Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

TxDMV Board Meeting
Agenda Item 7
Supplemental Materials

9:00 a.m.
Thursday, August 13, 2026

Texas Department of Motor Vehicles
HELPING TEXANS GO. HELPING TEXAS GROW.

Board Meeting Date: 8/13/2026
ACTION ITEM

To:	Texas Department of Motor Vehicles Board
From:	Monique Johnston, Motor Carrier Division
Agenda Item:	7
Subject:	Amendments: Subchapters A, B, C, D, E, F, and G New: §§215.107, 215.153, and 215.159 Repeals: §§215.1, 215.81, 215.101, 215.131, 215.171, 215.241, 215.243, and 215.269 (Relating to Motor Vehicle Distribution and Cleanup)

RECOMMENDATION

Action Item. Adopt amendments, new sections, and repeals in 43 Texas Administrative Code Chapter 215, Motor Vehicle Distribution.

PURPOSE AND EXECUTIVE SUMMARY

The adopted amendments, new sections, and repeals update Chapter 215 to improve clarity and consistency, eliminate unnecessary or duplicative language, incorporate statutory changes, enhance implementation of the Motor Vehicle Records Disclosure Act in Transportation Code, Chapter 730, and modernize licensing, license plate, and enforcement provisions applicable to motor vehicle industry license holders. The amendments also establish requirements governing manufacturer line-make transfers, buyer's provisional license plates, and dealer storage of license plate inventory.

FINANCIAL IMPACT

There will be no significant fiscal implications due to the adoption of amendments, new sections, and repeals to Chapter 215.

BACKGROUND AND DISCUSSION

The department reviewed Chapter 215 in accordance with Government Code §2001.039 and determined that various provisions should be amended, repealed, or replaced to improve clarity, eliminate duplicative or unnecessary language, incorporate statutory changes, and ensure the rules continue to effectively implement and administer applicable law. The adopted amendments update licensing requirements, simplify and modernize rule language, revise dealer premises and signage requirements, update license plate administration requirements, and add violations relating to the Motor Vehicle Records Disclosure Act in Transportation Code, Chapter 730. The rulemaking also adopts new §215.107 regarding manufacturer and distributor line-make transfers, new §215.153 regarding buyer's provisional license plates, and new §215.159 regarding storage of license plate inventory away from a licensed location. Additionally, the department repeals several purpose-and-scope provisions and other unnecessary or duplicative provisions identified during review.

At adoption, the department modified §215.107 and §215.120, revised §215.159, and determined not to adopt the proposed amendments to §215.264.

COMMENTS

The proposed amendments, new sections, and repeals were published for comment in the April 24, 2026, issue of the *Texas Register*. The department received comments from the Texas Automobile Dealers Association (TADA), the Texas Independent Automobile Dealers Association (TIADA), and the Texas Recreational Vehicle Association (TRVA). After consideration of the comments, the department modified §215.107 and §215.120 at adoption, revised §215.159 after further review of the proposal and operational considerations regarding centralized license plate storage locations, determined not to adopt the proposed amendments to §215.264, and otherwise adopts the amendments, new sections, and repeals as described in the adoption preamble.

ADOPTION OF AMENDMENTS, NEW SECTIONS, AND REPEALS TO

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §215.1 AND §215.2

SUBCHAPTER B. LICENSES, GENERALLY

43 TAC §§215.81, 215.82, 215.83, 215.84, 215.85, 215.89, AND 215.91

SUBCHAPTER C. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS

43 TAC §§215.101, 215.104, 215.105, 215.107, 215.108, 215.110, 215.113, 215.114, 215.115, 215.120, AND 215.121

SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES

43 TAC §§215.131, 215.132, 215.133, 215.134, 215.137, 215.140, 215.141, 215.144, 215.145, 215.152, 215.153, 215.154, 215.155, 215.157, 215.158, AND 215.159

SUBCHAPTER E. LESSORS AND LEASE FACILITATORS

43 TAC §§215.171, 215.175, 215.177, AND 215.181

SUBCHAPTER F. ADVERTISING

43 TAC §§215.241, 215.242, 215.243, 215.244, 215.246, 215.269, AND 215.270

SUBCHAPTER G. ADMINISTRATIVE SANCTIONS

43 TAC §215.500

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) Chapter 215, Motor Vehicle Distribution. Specifically, the department adopts amendments to Subchapter A, General Provisions, §215.2 and the repeal of §215.1; adopts amendments to Subchapter B, Licenses, Generally, §§215.82 – 215.85, 215.89, and 215.91 and the repeal of §215.81; adopts amendments to Subchapter C, Franchised Dealers, Manufacturers, Distributors, and Converters, §§215.104, 215.105, 215.108, 215.110, 215.113 – 215.115, 215.120, and 215.121, adopts new §215.107, and repeals §215.101; adopts amendments to Subchapter D, General Distinguishing Numbers and In-Transit Licenses, §§215.132 – 215.134, 215.137, 215.140, 215.141, 215.144, 215.145, 215.152, 215.154, 215.155, 215.157, and 215.158; adopts new §215.153 and §215.159, and repeals §215.131; adopts amendments to Subchapter E, Lessors and Lease Facilitators, §§215.175, 215.177, and 215.181 and repeals §215.171; adopts amendments to Subchapter F, Advertising, §§215.242, 215.244, 215.246, and 215.270 and repeals §§215.241, 215.243, and 215.269; and adopts amendments to Subchapter G, Administrative Sanctions, §215.500.

The department adopts §§215.2, 215.82 – 215.85, 215.89, 215.91, 215.104, 215.105, 215.108, 215.110, 215.113–215.115, 215.132–215.145, 215.152, 215.154, 215.155, 215.157, 215.158, 215.177, 215.181, 215.242, 215.244, 215.246, 215.270, and 215.500; adopts new §215.153; and adopts the repeal of §§215.1, 215.81, 215.101, 215.131, 215.171, 215.241, 215.243, and 215.269 without changes to the proposed text as published in the April 24, 2026, issue of the Texas Register (51 TexReg 2638). The text of these rules will not be republished. The department adopts new §215.107 and §215.159, and amendments to §§215.120, 215.121, 215.141, and 215.175, with changes to the proposed text as published in the April 24, 2026, issue of the Texas Register (51 TexReg 2638). The department does not adopt the proposed amendments to §215.264 and retains the existing rule text. The text of §§215.107, 215.120, 215.121, 215.141, 215.159, and 215.175 will be republished.

REASONED JUSTIFICATION. The department is reviewing Chapter 215 in accordance with Government Code, §2001.039, which requires state agencies to periodically review existing rules and determine whether the reasons for initially adopting the rules continue to exist. Notice of the department's intent to review and readopt Chapter 215 is published elsewhere in this issue of the Texas Register. As part of that review, the department determined that certain provisions should be amended, repealed, or replaced to improve clarity and consistency, eliminate unnecessary or duplicative language, incorporate statutory changes, and ensure the rules continue to effectively implement and administer applicable law. The department therefore adopts the amendments, new sections, and repeals described in the following paragraphs.

Subchapter A. General Provisions

§215.1

This section describing the purpose and scope of the chapter is repealed because the section is unnecessary, as relevant statutory references are incorporated into the applicable rules throughout the chapter.

§215.2

Adopted amendments to §215.2(a) add a reference to Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, to clarify that the definitions in Chapter 730 apply to Chapter 215 because the chapter includes rules implementing and enforcing that Act. The amendments also update related punctuation. An amendment to §215.2(b)(7) clarifies that the definition of standard license plate does not include a dealer's temporary license plate issued under Transportation Code, §503.062. A dealer's temporary license plate may only be used for the purposes authorized by Transportation Code, §503.062, whereas a dealer's standard license plate authorized by Transportation Code, §503.061 may be used for a broader range of authorized purposes.

Subchapter B. Licenses, Generally

§215.81

This section describing the purpose and scope of the chapter is repealed because it is unnecessary, as relevant statutory references are incorporated into the applicable rules throughout the chapter.

§215.82

Adopted amendments to §215.82 add “and Dealer’s Temporary” to the title of the section and add a dealer’s temporary license plate to the rule text to include this license plate type among the license plates for which a dealer may receive a replacement license plate or sticker at no charge if the dealer did not receive the original license plate ordered and requests a replacement within 45 days after the department mails the license plate in the department-designated system. Adopted amendments also delete unnecessary references to specific types of license holders eligible to receive a standard license plate because the phrase “standard license plate” is already defined in §215.2(b)(7) of this title (relating to Definitions; Conformity and Statutory Requirements) as a license plate issued to a license holder. Additional adopted amendments delete “standard” from the description of the license plate in §215.82(1) and (2) because those provisions apply to both standard license plates and dealer’s temporary license plates. These amendments allow a dealer to receive a replacement at no charge if a dealer’s temporary license plate is lost in the mail and the dealer promptly requests a replacement.

§215.83

Adopted amendments to §215.83 create new paragraph §215.83(a) to document existing requirements for a new applicant to register for an account in the department-designated licensing system through the department’s website. These amendments require an applicant to designate an account administrator, provide the name and email address for that person, provide the business telephone number, name, business type, and social security number or employer identification number, as applicable, and specify that the applicant’s licensing account administrator must be an owner, officer, manager, or bona fide employee. These amendments reflect existing requirements for establishing an account that an applicant may use to submit a license application. The remaining paragraphs are renumbered to accommodate new §215.83(a).

§215.84

Adopted amendments to §215.84 delete subsection (a) and reletter the remaining subsections because the text in subsection (a) unnecessarily duplicates language in Occupations Code, §2301.002(3) and §2301.006. The adopted amendments also make a minor wording change to subsection (b), as relettered.

§215.85

Adopted amendments to §215.85 streamline language throughout the section to improve readability without changing meaning, delete language found in statute, and clarify the requirements for buyer referrals. Amendments to §215.85(a) streamline the subsection by moving a descriptive phrase to eliminate unnecessary words and punctuation and by deleting an unnecessary phrase and sentence because that language is included in statute. Amendments to §215.85(b) substitute a phrase to clarify that a referral service, program, plan, or club must satisfy each listed criterion to be considered compliant. Amendments to §215.85(b)(1) through (7) streamline those paragraphs by deleting unnecessary words without changing meaning. Amendments to §215.85(c) substitute “under” for “pursuant to” to modernize the phrase and add “motor” to more accurately describe the type of vehicles that a GDN holder under Transportation Code, §503.029(a)(6)(B) is authorized to sell.

§215.89

Adopted amendments to §215.89(a) delete an unnecessary phrase to streamline the subsection language. An amendment to §215.89(b)(2) updates, for ease of reference, a citation to the criminal offense guidelines for the motor vehicle industry in 43 TAC Chapter 211. An amendment to §215.89(b)(5) adds a modifying phrase identifying consumer harm as a factor that the department may consider when evaluating whether a license holder or applicant is unfit to hold a license due to insolvency or failure to obtain or maintain financial resources sufficient to meet financial obligations. Consideration of consumer harm is important because a license holder may reorganize finances due to a business setback but may not be considered unfit if no consumer harm resulted. An amendment to §215.89(b)(8) deletes an unnecessary introductory verb and connector and updates a citation to reflect the renumbering of provisions in Chapter 211.

§215.91

Occupations Code, §55.004(b-1), as amended by Senate Bill 1818, 89th Texas Legislature, Regular Session, requires all state licensing agencies, including the department, to issue a provisional license to military service members, military veterans, and military spouses while the agency processes a license application. Adopted amendments to §215.91(b) clarify the application process for a military service member, military spouse, or military veteran to obtain a provisional license. These clarifications are necessary for the department to identify and process these applications on an expedited basis as required by Occupations Code, §55.0041, as amended by House Bill 5629, 89th Legislature, Regular Session.

Adopted amendments to §215.91(b)(1) align the rule with Occupations Code, §55.004, as amended by Senate Bill 1818, to require licensing agencies to issue a provisional license while reviewing the application of a military service member, military spouse, or military veteran who is currently licensed and in good standing in another state or who was licensed in Texas within the prior five years. The amendments establish streamlined application requirements for a provisional license, as specified by Occupations Code, §§55.004 and 55.0041, and clarify that a military service member, military spouse, or military veteran may apply for a provisional license by downloading and completing the application form from the department website or by contacting the department. The amendments also require the applicant to submit the completed provisional license application to the department at the email address designated in the application form, delete the requirement to submit the more comprehensive online application specified in §215.83, and reletter the required attachments that must accompany the provisional license application. The amendments add new §215.91(b)(1)(C) and amend relettered §215.91(b)(1)(A) to clarify and separate documentation requirements applicable to military veterans from documentation required of active-duty military personnel and military spouses. Amendments to §215.91(b)(1)(D) clarify that the affidavit required by Occupations Code, §55.0041(b)(3), for applicants previously licensed in another state applies to military veterans as well as military service members and military spouses.

Adopted amendments to §215.91(b)(2) add the phrase “provisional license” to describe the application type and align the rule with Occupations Code, §55.004. Amendments to §215.91(b)(2)(A) add a reference to military veterans and update related punctuation and conjunctions. Amendments to §215.91(b)(2)(B) change a verb to “confirm” for consistency with §215.91(b)(2)(C). Amendments to §215.91(b)(2)(C) provide that, if the department confirms the information required by subparagraphs (A) and (B), the department will notify the applicant to submit a sufficient application as described in §215.83 at the time the department issues the provisional license, consistent with Occupations Code, §55.0041(b-1).

Adopted amendments to §215.91(b)(3) clarify that the department will issue a license within 10 days after receiving a sufficient application, or notify the applicant why a license cannot currently be issued, as required by Occupations Code, §55.0041(b-1), when the applicant holds a provisional license, is licensed in good standing in another state with substantially similar licensing requirements, or was licensed in good standing in Texas during the preceding five years. Another amendment to §215.91(b)(3) moves the final sentence to new §215.91(c) and reletters current §215.91(c) as §215.91(d) to improve readability. These amendments streamline the process for military service members, military spouses, and military veterans to apply for and obtain a provisional license consistent with Occupations Code, Chapter 55, without requiring substantial licensing-system modifications.

Subchapter C. Franchised Dealers, Manufacturers, Distributors, and Converters

§215.101

This section describing the purpose and scope of the chapter is repealed because it is unnecessary, as relevant statutory references are incorporated into the applicable rules throughout the chapter.

§215.104

Adopted amendments to §215.104(a) and (b) modernize and simplify text to improve readability without changing meaning. An amendment to §215.104(a)(2) removes a typographical error. Amendments to §215.104(c) add a requirement for a franchised dealer to file a license amendment application within 10 days if the person responsible for the dealer's business activities changes due to the appointment of a receiver or the filing of bankruptcy and make related changes in punctuation and conjunction placement. These amendments help ensure that the appropriate representative receives department licensing and enforcement notices and may act within the time limits established by statute and rule. Amendments to §215.104(d) modernize and simplify text to improve readability without changing meaning.

§215.105

Adopted amendments throughout §215.105 modernize and simplify text to improve readability without changing meaning.

§215.107

Adopted new §215.107 establishes licensing requirements when a manufacturer or distributor transfers an existing line-make to another person. Section 215.107(a) requires the person acquiring the line-make to either apply for a manufacturer or distributor license and add the line-make to the license or amend an existing license to add the line-make. Section 215.107(b) requires the acquiring person to identify the effective date of the transfer, identify the franchised dealers authorized to sell and service the line-make, identify the person responsible for warranty and franchised dealer obligations incurred prior to the transfer, and certify compliance with Occupations Code, Chapter 2301, Subchapter J, including manufacturer or distributor obligations to existing dealers if a franchise agreement is changed or terminated. These requirements assist the department in administering line-make transfers, promote continuity in manufacturer and distributor obligations, and provide clarity regarding the party responsible for obligations arising before and after a transfer.

At adoption, the department revised §215.107(a) to remove the phrase “sells, licenses, or otherwise” and instead refer generally to the transfer of a line-make. The department determined that the revised language more accurately describes the transactions addressed by the rule and avoids potential confusion identified by public commenters while preserving the purpose and effect of the proposal.

§215.108

Adopted amendments to §215.108 modernize and simplify text to improve readability without changing meaning and add “or relocated” for consistency.

§215.110

An adopted amendment to §215.110(b) clarifies that the information described is located in subsection (a), rather than elsewhere in the section, to avoid potential confusion.

§215.113

Adopted amendments to §215.113(c) update the subchapter designation in 43 TAC Chapter 224 and delete “License” from a referenced section title to correct the title and subchapter reference.

§215.114

Adopted amendments to §215.114 modernize and simplify text to improve readability without changing meaning.

§215.115

Adopted amendments to §215.115(e) add “if applicable” and related punctuation because certain records identified in the subsection may not be relevant to every license holder’s business.

§215.120

Adopted amendments to §215.120(d) substitute “license holder” for “manufacturer, distributor, or converter” where that term clearly refers to a manufacturer, distributor, or converter and simplify the rule text without changing meaning. An amendment to §215.120(d)(2) substitutes “secured” for “affixed” for consistency in terminology. Amendments to §215.120(g) clarify that requests for additional standard license plates and supporting business justifications are submitted by manufacturers, distributors, and converters and remove language that could create uncertainty regarding the scope of the subsection. The amendments to §215.120(g) prevent any confusion or conflict with 43 TAC §215.139, relating to Dealer’s Standard License Plate Allocation. An amendment to §215.120(g)(1) clarifies that the department may consider the number of vehicles assembled or modified during the prior 12 months at facilities in or serving the Texas market when evaluating requests for additional standard license plates. These amendments clarify the information the department may consider and address common issues raised by manufacturers requesting additional standard license plates.

