

1 contact for verification of the status of the military spouse's license, and to ensure the military spouse
2 meets the qualification requirements of Occupations Code, §55.0041.

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

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

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19 **SUMMARY OF COMMENT.**

20 The department received one written comment from the Texas Independent Automobile Dealers
21 Association expressing support of the rule as proposed.

22 **Response.** The department thanks the commenter for its support.

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1 **STATUTORY AUTHORITY.** The amendments to §215.83 are adopted under Occupations Code,
2 §§55.0041(e), 2301.153(8), and 2301.155; and Transportation Code, §1002.001.

3 Occupations Code, §55.0041(e) provides the board of the Texas Department of Motor Vehicles
4 (board) specific authority to adopt this rule.

5 Occupations Code, §2301.153(8) and §2301.155 provides the board authority to adopt rules to
6 administer Chapter 2301.

7 Transportation Code, §1002.001 authorizes the board to adopt rules that are necessary and
8 appropriate to implement the powers and the duties of the department.

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

11 **TEXT.**

12 **Subchapter C. Licenses, Generally**

13 **43 TAC §215.83**

14 §215.83. License Applications, Amendments, or Renewals.

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

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

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

20 (3) accompanied by the required fee, paid by check, credit card, or by electronic funds
21 transfer, drawn from an account held by the applicant or license holder, or drawn from a trust account of
22 the applicant's attorney or certified public accountant; and

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

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

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

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

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

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

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

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

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

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

21 (1) the renewal application form is completed by the license holder or authorized
22 representative of the license holder who is an employee, an unpaid agent, a licensed attorney, or certified
23 public accountant;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (l) [(k)] A license holder who fails to timely file a sufficient license renewal application in

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

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

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

17 (o) ~~[(n)]~~ A metal dealer's license plate issued in accordance with Transportation Code, Chapter
18 503, Subchapter C expires on the date the associated license expires or when a license renewal application
19 is determined, whichever is later.

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2 **CERTIFICATION.** The department certifies that legal counsel has reviewed the adoption and found it to
3 be a valid exercise of the agency's legal authority.

4 Issued at Austin, Texas, on December 9, 2019.

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/s/ Tracey Beaver
Tracey Beaver, General Counsel