11 **SUBCHAPTER A. GENERAL PROVISIONS**

12 **43 TAC §221.1 AND §221.2**

13 §221.1. Purpose and Scope.

14 Transportation Code, §1001.002, provides that the department shall administer and enforce Occupations
15 Code, Chapter 2302. Chapter 2302 provides that a person may not act as a salvage vehicle dealer, [~~salvage~~
16 ~~vehicle agent, or rebuilder, including storing or displaying vehicles as an agent or escrow agent of an~~
17 ~~insurance company,]~~ unless the department issues that person a license. [~~Chapter 2302 further describes~~
18 ~~types of salvage business activities that require an endorsement or endorsements on the salvage vehicle~~
19 ~~dealer license for that person to engage in those activities.] This chapter describes the procedures by
20 which a person obtains a salvage vehicle dealer license [~~and the endorsement(s) necessary to engage in~~
21 ~~the business activities by the salvage vehicle dealer; the procedures to obtain a salvage vehicle agent~~
22 ~~license;]~~ and the rules governing how a [~~these~~] license holder [~~holders~~] must operate, and the procedures~~

1 by which the department will administer and enforce Occupations Code, Chapter 2302 and this chapter.

2 §221.2. Definitions.

3 The following words and terms, when used in this chapter, shall have the following meanings, unless the
4 context clearly indicates otherwise.

5 (1) Board--The Board of the Texas Department of Motor Vehicles.

6 (2) Casual sale--A sale as defined by Transportation Code, §501.091.

7 (3) Component part--As defined by Occupations Code, §2302.251.

8 (4) Corporation--A business entity, including a corporation, or limited liability company,
9 but not a sole proprietorship or general partnership, which has filed a certificate of formation or
10 registration with the Texas Secretary of State.

11 (5) Department--The Texas Department of Motor Vehicles.

12 (6) Final order authority--The person with authority under Occupations Code, Chapter
13 2302, or board rules to issue a final order.

14 (7) License holder--A person that holds a salvage vehicle dealer license issued by the
15 department [~~endorsed in one or more of the classifications listed in Occupations Code, §2302.103~~].

16 (8) Major component part--As defined by Transportation Code, §501.091.

17 (9) Metal recycler--As defined by Transportation Code, §501.091.

18 (10) Minor component part--As defined by Occupations Code, §2302.251.

19 [~~(11) New automobile dealer endorsement--An endorsement on the salvage vehicle
20 dealer license issued by the department that allows the license holder to buy and sell salvage motor
21 vehicles and non-repairable motor vehicles that have not been the subject of a retail sale.]~~

22 (11) Nonrepairable [~~(12) Non-repairable~~] motor vehicle--As defined by Transportation

1 Code, §501.091.

2 ~~(12) [(13)] Nonrepairable [Non-repairable]~~ record of title--As defined by Transportation

3 Code, §501.091.

4 ~~(13) [(14)] Nonrepairable [Non-repairable]~~ vehicle title--As defined by Transportation

5 Code, §501.091.

6 ~~(14) [(15)]~~ Out-of-state buyer--As defined by Transportation Code, §501.091.

7 ~~(15) [(16)]~~ Out-of-state ownership document--As defined by Transportation Code,

8 §501.091.

9 ~~(16) [(17)]~~ Person--A natural person, partnership, corporation, trust, association, estate,
10 or any other legal entity.

11 ~~(17) [(18)]~~ Public highway--As defined by Transportation Code, §502.001.

12 ~~(18) [(19)]~~ Retail sale--As defined by Occupations Code, §2301.002.

13 ~~(19) [(20)]~~ Salvage motor vehicle--As defined by Transportation Code, §501.091.

14 ~~[(21) Salvage pool operator endorsement--An endorsement on the salvage dealer~~

15 ~~license that allows a person to engage in the business of selling non-repairable motor vehicles or salvage~~
16 ~~motor vehicles at auction, including wholesale auction, or otherwise.]~~

17 ~~(20) [(22)]~~ Salvage record of title--As defined by Transportation Code, §501.091.