At adoption, the department did not adopt the proposed amendments to §215.120(a) and (b). Those subsections retain the existing references to manufacturer and converter standard license plates. The department determined that retaining the existing terminology more clearly communicates the scope of the section and avoids potential confusion regarding the use of standard license plates. The department also revised §215.120(g) and (h) at adoption to expressly identify manufacturers, distributors, and converters as the persons subject to those provisions and to conform terminology throughout the section and to correct a capitalization error.

§215.121

Adopted amendments to §215.121(a) delete that subsection because the sanction actions available to the board or department are already provided by statute in Occupations Code, Chapter 2301, and remove the resulting orphaned subsection designation. Additional amendments revise the introductory enforcement language to clarify that the board or department may deny a license application, sanction a license holder, or take action against a person engaged in a business requiring licensure, and add "if the person:" before the list of violations to improve readability. These amendments preserve the full range of enforcement actions authorized by statute while improving readability. Amendments to unlettered §215.121(10) update references to relevant Transportation Code chapters that may result in sanctions if violated. An amendment to unlettered §215.121(11) updates a citation to the criminal offense guidelines in 43 TAC Chapter 211. At adoption, the department reworded the first paragraph of amended §215.121 to more accurately reflect the department's statutory authority in the summary of the sanctioning actions the department may take without changing the meaning of the paragraph.

Adopted amendments add new §215.121(19) to enforce Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, by establishing a sanction for violations of the Act by a manufacturer, distributor, converter, franchised dealer, or an employee or agent of those persons. The amendments also make related punctuation and conjunction changes. These license holders and their employees and agents have access to motor vehicle records protected by the Motor Vehicle Records Disclosure Act, and unauthorized disclosure may result in significant consumer harm.

Subchapter D. General Distinguishing Numbers and In-Transit Licenses

§215.131

This section describing the purpose and scope of the chapter is repealed because it is unnecessary, as relevant statutory references are incorporated into the applicable rules throughout the chapter.

§215.132

Adopted amendments update definitions consistent with other adopted changes in Subchapter D. Amendments delete the definition of “barrier” in §215.132(1) because adopted amendments to §215.140 remove that term and renumber the remaining definitions accordingly. An amendment to renumbered §215.132(1) deletes the final sentence referencing a buyer’s provisional license plate to align with the new definition of “buyer’s provisional license plate” in renumbered §215.132(2). Amendments to renumbered §215.132(2) define a buyer’s provisional license plate as a license plate a dealer may use when a general issue license plate for the vehicle or vehicle type is not available in the dealer’s inventory, an exempt license plate application is pending department approval, or a retail purchaser requires a commercial fleet specific-use license plate that will be obtained through a department system. These amendments clarify the authorized uses of buyer’s provisional license plates and facilitate retail vehicle transactions involving those circumstances.

§215.133

Adopted amendments to §215.133 delete subsections (a) and (b) and reletter the remaining subsections because the deleted provisions unnecessarily duplicate statutory requirements. Amendments to relettered §215.133(a) add “license” to clarify the application type referenced and clarify that a dealer or wholesale motor vehicle auction reapplying for a GDN after the GDN expires or is closed must enter or verify current information, provide documentation necessary to satisfy new or revised requirements, and pay all required fees, including any outstanding civil penalties owed under a final order. An amendment to relettered §215.133(b) updates a citation to Chapter 211. Amendments also delete §215.133(i) because that provision unnecessarily duplicates statutory language, and reletter the remaining subsections accordingly. Additional amendments delete an unnecessary reference to former §215.133(i) in relettered §215.133(g).

§215.134

Adopted amendments to §215.134 delete subsection (a) and reletter the remaining subsections because the deleted provision unnecessarily duplicates statutory requirements. An amendment to relettered §215.134(e) updates a citation to Chapter 211.

§215.137

Adopted amendments delete §215.137(f) because Transportation Code, §503.033 identifies the GDN holders subject to the security requirement, making a description of license holders to whom the surety bond requirement does not apply unnecessary.

§215.140

Adopted amendments to §215.140(a)(3)(A), §215.140(a)(4)(A)(i), and §215.140(b)(3)(A) add the term "legible" to clarify sign-lettering requirements and ensure that the public and the department can readily identify the GDN holder. Amendments to §215.140(a)(3)(B), §215.140(a)(4)(A)(ii), and §215.140(b)(3)(B) provide additional flexibility for dealer and auction signage by recognizing signs permanently affixed or etched on an exterior window, wall, or door as an alternative to signs permanently installed in the ground. Amendments to §215.140(a)(5)(F) add "licensed" to describe a dealer's physical location and authorize the department to mail or deliver license plates to another physical location identified in the dealer's license record and approved by the department. This change provides operational flexibility for dealers with multiple locations and complements new §215.159 regarding license plate storage.

Amendments to §215.140(a)(6)(E) delete unnecessary license plate descriptors to improve readability without changing meaning. Amendments to §215.140(a)(11)(B)(iv) and (vii) replace the requirement for physical barriers separating display space with a requirement for permanent signage identifying a dealer’s reserved display area. The department received feedback that the prior barrier requirement was difficult to implement and maintain in shared locations. The adopted amendments provide a simpler and less costly method of identifying dealer inventory areas while continuing to allow the department and the public to determine which display space belongs to a particular dealer.

§215.141

Adopted amendments to §215.141(a) delete that subsection because the actions available to the board and department are provided by statute and remove the resulting orphaned subsection designation. Additional amendments revise the introductory enforcement language to clarify that the board or department may deny a license application, sanction a license holder, or take action against a person engaged in a business requiring licensure, and add “if the person:” before the listed violations to improve readability. These amendments preserve the full range of enforcement actions authorized by statute while improving readability. Amendments to unlettered §215.141(16) and (21) update references to Transportation Code chapters to include relevant chapters and remove references to chapters a license holder could not violate in this context. An amendment to unlettered §215.141(17) updates a citation to Chapter 211. At adoption, the department reworded the first paragraph of amended §215.141 to reflect the department’s statutory authority more accurately in the summary of the sanctioning actions the department may take without changing the meaning of the paragraph.

Amendments to unlettered §215.141(26), (28), and (34) delete outdated references that are no longer necessary because of changes in law and the passage of time. Amendments add new §215.141(36) to enforce Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, by providing a sanction for violations committed by a GDN holder or its employee or agent. These license holders and their employees and agents have access to protected motor vehicle record information, and unauthorized disclosure may result in significant consumer harm. At adoption, the department retained the parenthetical following the citation to Transportation Code, §501.100 in §215.141(31). The department determined that retaining the parenthetical improves clarity and is consistent with other statutory citations within the rule.

Amendments also add new §§215.141(37)–(39) to specify violations involving issuance and assignment of license plates. These provisions address issuance of an incorrect license plate type, failure to assign a secured license plate to the vehicle in the department-designated system, and voiding and reissuing the same license plate to extend a title or registration filing deadline. Department investigations of complaints received after elimination of temporary tags identified conduct of this nature, which may lead to unnecessary law-enforcement stops and delay proper titling and registration.

§215.144

Adopted amendments to §215.144(e)(8)(L) clarify that a dealer is not required to copy a purchaser's photo identification document when doing so would violate federal law. Amendments to §215.144(e)(8)(M) require that the odometer disclosure statement be properly executed by the seller and acknowledged by the purchaser and delete the phrase "signed by the buyer" for consistency with §217.4(d)(2) of this title. Amendments to §215.144(e)(8)(M) and (N) modify punctuation and conjunctions to accommodate new §215.144(e)(8)(O), which requires retention of the dealer's copy of the buyer's license plate receipt. This requirement helps ensure that a complete transaction record is available if the department investigates a complaint. An amendment to §215.144(l)(1) removes redundant language, and an amendment to §215.144(l)(2) corrects the title of the referenced section.

§215.145

Adopted amendments to §215.145(d)(1) and (e)(1) simplify terminology by replacing longer references with the term "amendment application." Amendments also add new subsection (h), requiring a dealer to file a license amendment application within 10 days when responsibility for management of the business changes because of appointment of a receiver or a bankruptcy filing. These amendments help ensure that the appropriate representative receives department notices and may act on behalf of the license holder within applicable statutory and regulatory deadlines.

§215.152

An amendment to §215.152(e) revises wording to improve readability without changing meaning. An amendment to §215.152(h) deletes an extraneous word. Amendments to §215.152(i)(6) require a delivery service to notify the department that a license plate shipment is undeliverable before a dealer becomes ineligible to receive a quarterly allocation delivered to the licensed location. Amendments add new §215.152(i)(8), which makes an applicant or dealer ineligible for a quarterly allocation delivered to a licensed location if the person has filed a change of address and the department has not yet approved the proposed location. Related punctuation and conjunction changes accommodate that addition.

Amendments to §215.152(l) and (m) replace the term "general issue plates" with "buyer's license plates" because buyer's license plates include more than general issue plates, and replace "buyer" with the possessive form "buyer's" for consistency. An amendment to §215.152(n) replaces "receive" with "request" for consistency in terminology. An amendment to §215.152(o)(1) substitutes "dealer's" for "requestor's" because dealer license plate activity is a relevant factor the department may consider when evaluating an allocation request. An amendment to §215.152(p) corrects a cross-reference.

§215.153

Adopted new §215.153 describes a dealer's responsibilities when issuing a buyer's provisional license plate, a type of buyer's license plate used when another appropriate license plate is not available or cannot yet be assigned at the time of sale. The rule facilitates retail transactions involving depleted inventories of general issue license plates, pending exempt license plate applications, and commercial fleet vehicles.

Section 215.153(a) provides that a dealer is responsible for managing buyer's provisional license plate inventory within the dealer's allocation and authorizes the department to require supporting documentation for requests involving those plates. Section 215.153(b) requires issuance of a buyer's provisional license plate when a suitable general issue plate is unavailable and the purchaser does not have an eligible plate available for reassignment. Section 215.153(c) authorizes use of a buyer's provisional license plate while an exempt plate application is pending. Section 215.153(d) addresses vehicles eligible for commercial fleet license plates.

Section 215.153(e) requires a dealer, except in commercial fleet transactions, to promptly obtain and assign the appropriate permanent plate. Section 215.153(f) establishes expiration requirements for buyer's provisional license plates. Section 215.153(g) requires destruction of an expired buyer's provisional license plate consistent with §215.158. Collectively, these provisions facilitate vehicle sales while maintaining accountability and reducing opportunities for license plate fraud.

§215.154

Adopted amendments to the graphic in §215.154(b) increase initial allocations of dealer's temporary license plates for GDN holders that sell trailers and semitrailers and for wholesale motor vehicle dealers that also hold a wholesale auction GDN. The department received a significant number of requests for additional dealer's temporary license plates from these license holders during implementation of the dealer license plate program, indicating that larger initial allocations are warranted. The amendments increase the allocation for trailer and semitrailer dealers from five to 15 plates and establish a new allocation category of 40 plates for wholesale motor vehicle dealers that also operate wholesale auctions.

Amendments also delete §215.154(c) and reletter the remaining subsections and graphic title because dealers licensed on July 1, 2025, have already received the initial allocations contemplated by that subsection. Amendments to relettered §215.154(f) require proof of the number of vehicles transported during the prior 12-month period, if applicable, when requesting a waiver for additional dealer's temporary license plates. This information assists the director in evaluating requests and minimizing unnecessary accumulation of unassigned license plates.

§215.155

Adopted amendments to §215.155(b) delete the term "general issue" because buyer's license plates include provisional license plates. Amendments to §215.155(e) delete language requiring registration fees to be remitted with the title transfer application because those transactions are processed separately.

§215.157

Adopted amendments to §215.157 streamline the rule by deleting language that restates statute and instead referencing Transportation Code, §503.0631(d) and §215.156, relating to Buyer's License Plate Receipt.

§215.158

Adopted amendments to §215.158 delete the phrase "buyer's license plate or buyer's temporary" to clarify that loss, theft, or destruction of any license plate must be reported to the department.

§215.159

Adopted new §215.159 establishes options and requirements for a dealer to store and manage license plate inventory away from the licensed location, including at centralized storage locations used by multiple dealers. The rule provides operational flexibility while maintaining appropriate safeguards for license plate security and department oversight.

Section 215.159(a) requires a dealer to disclose the address of a license plate storage location and certify compliance with the rule. Section 215.159(b)(1) provides that a licensed location used for plate storage must comply with the premises requirements in §215.140. Section 215.159(b)(2) establishes requirements applicable to a storage location that is not itself a licensed location, including requirements concerning the physical structure, equipment, inventory organization, accessibility, posted business hours, staffing, security, and permissible locations.

These requirements ensure that license plate inventory remains secure, that dealers can access the department's systems and communicate with the department, and that the department may effectively monitor compliance with Transportation Code, §§503.063, 503.0631, and 503.0633. The rule also accommodates the operational needs of dealers while reducing opportunities for theft, diversion, or misuse of license plates.

Section 215.159(c) informs dealers that the department may inspect a license plate storage location before approving the location and during the license term to monitor compliance with applicable statutes and rules.

At adoption, the department revised the language of §215.159(a) and (b) to allow multiple dealers to use the same storage location, and to exempt storage locations from the limitation under §215.140(a)(7) that only four dealers can use the same location. The department made these revisions in response to feedback from independent dealers that have separate GDN licenses but share common ownership and preferred to store plates in one centralized location. These revisions provide additional flexibility for dealers and could reduce overhead costs for dealers that are able to share a common location.

Subchapter E. Lessors and Lease Facilitators

§215.171

This section describing the purpose and scope of the chapter is repealed because it is unnecessary, as relevant statutory references are incorporated into the applicable rules throughout the chapter.

§215.175

Adopted amendments to §215.175(a) delete that subsection because the actions available to the board and department are provided by statute, and reletter the remaining subsections accordingly. Additional amendments revise the introductory enforcement language to clarify that the board or department may deny a license application, sanction a license holder, or take action against a person engaged in a business requiring licensure, add related punctuation, and add "if the person:" before the listed violations to improve readability. These amendments preserve the full range of enforcement actions authorized by statute while improving readability. An amendment to relettered §215.175(a)(10) updates a reference to the applicable criminal offense guidelines in Chapter 211 of this title. Amendments add new §215.175(a)(14) to enforce Transportation Code, Chapter 730, the Motor Vehicle Records Disclosure Act, by providing a sanction for violations committed by a vehicle lessor, vehicle lease facilitator, or their employee or agent. The amendments also make related punctuation and conjunction changes. Vehicle lessors, vehicle lease facilitators, and their employees and agents have access to motor vehicle records protected by the Motor Vehicle Records Disclosure Act, and unauthorized disclosure may result in significant consumer harm.

§215.177

An adopted amendment to §215.177(a)(2) adds the term "legible" to clarify sign-lettering requirements and ensure that the public and the department can readily identify the license holder.

§215.181

Adopted amendments to §215.181 revise a sentence to modernize the rule and improve readability without changing meaning.

Subchapter F. Advertising

§215.241

This section describing the purpose and scope of the chapter is repealed because it is unnecessary, as relevant statutory references are incorporated into the applicable rules throughout the chapter.

§215.242

Adopted amendments to §215.242 delete unnecessary phrases to improve readability without changing meaning.

§215.243

This section is repealed because it is unnecessary and redundant to treat a violation of an advertising rule as a prima facie violation of Occupations Code, Chapter 2301. Occupations Code, §2301.263 provides that a license issued under Chapter 2301 is subject to both Chapter 2301 and applicable board rules. Accordingly, treating an advertising rule violation as a separate prima facie violation of Chapter 2301 is unnecessary because the rule merely restates existing statutory authority.

§215.244

Adopted amendments to §215.244 add and modify definitions used in the advertising rules. An amendment to §215.244(1)(A)(ii) adds business cards to the list of items that constitute an advertisement.

Amendments add §215.244(1)(A)(vi) and (vii) to modernize the definition of advertisement by expressly including statements or representations displayed on internet websites, social media platforms, other digital applications or platforms, and electronic communications such as email. Electronic forms of advertising have evolved significantly, and these amendments update the rule to reflect the most common methods of digital advertising. Additional amendments modify punctuation and conjunctions to accommodate new §215.244(1)(A)(vi) and (vii).

Adopted new §215.244(6) defines the term “cure” for purposes of Occupations Code, §2301.203, which requires the department to provide a license holder an opportunity to cure an alleged advertising violation before issuing a notice of violation and recommended sanction. The new definition provides that a cure consists of a license holder’s agreement not to violate the cited advertising rule for a two-year period and correction of any consumer harm resulting from the alleged violation. Defining “cure” establishes a consistent process for resolving alleged advertising violations and avoiding issuance of a notice of violation and sanction.

Adopted amendments renumber subsequent definitions to accommodate new §215.244(6) and update related cross-references. Amendments to renumbered §215.244(18) revise the definition of “subsequent violation” to mean a violation of the same advertising rule identified in a prior opportunity-to-cure notice within a two-year period. This change aligns the definition with the new definition of “cure” and the requirements of Occupations Code, §2301.203.

§215.246

Adopted amendments to §215.246 delete a redundant sentence because the requirement that an advertisement not be false, deceptive, or misleading is already provided by §215.242 of this title.

§215.264

The department proposed amendments to §215.264(h) and (j) to modernize options for providing required disclosures in radio and television advertisements for leased vehicles. After consideration of comments received, the department determined not to adopt those amendments in order to preserve flexibility in advertising for vehicle lessors and retains the existing rule text.

