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ADOPTION OF
SUBCHAPTER B. LICENSING
43 TAC §221.17

INTRODUCTION. The Texas Department of Motor Vehicles adopts amendments to 43 TAC §221.17 concerning recognition of out-of-state licenses of military spouses. The department adopts amendments to §221.17 without changes to the proposed text as published in the August 23, 2019 issue of the *Texas Register* (44 TexReg 4472).

REASONED JUSTIFICATION. The amendments are necessary to implement Senate Bill 1200, 86th Legislature, Regular Session (2019), which creates new Occupations Code, §55.0041, Recognition of Out-Of-State License of Military Spouse. Section 55.0041 authorizes military spouses to engage in a business or occupation in Texas for which a license is required, without applying for a required Texas license, if the applicable Texas licensing agency determines the military spouse is currently licensed in good standing by a jurisdiction with licensing requirements substantially equivalent to the relevant licensing requirements in Texas.

Section 221.17 rennumbers subsections where appropriate.

Section 221.17(b) provides that military spouses are required to comply with Occupations Code, §55.0041 and this section to obtain authority to engage in the business or occupation in Texas for which a license from the department is otherwise required.

Section 221.17(b)(1) clarifies that the military spouse must submit documentation to the department to request authorization to engage in a business or occupation in Texas under Occupations Code, §55.0041. This documentation is necessary for the department to know which jurisdiction to

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 221.17(b)(2) provides that that upon the receipt of a military spouse’s notice of intent to
4 engage in a business or occupation for which department requires a license, the department will
5 determine whether the military spouse is currently licensed in good standing in another jurisdiction with
6 substantially equivalent licensing requirements to Texas. Sub Section 221.17(b)(2), subparagraphs (A) and
7 (B), describe the process by which the department will verify that a military spouse is licensed and in good
8 standing in a jurisdiction determined to have substantially equivalent licensing requirements.

9 Section 221.17 (b)(3) implements the discretionary rulemaking authority in SB 1200, specifically
10 new Occupations Code, §55.0041(f), which authorizes a state agency to adopt rules providing for the
11 issuance of a license to a military spouse for whom the agency has confirmed licensure in good standing
12 in a jurisdiction with substantially equivalent licensing requirements. The department’s issuance of a
13 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.

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18 **SUMMARY OF COMMENTS.**

19 No comments on the proposed amendments were received.

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21 **STATUTORY AUTHORITY.** The amendments to §221.17 are adopted under under Occupations Code
22 §55.0041(e) and §2302.051, and Transportation Code, §1002.001.

1 The amendments are adopted under the specific authority of Occupations Code,
2 §55.0041(e) provides the board specific authority to adopt this rule.

3 Occupations Code, §2302.051 authorizes the board to adopt rules as necessary to administer
4 Chapter 2302.

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

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8 **CROSS REFERENCE TO STATUTE.** Occupations Code, §55.0041 and Chapter 2302.

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10 **TEXT.**

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Subchapter B. Licensing

12

43 TAC §221.17

13 §221.17. License Processing for Military Service Members, Spouses, and Veterans.

14 (a) The department will process a license, amendment, or renewal application submitted for
15 licensing of a military service member, military spouse, or military veteran in accordance with Occupations
16 Code, Chapter 55.

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

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

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

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

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

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

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

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

12 (3) If the department confirms that a military spouse is currently licensed in good standing
13 in another jurisdiction with substantially equivalent licensing requirements, the department may issue a
14 license to the military spouse for the relevant business or occupation. The license is subject to
15 requirements of Chapter 221 of this title and Occupations Code, Chapter 2302 in the same manner as a
16 license issued under the standard application process, unless exempted under Occupations Code, Chapter
17 55.

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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