18 ~~[(23) Salvage vehicle agent--As defined by Occupations Code, §2302.001.]~~

19 ~~[(24) Salvage vehicle broker endorsement--An endorsement on the salvage vehicle~~

20 ~~dealer license issued by the department to a license holder, other than a salvage vehicle dealer holding a~~

21 ~~used automobile dealer endorsement, new automobile dealer endorsement, salvage vehicle rebuilder~~

22 ~~endorsement, or a salvage pool operator endorsement, that allows the license holder to:]~~

1 ~~[(A) offer to sell or buy, or negotiate to sell or buy, salvage motor vehicles or~~
2 ~~non-repairable motor vehicles owned by a license holder and to be purchased or sold by another license~~
3 ~~holder; or]~~

4 ~~[(B) act as the agent or representative of a license holder in performing an act~~
5 ~~described by subparagraph (A) of this paragraph.]~~

6 ~~(21) [(25)] Salvage vehicle dealer--As defined by Transportation Code, §501.091.~~

7 ~~[(26) Salvage vehicle rebuilder--Defined as "rebuilder," in Transportation Code,~~
8 ~~§501.091.]~~

9 ~~[(27) Salvage vehicle rebuilder endorsement--An endorsement on the salvage dealer~~
10 ~~license issued by the department that allows the license holder to acquire and repair, rebuild, or~~
11 ~~reconstruct for operation on a public highway more than five salvage motor vehicles in a calendar year.]~~

12 ~~(22) [(28)] Salvage vehicle title--As defined by Transportation Code, §501.091.~~

13 ~~[(29) Used automobile dealer endorsement--An endorsement on the salvage vehicle~~
14 ~~dealer license issued by the department that allows the license holder to buy or sell salvage motor~~
15 ~~vehicles and non-repairable motor vehicles that have been the subject of a retail sale.]~~

16 ~~(23) [(30)] Used part--As defined by Transportation Code, §501.091.~~

17 **SUBCHAPTER B. LICENSING**

18 **43 TAC §§221.11, 221.13, AND 221.20**

19 §221.11. License ~~[and Endorsement]~~ Required.

20 (a) A person must hold a salvage vehicle dealer license, or an independent motor vehicle dealer's
21 general distinguishing number issued under Transportation Code, Chapter 503 to:

22 (1) act as a salvage vehicle dealer or rebuilder; or

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

2 ~~[(a) The department shall issue a salvage vehicle dealer license with one or more endorsements~~
3 ~~to that license according to the type of activities intended to be engaged in by the applicant.]~~

4 ~~[(b) A salvage vehicle dealer license may not be issued by the department without at least one of~~
5 ~~the following endorsements to that salvage vehicle dealer license:]~~

6 ~~[(1) new automobile dealer endorsement;]~~

7 ~~[(2) used automobile dealer endorsement;]~~

8 ~~[(3) salvage pool operator endorsement;]~~

9 ~~[(4) salvage vehicle broker endorsement; or]~~

10 ~~[(5) salvage vehicle rebuilder endorsement.]~~

11 ~~[(c) A license holder may not aid or abet another person in acting as a salvage vehicle dealer unless~~
12 ~~that other person is a license holder of endorsement(s) issued by the department allowing the business~~
13 ~~activity or activities.]~~

14 (b) ~~[(d)]~~ A person may not engage in the business of buying, selling or exchanging motor vehicles
15 that can be titled to operate on public highways, including selling a salvage motor vehicle that has been
16 rebuilt, repaired or reconstructed, unless the person ~~[also]~~ holds a general distinguishing number issued
17 by the department under Transportation Code, Chapter 503.