§215.269

This section is repealed because procedures governing the determination of violations under department rules have been moved to 43 TAC Chapter 224. The section is therefore redundant and no longer necessary.

§215.270

Adopted amendments to §215.270(a)(1) streamline rule language and modernize methods by which the department may communicate with license holders by expressly including email. Amendments to §215.270(a)(2) add subparagraphs (A) and (B) and related punctuation to provide that the department may issue a Notice of Department Decision to a license holder that fails to timely respond to an opportunity-to-cure notice or agrees to cure a violation but fails to complete the cure process by failing to correct consumer harm or committing a subsequent violation.

Additional amendments to §215.270(a)(2) delete language concerning subsequent violations for consistency with the adopted definitions of "cure" and "subsequent violation" in §215.244. Amendments to §215.270(b), including §215.270(b)(3), modify related language, punctuation, and conjunctions for consistency with those same definitions.

Adopted amendments delete §215.270(c) and reletter the remaining subsection accordingly because publication of a retraction notice in a local newspaper is no longer an effective or efficient method of informing the public or curing an alleged advertising violation.

Subchapter G. Administrative Sanctions

§215.500

Adopted amendments to §215.500 clarify that an administrative sanction may consist of one or more penalties authorized by statute or rule and add references to applicable sanction authorities in Occupations Code, Chapter 2301, Transportation Code, Chapter 503, and §215.504 of this title (relating to Buyer or Lessee Refund). The amendments also delete paragraphs (1) – (5) because those provisions duplicate requirements already established by statute or elsewhere in the rule and remove unnecessary punctuation.

CHANGES AT ADOPTION. The department received comments on proposed §§215.107, 215.120, and 215.264. After consideration of the comments, the department modified §§215.107 and 215.120 at adoption and determined not to adopt the proposed amendments to §215.264. After further review of the proposal and operational considerations relating to license plate storage, the department revised the language of §215.159 at adoption to allow multiple dealers to use the same centralized license plate storage location. These changes clarify the intended application of the affected provisions without altering the overall purpose of the rulemaking.

The department revised §215.107(a) to remove the phrase “sells, licenses, or otherwise” and instead provide that the rule applies when a manufacturer or distributor transfers an existing line-make to another person. The department determined that the revised language more accurately describes the transactions addressed by the rule and avoids potential confusion regarding the types of transactions covered by the section.

The department also revised §215.120 in response to comments regarding standard license plates. The department did not adopt the proposed amendments to §215.120(a) and (b) and retained the existing references to manufacturer and converter standard license plates. The department determined that retaining the existing terminology more clearly communicates the scope of the section and avoids potential confusion regarding the use of standard license plates. The department also revised §215.120(g) and (h) to expressly identify manufacturers, distributors, and converters as the persons subject to those provisions and to conform terminology throughout the section.

The department revised §§215.121, 215.141, and 215.175 at adoption to clarify the introductory enforcement language. The department modified those sections to provide expressly that the board or department may deny a license application, sanction a license holder, or take action against a person engaged in business for which a license is required if the person commits one of the listed violations. The department determined that these revisions improve clarity and more accurately describe the enforcement actions authorized by statute and rule.

The department revised the amendments to §215.159(a) and (b) at adoption to allow multiple dealers to use the same license plate storage location, and to exempt storage locations from the limitation under §215.140(a)(7) that only four dealers can use the same location. The department made these revisions in response to feedback from independent dealers who requested to be able to store license plates in one centralized location, to reduce costs by allowing the dealers to share the costs of a common storage location.

The department also revised §215.141(31) at adoption to retain the parenthetical following Transportation Code, §501.100 for clarity and consistency with other statutory citations appearing in the rule.

After consideration of comments received regarding lease advertising disclosures, the department determined not to adopt the proposed amendments to §215.264. The department concluded that the existing provisions continue to provide an effective framework for compliance and therefore retained the current rule text.

Except as described in this section, the department adopts the rules as proposed. The department also made nonsubstantive grammatical, formatting, and conforming revisions throughout the adoption text to improve clarity and consistency.

SUMMARY OF COMMENTS.

The department received three timely written comments on the proposal from the Texas Automobile Dealers Association (TADA), the Texas Independent Automobile Dealers Association (TIADA), and the Texas Recreational Vehicle Association (TRVA).

Comment. TADA and TIADA commented in opposition to adoption of the proposed rule amendments in §§215.84, 215.85, 215.101, 215.105, 215.108, 215.114, 215.121, 215.133, 215.134, 215.137, 215.141, 215.157, and 215.175, which were identified as part of the Texas Regulatory Efficiency Office's review of the department's rules. The commenters asserted that the amendments are unnecessary and would create confusion or add unnecessary complexity and could disrupt established reliance on existing rule language without addressing a demonstrated need.

Response. The department disagrees. As part of the Texas Regulatory Efficiency Office's review, the department identified rules that contained unnecessary or unenforceable language, required modernization, or duplicated statutory provisions. Although applicable statutes establish general requirements, they do not always address how those requirements are implemented through rule or ensure that regulatory language remains clear, consistent, and enforceable. The department recognizes the importance of maintaining consistency in rule language but has determined that the amendments will not disrupt reliance interests and will instead improve clarity and consistency without changing substantive requirements. The amendments and deletions clarify and implement statutory requirements where appropriate, eliminate outdated or redundant provisions, and improve the clarity and consistency of the rules. The amendments do not create confusion as suggested. The department adopts the amendments.

Comment. TADA opposed adoption of the proposed amendments to §215.107 because manufacturers and distributors are aware of their licensing requirements. TADA stated that the rule should not include information required for a license amendment application because it does not need to be in a rule and the department may want to change it in the future. TADA also stated that the discussion of manufacturer licensing requirements in the department's eLicensing User Guide eliminates the need for the department to make a rule. TADA further noted that portions of the proposed language could create confusion and that no clear regulatory gap has been identified.

Response. The department disagrees. Texas Government Code §2001.004 requires state agencies to adopt rules reflecting all formal and informal procedures, including license application requirements. Under Government Code, Chapter 2001, such requirements must be adopted through notice-and-comment rulemaking or are subject to being voidable. While Occupations Code, Chapter 2301 establishes the general requirement for licensing, it does not provide the level of procedural detail necessary to ensure consistent implementation and enforcement. The proposed amendments to §215.107 clarify how those statutory requirements apply in the context of a line-make transfer, including what information must be provided and how responsibilities are to be identified. Including this information in a manufacturer license application form or the eLicensing User Guides does not constitute notice-and-comment rulemaking under Government Code, Chapter 2001. The department does not agree that the proposed language creates confusion; rather, the revised rule clarifies requirements for licensees.

Comment. TADA and TRVA opposed adoption of the term "licenses" in §215.107(a), stating that manufacturers and distributors do not typically license line-makes to each other. TADA commented that it is not aware of a situation in which manufacturers and distributors license line-makes to each other, and both commenters asserted that such arrangements are not anticipated by statutes requiring manufacturers to sell through franchise dealers.

Response. The department agrees. At adoption, the department revised §215.107(a) to remove the phrase "sells, licenses, or otherwise" to clarify that the rule applies whenever a manufacturer or distributor transfers an existing line-make to another person, regardless of the means of transfer. The department determined that the revised language more accurately describes the transactions addressed by the rule, avoids potential confusion, and clarifies when the licensing and amendment requirements apply.

Comment. TADA opposed adoption of proposed new §215.107(b)(3), and requested that the department revise it to read, "identify the person responsible for warranty payment to the franchised dealer and the franchised dealer obligations incurred prior to the transfer," because this wording would clarify a dealer's obligation to perform and receive payment for warranty work.

Response. The department disagrees. The provision describes manufacturer warranty obligations associated with a line-make transfer, including those involving Lemon Law claims, not just warranty work for which a manufacturer pays a dealer. In these transactions, the existing manufacturer or distributor may cease supporting the line-make, and it is necessary to clearly identify responsibility for ongoing obligations to franchised dealers and consumers arising before the transfer, to ensure there is no gap in responsibility during the transition. The department does not agree that the requested revision would improve clarity, and is concerned it could be read to narrow the scope of obligations addressed by the rule.

Comment. TADA opposed adoption of amendments to §215.120 that remove the modifiers specifying "manufacturer" and "converter" plates, because doing so could create confusion about whether standard license plates are interchangeable. TADA recommended amending §215.120(g) to clarify that it applies only to manufacturers or converters.

Response. The department agrees that the removal of references to "manufacturer" and "converter" license plates could create confusion. To avoid confusion, the department is not adopting the proposed amendments to §215.120(a) and (b), and those subsections retain the current references to manufacturer and converter standard license plates. The rule, when read as a whole, applies to manufacturers, distributors, and converters. The department agrees that §215.120(g) prior to amendment could be read in isolation to apply more broadly. At adoption, the department revises subsection (g) to expressly reference manufacturers, distributors, and converters as the parties both requesting additional standard license plates and providing the supporting business justification for the request. The department also revises subsection (h) to similarly reference manufacturers, distributors and converters to better define the scope of the rule. These revisions clarify the intended scope of §215.120 and eliminate potential ambiguity and confirm that standard license plates are not interchangeable with other plate types.

Comment. TADA opposed adoption of the amendments to §215.121, and requested that TxDMV amend the rule to explicitly limit its application to manufacturers, distributors, and converters.

Response. The department disagrees. These violations apply to all license holders addressed in this subchapter and under Occupations Code, Chapter 2301, including dealers. Section 215.121 expressly applies to a license applicant, license holder, or a person engaged in a business for which a license is required, and is not limited to manufacturers, distributors, or converters. References in prior rulemaking materials to specific license types only explained specific amendments related to those license types and do not limit the scope of the rule.

Comment. TADA commented in support of proposed amendments to §215.140, which allow dealers to affix signs to doors or windows without requiring permanent installation in the ground and to store license plates at a physical location listed in the license record other than a licensed sales and service location.

Response. The department agrees that the proposed amendments to §215.140 provide dealers with greater flexibility by allowing signage to be affixed to doors or windows without permanent installation and by allowing license plate storage at approved locations listed in the license record.

Comment. TADA commented in support of new §215.159, stating that it will allow dealers greater flexibility in storing and managing plate inventory.

Response. The department agrees that new §215.159 provides dealers with greater flexibility in storing and managing license plate inventory while maintaining appropriate oversight of plate control.

Comment. TADA commented in opposition to the proposed amendments to §215.244 that define "cure" to establish a two-year period during which a license holder may be subject to enforcement for a subsequent violation of the same advertising provision. TADA argued that the statute requires the department to give a separate opportunity to cure each advertising violation.

Response. The department disagrees. Occupations Code, §2301.155, authorizes the board to adopt rules necessary to administer Occupations Code, Chapter 2301. The proposed amendments clarify the meaning of "cure" in Occupations Code, §2301.203(c) and prevent licensees from avoiding sanction for improper advertising by repeatedly using the same noncompliant advertising content. Due to the short-lived nature of many advertisements and the quick sale of many advertised vehicles, allowing a licensee to cure a violation simply by fixing or removing a specific advertisement for a specific vehicle would enable the licensee to regularly, if not constantly, repeat the same violation with each new ad the licensee posts. Thus, to administer the prohibitions on false and misleading advertising in Occupations Code, Chapter 2301 so as to effectively punish and deter the statutorily prohibited conduct, it is necessary for the department to adopt rules defining "cure" as a dealer's promise to not violate the same advertising provision again within two years.

Comment. TADA opposed adoption of the proposed amendments to §215.264. TADA stated that the rule should be amended to track Federal Regulation M, 12 C.F.R. §213.7(f), to ensure consistency with federal lease disclosure requirements and avoid potential inconsistencies.

Response. The department agrees that removing the option to publish information in a written advertisement would remove an option for dealers that remains possible despite the decline of print media. The potential revision to §215.264(h)–(j) was identified as part of the TREO review as an opportunity to modernize and streamline the rule language. However, the department understands that dealers are familiar with the current language and prefer to maintain it as an option. Accordingly, the department is not adopting amendments to these subsections and will retain the existing language.

SUBCHAPTER A. GENERAL PROVISIONS.

STATUTORY AUTHORITY. The department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a license holder who is unfit, makes a material misrepresentation, violates Occupations Code, Chapter 2301 or a board rule or order, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, fails to maintain qualifications for a license, willfully defrauds a purchaser, fails to fulfill a written agreement with a retail purchaser of a motor vehicle, or violates the requirements of Transportation Code, §503.0361; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, Regular Session, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules to prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.063, which establishes requirements governing dealer-issued buyer's license plates and authorizes actions to be taken in accordance with department rules; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which authorizes the department by rule to establish the maximum number of license plates or sets of license plates that a dealer may obtain under Transportation Code, §§503.063 and 503.065; Transportation Code, §730.014, which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; Transportation Code §1001.002, which provides that the department shall administer and enforce

Occupations Code, Chapter 2301; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041 and 502.0021, and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to review and readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. The adopted amendments, new sections, and repeals implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501–503, 730, 1001, and 1002.

Text.

§215.2. Definitions; Conformity with Statutory Requirements.

(a) The definitions contained in Occupations Code, Chapters 2301 and 2305, and Transportation Code, Chapters 503, 520, 730, and 1001-1005 govern this chapter. In the event of a conflict, the definition or procedure referenced in Occupations Code, Chapter 2301 controls.

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

(1) Board--The Board of the Texas Department of Motor Vehicles, including department staff to whom the board delegates a duty.

(2) Day--The word "day" refers to a calendar day.

(3) Director--The director of the division that regulates the distribution and sale of motor vehicles, including any department staff to whom the director delegates a duty assigned under this chapter.

(4) Employee--A natural person employed directly by the license holder for wages or a salary.

(5) GDN--General distinguishing number, a license issued under Transportation Code, Chapter 503.

(6) Governmental agency--A state agency other than the department, all local governmental agencies, and all agencies of the United States government, whether executive, legislative, or judicial.

(7) Standard license plate--A motor vehicle license plate issued by the department to a license holder for use by the license holder that is not a personalized prestige dealer's license plate issued under Transportation Code §503.0615 <u>or a dealer’s temporary license plate issued under Transportation Code, §503.062</u>.

STATUTORY AUTHORITY. The department adopts a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority;

Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, Regular Session, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules to prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This repeal implements Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501–503, and 1002.

[~~§215.1. Purpose and Scope.~~]

[~~Occupations Code, Chapters 2301 and 2305, and Transportation Code, Chapters 503, 504, 520, and 1001 -1005 require the Texas Department of Motor Vehicles to license and regulate the vehicle~~

~~industry to ensure a sound system of distributing and selling vehicles; provide for compliance with manufacturers' warranties; and to prevent fraud, unfair practices, discrimination, impositions, and other abuses of the people of this state in connection with the distribution and sale of vehicles. This chapter describes licensing requirements and the rules governing the vehicle industry.~~]

SUBCHAPTER B. LICENSES, GENERALLY.

STATUTORY AUTHORITY. The department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the

FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, Regular Session, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules to prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §730.014, which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041 and 502.0021, and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501–503, 730, 1001, and 1002.

Text.

§215.82. Replacement Standard and Dealer’s Temporary License Plates and Stickers.

A license holder may receive a replacement [~~dealer's, converter's, drive-a-way in-transit, or manufacturer's~~] standard license plate or a dealer’s temporary license plate or assigned sticker, as applicable, at no charge if the license holder:

(1) did not receive the applicable [~~standard~~] license plate or sticker;

(2) makes the request within 45 days of the date the applicable [~~standard~~] license plate or sticker was mailed to the license holder; and

(3) submits a request electronically in the licensing system designated by the department.

§215.83. License Applications, Amendments, or Renewals.

(a) An applicant for a new license must register for an account in the department-designated licensing system by:

(1) accessing the licensing system through the department's website;

(2) designating the account administrator, which must be an owner, officer, manager, or bona fide employee;

(3) providing the name and email address for the account administrator; and

(4) providing the applicant's business telephone number, name, business type, and social security number or employer identification number, as applicable.

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

(1) filed electronically in the department-designated licensing system on a form approved by the department;

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

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

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

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

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

(e) [~~(d)~~] Prior to the expiration of a license, a license holder or authorized representative must electronically file with the department a sufficient license renewal application. Failure to receive notice of license expiration from the department does not relieve the license holder from the responsibility to timely file a sufficient license renewal application. A license renewal application is timely filed if the department receives a sufficient license renewal application on or before the date the license expires.

(f) [~~(e)~~] An application for a new license, license amendment, or license renewal filed with the department must be sufficient. An application is sufficient if the application:

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

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

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

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

(i) [~~(h)~~] The department will process an application for a new license, license amendment, or license renewal filed by a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55 and §215.91 of this title (relating to License Processing for Military Service Members, Spouses, and Veterans).

(j) [~~(i)~~] A license holder who timely files a sufficient license renewal application in accordance with subsection (d) of this section may continue to operate under the expired license until the license renewal application is determined in accordance with Government Code §2001.054.

(k) [~~(j)~~] A license holder who fails to timely file a sufficient license renewal application in accordance with subsection (d) of this section is not authorized to continue licensed activities after the date the license expires. A license holder may dispute a decision that a license renewal application was not timely or sufficient by submitting evidence to the department demonstrating that the license renewal application was timely and sufficient. Such evidence must be received by the department within 15 days of the date the department issues notice that a timely or sufficient license renewal application was not received by the department.

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

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

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

§215.84. Brokering, New Motor Vehicles.

