

1 references to a salvage vehicle agent operating under a dealer's license. Additionally, Section 2.16 of SB
2 604 provides that on the effective date of the Act, a salvage vehicle agent license issued under former
3 Occupations Code §2302.107 expires.

4 Amendments to Chapter 221 make conforming changes to SB 604 by removing references to
5 salvage pool operators, salvage pool rebuilders, salvage vehicle agents and salvage vehicle dealer
6 endorsements.

7 Amendments to §221.1 eliminate references to salvage vehicle dealer license endorsements and
8 the salvage vehicle agent license.

9 Amendments to §221.2 eliminate references to salvage vehicle dealer license endorsements,
10 correct the spelling of "nonrepairable", and eliminate references to salvage vehicle agent.

11 Amendments to §221.11 implement HB 1667. House Bill 1667 added Occupations Code
12 §2302.009 and amended §2302.101 to provide that a person holding an independent motor vehicle GDN
13 is exempt from the requirement that the person also hold a salvage dealer license to act as a salvage
14 vehicle dealer or rebuilder, and store or display a motor vehicle as an agent or escrow agent of an
15 insurance company. Conforming changes to the title remove the reference to "endorsements" and to the
16 rule text to eliminate references to "salvage vehicle dealer license endorsements. Amendments to
17 §221.11 also describe those activities that require a salvage vehicle dealer license to implement HB 1667
18 and correct the spelling of "nonrepairable."

19 Amendments to §221.13 increase the term for a salvage vehicle dealer license from twelve
20 months to two years, make conforming changes to the fee of \$190, and eliminate references to salvage
21 vehicle dealer license endorsements.

22 Amendments to §221.20 eliminate references to endorsements and salvage vehicle agent
23 licenses, change the renewal period to two years, and make conforming changes to the renewal late fees.

1 The requirement that an expiration notice for salvage vehicle agent licenses be sent to the authorizing
2 salvage vehicle dealer's mailing address was deleted and replaced with email because the applicants agree
3 to receive electronic communications when applying through the department licensing system under
4 Business and Commerce Code Chapter 322.

5 Amendments to §220.20(e) change the renewal fee from the current \$85 for a one-year term
6 license to \$170 for the new two-year term license to ensure that the implementation of the amendments
7 is cost neutral. Under Occupations Code §2302.153, a person must pay a renewal fee to the department
8 on or before the expiration of the license.

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

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

19 Amendments to §221.41 eliminate references to salvage vehicle dealer license endorsements and
20 correct a reference to a salvage vehicle dealer.

21 New §221.54 implements a Sunset Advisory Commission recommendation to identify risk-based
22 criteria for determining when the department will consider visiting the business location of a licensed
23 salvage dealer. This new rule identifies three criteria for determining when a site visit may be scheduled:

1 if a salvage vehicle dealer fails to respond to a records request, fails to operate from the licensed location,
2 or has an enforcement history that reveals failed compliance inspections or multiple complaints received
3 with administrative sanctions imposed.

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

6
7 **SUMMARY OF COMMENTS.**

8 No comments on the proposed amendments were received.

9
10 **STATUTORY AUTHORITY.** The amendments, new section, and repeal are adopted under Transportation
11 Code, §503.002, which authorizes the board of the Texas Department of Motor Vehicles (board) to adopt
12 rules for the administration of Transportation Code; Transportation Code, §1002.001, which authorizes
13 the board to adopt rules necessary and appropriate to implement the powers and duties of the
14 department under the Transportation Code and other Texas laws; Occupations Code, §2302.051, which
15 authorizes the board to adopt rules necessary to administer Chapter 2302.

16 **CROSS REFERENCE TO STATUTE.** Transportation Code, Chapter 1002.

17
18 **TEXT.**

19 **CHAPTER 221. SALVAGE VEHICLE DEALERS [~~SALVAGE POOL OPERATORS AND SALVAGE VEHICLE~~**

20 **REBUILDERS]**

21 **SUBCHAPTER A. GENERAL PROVISIONS**

22 **43 TAC §221.1 AND §221.2**

23 §221.1. Purpose and Scope.

1 Transportation Code, §1001.002, provides that the department shall administer and enforce Occupations
2 Code, Chapter 2302. Chapter 2302 provides that a person may not act as a salvage vehicle dealer, [~~salvage
3 vehicle agent, or rebuilder, including storing or displaying vehicles as an agent or escrow agent of an
4 insurance company,~~] unless the department issues that person a license. [~~Chapter 2302 further describes
5 types of salvage business activities that require an endorsement or endorsements on the salvage vehicle
6 dealer license for that person to engage in those activities.~~] This chapter describes the procedures by
7 which a person obtains a salvage vehicle dealer license [~~and the endorsement(s) necessary to engage in
8 the business activities by the salvage vehicle dealer; the procedures to obtain a salvage vehicle agent
9 license;~~] and the rules governing how a [~~these~~] license holder [~~holders~~] must operate, and the procedures
10 by which the department will administer and enforce Occupations Code, Chapter 2302 and this chapter.

11 §221.2. Definitions.

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

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

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

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

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

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

21 (6) Final order authority--The person with authority under Occupations Code, Chapter
22 2302, or board rules to issue a final order.

23 (7) License holder--A person that holds a salvage vehicle dealer license issued by the

1 department [~~endorsed in one or more of the classifications listed in Occupations Code, §2302.103~~].