18 ~~[(e) A person holding a salvage vehicle dealer license with a used automobile dealer endorsement~~
19 ~~may rebuild, repair or reconstruct no more than five (5) salvage motor vehicles during a calendar year.~~
20 ~~The person may sell those rebuilt vehicles, provided the salvage vehicle dealer also holds a general~~
21 ~~distinguishing number issued by the department under Transportation Code, Chapter 503.]~~

22 (c) ~~[(f)]~~ The provisions of this subchapter do not apply to:

- 1 (1) a person who purchases no more than five (5) nonrepairable [~~non-repairable~~] or
2 salvage motor vehicles at casual sale in a calendar year from:
- 3 (A) a salvage vehicle dealer;
- 4 [(B) a salvage pool operator;] or
- 5 (B) [(C)] an insurance company;
- 6 (2) a metal recycler, unless a motor vehicle is sold, transferred, released, or delivered to
7 the metal recycler for the purpose of reuse or resale as a motor vehicle, or as a source of used parts, and
8 is used for that purpose;
- 9 (3) a person who casually repairs, rebuilds, or reconstructs no more than five (5) salvage
10 motor vehicles in the same calendar year;
- 11 (4) a person who is a non-United States resident who purchases nonrepairable [~~non-~~
12 ~~repairable~~] or salvage motor vehicles for export only;
- 13 (5) an agency of the United States, an agency of this state, or a local government;
- 14 (6) a financial institution or other secured party that holds a security interest in a motor
15 vehicle and is selling that motor vehicle in the manner provided by law for the forced sale of a motor
16 vehicle;
- 17 (7) a receiver, trustee, administrator, executor, guardian, or other person appointed by
18 or acting pursuant to the order of a court;
- 19 (8) a person selling an antique passenger car or truck that is at least 25 years old or a
20 collector selling a special interest motor vehicle as defined in Transportation Code, §683.077, if the special
21 interest vehicle is at least 12 years old; and

1 (9) a licensed auctioneer who, as a bid caller, sells or offers to sell property to the highest
2 bidder at a bona fide auction under the following conditions:

3 (A) neither legal nor equitable title passes to the auctioneer;

4 (B) the auction is not held for the purpose of avoiding a provision of Occupations
5 Code, Chapter 2302, or this subchapter; and

6 (C) the auction is conducted of motor vehicles owned, legally or equitably, by a
7 person who holds a salvage vehicle dealer's license and the auction is conducted at their licensed location
8 or at a location approved by the department.

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10 §221.13. License Term and Fees.

11 (a) The term of a salvage vehicle dealer license [~~together with all endorsements on that license~~]
12 issued by the department under Occupations Code, Chapter 2302, and this chapter, is two years. [~~12~~
13 ~~months.~~] The fee for a salvage vehicle dealer license is \$190. [~~\$95. The fee for each endorsement is \$95~~
14 ~~for the license term.~~] The entire amount of the fee is due at the time of application for the license. [~~;~~
15 ~~including endorsement fees, or at the time the license is renewed.~~]

16 [~~(b) The fee for a salvage vehicle agent license is \$95 for the license term of the salvage vehicle~~
17 ~~dealer authorizing the salvage vehicle agent.~~]

18 [~~(c) The department may prorate the fee for an endorsement added to an existing salvage vehicle~~
19 ~~dealer license so that the endorsement expires on the same date as the salvage vehicle dealer license.~~]

20 (b) [~~(d)~~] The department may prorate the fee for a salvage vehicle dealer license to allow the
21 salvage vehicle dealer license to expire on the same day as another license issued by the department
22 under Occupations Code, Chapter 2301; Chapter 2302; or Transportation Code, Chapter 503.

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§221.20. License Renewal.

(a) A salvage vehicle dealer license expires ~~[together with its endorsements and any salvage vehicle agent licenses expire]~~ on the second anniversary of the date of issuance of the salvage vehicle dealer license.