[~~(a) Unless excluded from the definition of "Broker" in Occupations Code, §2301.002, a person may not act, offer to act, or claim to be a broker.~~]

(a) [~~(b)~~] For purposes of this chapter, the phrase "arranges or offers to arrange a transaction," as used in the definition of broker in Occupations Code, §2301.002, includes the practice of arranging or offering to arrange a transaction involving the sale of a new motor vehicle for a fee, commission, or other valuable consideration. Advertising is not acting as a broker, provided the person's business primarily is broadcasting, printing, publishing, or advertising for others in their own names.

(b) [~~(c)~~] A buyer referral service, program, plan, club, or any other entity that accepts a fee for arranging a transaction involving the sale of a new motor vehicle is a broker. The payment of a fee to such entity is aiding and abetting brokering. However, a referral service, program, plan, club, or other entity that forwards a referral to a franchised dealership may lawfully operate in a manner that includes all [~~of~~] the following conditions:

(1) There is no exclusive market area offered to a dealer by the program. All dealers are allowed to participate in the program on equal terms.

(2) Participation by a dealer in the program is not restricted by conditions, such as limiting the number of line-makes or discrimination by size of dealership or location. The total number of participants in the program may be restricted if the program is offered to all dealers at the same time, with no regard to the line-make.

(3) All participants pay the same fee for participation in the program. The program fee shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by the franchised dealer.

(4) A person is not to be charged a fee on a per referral fee basis or any other basis that could be considered a transaction-related fee.

(5) The program does not set or suggest to the dealer any price of a motor vehicle or a trade-in.

(6) The program does not advertise or promote its plan in a manner that implies that the buyer, as a customer of that program, receives a special discounted price that cannot be obtained unless the customer is referred through that program.

(7) A program must comply with Subchapter F of this chapter (related to Advertising).

(c) [~~(d)~~] This section does not apply to a person who is not a broker as defined in Occupations Code, §2301.002.

§215.85. Brokering, Used Motor Vehicles.

(a) Transportation Code, §503.021 prohibits a person from directly or indirectly engaging in business as a dealer [~~, directly or indirectly, including by consignment~~] without a GDN. Except as provided by this section, "directly or indirectly" includes the practice of arranging or offering to arrange a transaction involving the sale of a used motor vehicle for a fee, commission, or other valuable consideration. [~~A person who is a bona fide employee of a dealer holding a GDN and acts for the dealer is not a broker for the purposes of this section.~~]

(b) A buyer referral service, program, plan, club, or any other entity that accepts a fee for arranging a transaction involving the sale of a used motor vehicle is required to meet the requirements for and obtain a GDN, unless the referral service, program, plan, or club meets each of the following criteria [~~is operated in the following manner~~]:

(1) No [~~There is no~~] exclusive market area is offered to a dealer [~~by the program~~]. All dealers are allowed to participate [~~in the program~~] on equal terms.

(2) Dealer participation [~~Participation by a dealer in the program~~] is not restricted by conditions, such as limiting the number of line-makes or discriminating [~~discrimination~~] by dealer size [~~of dealer~~] or location. The [~~total~~] number of participants [~~in the program~~] may be restricted if [~~the program is~~] offered to all dealers at the same time, with no regard to the line-make.

(3) All participants pay the same participation fee [~~for participation in the program~~]. The [~~program~~] fee shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by the dealer.

(4) A person is not [~~to be~~] charged a fee on a per referral fee basis or any other basis that could be considered a transaction-related fee.

(5) No motor vehicle or trade-in price is set or suggested to the dealer. [~~The program does not set or suggest to the dealer any price of a motor vehicle or a trade-in~~.]

(6) Advertisements or promotions do not imply that a buyer [~~The program does not advertise or promote its plan in a manner that implies that the buyer, as a customer of that program,~~] receives a special discounted price by being referred. [~~that cannot be obtained unless the customer is referred through that program.~~]

(7) Advertising [~~A program~~] complies with Subchapter F of this chapter (relating to Advertising).

(c) A dealer holding a GDN under [~~pursuant to~~] Transportation Code, §503.029(a)(6)(B), may pay a referral fee in cash or value to an individual who has purchased a motor vehicle from the dealer within the four-year period preceding the referral. The fee may be paid contingent upon either the new referred individual:

(1) purchasing a motor vehicle from the dealer; or

(2) the referral of a new potential purchaser.

§215.89. Fitness.

(a) In determining a person's fitness for a license [~~issued or to be issued by the department~~] under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, the board will consider:

(1) the requirements of Occupations Code, Chapter 53;

(2) the provisions of Occupations Code, §2301.651 and Transportation Code §503.034;

(3) any specific statutory licensing criteria or requirements;

(4) mitigating factors; and

(5) other evidence of a person's fitness, as allowed by law, including the standards identified in subsection (b) of this section.

(b) The board may determine that a person is unfit to perform the duties and discharge the responsibilities of a license holder and may, following notice and an opportunity for hearing, deny a person's license application or revoke or suspend a license if the person:

(1) fails to meet or maintain the qualifications and requirements of licensure;

(2) is convicted, or considered convicted under Occupations Code §53.021(d), by any local, state, federal, or foreign authority of an offense that directly relates to the duties or

responsibilities of the licensed occupation as described in §211.10 [~~§211.3~~] of this title (relating to Criminal Offense Guidelines) or is convicted, or considered convicted under Occupations Code §53.021(d), of an offense that is independently disqualifying under Occupations Code §53.021;

(3) omits information or provides false, misleading, or incomplete information on an initial application, renewal application, or application attachment, for a license or other authorization issued by the department or by any local, state, or federal regulatory authority;

(4) is found to have violated an administrative or regulatory requirement based on action taken on a license, permit, or other authorization, including disciplinary action, revocation, suspension, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment, by the board, department, or any local, state, or federal regulatory authority;

(5) is insolvent or fails to obtain or maintain financial resources sufficient to meet the financial obligations of the license holder causing consumer harm;

(6) is a corporation or other legal entity that fails to maintain its charter, certificate, registration, or other authority to conduct business in Texas;

(7) is assessed a civil penalty, administrative fine, fee, or similar assessment, by the board, department, or a local, state, or federal regulatory authority, for violation of a requirement governing or impacting the distribution or sale of a vehicle or a motor vehicle, or the acquisition, sale, repair, rebuild, reconstruction, or other dealing of a salvage motor vehicle or nonrepairable motor vehicle, and fails to comply with the terms of a final order or fails to pay the penalty pursuant to the terms of a final order;

(8) [~~was or~~] is a person described in §211.9 of this title (relating to Application of Subchapter B) [~~§211.2 of this title (relating to Application of Subchapter)~~] whose actions or omissions could be considered unfit, who is ineligible for licensure, or whose current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority has been subject to disciplinary action including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment;

(9) has an ownership, organizational, managerial, or other business arrangement, that would allow a person the power to direct or cause the direction of the management, policies, and activities, of an applicant or license holder, whether directly or indirectly, when the person could be considered unfit, ineligible for licensure, or whose current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority, has been subject to disciplinary action, including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment, by the board, department, or any local, state, or federal regulatory authority;

(10) is found in a final order issued after a contested case hearing to be unfit or acting in a manner detrimental to the system of distribution or sale of motor vehicles in Texas, the economy of the state, the public interest, or the welfare of Texas residents.

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

(a) The department will process a license, amendment, or renewal application submitted for licensing of a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient renewal application because the license holder was on active duty is exempt from any increased fee or penalty imposed by the department.

(b) A military service member, [~~or~~] military spouse, or military veteran may engage in a business or occupation for which a department-issued license is required if the person [~~military service member or military spouse~~] meets the requirements of Occupations Code, §55.004 or §55.0041 and this section.

(1) To receive a provisional license a [~~A~~] military service member, [~~or~~] military spouse, or military veteran must submit to the department a completed provisional license application. The applicant may download the provisional license application form from the department website or contact the department to request the form. The applicant must submit the completed application to the department email address listed in the application form and attach the following:

[~~(A) a sufficient application as described in §215.83(e) of this title (relating to License Applications, Amendments, or Renewals);~~]

(A) [~~(B)~~] if the applicant is a military service member or a military spouse, proof of the military service member being stationed in Texas and a copy of the military service member or military spouse's military identification card;

(B) [~~(C)~~] if the applicant is a military spouse, a copy of the military spouse's marriage license; [~~and~~]

(C) if the applicant is a military veteran, a copy of the applicant’s discharge certificate or other official document verifying military service and an identification document listed in the applicable license application rule; and

(D) if the applicant is licensed by another state, a notarized affidavit that meets the requirements of [~~as required by~~] Occupations Code, §55.0041(b)(3).

(2) Upon receipt of the provisional license application and documentation required by paragraph (1) of this subsection the department shall:

(A) confirm with the other state that the military service member, [~~or~~] military spouse, or military veteran is currently licensed and in good standing for the relevant business or occupation; and

(B) conduct a comparison of the other state's license requirements, statutes, and rules with the department's licensing requirements to confirm [~~determine~~] if the requirements are similar in scope of practice; and

(C) if both subparagraphs (A) and (B) of this paragraph are confirmed, promptly issue a provisional license and notify the applicant to submit a sufficient application as described in §215.83(f) of this title (relating to License Applications, Amendments, or Renewals).

(3) The department shall issue a license, or notify the applicant why the department is currently unable to issue a license, within 10 days of receiving a complete application as described in §215.83(f) of this title (relating to License Applications, Amendments, or Renewals) if the applicant:

(A) has been issued a provisional license;

(B) is currently licensed in good standing in another state with licensing requirements that are similar in scope and practice; or

(C) was licensed in good standing in Texas in the last five years.

[~~If the department confirms that a military service member or military spouse is currently licensed in good standing in another state with licensing requirements that are similar in scope~~

~~and practice, or was licensed in good standing in Texas in the last five years, the department shall issue a license to the military service member or military spouse for the relevant business or occupation, or notify the applicant why the department is currently unable to issue a license pursuant to Occupations Code, §55.0041(b-1), within 10 days.~~]

(c) The license is subject to the requirements of this chapter and Occupations Code, Chapter 2301, and Transportation Code, Chapter 503, in the same manner as a license issued under the standard application process, unless exempted or modified under Occupations Code, Chapter 55.

(d) [~~(c)~~] This section establishes requirements and procedures authorized or required by Occupations Code, Chapter 55, and does not modify or alter rights that may be provided under federal law.

STATUTORY AUTHORITY. The department adopts a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, Regular Session, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules to prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This repeal implements Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501–503, and 1002.

[~~§215.81. Purpose and Scope.~~]

[~~This subchapter implements Occupations Code, Chapter 2301 and Transportation Code, Chapter 503, regarding licenses required under those chapters.~~]

SUBCHAPTER C. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS.

STATUTORY AUTHORITY. The department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer’s license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011, which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.0071, which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021, which allows the department to adopt rules and policies for the maintenance and use of the department’s automated registration and titling system; Transportation Code, §730.014, which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501–504, 520, and 1002.

Text.

§215.104. Changes to Franchised Dealer's License.

(a) In accordance with Occupations Code, §2301.356, a franchised dealer must file an amendment application [~~to amend the franchised dealer's license~~] to add a line-make [~~request an~~

~~additional line-make~~] at the dealer's currently licensed showroom. The amendment application must be filed electronically in the licensing system designated by the department.

(1) In accordance with §215.110 of this title (relating to Evidence of Franchise), the franchised dealer must attach to the amendment application a legible and accurate electronic image of:

(A) the executed franchise agreement;

(B) the required excerpt from the executed franchise agreement; or

(C) an evidence of franchise form completed by the manufacturer, distributor, or representative.

(2) The amendment application for an additional franchise at the showroom is considered an original application and is subject to protest, in accordance with Occupations Code, Chapter 2301, this chapter, and Chapter 224 of this title [~~(relating to~~](relating to Adjudicative Practice and Procedure)[~~)~~].

(b) A franchised dealer may propose to sell or assign to another any interest in the licensed entity, whether a corporation or otherwise, provided the physical location of the licensed entity remains the same.

(1) The franchised dealer shall notify the department in writing within 10 days of the sale or assignment of interest by filing <u>a license amendment application</u> [~~an application to amend the franchised dealer's license~~] electronically in the licensing system designated by the department.

(2) If the sale or assignment of any portion of the business results in a change of business entity, then the purchasing entity or assignee must apply for and obtain a new license in the name of the new business entity.

(3) A publicly-held corporation must file an amendment application if one person or entity acquires 10% or greater interest in the licensed entity.

(c) A franchised dealer must file an amendment application electronically in the licensing system designated by the department within 10 days of a license change, including:

(1) deletion of a line-make from the dealer's license;

(2) a change of assumed name on file with the Office of the Secretary of State or county clerk;

(3) a change of mailing address;

(4) a change of telephone number; [~~or~~]

(5) a change of email address; or[~~.~~]

(6) a change in the person responsible for a franchised dealer's business activities due to a receiver being appointed or a dealer filing bankruptcy.

(d) A franchised dealer must file an [~~a business entity~~] amendment application electronically in the licensing system designated by the department within 10 days of a business [~~an~~] entity change, including:

(1) a change in management, dealer principal, or change of other person who oversees a franchised dealer's business activities, including a managing partner, officer, director of a corporation, or similar person; or

(2) a change of legal entity name on file with the Office of the Secretary of State.

(e) If a franchised dealer changes or converts from one type of business entity to another type of business entity without changing ownership of the dealership, the submission of a franchise agreement in the name of the new entity is not required in conjunction with an amendment application. The franchise agreement on file with the department prior to the change or conversion of the dealer's business entity type applies to the successor entity until the parties agree to replace the franchise agreement. This subsection does not apply to a sole proprietorship or general partnership.

(f) If a franchised dealer adopts a plan of conversion under a state or federal law that allows one legal entity to be converted into another legal entity, only an amendment application is necessary to be filed with the department. The franchise agreement on file with the department continues to apply to the converted entity. If a license holder becomes another legal entity by any means other than by conversion, a new application is required, subject to subsection (e) of this section.

(g) In addition to obtaining permission from the manufacturer or distributor, a franchised dealer must obtain department approval prior to opening a supplemental location or relocating an existing location by filing an amendment application electronically in the licensing system designated by the department. A franchised dealer must notify the department electronically in the licensing system designated by the department when closing an existing location.

§215.105. Notification of License Application; Protest Requirements.

(a) This [~~The provisions of this~~] section does not apply [~~are not applicable~~] to a franchised dealer's [~~an~~] application filed with the department as part of a buy-sell or other transfer agreement [~~for a franchised dealer's license as a result of the purchase or transfer of an existing entity holding a current~~

~~franchised dealer's license~~] that does not involve a physical relocation of the purchased or transferred line-makes.

(b) Upon receipt of a franchised dealer's license [~~an~~] application [~~for a franchised dealer's license~~], including a relocation [~~an~~] application [~~filed with the department by reason of the relocation~~] of an existing dealership, the department shall notify [~~give notice of the filing of the application to~~] each franchised dealer that may have standing to protest the application. The department shall send notice electronically and by certified mail, return receipt requested, to the email address and mailing address in the franchised dealer's license record.

(c) If it appears to the department that [~~there are~~] no franchised dealers have [~~with~~] standing to protest, then no notice shall be given.

(d) A person holding a franchised dealer's license for the sale of the same new motor vehicle line-make [~~of a new motor vehicle as proposed for sale in the subject application and~~] that has standing to protest the application may file with the department a notice of protest opposing the granting of a license by timely filing a protest electronically in the licensing system designated by the department and paying the required fee.

(e) A franchised dealer that wishes to protest the application shall give notice in accordance with Occupations Code, Chapter 2301.

(1) The notice of protest must be in writing and [~~shall be~~] signed by an authorized officer or other official authorized to sign on behalf of the protesting dealer [~~filing the notice~~].

(2) The notice of protest must state the statutory basis upon which the protest is made and assert how the protesting dealer meets the standing requirements under §215.119 of this title (relating to Standing to Protest) [~~to protest the application~~].

(3) The notice of protest must state that the protest is not made for purposes of delay or for any other purpose except for justifiable cause.

(4) If a protest is filed against an application for the establishment of a dealership or for addition of a line-make at an existing dealership, the notice of protest must state under which provision of Occupations Code, Chapter 2301 the protest is made.

<u>§215.107. Sale or Transfer of a Line-Make.</u>

<u>(a) If a manufacturer or distributor transfers an existing line-make to another person, the acquiring person must:</u>

<u>(1) apply for a manufacturer or distributor license and add that line-make to the license; or</u>

<u>(2) amend an existing license to add that line-make.</u>

<u>(b) As part of the application or license amendment application process the person acquiring the line-make must:</u>

<u>(1) identify the effective date of the transfer;</u>

<u>(2) identify the franchised dealers authorized to sell and service the line-make;</u>

<u>(3) identify the person responsible for warranty and franchised dealer obligations incurred prior to the transfer; and</u>

(4) certify compliance with Occupations Code, Chapter 2301, Subchapter J, which includes manufacturer or distributor responsibilities to existing dealers of that line-make if a franchise agreement is changed or terminated.

§215.108. Addition or Relocation of Line-make

A franchised dealer's amendment application to add or relocate a line-make to an existing dealership [~~An application to amend an existing franchised dealer's license for the addition of another line-make at the existing dealership or for the relocation of a line-make to the existing dealership~~] shall be deemed an "application to establish a dealership" insofar as the line-make to be added or relocated is concerned, and shall be subject to the provisions of §215.105 of this title (relating to Notification of License Application; Protest Requirements) and §215.106 of this title (relating to Time for Filing Protest).