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

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

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

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

8 (11) [(12)] Nonrepairable [~~Non-repairable~~] motor vehicle--As defined by Transportation
9 Code, §501.091.

10 (12) [(13)] Nonrepairable [~~Non-repairable~~] record of title--As defined by Transportation
11 Code, §501.091.

12 (13) [(14)] Nonrepairable [~~Non-repairable~~] vehicle title--As defined by Transportation
13 Code, §501.091.

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

15 (15) [(16)] Out-of-state ownership document--As defined by Transportation Code,
16 §501.091.

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

19 (17) [(18)] Public highway--As defined by Transportation Code, §502.001.

20 (18) [(19)] Retail sale--As defined by Occupations Code, §2301.002.

21 (19) [(20)] Salvage motor vehicle--As defined by Transportation Code, §501.091.

22 [(21) Salvage pool operator endorsement--An endorsement on the salvage dealer
23 license that allows a person to engage in the business of selling non-repairable motor vehicles or salvage

1 motor vehicles at auction, including wholesale auction, or otherwise.]

2 (20) [(22)] Salvage record of title--As defined by Transportation Code, §501.091.

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

4 [(24) Salvage vehicle broker endorsement--An endorsement on the salvage vehicle
5 dealer license issued by the department to a license holder, other than a salvage vehicle dealer holding a
6 used automobile dealer endorsement, new automobile dealer endorsement, salvage vehicle rebuilder
7 endorsement, or a salvage pool operator endorsement, that allows the license holder to:]

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

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

13 (21) [(25)] Salvage vehicle dealer--As defined by Transportation Code, §501.091.

14 [(26) Salvage vehicle rebuilder--Defined as "rebuilder," in Transportation Code,
15 §501.091.]

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

19 (22) [(28)] Salvage vehicle title--As defined by Transportation Code, §501.091.

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

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

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

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

6 (1) a person who purchases no more than five (5) nonrepairable ~~[non-repairable]~~ or
7 salvage motor vehicles at casual sale in a calendar year from:

8 (A) a salvage vehicle dealer;

9 ~~[(B) a salvage pool operator;]~~ or

10 (B) ~~[(C)]~~ an insurance company;

11 (2) a metal recycler, unless a motor vehicle is sold, transferred, released, or delivered to
12 the metal recycler for the purpose of reuse or resale as a motor vehicle, or as a source of used parts, and
13 is used for that purpose;

14 (3) a person who casually repairs, rebuilds, or reconstructs no more than five (5) salvage
15 motor vehicles in the same calendar year;

16 (4) a person who is a non-United States resident who purchases nonrepairable ~~[non-~~
17 ~~repairable]~~ or salvage motor vehicles for export only;

18 (5) an agency of the United States, an agency of this state, or a local government;

19 (6) a financial institution or other secured party that holds a security interest in a motor
20 vehicle and is selling that motor vehicle in the manner provided by law for the forced sale of a motor
21 vehicle;

22 (7) a receiver, trustee, administrator, executor, guardian, or other person appointed by
23 or acting pursuant to the order of a court;

1 (8) a person selling an antique passenger car or truck that is at least 25 years old or a
2 collector selling a special interest motor vehicle as defined in Transportation Code, §683.077, if the special
3 interest vehicle is at least 12 years old; and

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

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

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

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

12

13 §221.13. License Term and Fees.

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

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

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

23 (b) [(d)] The department may prorate the fee for a salvage vehicle dealer license to allow the

1 salvage vehicle dealer license to expire on the same day as another license issued by the department
2 under Occupations Code, Chapter 2301; Chapter 2302; or Transportation Code, Chapter 503.

3

4 §221.20. License Renewal.

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

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

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

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

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

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

1 (g) A license holder may renew an expired license by submitting a renewal application and paying
2 a late renewal fee of \$170 [~~\$85 for each endorsement,~~] in addition to the renewal fee, if more than 90
3 days but less than one year has elapsed since the license expired.

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

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

12 **SUBCHAPTER C. LICENSED OPERATIONS**

13 **43 TAC §221.41 and §221.54**

14 §221.41. Location Requirements.

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

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

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

23 (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.

13

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.~~]

22 [~~(c) A salvage vehicle agent may acquire, sell, or otherwise deal in non-repairable motor vehicles~~
23 ~~or salvage motor vehicles in this state as directed by the salvage vehicle dealer under whose license the~~

1 ~~person operates and subject to the authority granted by the department to the salvage vehicle dealer~~
2 ~~under whose license the salvage vehicle agent operates.]~~

3 ~~[(d) To be authorized to act as a salvage vehicle agent for a salvage vehicle dealer, a person must~~
4 ~~submit a signed application on a form prescribed by the department and the applicable license fee.]~~

5 ~~[(e) If the license of the salvage vehicle dealer authorizing the salvage vehicle agent is canceled or~~
6 ~~revoked, the salvage vehicle agent's license shall be canceled after notice and opportunity for hearing,~~
7 ~~effective on the date the salvage vehicle dealer's license is canceled or revoked.]~~

8 ~~[(f) A salvage vehicle dealer shall notify the department in writing within five days after the salvage~~
9 ~~vehicle dealer terminates the authority of the salvage vehicle agent to operate under the salvage vehicle~~
10 ~~dealer's license.]~~

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

13 Issued at Austin, Texas, on December 13, 2019.

14 /s/ Tracey Beaver
15 Tracey Beaver, General Counsel