(b) The salvage vehicle dealer license ~~[, together with any endorsements and any salvage vehicle agent licenses,]~~ may be renewed for an additional period of two years ~~[12 months]~~ upon timely submission of a renewal application on a form approved by the department with all required information, ~~[and]~~ attachments, ~~[if applicable,]~~ and ~~[the required]~~ fees. A renewal application is considered "timely" submitted if the renewal application with all required information, ~~[and]~~ attachments, ~~[if applicable,]~~ and required fees ~~[fee]~~ are received by the department on or before the expiration date of the existing license.

(c) The department will send a written notice of ~~[an]~~ expiration ~~[notice]~~ to a salvage vehicle dealer's email address ~~[mailing]~~ at least 30 days before expiration of a license. ~~[The expiration notice for salvage vehicle agent licenses will be sent to the authorizing salvage vehicle dealer's mailing address.]~~

(d) Failure by the department to send written notice under this section does not relieve a license holder from timely renewing a license.

(e) The renewal fee for salvage vehicle dealer ~~[or salvage vehicle agent license]~~ is \$170 ~~[\$85]~~.

(f) A license holder may renew an expired license by submitting a renewal application and paying a late renewal fee of \$85 ~~[\$42.50 for each endorsement]~~ in addition to the renewal fee, if 90 or fewer days have elapsed since the license expired.

(g) A license holder may renew an expired license by submitting a renewal application and paying

1 a late renewal fee of \$170 [~~\$85 for each endorsement,~~] in addition to the renewal fee, if more than 90
2 days but less than one year has elapsed since the license expired.

3 (h) If a license has been expired for a period of one year or longer and the department is not in
4 receipt of a renewal application with all required information and attachments [~~and the renewal fees for~~
5 ~~each endorsement~~], the license holder must apply for a new license in the same manner as an applicant
6 for an initial license.

7 (i) If the department is not in receipt of a renewal application with all required information and
8 attachments and the applicable renewal fee prior to the cancellation date of the license, a salvage vehicle
9 dealer [~~and any salvage vehicle agents~~] may not engage in the activities that require the license until the
10 license has been renewed by the department.

11 **SUBCHAPTER C. LICENSED OPERATIONS**

12 **43 TAC §221.41 and §221.54**

13 §221.41. Location Requirements.

14 A salvage vehicle dealer [~~holding the new automobile dealer endorsement, used automobile dealer~~
15 ~~endorsement, salvage vehicle rebuilder endorsement or salvage pool operator endorsement~~] must meet
16 the following requirements at each licensed business location and must maintain the following
17 requirements during the entire term of the license.

18 (1) If the licensed business location is not owned by the license holder, the license holder
19 must maintain a lease that extends through the period for which the license will be issued. The lease
20 agreement must be on an executed lease contract containing at a minimum:

21 (A) the names of the lessor and lessee;

22 (B) the period of time for which the lease is valid; and

1 (C) the street address or legal description of the property, provided that if only a
2 legal description of the property is provided, the license holder must attach a statement that the property
3 description in the lease agreement is the street address identified on the application.

4 (2) Any business location requirement in this subchapter are in addition to any
5 requirements by city ordinance, county rule, or state law.

6 §221.54. Criteria for Site Visits.

7 In determining whether to conduct a site visit at an active salvage dealer's location, the department will
8 consider whether the dealer has:

9 (1) failed to respond to a records request;

10 (2) failed to operate from the license location; or

11 (3) an enforcement history that reveals failed compliance inspections or multiple
12 complaints with administrative sanctions being taken by the department.

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14

SUBCHAPTER B. LICENSING

15

43 TAC §221.12

16 [~~§221.12. Salvage Vehicle Agent.~~]

17 [(a) A person may only act as a salvage vehicle agent if the person holds a license issued by the
18 department and is acting under the authorization of a salvage vehicle dealer holding a current license
19 issued by the department.]

20 [(b) The holder of a salvage vehicle dealer license issued by the department may authorize no
21 more than five (5) persons to operate as salvage vehicle agents under the dealer's license.]