§215.110. Evidence of Franchise.

(a) Upon application for a franchised dealer's license or an amendment of an existing franchised dealer's license to add a line-make, the applicant must submit a legible and accurate electronic image of the franchise agreement pages that reflect:

(1) the parties,

(2) the authorized signatures of the parties,

(3) each line-make listed in the application, and

(4) the address of the franchised dealership's physical location.

(b) To meet this requirement temporarily for the purpose of application processing, a form prescribed by the department and completed by the manufacturer or distributor may be electronically submitted with the application in lieu of the information described in subsection (a) of this section.

(c) The applicant must submit the required franchise agreement pages described in this section immediately upon the applicant's receipt of the franchise agreement as the department will not issue a license without verifying that the franchise agreement has been executed.

(d) Upon application to relocate a franchised dealership, the franchised dealer applicant must submit a form prescribed by the department and completed by the manufacturer or distributor that identifies the license holder and the new franchised dealership location.

§215.113. Manufacturer Ownership of Franchised Dealer; Good Cause Extension; Dealer Development.

(a) In the absence of a showing of good cause, an application for a franchised dealer's license of which a manufacturer or distributor owns any interest in or has control of the dealership entity must be submitted to the department electronically in the licensing system designated by the department no later than 30 days before:

(1) the opening of the dealership;

(2) close of the buy-sell agreement; or

(3) the expiration of the current license.

(b) If a manufacturer or distributor applies for a franchised dealer's license of which the manufacturer or distributor holds an ownership interest in or has control of the dealership entity in accordance with Occupations Code, §2301.476(d) - (f), the license application must contain a sworn statement from the manufacturer or distributor that the dealership was purchased from a franchised dealer and is for sale at a reasonable price and under reasonable terms and conditions, and that the manufacturer or distributor intends to sell the dealership to a person not controlled or owned by the manufacturer or distributor within 12 months of acquiring the dealership, except as provided by subsection (h) of this section.

(c) A request for an extension of the initial 12-month period for manufacturer or distributor ownership or control of a franchised dealership, in accordance with Occupations Code, §2301.476(e), must be submitted to the department in accordance with subsection (a) of this section along with a sufficient application to renew the new motor vehicle dealer's license. The request must contain a detailed explanation, including appropriate documentary support, to show the manufacturer's or distributor's good cause for failure to sell the dealership within the initial 12-month period. The director shall evaluate the request and determine whether the license should be renewed for a period not to exceed 12 months or deny the renewal application. If the renewal application is denied, the manufacturer or distributor may request a hearing on the denial in accordance with Occupations Code, Chapter 2301, Subchapter O and the matter will be referred to SOAH for a hearing under Chapter 224, Subchapter B [~~C~~] of this title (relating to Motor Vehicle, Salvage Vehicle, and Trailer Industry [~~License~~] Enforcement).

(d) Requests for extensions after the first extension is granted, as provided by Occupations Code, §2301.476(e), must be submitted at least 120 days before the expiration of the current license electronically in the licensing system designated by the department. Upon receipt of a subsequent request, the department shall initiate a hearing in accordance with Occupations Code, Chapter 2301, Subchapter O, at which the manufacturer or distributor will be required to show good cause for the failure to sell the dealership. The manufacturer or distributor has the burden of proof and the burden of going forward on the sole issue of good cause for the failure to sell the dealership.

(e) The department shall give notice of the hearing described in subsection (d) of this section to all other franchised dealers holding franchises for the sale and service or service only of the same line-make of new motor vehicles that are located in the same county in which the dealership owned or controlled by the manufacturer or distributor is located or in an area within 15 miles of the dealership owned or controlled by the manufacturer or distributor. Such dealers, if any, will be allowed to intervene and protest the granting of the subsequent extension. Notices of intervention by dealers afforded a right to protest under Occupations Code, §2301.476(e) must be filed with the department electronically in the licensing system designated by the department within 15 days of the date of mailing of the notice of hearing, and a copy must be provided to the manufacturer or distributor. The department shall reject a notice of intervention if the notice is not filed at least 30 days before:

(1) the opening of the dealership;

(2) close of the buy-sell agreement; or

(3) the expiration of the current license.

(f) A hearing under subsection (d) of this section will be referred to SOAH for a hearing under Chapter 224, Subchapter C of this title (relating to Contested Cases Between Motor Vehicle Industry License Holders or Applicants). The franchised dealer's license that is the subject of the hearing will continue in effect until a final decision on the request for a subsequent extension is issued by the board.

(g) The procedures described in subsections (d) - (f) of this section will be followed for all extensions requested by the manufacturer or distributor after the initial extension.

(h) An application for a new motor vehicle dealer's license of which a manufacturer or distributor owns any interest in the dealership entity in accordance with Occupations Code, §2301.476(g) must contain sufficient documentation to show that the applicant meets the requirements of Occupations Code, §2301.476(g).

§215.114. Sale of a Vehicle by a Manufacturer or Distributor at a Wholesale Motor Vehicle Auction.

A licensed manufacturer or distributor [~~licensed under Occupations Code, Chapter 2301~~] or a wholly owned subsidiary [~~of a manufacturer or distributor~~], may sell motor vehicles it owns to dealers through a licensed Texas wholesale motor vehicle auction. The department shall cancel a [~~A~~] GDN issued to a licensed manufacturer, distributor, or wholly owned subsidiary of a manufacturer or distributor [~~shall be canceled,~~] unless otherwise allowed under Occupations Code, Chapter 2301.

§215.115. Manufacturer, Distributor, and Converter Vehicle Sales Records.

(a) A manufacturer or distributor must maintain, for a minimum period of 48 months, a record of each vehicle sold to any person in this state. The manufacturer or distributor shall make the record available during business hours for inspection and copying by the department or be available to submit electronically to the department upon request.

(b) A converter must maintain, for a minimum period of 48 months, a record of each vehicle converted for a person in this state, including a Texas franchised dealer. The converter shall make the record available during business hours for inspection and copying by the department or be available to submit electronically to the department upon request.

(c) A manufacturer, distributor, or converter is required to maintain at its licensed location a record reflecting each purchase, sale, or conversion for a minimum period of 24 months. Records for prior time periods may be kept off-site.

(d) Within 15 days of receipt of a request sent by mail or electronic document transfer from the department, a manufacturer, distributor, or converter must submit a copy of specified records to the address listed in the request.

(e) Records required to be maintained and made available to the department must include the following<u>, if applicable</u>:

(1) the date of sale or conversion of the motor vehicle;

(2) the VIN;

(3) the name and address of the person purchasing the motor vehicle;

(4) a copy of or a record with the information contained in the manufacturer's certificate of origin or title;

(5) information regarding the prior status of the motor vehicle such as the Reacquired Vehicle Disclosure Statement;

(6) the repair history of any motor vehicle subject to a warranty complaint;

(7) technical service bulletin or equivalent advisory; and

(8) any audit of a franchised dealership.

(f) Any record required by the department may be maintained in an electronic format, if the electronic record can be printed at the licensed location upon request by the department or be available to submit electronically to the department upon request.

§215.120. Standard License Plates.

(a) A manufacturer, distributor, or converter may apply for a manufacturer or converter standard license plate for use on a new unregistered vehicle of the same vehicle type assembled or modified in accordance with Transportation Code §503.064 or §503.0618, as applicable:

(1) when applying for a new or renewal license, or

(2) by submitting a standard license plate request application electronically in the system designated by the department.

(b) A manufacturer may use a manufacturer's standard license plate to test a prototype motor vehicle on a public street or highway including a commercial motor vehicle prototype designed to carry a load. A manufacturer's standard license plate may not be used on a commercial motor vehicle prototype or new commercial motor vehicle to carry a load for which the manufacturer or other person receives compensation.

(c) A manufacturer, distributor, or converter shall attach a standard license plate to the rear of a vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(d) A manufacturer, distributor, or converter shall maintain a record of each standard license plate issued to the license holder [~~manufacturer, distributor, or converter~~] by the department either in the license holder's recordkeeping system or in the department-designated system. The license plate record must contain:

(1) the license plate number;

(2) the year and make of the vehicle to which the license plate is secured [~~affixed~~];

(3) the VIN of the vehicle, if one has been assigned; and

(4) the name of the person in control of the license plate.

(e) If a manufacturer, distributor, or converter cannot account for a standard license plate or a standard license plate is damaged, the manufacturer, distributor, or converter shall:

(1) document the license plate as "void" in the department-designated system; and

(2) within three days of discovering that the license plate is missing or damaged, report the license plate as lost, stolen, or damaged electronically in the system designated by the department; and

(3) if found after reported missing, cease use of the license plate.

(f) A standard license plate is no longer valid for use after the manufacturer, distributor, or converter reports to the department that the license plate is lost, stolen, or damaged. A manufacturer, distributor, or converter must render a void license plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once marked, shall destroy or recycle the license plate, or return the license plate to the department within 10 days.

(g) In evaluating requests for additional standard license plates from any eligible manufacturer, distributor, or converter [~~license holder, including a franchised or other GDN dealer~~], the department shall consider the business justification provided by that manufacturer, distributor, or converter, [~~a license holder~~] including the following:

(1) the number of vehicles assembled or modified in the prior 12 months at facilities in or serving the Texas market;

(2) the highest number of motor vehicles in inventory in the prior 12 months;

(3) the size and type of business;

(4) how the license holder typically uses standard license [~~licenses~~] plates;

(5) the license holder's record of tracking and reporting missing or damaged license plates to the department; and

(6) any other factor the department [~~Department~~] in its discretion deems necessary to support the number of license plates requested.

(h) A manufacturer, distributor, or converter [~~a license holder~~] shall return a department-issued license plate to the department within 10 days of the license holder closing the associated license or the associated license being revoked, canceled, or closed by the department.

§215.121. Sanctions.

[~~(a) The board or department may take the following actions against a license applicant, a license holder, or a person engaged in business for which a license is required:~~]

[~~(1) deny an application;~~]

[~~(2) revoke a license;~~]

[~~(3) suspend a license;~~]

[~~(4) assess a civil penalty;~~]

[~~(5) issue a cease and desist order; or~~]

[~~(6) take other authorized action.~~]

[~~(b)~~] The board or department may deny [~~take action described in subsection (a) of this section if~~] a license applicant, sanction a license holder, or take action against a person engaged in business for which a license is required if the person:

(1) fails to maintain records required under this chapter;

(2) refuses or fails within 15 days to comply with a request for records made by a representative of the department;

(3) sells or offers to sell a motor vehicle to a retail purchaser other than through a licensed or authorized dealer;

(4) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a change of the license holder's physical address, mailing address, telephone number, or email address within 10 days of the change;

(5) fails to timely submit a license amendment application in the electronic licensing system designated by the department to notify the department of a license holder's business or assumed name change, deletion of a line-make, or management or ownership change;

(6) fails to notify the department or pay or reimburse a franchised dealer as required by law;

(7) misuses or fails to display a license plate as required by law, or fails to report a lost, stolen, or damaged license plate within the time designated by rule;

(8) is a manufacturer or distributor and fails to provide a manufacturer's certificate for a new vehicle;

(9) fails to remain regularly and actively engaged in the business of manufacturing, assembling, or modifying a new motor vehicle of the type and line make for which a license has been issued by the department;

(10) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 501-504 [~~501-503~~] or 520 [~~1001-1005~~]; a board order or rule; or a regulation of the department relating to the manufacture, assembly, sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F of this chapter (relating to Advertising);

(11) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.10 [~~§211.3~~] of this title (relating to Criminal Offense Guidelines);

(12) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(13) omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

(14) fails to remit payment as ordered for a civil penalty assessed by the board or department;

(15) violates any state or federal law or regulation relating to the manufacture, distribution, modification, or sale of a motor vehicle;

(16) fails to issue a refund as ordered by the board or department;

(17) fails to participate in statutorily required mediation without good cause; [~~or~~]

(18) fails to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D; or [~~.~~]

(19) violates a provision of Transportation Code, Chapter 730, Motor Vehicle Records Disclosure Act, including a violation by an employee or other agent.

STATUTORY AUTHORITY. The department adopts a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, Regular Session, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules to prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which authorizes the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0631, which requires the board to adopt rules necessary to implement and manage the department's database of dealer-issued license plates; and

Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This repeal implements Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501–503, and 1002.

[~~§215.101. Purpose and Scope.~~]

[~~This subchapter implements Occupations Code, Chapters 2301 and 2305, and Transportation Code, Chapters 503, 504, 520, and 1001 - 1005, and applies to franchised dealers, manufacturers, distributors, and converters.~~]

SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES.

STATUTORY AUTHORITY. The department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Transportation Code, §503.061, which allows the board to adopt rules regulating the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer’s license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011, which allows the board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.0071, which requires the board to adopt rules classifying deputies performing titling and registration duties, the duties and obligations of these deputies, the type and amount of bonds that may be required by a county tax assessor-collector for a deputy performing titling and registration duties, and the fees that may be charged or retained by deputies; Transportation Code, §520.021, which allows the department to adopt rules and policies for the maintenance and use of the department’s automated registration and titling system; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §§501.0041, 502.0021, 503.002, 504.0011, and 520.003; and Government Code, §2001.004 and §2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502. Transportation Code, §503.002 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503. Transportation Code, §504.0011 authorizes the board to adopt rules to implement and administer Chapter 504. Transportation Code, §520.003 authorizes the department to adopt rules to administer Chapter 520.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted new sections and amendments implement Government Code, Chapter 2001; Occupations Code, Chapters 2301 and 2305; and Transportation Code, Chapters 501–504, 520, 730, and 1002.

Text.

§215.132. Definitions.

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

[~~(1) Barrier--A material object or set of objects that separates or demarcates.~~]

(1) [~~(2)~~] Buyer's license plate--A general issue license plate or set of license plates issued by a dealer to a vehicle buyer under Transportation Code, §503.063 for a vehicle that will be titled and registered in Texas. [~~This term also includes a buyer's provisional license plate that a dealer issues when the general issue license plate or set of license plates for that vehicle or motor vehicle type is not in a dealer's license plate inventory at the time of retail sale.~~]

(2) Buyer’s provisional license plate--A license plate that a dealer issues when at the time of a retail sale:

(A) the general issue license plate for that vehicle or motor vehicle type is not in a dealer's license plate inventory;

(B) the dealer has submitted an application for an exempt license plate for the vehicle and that application is pending department approval; or

(C) a retail buyer requires a commercial fleet specific use license plate and will obtain that license plate from the department.

(3) Buyer's temporary license plate--A temporary license plate issued by a dealer to a non-resident vehicle buyer for a vehicle that will be titled and registered out-of-state in accordance with Transportation Code, §503.063(i).

(4) Consignment sale--The owner-authorized sale of a motor vehicle by a person other than the owner.

(5) Dealer's temporary license plate--A license plate that a dealer may purchase and use for the purposes allowed under Transportation Code, §503.062.

(6) House trailer--A nonmotorized vehicle designed for human habitation and for carrying persons and property on its own structure and for being drawn by a motor vehicle. A house trailer does not include manufactured housing. A towable recreational vehicle, as defined by Occupations Code, §2301.002, is included in the terms "house trailer" or "travel trailer."

(7) Municipality--As defined according to the Local Government Code, Chapter 1.

(8) Person--Has the meaning assigned by Occupations Code, §2301.002.

(9) Sale--With regard to a specific vehicle, the transfer of possession of that vehicle to a purchaser for consideration.

(10) Towable recreational vehicle--Has the same meaning as "house trailer" defined by this section.

(11) Travel Trailer--Has the same meaning as "house trailer" defined by this section.

(12) Vehicle--Has the meaning assigned by Transportation Code, §503.001.

(13) VIN--Vehicle identification number.

§215.133. GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction.

[~~(a) No person may engage in business as a dealer or as a wholesale motor vehicle auction unless that person has a valid GDN assigned by the department for each location from which the person engages in business. A dealer must also hold a GDN for a consignment location, unless the consignment location is a wholesale motor vehicle auction.~~]

[~~(b) Subsection (a) of this section does not apply to a person exempt from the requirement to obtain a GDN under Transportation Code §503.024.~~]

(a) [~~(c)~~] A GDN dealer or wholesale motor vehicle auction license application must be on a form prescribed by the department and properly completed by the applicant as required under §215.83 of this title (relating to License Applications, Amendments, or Renewals). A GDN dealer or wholesale motor vehicle auction application must include all required information, required supporting documents, and required fees and must be submitted to the department electronically in the licensing system designated by the department. A GDN dealer or wholesale motor vehicle auction GDN holder renewing or amending its GDN, or a dealer or wholesale motor vehicle auction reapplying for a GDN, must enter or verify current license information, provide related information and documents for any new requirements or changes to the GDN, and pay required fees including any outstanding civil penalties owed the department under a final order. An applicant for a new dealer or wholesale motor vehicle auction GDN must provide the following:

(1) Required information:

(A) type of GDN requested;

(B) business information, including the name, physical and mailing addresses, telephone number, Secretary of State file number (as applicable), and website address, as applicable;

(C) contact name, email address, and telephone number of the person submitting the application;

(D) contact name, email address, and telephone number of a person who can provide information about business operations and the motor vehicle products or services offered;

(E) the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, or principal if the applicant is not a publicly traded company;

(F) the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

(G) the name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

(H) the name, social security number, date of birth, and identity document information of at least one manager or other bona fide employee who will be present at the established and permanent place of business if the owner is out of state or will not be present during business hours at the established and permanent place of business in Texas;

(I) if a dealer, the name, telephone number, and business email address of the account administrator for the temporary tag database prior to July 1, 2025, or for the license plate system on or after July 1, 2025, designated by the applicant who must be an owner or representative listed in the application;

(J) criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location;

(K) military service status;

(L) licensing history required to evaluate fitness for licensure under §215.89 of this title (relating to Fitness);

(M) information about the business location and business premises, including whether the applicant will operate as a salvage vehicle dealer at the location;

(N) history of insolvency, including outstanding or unpaid debts, judgments, or liens, unless the debt was discharged under 11 U.S.C. §§101 et seq. (Bankruptcy Act) or is pending resolution under a case filed under the Bankruptcy Act;

(O) signed Certification of Responsibility, which is a form provided by the department; and

(P) if a dealer, whether the applicant repairs a motor vehicle with a catalytic converter in Texas, and if so, the physical address where the repair is performed; and

(Q) any other information required by the department to evaluate the application under current law and board rules.

(2) A legible and accurate electronic image of each applicable required document:

(A) proof of a surety bond if required under §215.137 of this title (relating to Surety Bond);

(B) the certificate of filing, certificate of incorporation, or certificate of registration on file with the Secretary of State, as applicable;

(C) each assumed name certificate on file with the Secretary of State or county clerk;

(D) at least one of the following unexpired identity documents for each natural person listed in the application:

(i) driver license;

(ii) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

(iii) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) passport; or

(v) United States military identification card.

(E) a certificate of occupancy, certificate of compliance, or other official documentation confirming the business location complies with municipal ordinances, including zoning, occupancy, or other requirements for a vehicle business;

(F) documents proving business premises ownership, or lease or sublease agreement for the license period;

(G) business premises photos and a notarized affidavit certifying that all premises requirements in §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements) are met and will be maintained during the license period;

(H) evidence of franchise if applying for a franchised motor vehicle dealer GDN;

(I) proof of completion of the dealer education and training required under Transportation Code §503.0296, if applicable; and

(J) any other documents required by the department to evaluate the application under current law and board rules.

(3) Required fees:

(A) the fee for each type of license requested as prescribed by law; and

(B) the fee, including applicable taxes, for each dealer's standard plate, and dealer's temporary license plate on or after July 1, 2025, requested by the applicant as prescribed by law.

(b) [~~(d)~~] An applicant for a dealer or wholesale auction GDN must also comply with fingerprint requirements in §211.13 [~~§211.6~~] of this title (relating to Fingerprint Requirements for Designated License Types), as applicable.

(c) [~~(e)~~] An applicant for a GDN operating under a name other than the applicant's business name shall use the assumed name under which the applicant is authorized to do business, as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant on the application using the letters "DBA." The applicant may not use a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public.

(d) [~~(f)~~] A wholesale motor vehicle dealer GDN holder may sell or exchange vehicles with licensed or authorized dealers only. A wholesale motor vehicle dealer GDN holder may not sell or exchange vehicles at retail.

(e) [~~(g)~~] An independent mobility motor vehicle dealer shall retain and produce for inspection all records relating to the license requirements under Occupations Code, §2301.002(17-b) and all information and records required under Transportation Code §503.0295.

(f) [~~(h)~~] In evaluating a new or renewal GDN application or an application for a new GDN location, the department may require a site visit to determine if the business location meets the requirements in §215.140. The department will require the applicant or GDN holder to provide a notarized affidavit confirming that all premises requirements are met and will be maintained during the license period.

[~~(i) A person holding an independent motor vehicle dealer GDN does not have to hold a salvage vehicle dealer's license to:~~]

[~~(1) act as a salvage vehicle dealer or rebuilder; or~~]

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

(g) [~~(j)~~] A person holding an independent motor vehicle dealer GDN and performing salvage activities [~~under subsection (i)~~] must apply for a National Motor Vehicle Title Information System (NMVTIS) identification number and provide the number to the department in the GDN application.

(h) [~~(k)~~] To be eligible for an independent motor vehicle dealer GDN, a person must complete dealer education and training specified by the department, except as provided in this subsection:

(1) once a person has completed the required dealer education and training, the person will not have to retake the dealer education and training for subsequent GDN renewals, but may be required to provide proof of dealer education and training completion as part of the GDN renewal process;

(2) a person holding an independent motor vehicle dealer GDN for at least 10 years as of September 1, 2019, is exempt from the dealer education and training requirement; and.

(3) a military service member, military spouse, or military veteran will receive appropriate credit for prior training, education, and professional experience and may be exempted from the dealer education and training requirement.

§215.134. Requirements for a Drive-a-way Operator In-Transit License.

[~~(a) No drive-a-way operator may engage in business in Texas unless that person has a currently valid drive-a-way operator in-transit license issued by the department.~~]

(a) [~~(b)~~] A drive-a-way operator in-transit license application must be on a form prescribed by the department and properly completed by the applicant as required under §215.83 of this title (relating to License Applications, Amendments, or Renewals). A drive-a-way operator in-transit application must include all required information, required supporting documents, and required fees, and must be submitted to the department electronically in the licensing system designated by the department.

(b) [~~(c)~~] A drive-a-way operator in-transit license holder renewing or amending its license must verify current license information, provide related information and documents for any new requirements or changes to the license, and pay required fees.

(c) [~~(d)~~] An applicant for a new license must register for an account in the department-designated licensing system by selecting the licensing system icon on the dealer page of the department website. An applicant must designate the account administrator and provide the name and email address for that person, and provide the business telephone number, name, business type, and social security number or employer identification number, as applicable. The applicant's licensing account administrator must be an owner, officer, manager, or bona fide employee.

(d) [~~(e)~~] Once registered, an applicant may apply for a new license and must provide the following:

(1) Required information:

(A) type of license requested;

(B) business information, including the name, physical and mailing addresses, telephone number, Secretary of State file number (as applicable), and website address, as applicable;

(C) contact name, email address, and telephone number of the person submitting the application;

(D) contact name, email address, and telephone number of a person who can provide information about business operations and the motor vehicle services offered;

(E) the name, social security number, date of birth, identity document information, and ownership percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a publicly traded company;

(F) the name, social security number, date of birth, and identity document information for each officer, director, manager, trustee, or other representative authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

(G) the name, employer identification number, ownership percentage, and non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

(H) criminal history record information under the laws of Texas, another state in the United States, the United States, and any foreign jurisdiction for each person listed in the application, including offense description, date, and location;

(I) military service status;

(J) licensing history required to evaluate fitness for licensure under §215.89 of this title (relating to Fitness);

(K) signed Certification of Responsibility, which is a form provided by the department; and

(L) any other information required by the department to evaluate the application under current law and board rules.

(2) A legible and accurate electronic image of each applicable required document:

(A) the certificate of filing, certificate of incorporation, or certificate of registration on file with the Secretary of State, as applicable;

(B) each assumed name certificate on file with the Secretary of State or county clerk;

(C) one of the following unexpired identity documents for each natural person listed in the application:

(i) driver license;

(ii) Texas Identification Card issued by the Texas Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

(iii) license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(iv) passport; or

(v) United States military identification card;

(D) a list of manufacturers, distributors, dealers, or auctions for which the applicant provides drive-a-way services;

(E) a description of the business model or business process, transportation methods, compensation agreements, products, and services used or offered sufficient to allow department to determine if the license type applied for is appropriate under Texas law; and

(F) any other documents required by the department to evaluate the application under current law and board rules.

(3) Required fees:

(A) the license fee as prescribed by law; and

(B) the fee, including any taxes, for each drive-a-way in-transit standard license plate requested by the applicant as prescribed by law.

(e) [~~(f)~~] An applicant for a drive-a-way operator in-transit license must also comply with fingerprint requirements in §211.13 [~~§211.6~~] of this title (relating to Fingerprint Requirements for Designated License Types).

(f) [~~(g)~~] An applicant operating under a name other than the applicant's business name shall use the name under which the applicant is authorized to do business, as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant on the application using the letters "DBA." The applicant may not use a name or assumed name that may be confused with or is similar to that of a governmental entity or that is otherwise deceptive or misleading to the public.

§215.137. Surety Bond.

(a) The surety bond required by Transportation Code, §503.033 shall be in the legal business name in which the dealer's GDN will be issued and shall contain the complete physical address of each location licensed under the GDN that the surety bond is intended to cover.

(b) A surety bond executed by an agent representing a bonding company or surety must be supported by an original power of attorney from the bonding company or surety.

(c) The identity of the obligee on a surety bond or a rider to a surety bond must be approved by the department. An obligee may be identified as:

(1) a person who obtains a court judgment assessing damages and attorney's fees for an act or omission on which the bond is conditioned; or

(2) unknown.

(d) A bonding company that pays any claim against a surety bond shall immediately report the payment to the department.

(e) A bonding company shall give written notice to the department 30 days prior to canceling any surety bond.

[~~(f) The surety bond required by this section does not apply to a:~~]

[~~(1) franchised motor vehicle dealer licensed by the department;~~]

[~~(2) franchised motorcycle dealer licensed by the department;~~]

[~~(3) franchised house trailer or travel trailer dealer licensed by the department; or~~]

[~~(4) trailer or semitrailer dealer licensed by the department.~~]

§215.140. Established and Permanent Place of Business Premises Requirements.

(a) A dealer must meet the following requirements at each licensed location and maintain the requirements during the term of the license. If multiple dealers are licensed at a location, each dealer must maintain the following requirements during the entire term of the license.

(1) Business hours for retail dealers.

(A) A retail dealer's office must be open at least four days per week for at least four consecutive hours per day and may not be open solely by appointment.

(B) The retail dealer's business hours for each day of the week must be posted at the main entrance of the retail dealer's office in a manner and location that is accessible to the public. The owner or a bona fide employee of the retail dealer shall be at the retail dealer's licensed location during the posted business hours for the purposes of buying, selling, exchanging, or leasing vehicles. If the owner or a bona fide employee is not available to conduct business during the retail dealer's posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time the retail dealer will resume operations. Regardless of the retail dealer's business hours, the retail dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(2) Business hours for wholesale motor vehicle dealers. A dealer that holds only a wholesale motor vehicle dealer's GDN must post its business hours at the main entrance of the wholesale motor vehicle dealer's office in a manner and location that is accessible to the public. A wholesale motor vehicle dealer or bona fide employee shall be at the wholesale motor vehicle dealer's licensed location at least two weekdays per week for at least two consecutive hours per day. A wholesale motor vehicle dealer may not be open solely by appointment. Regardless of the wholesale motor vehicle dealer's business hours, the wholesale motor vehicle dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(3) Business sign requirements for retail dealers.

(A) A retail dealer must display a conspicuous, permanent sign with legible letters at least six inches in height showing the retail dealer's business name or assumed name substantially similar to the name reflected on the retail dealer's GDN under which the retail dealer conducts business. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(B) The sign must be permanently mounted at the physical address listed on the application for the retail dealer's GDN. A business sign is considered permanently mounted if bolted to an exterior building wall, [~~or~~] bolted or welded to a dedicated sign pole or sign support permanently installed in the ground, or permanently affixed or etched on an exterior window, wall, or door.

(C) A retail dealer may use a temporary sign or banner if that retail dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(D) A retail dealer is responsible for ensuring that the business sign complies with municipal ordinances, and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(4) Business sign requirements for wholesale motor vehicle dealers.

(A) Exterior Sign

(i) A wholesale motor vehicle dealer must display a conspicuous, permanent sign with legible letters at least six inches in height showing the wholesale motor vehicle dealer's business name or assumed name substantially similar to the name reflected on the wholesale motor vehicle dealer's GDN under which the wholesale motor vehicle dealer conducts business. Effective September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers" in letters at least three inches in height. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(ii) The sign must be permanently mounted on the business property at the physical address listed on the application. A business sign is considered permanently mounted if bolted to an exterior building wall, [~~or~~] bolted or welded to a dedicated sign pole or sign support permanently installed in the ground, or permanently affixed or etched on an exterior window, wall, or door. A wholesale motor vehicle dealer may use a temporary exterior sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(B) Interior Sign

(i) If the wholesale motor vehicle dealer's office is located in an office building with one or more other businesses and an outside sign is not permitted by the property owner, a conspicuous permanent business sign permanently mounted on or beside the main door to the wholesale motor vehicle dealer's office with legible letters at least two inches in height is acceptable. Effective September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers" in letters at least one inch in height.

(ii) An interior business sign is considered conspicuous if it is easily visible to the public within 10 feet of the main entrance of the wholesale motor vehicle dealer's office. An interior sign is considered permanent if made from durable material and has lettering that cannot be changed. An interior sign is considered permanently mounted if bolted or otherwise permanently affixed to the main door or nearby wall. A wholesale motor vehicle dealer may use a temporary interior sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(C) A wholesale motor vehicle dealer is responsible for ensuring that the business sign complies with municipal ordinances and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(5) Office requirements for a retail dealer and a wholesale motor vehicle dealer.

(A) A dealer's office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(B) A dealer's office must comply with all applicable municipal ordinances, including municipal zoning ordinances. The dealer is responsible for obtaining a certificate of occupancy, certificate of compliance, or other required document issued by a municipal government to show compliance, including a new certificate or document when the building is altered or remodeled, or when the building use changes.

(C) A dealer's office may not be located in a residence, apartment, hotel, motel, rooming house, or any room or building not open to the public.

(D) A dealer's office may not be located in a restaurant, gas station, or convenience store, unless the office has a separate entrance door that does not require a dealer's customer to pass through the other business.

(E) A dealer's office may not be virtual or provided by a subscription for office space or office services. Access to an office space or office services is not considered an established and permanent location.

(F) The physical address of the dealer's office must be in Texas and recognized by the U.S. Postal Service, be capable of receiving U.S. mail, and have an assigned emergency services property address. The department will not mail a dealer's or buyer's license plate to an out-of-state address and will only mail or deliver a license plate to a dealer's licensed physical location or other physical location listed in the dealer’s license record and approved by the department.

(G) A portable-type office building may qualify as an office only if the building meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(H) The dealer's office space must:

(i) include at least 100 square feet of interior floor space, exclusive of hallways, closets, or restrooms;

(ii) have a minimum seven-foot-high ceiling;

(iii) accommodate required office equipment; and

(iv) allow a dealer and customer to safely access the office and conduct business in private while seated.

(6) Required office equipment for a retail dealer and a wholesale motor vehicle dealer. At a minimum, a dealer's office must be equipped with:

(A) a desk;

(B) two chairs;

(C) internet access;

(D) a working telephone number listed in the business name or assumed name under which the dealer conducts business; and

(E) a locked and secured room or closet or at least one securely locked, substantially constructed safe or steel cabinet bolted or affixed to the floor or wall in such a way that the safe or steel cabinet cannot be readily removed and of sufficient size to store all [~~dealer's and buyer's~~] license plates [~~in a dealer's possession including unissued and unassigned buyer's license plates~~].

(7) Number of retail dealers in one building. Not more than four retail dealers may be located in the same building. Each retail dealer located in the same building must meet the requirements of this section.

(8) Number of wholesale motor vehicle dealers in one office building. Not more than eight wholesale motor vehicle dealers may be located in the same office building. Each wholesale motor vehicle dealer located in the same office building must meet the requirements of this section.

(9) Office sharing prohibition for retail dealers and wholesale motor vehicle dealers. Unless otherwise authorized by the Transportation Code, a retail dealer and a wholesale motor vehicle dealer licensed after September 1, 1999, may not be located in the same building.

(10) Dealer housed with other business.

(A) If a person conducts business as a dealer in conjunction with another business owned by the same person and under the same name as the other business, the same telephone number may be used for both businesses. If the name of the dealer differs from the name of the other business, a separate telephone listing and a separate sign for each business are required.

(B) A person may conduct business as a dealer in conjunction with another business not owned by that person only if the dealer owns the property on which business is conducted or has a separate lease agreement from the owner of that property that meets the requirements of this section. The same telephone number may not be used by both businesses. The dealer must have separate business signs, telephone listings, and office equipment required under this section.

(C) A dealer's office must have permanent interior walls on all sides and be separate from any public area used by another business.

(11) Display area and storage lot requirements.

(A) A wholesale motor vehicle dealer is not required to have display space at the wholesale motor vehicle dealer's business premises.

(B) A retail dealer must have an area designated as display space for the retail dealer's inventory. A retail dealer's designated display area must comply with the following requirements.

(i) The display area must be located at the retail dealer's physical business address or contiguous to the retail dealer's physical address. The display area may not be in a storage lot.

(ii) The display area must be of sufficient size to display at least five vehicles of the type for which the GDN is issued. The display area must be reserved exclusively for the retail dealer's inventory and may not be used for customer parking, employee parking, general storage, or shared or intermingled with another business or a public parking area, a driveway to the office, or another dealer's display area.

(iii) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(iv) If a retail dealer shares a display or parking area with another business, including another dealer, the dealer's vehicle inventory must be separated from the other business's display or parking area by permanent signage identifying the area as reserved display space for that retail dealer’s inventory. [~~a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the space necessary to allow for entry and exit of vehicle inventory.~~]

(v) If a dealer's business location includes gasoline pumps or a charging station or includes another business that sells gasoline or has a charging station, the dealer's display area may not be part of the parking area for fuel or charging station customers and may not interfere with access to or from the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

(vi) The display area must be adequately illuminated if the retail dealer is open at night so that a vehicle for sale can be properly inspected by a potential buyer.

(vii) The display area may be located inside a building; however, if multiple dealers are displaying vehicles inside a building, each dealer's display area must be separated by permanent signage identifying the area as reserved display space for that retail dealer’s inventory. [~~a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the space necessary to allow for entry and exit of vehicle inventory.~~]

(C) A GDN holder may maintain a storage lot only if the storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the license holder's name, contact information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in an access-controlled location to be considered not accessible to the public. A GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department.

(12) Dealers authorized to sell salvage motor vehicles. If an independent motor vehicle dealer offers a salvage motor vehicle for sale on the dealer's premises, the vehicle must be clearly and conspicuously marked with a sign informing a potential buyer that the vehicle is a salvage motor vehicle.

(13) Lease requirements. If the premises from which a dealer conducts business, including any display area, is not owned by the dealer, the dealer must maintain a lease that is continuous during the period of time for which the dealer's license will be issued. The lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the property owner as the lessor of the premises and the name of the dealer as the tenant or lessee of the premises;

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

(C) the street address or legal description of the property, provided that if only a legal description of the property is included, a dealer must attach a statement verifying that the property description in the lease agreement is the physical street address identified on the application as the physical address for the established and permanent place of business;

(D) the signature of the property owner as the lessor and the signature of the dealer as the tenant or lessee; and

(E) if the lease agreement is a sublease in which the property owner is not the lessor, the dealer must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the dealer is authorized to sublease the location and may operate a vehicle sales business from the location.

(14) Dealer must display GDN and bond notice. A dealer must display the dealer's GDN issued by the department at all times in a manner that makes the GDN easily readable by the public and in a conspicuous place at each place of business for which the dealer's GDN is issued. A dealer required to obtain a surety bond must post a bond notice adjacent to and in the same manner as the dealer's GDN is displayed. The notice must include the bond company name, bond identification number, and procedure by which a claimant can recover under the bond. The notice must also include the department's website address and notify a consumer that a dealer's surety bond information may be obtained by submitting a request to the department. If the dealer's GDN applies to more than one location, a copy of the GDN and bond notice must be displayed in each supplemental location.

(b) Wholesale motor vehicle auction premises requirements. A wholesale motor vehicle auction must comply with the following premises requirements:

(1) a wholesale motor vehicle auction GDN holder must hold a motor vehicle auction on a regular periodic basis at the licensed location, and an owner or bona fide employee must be available at the business location during each auction and during posted business hours. If the owner or a bona fide employee is not available to conduct business during the posted business hours due to special

circumstances or emergencies, a separate sign must be posted indicating the date and time operations will resume.

(2) the business telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours.

(3) a wholesale motor vehicle auction GDN holder must display a business sign that meets the following requirements:

(A) The sign must be a conspicuous, permanent sign with legible letters at least six inches in height showing the business name or assumed name substantially similar to the name reflected on the GDN under which the GDN holder conducts business. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(B) The sign must be permanently mounted at the physical address listed on the application for the wholesale motor vehicle auction GDN. A business sign is considered permanently mounted if bolted to an exterior building wall, [~~or~~] bolted or welded to a dedicated sign pole or sign support permanently installed in the ground, or permanently affixed or etched on an exterior window, wall, or door.

(C) An applicant may use a temporary sign or banner if the applicant can show proof that a sign that meets the requirements of this paragraph has been ordered and provides a written statement that the sign will be promptly and permanently mounted upon delivery.

(D) An applicant or holder is responsible for ensuring that the business sign complies with municipal ordinances, and that any lease signage requirements are consistent with the signage requirements in this paragraph.

(4) The business office of a wholesale motor vehicle auction GDN applicant and holder must meet the following requirements:

(A) The office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(B) The office must comply with all applicable municipal ordinances, including municipal zoning ordinances. The wholesale motor vehicle auction is responsible for obtaining a certificate of occupancy, certificate of compliance, or other required document issued by a municipal government to show compliance, including a new certificate or document when the building is altered or remodeled, or when the building use changes.

(C) The office may not be located in a residence, apartment, hotel, motel, rooming house, or any room or building not open to the public.

(D) The office may not be located in a restaurant, gas station, or convenience store, unless the office has a separate entrance door that does not require a customer to pass through the other business.

(E) The office may not be virtual or provided by a subscription for office space or office services. Access to office space or office services is not considered an established and permanent location.

(F) The physical address of the office must be in Texas and recognized by the U.S. Postal Service, capable of receiving U.S. mail, and have an assigned emergency services property address.

(G) A portable-type office building may qualify as an office only if the building meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(5) A wholesale motor vehicle auction GDN applicant and holder must have the following office equipment:

(A) a desk;

(B) a chair;

(C) internet access; and

(D) a working telephone number listed in the business name or assumed name under which business is conducted.

(6) A wholesale motor vehicle auction must meet the following display area and storage lot requirements:

(A) The area designated as display space for inventory must be located at the physical business address or contiguous to the physical address. The display area may not be in a storage lot.

(B) The display area must be of sufficient size to display at least five vehicles. Those spaces must be reserved exclusively for inventory and may not be used for customer parking, employee parking, general storage, or shared or intermingled with another business or a public parking area, or a driveway to the office.

(C) The display area may not be on a public easement, right-of-way, or driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the state highway system, use as a display area may only be authorized by a lease agreement.

(D) If the business location includes gasoline pumps or a charging station or includes another business that sells gasoline or has a charging station, the display area may not be part of the parking area for fuel or charging station customers and may not interfere with access to or from the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

(E) The display area must be adequately illuminated if open at night so that a vehicle for sale can be properly inspected by a potential buyer.

(F) The display area may be located inside a building.

(G) A wholesale motor vehicle auction may maintain a storage lot only if the storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the business name, contact information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in an access-controlled location to be considered not accessible to the public. A GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the department.

(7) A wholesale motor vehicle auction must meet the following lease requirements if the business premises, including any display area, is not owned by the wholesale motor vehicle auction:

(A) the applicant or holder must maintain a lease that is continuous during the period of time for which the GDN will be issued;

(B) The lease agreement must be on a properly executed form containing at a minimum:

(i) the name of the property owner as the lessor of the premises and the name of the GDN applicant or holder as the tenant or lessee of the premises;

(ii) the period of time for which the lease is valid;

(iii) the street address or legal description of the property, provided that if only a legal description of the property is included, a wholesale motor vehicle auction must attach a statement verifying that the property description in the lease agreement is the physical street address identified on the application as the physical address for the established and permanent place of business;

(iv) the signature of the property owner as the lessor and the signature of the applicant or holder as the tenant or lessee; and

(C) if the lease agreement is a sublease in which the property owner is not the lessor, the wholesale motor vehicle auction must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the wholesale motor vehicle auction is authorized to sublease the location and may operate a wholesale motor vehicle auction business from the location.

§215.141. Sanctions.

[~~(a) The board or department may take the following actions against a license applicant, a license holder, or a person engaged in business for which a license is required:~~]

[~~(1) deny an application;~~]

[~~(2) revoke a license;~~]

[~~(3) suspend a license;~~]

[~~(4) assess a civil penalty;~~]

[~~(5) issue a cease and desist order; or~~]

[~~(6) take other authorized action.~~]

[~~(b)~~] The board or department may deny [~~take action described in subsection (a) of this section if~~] a license applicant, sanction a license holder, or take action against a person engaged in business for which a license is required if the person:

(1) fails to maintain a good and sufficient bond or post the required bond notice if required under Transportation Code §503.033 (relating to Security Requirement);

(2) fails to meet or maintain the requirements of §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements);

(3) fails to maintain records required under this chapter;

(4) refuses or fails to comply with a request by the department for electronic records or to examine and copy electronic or physical records during the license holder's business hours at the licensed business location:

(A) sales records required to be maintained by §215.144 of this title (relating to Vehicle Records);

(B) ownership papers for a vehicle owned by that dealer or under that dealer's control;

(C) evidence of ownership or a current lease agreement for the property on which the business is located; or

(D) the Certificate of Occupancy, Certificate of Compliance, business license or permit, or other official documentation confirming compliance with county and municipal laws or ordinances for a vehicle business at the licensed physical location.

(5) refuses or fails to timely comply with a request for records made by a representative of the department;

(6) holds a wholesale motor vehicle dealer's license and sells or offers to sell a motor vehicle to a person other than a licensed or authorized dealer;

(7) sells or offers to sell a type of vehicle that the person is not licensed to sell;

(8) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a change of the license holder's physical address, mailing address, telephone number, or email address within 10 days of the change;

(9) fails to submit a license amendment application in the electronic licensing system designated by the department to notify the department of a license holder's name change, or management or ownership change within 10 days of the change;

(10) issues more than one buyer's license plate or buyer's temporary license plate for a vehicle sold on or after July 1, 2025, or more than one temporary tag for a vehicle sold before July 1, 2025, for the purpose of extending the purchaser's operating privileges for more than 60 days;

(11) fails to remove a license plate or registration insignia from a vehicle that is displayed for sale;

(12) misuses a dealer's license plate, or a temporary tag before July 1, 2025;

(13) fails to display a dealer's license plate, or temporary tag before July 1, 2025, as required by law;

(14) holds open a title or fails to take assignment of a certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle acquired by the dealer, or fails to assign the certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle sold;

(15) fails to remain regularly and actively engaged in the business of buying, selling, or exchanging vehicles of the type for which the GDN is issued by the department;

(16) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 501 - 504, or 520 [~~503 and 1001-1005~~]; a board order or rule; or a regulation of the department relating to the sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F of this chapter (relating to Advertising);

(17) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.10 [~~§211.3~~] of this title (relating to Criminal Offense Guidelines);

(18) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(19) has not assigned at least five vehicles in the prior 12 months, provided the dealer has been licensed more than 12 months;

(20) files or provides a false or forged:

(A) title document, including an affidavit making application for a certified copy of a title; or

(B) tax document, including a sales tax statement or affidavit;

(21) uses or allows use of that dealer's license or location for the purpose of avoiding a provision of Occupations Code, Chapter 2301<u>, 2302, and 2305</u>; Transportation Code, Chapters 503 [~~and 1001 – 1005~~]; or other laws;

(22) omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

(23) fails to remit payment as ordered for a civil penalty assessed by the board or department;

(24) sells a new motor vehicle without a franchised dealer's license issued by the department;

(25) fails to comply with a dealer responsibility under §215.150 of this title (relating to Dealer Authorization to Issue License Plates);

(26) [~~on or after July 1, 2025,~~] fails to securely store a license plate or fails to destroy a [~~previously issued but currently unassigned~~] license plate within the time prescribed by statute;

(27) fails to maintain a record of dealer license plates as required under §215.138 of this title (relating to Use of Dealer's License Plates);

(28) [~~on or after July 1, 2025,~~] fails to file or enter a vehicle transfer notice;

(29) fails to enter a lost, stolen, or damaged license plate in the electronic system designated by the department within the time limit prescribed by rule;

(30) violates any state or federal law or regulation relating to the sale of a motor vehicle;

(31) knowingly fails to disclose that a motor vehicle has been repaired, rebuilt, or reconstructed and issued a title under Transportation Code, §501.100 (relating to Application for Regular Certificate of Title for Salvage Vehicle);

(32) fails to issue a refund as ordered by the board or department;

(33) fails to acquire or maintain a required certificate of occupancy, certificate of compliance, business license or permit, or other official documentation for the licensed location confirming compliance with county or municipal laws or ordinances or other local requirements for a vehicle business;

(34) [~~on or after July 1, 2025,~~] fails to remove a license plate from a vehicle as required by statute or rule; [~~or~~]

(35) fails to keep or maintain records required under Occupations Code, Chapter 2305, Subchapter D or to allow an inspection of these records by the department; [~~.~~]

(36) violates a provision of Transportation Code, Chapter 730, Motor Vehicle Records Disclosure Act, including a violation by an employee or other agent; or

(37) issues the wrong type of license plate based on the transaction or vehicle type;

(38) secures a license plate to a sold vehicle but fails to assign the license plate to the vehicle in the system designated by the department; or

(39) voids and reissues the same license plate to a buyer to extend a title or registration filing deadline.

§215.144. Vehicle Records.

(a) Purchases and sales records. A dealer and wholesale motor vehicle auction shall maintain a complete record of all vehicle purchases and sales for a minimum period of 48 months and make the record available for inspection and copying by the department during business hours.

(b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer shall keep a complete written record of each vehicle purchase, vehicle sale, and any adaptive work performed on each vehicle for a minimum period of 36 months after the date the adaptive work is performed on the vehicle. An independent mobility motor vehicle dealer shall also retain and produce for inspection all records relating to license requirements under Occupations Code, §2301.002(17-b) and all information and records required under Transportation Code §503.0295.

(c) Location of records. A dealer's record reflecting purchases and sales for the preceding 13 months must be maintained at the dealer's licensed location. Original titles are not required to be kept at the licensed location but must be made available to the agency upon reasonable request. A dealer's record for prior time periods may be kept off-site.

(d) Request for records. Within 15 days of receiving a request from a representative of the department, a dealer shall deliver a copy of the specified records to the address listed in the request. If a dealer has a concern about the origin of a records request, the dealer may verify that request with the department prior to submitting its records.

(e) Content of records. A dealer's complete record for each vehicle purchase or vehicle sale must contain:

(1) the date of the purchase;

(2) the date of the sale;

(3) the VIN;

(4) the name and address of the person selling the vehicle to the dealer;

(5) the name and address of the person purchasing the vehicle from the dealer;

(6) the name and address of the consignor if the vehicle is offered for sale by consignment;

(7) except for a purchase or sale where the Tax Code does not require payment of motor vehicle sales tax, a county tax assessor-collector receipt marked paid;

(8) a copy of all documents, forms, and agreements applicable to a particular sale, including a copy of:

(A) the title application;

(B) the work-up sheet;

(C) the front and back of the manufacturer's certificate of origin or manufacturer's statement of origin, unless the dealer obtains the title through webDEALER as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems);

(D) the front and back of the title for the purchase and the sale, unless the dealer enters or obtains the title through webDEALER as defined in §217.71 of this title;

(E) the factory invoice, if applicable;

(F) the sales contract;

(G) the retail installment agreement;

(H) the buyer's order;

(I) the bill of sale;

(J) any waiver;

(K) any other agreement between the seller and purchaser;

(L) the purchaser's photo identification, unless prohibited by federal law;

(M) the odometer disclosure statement properly executed by the motor vehicle seller and acknowledged by the purchaser [~~signed by the buyer~~], unless the vehicle is exempt; [~~and~~]

(N) the rebuilt salvage disclosure, if applicable; and [~~.~~]

(O) the dealer’s copy of the buyer’s license plate receipt.

(9) the original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for a motor vehicle offered for sale by a dealer which must be properly stamped if the title transaction is entered into webDEALER as defined in §217.71 of this title by the dealer;

(10) the dealer's monthly Motor Vehicle Seller Financed Sales Returns, if any; and

(11) if the vehicle sold is a motor home or a towable recreational vehicle subject to inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

(f) Title assignments.

(1) For each vehicle a dealer acquires or offers for sale, the dealer must properly take assignment in the dealer's name of any:

(A) title;

(B) manufacturer's statement of origin;

(C) manufacturer's certificate of origin; or

(D) other evidence of ownership.

(2) Unless not required by Transportation Code, §501.0234(b), a dealer must apply in the name of the purchaser of a vehicle for the title and registration, as applicable, of the vehicle with a county tax assessor-collector.

(3) To comply with Transportation Code, §501.0234(f), a title or registration is considered filed within a reasonable time if filed within:

(A) 30 days of the vehicle sale date; or

(B) 45 days of the vehicle sale date for a dealer-financed transaction; or

(C) 60 days of the vehicle sale date for a vehicle purchased by a member or reserve member of the United States armed forces, Texas National Guard, or National Guard of another state serving on active duty.

(4) The dealer is required to provide to the purchaser the receipt for the title and registration application.

(5) The dealer is required to maintain a copy of the receipt for the title and registration application in the dealer's sales file.

(g) Out-of-state sales. For a sale involving a vehicle to be transferred out of state, the dealer must:

(1) within 30 days of the date of sale, either file the application for certificate of title on behalf of the purchaser or deliver the properly assigned evidence of ownership to the purchaser; and

(2) maintain in the dealer's record at the dealer's licensed location a photocopy of the completed sales tax exemption form for out of state sales approved by the Texas Comptroller of Public Accounts.

(h) Consignment sales. A dealer offering a vehicle for sale by consignment must have a written consignment agreement or a power of attorney for the vehicle, and shall, after the sale of the vehicle, take assignment of the vehicle in the dealer's name and, pursuant to subsection (f), apply in the name of the purchaser for transfer of title and registration, if the vehicle is to be registered, with a county tax assessor-collector. The dealer must, for a minimum of 48 months, maintain a record of each vehicle offered for sale by consignment, including the VIN and the name of the owner of the vehicle offered for sale by consignment.

(i) Public motor vehicle auctions.

(1) A GDN holder that acts as a public motor vehicle auction must comply with subsection (h) of this section.

(2) A GDN holder that acts as a public motor vehicle auction:

(A) is not required to take assignment of title of a vehicle before offering the vehicle for sale at auction;

(B) must take assignment of title of a vehicle from a consignor prior to making application for title on behalf of the buyer; and

(C) must make application for title on behalf of the purchaser and remit motor vehicle sales tax within a reasonable time as defined in subsection (f) of this section.

(3) A GDN holder may not sell another GDN holder's vehicle at a public motor vehicle auction.

(j) Wholesale motor vehicle auction records. A wholesale motor vehicle auction license holder shall maintain, for a minimum of 48 months, a complete record of each vehicle purchase and sale occurring through the wholesale motor vehicle auction. The wholesale motor vehicle auction license holder shall make the record available for inspection and copying by the department during business hours.

(1) A wholesale motor vehicle auction license holder shall maintain at the licensed location a record reflecting each purchase and sale for at least the preceding 24 months. Records for prior time periods may be kept off-site.

(2) Within 15 days of receiving a department request, a wholesale motor vehicle auction license holder shall deliver a copy of the specified records to the address listed in the request.

(3) A wholesale motor vehicle auction license holder's complete record of each vehicle purchase and sale must, at a minimum, contain:

(A) the date of sale;

(B) the VIN;

(C) the name and address of the person selling the vehicle;

(D) the name and address of the person purchasing the vehicle;

(E) the dealer's license number of both the selling dealer and the purchasing dealer, unless either is exempt from holding a license;

(F) all information necessary to comply with the federal odometer disclosure requirements in 49 CFR Part 580;

(G) auction access documents, including the written authorization and revocation of authorization for an agent or employee, in accordance with §215.148 of this title (relating to Dealer Agents);

(H) invoices, bills of sale, checks, drafts, or other documents that identify the vehicle, the parties, or the purchase price;

(I) any information regarding the prior status of the vehicle such as the Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and

(J) a copy of any written authorization allowing an agent of a dealer to enter the auction.

(k) Electronic records. A license holder may maintain a record in an electronic format if the license holder can print the record at the licensed location upon request by the department, except as provided by subsection (l) of this section.

(l) Use of department electronic titling and registration systems:

(1) webDEALER. A license holder utilizing the department's web-based title application known as webDEALER, as defined in §217.71 of this title [~~(relating to Automated and Web-Based Vehicle Registration and Title Systems)~~], shall comply with §217.74 of this title (relating to Access to and Use of webDEALER). Original hard copy titles are not required to be kept at the licensed location but must be made available to the department upon request.

(2) License Plate System. A license holder must comply with §215.151 of this title (relating to <u>License Plate</u> [~~Buyer's License Plates~~] General Use Requirements) regarding requirements to enter information into the department-designated electronic system for license plates.

§215.145. Change of Dealer’s Status.

(a) A dealer's name change requires a new bond or a rider to the existing bond reflecting the new name, unless the dealer is not otherwise required to purchase a bond.

(b) A dealer shall notify the department in writing within 10 days of a change of ownership by submitting a license amendment application in the department-designated electronic licensing system. A licensed dealer that proposes to sell or assign to another any interest in the licensed entity, whether a corporation or otherwise, and provided the physical location of the licensed entity remains the same, shall notify the department in writing within 10 days of the change by filing an application to amend the license in the department-designated electronic licensing system. If the sale or assignment of any portion of the business results in a change of entity, then the new entity must apply for and obtain a new license. A publicly held corporation only needs to inform the department of a change in ownership if one person or entity acquires a 10% or greater interest in the licensed entity.

(c) Upon the death of a dealer operating as a sole proprietor, either the surviving spouse of the deceased dealer or other individual deemed qualified by the department shall submit to the department a bond rider adding the name of the surviving spouse or other qualifying person to the bond for the remainder of the bond and license term. The surviving spouse or other qualifying person may continue operating under the current dealer license until the end of the license term.

(d) For purposes of subsection (c) of this section, the sole proprietor's surviving spouse may change the ownership of the dealership at the time the license is renewed without applying for a new GDN. At the time the renewal application is filed, the sole proprietor's surviving spouse must submit to the department:

(1) an amendment application [~~to amend the business entity~~];

(2) a copy of the sole proprietor's certificate of death, naming the surviving spouse;

(3) the required ownership information; and

(4) if applicable, a bond in the name of the surviving spouse.

(e) For purposes of subsection (c) of this section, a qualifying person who is not the surviving spouse may operate the sole proprietorship business during the term of the license. The qualifying person must file with the department:

(1) an amendment application [~~to amend the business entity,~~] identifying the qualifying person as the manager;

(2) an ownership information form, indicating that the qualifying person has no ownership interest in the business; and

(3) a bond rider adding the qualified person's name to the existing bond.

(f) For purposes of subsection (c) of this section, a qualifying person who is not the surviving spouse must file with the department an application for a new GDN on or before the expiration of the license term in the department-designated electronic licensing system.

(g) A determination made under this section does not impact a decision made by the board under Occupations Code, §2301.462 (relating to Succession Following Death of Franchised Dealer).

(h) A dealer shall notify the department in writing within 10 days of a change in dealer principal or other person who oversees a dealer's business activities, including a change resulting from a receiver being appointed or a dealer filing bankruptcy, by submitting a license amendment application in the electronic licensing system designated by the department.

§215.152. Obtaining Dealer-Issued Buyer’s License Plates.

(a) A dealer or governmental agency is required to have internet access to connect to webDEALER and the license plate system maintained by the department and is responsible for verifying receipt of license plates in the license plate system.

(b) Except as provided by §215.157 of this title (relating to Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available) before a license plate may be issued or secured on a vehicle, a dealer or governmental agency must enter in the license plate system true and accurate information about:

(1) the vehicle;

(2) the buyer; and

(3) the license plate number issued or assigned to the vehicle.

(c) The department will inform each dealer annually of the maximum number of new buyer's license plates the dealer is authorized to obtain during the calendar year under Transportation Code, §503.063, including:

(1) an allotment of buyer's license plates to be issued to a buyer of a vehicle that is to be titled and registered in Texas, and

(2) a separate allotment of buyer's temporary license plates to be issued to a non-resident buyer for a vehicle that will be registered and titled in another state.

(d) The department will calculate a dealer's maximum annual allotment of new buyer's license plates and buyer's temporary license plates based on the following formula:

(1) Vehicle title transfers, sales, or license plate issuance data determined from the department's systems from the previous fiscal year;

(2) the total value of paragraph (1) of this subsection will be increased by a multiplier based on the dealer's time in operation giving a 10 percent increase for each year the dealer has been in operation up to 10 years; and

(3) the total value of paragraph (2) of this subsection will be increased by a multiplier that is the greater of:

(A) the dealer's actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of in-state or out-of-state sales transactions processed through the department-designated registration and title system or license plate system, except that it may not exceed 200 percent; or

(B) the statewide actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of relevant transactions processed through the department-designated registration and title system or license plate system, not less than zero, to determine the dealer's annual allotment; and

(4) the department may increase or decrease the annual allotment for dealers in the state, in a geographic or population area, or in a county, based on:

(A) changes in the market;

(B) temporary conditions that may affect sales; and

(C) any other information the department considers relevant.

(e) A dealer licensed after the commencement of a calendar year shall be allocated the number of buyer's license plates and buyer's temporary plates allocated in this subsection prorated on all or part of the remaining months until the commencement of the calendar year after the dealer's initial license expires. The department shall determine the initial allocations [~~The initial allocations shall be as determined by the department~~] in granting the license, but not more than:

(1) 200 buyer's license plates and 100 buyer's temporary license plates for a franchised dealer unless the dealer provides credible information indicating that a greater number of buyer's license plates is warranted based on anticipated sales, and growth, to include new and used vehicle sales, including information from the manufacturer or distributor, or as otherwise provided in this section.

(2) 100 buyer's license plates and 48 buyer's temporary license plates for a nonfranchised dealer unless the dealer provides credible information indicating that a greater number of license plates is warranted based on anticipated sales as otherwise provided in this section.

(f) An existing dealer that is:

(1) moving its operations from one location to a different location will continue with its allotment of buyer's license plates and buyer's temporary license plates and not be allocated license plates under subsection (e) of this section;

(2) opening an additional location will receive a maximum allotment of buyer's license plates and buyer's temporary license plates based on the greater of the allotment provided to existing locations, including franchised dealers opening additional locations for different line makes, or the amount under subsection (e) of this section;

(3) purchased as a buy-sell ownership agreement will receive the maximum allotment of buyer's license plates and buyer's temporary license plates provided to the location being purchased and not be allocated license plates under subsection (e) of this section; and

(4) inherited by will or laws of descent will receive the maximum allotment of buyer's license plates and buyer's temporary license plates provided to the location being inherited and not be allocated license plates under subsection (e) of this section.

(g) A new dealer may also provide credible information supporting a request for additional or fewer buyer's license plates and buyer's temporary license plates to the amount allocated under subsection (e) of this section based on:

(1) franchised dealer, manufacturer, or distributor sales expectations;

(2) a change in GDN required by death or retirement, except as provided in subsection (f) of this section;

(3) prior year's sales by a dealer moving into the state; or

(4) other similar change of location or ownership that indicates some continuity in existing operations.

(h) The annual allotment of buyer's [~~issue~~] license plates and buyer's temporary license plates will each be divided by four and allocated to a dealer on a quarterly basis, unless a dealer sells only antique or special interest vehicles as defined by Transportation Code, §683.077(b), in which case each allocation may be divided by two and allocated on a half-yearly basis. A dealer's remaining unissued license plates at the end of the allocation period will count towards the dealer's next allotment.

(i) A dealer is not eligible to receive a quarterly allocation in the following circumstances:

(1) the dealer's license has been closed, canceled, or revoked in a final order;

(2) the department has issued a notice of department decision under §224.56 of this title (relating to Notice of Department Decision), alleging that the dealer is in violation of §215.140 of this title (relating to Established and Permanent Place of Business Premises Requirements) and appears to have abandoned the licensed location;

(3) the department has denied the dealer access to the temporary tag system or the license plate system in accordance with §224.58 of this title (relating to Denial of Dealer Access to License Plate System) and Transportation Code, §503.0633(f);

(4) a dealer fails a compliance review performed by the department under Transportation Code, §503.063(d);

(5) the dealer license expires during that quarter and the dealer has not submitted a license renewal application to the department;

(6) a dealer does not have an owner or bona fide employee at the licensed location during posted business hours to accept a license plate delivery and the delivery service has notified the department that a license plate shipment is undeliverable; [~~or~~]

(7) a dealer fails to keep license plates or the license plate system secure; or [~~.~~]

(8) an applicant or licensed dealer has filed a change of address with the department for the licensed location and the new location has not been approved by the department.

(j) A dealer with an active license and access to the license plate database who is ineligible to receive a quarterly allocation under subsection (i) of this section may request the department conduct a compliance review under Transportation Code, §503.063(d) to determine if the dealer is eligible to receive a future allocation by submitting a request to DealerCompliance@txdmv.gov. The department will conduct the compliance review within 14 days of the dealer's request.

(k) A dealer who has an active license but is not eligible to receive a quarterly allocation under subsection (i) of this section may obtain buyer's license plates from a county tax assessor-collector or department regional service center, as directed by the department.

(l) A dealer may request more buyer's license plates or buyer's temporary license plates:

(1) after using 50 percent of the quarterly allocation of buyer’s license [~~general issue~~] plates or buyer’s [~~buyer~~] temporary plates, a dealer may request an advance on the next quarter's allotment; or

(2) after using 50 percent of the allotted annual maximum number of buyer’s license [~~general issue~~] plates or buyer’s [~~buyer~~] temporary plates a dealer may request an increase in the annual allotted number of license plates.

(m) A dealer may request fewer buyer's license plates or buyer's temporary license plates:

(1) after using less than 50 percent of the quarterly allocation of buyer’s [~~general issue~~] license plates or buyer’s [~~buyer~~] temporary license plates in a quarter; or

(2) after using less than 50 percent of the allotted annual maximum number of buyer’s [~~general issue~~] license plates or buyer’s [~~buyer~~] temporary license plates in a year.

(n) To request [~~receive~~] more buyer's license plates or buyer's temporary license plates or to request a decrease in a quarterly or annual allocation, a dealer must submit a request in the department's designated license plate system.

(o) A dealer requesting an increase or decrease in the maximum annual allotment of buyer's license plates or buyer's temporary license plates must provide information demonstrating the need for additional license plates results from business operations, including anticipated needs, as required by Transportation Code, §503.0633(c). Information may include documentation of sales and tax reports filed as required by law, information of anticipated need, or other information of the factors listed in Transportation Code, §503.0633(b).

(1) The department shall consider the information presented and may consider information not presented that may weigh for or against granting the request that the department in its sole discretion determines to be relevant in making its determination. Other relevant information may include information of the factors listed in Transportation Code, §503.0633(b), the timing of the request, and the <u>dealer's</u> [~~requestor's~~] license plate activity.

(2) The department may allocate a lesser or greater number of license plates than the amount requested. Allocation of a lesser or greater number of license plates is not a denial of the request. Allocation of license plates under this paragraph does not limit the dealer's ability to submit additional requests.

(3) If a request is denied, the denial will be sent to the dealer by email to the requestor's email address.

(A) A dealer may appeal the denial to the designated director in the Vehicle Titles and Registration Division.

(B) The appeal must be requested though the designated license plate system within 15 days of the date the department emailed the denial to the dealer.

(C) The appeal may discuss information provided in the request but may not include additional information.

(D) The designated director in the Vehicle Titles and Registration Division will review the appeal and any additional statements concerning the information submitted in the original request and render an opinion within 15 days of receiving the appeal. The designated director in the Vehicle Titles and Registration Division may decide to deny the appeal or award an amount of license plates that is lesser, equal to, or greater than the request.

(E) The requesting dealer will be notified as follows:

(i) If the designated director in the Vehicle Titles and Registration Division decides to deny the appeal, the department will contact the requesting dealer by email regarding the decision and options to submit a new request with additional relevant credible supporting documentation or to pursue a claim in district court; or

(ii) If the designated director in the Vehicle Titles and Registration Division awards an amount of license plates that is lesser, equal to, or greater than the request, the dealer's allocation will be adjusted and the dealer will be contacted by email regarding the decision, informed that the request has not been denied, and informed about options to submit a new request.

(4) The designated director in the Vehicle Titles and Registration Division's decision on appeal is final.

(5) Once a denial is final, a dealer may only submit a subsequent request during that calendar year if the dealer is able to provide additional information not considered in a prior request.

(p) A change in the allotment under subsection (l) [~~(i)~~] of this section does not create a dealer base for subsequent year calculations.

(q) The department may at any time initiate an enforcement action against a dealer if license plate system activity suggests that misuse or fraud has occurred as described in Transportation Code §503.0633(f) or §503.0671.

§215.153. Dealer’s Use of Buyer’s Provisional License Plates.

(a) In the license plate system designated by the department, a dealer may order buyer’s provisional license plates for the class of vehicle for which the dealer holds a GDN, and must manage buyer’s provisional license plate inventory within the buyer’s license plate allocation provided by §215.152 of this title (relating to Obtaining Dealer-Issued Buyer’s License Plates). A dealer may be required to submit information supporting a request for buyer’s provisional license plates, such as anticipated fleet vehicle sales based on sales history or orders in process.

(b) When a purchased vehicle is eligible for a general issue license plate and a general issue license plate for that vehicle type is not in a dealer's license plate inventory and the purchaser does not have an existing license plate eligible to be reassigned, a dealer must assign a buyer’s provisional license plate to the vehicle by securing the provisional license plate to the vehicle and entering the license plate information into the license plate system designated by the department consistent with the requirements of §215.151 of this title (relating to License Plate General Use Requirements) and §215.155 of this title (relating to Buyer’s License Plates).

(c) When a purchased vehicle is eligible for an exempt license plate, a dealer may issue a buyer’s provisional license plate for use on the vehicle until the department processes the exempt license plate application. If the department does not approve the exempt license plate application, a dealer must issue a general issue license plate, and the retail buyer must pay the related registration fee.

(d) When a purchased vehicle is eligible for a commercial fleet license plate, such as an apportioned, forestry, token, combination, extended trailer, or multi-year license plate, a dealer may issue a buyer's provisional license plate for use on the vehicle. The retail purchaser is responsible for requesting the appropriate commercial fleet license plate in the department's designated system.

(e) Unless the sale is of a commercial fleet vehicle, the selling dealer is responsible for promptly:

(1) submitting the title and registration application to the county tax assessor-collector;

(2) removing the buyer's provisional license plate if secured to the vehicle; and

(3) securing the assigned license plate to the vehicle if that license plate is provided to the dealer by either the county tax assessor-collector or the retail buyer.

(f) A buyer's provisional license plate is for temporary use only and expires 14 days after a general issue, exempt, commercial fleet, or other eligible license plate is assigned to the vehicle.

(g) A dealer must mark and destroy an expired buyer's provisional license plate in the dealer's possession as provided in §215.158 of this title (relating to General Requirements for Buyer's License Plates).

§215.154. Dealer's Temporary License Plate Allocation.

(a) The number of dealer's temporary license plates a dealer may order for business use is based on the type of license for which the dealer applied and the number of vehicles the dealer sold during the previous year.

(b) Unless otherwise qualified under this section, the maximum number of dealer's temporary license plates the department will issue to a new license applicant during the applicant's first license term is indicated in the following table.

Attached Graphic

[~~(c) A person holding a dealer license on July 1, 2025, is eligible to receive the following maximum number of dealer's temporary plates:~~]

[~~(1) the number designated for that license type in subsection (b) of this section; and~~]

[~~(2) the number designated in subsection (e) of this section based on vehicle sales in the last 12-month period.~~]

(c) [~~(d)~~] A dealer that applies for a license is not subject to the initial allotment limits described in this section and may rely on that dealer's existing allocation of dealer's temporary license plates if that dealer is:

(1) a franchised dealership subject to a buy-sell agreement, regardless of a change in the entity of ownership;

(2) any type of dealer that is relocating and has been licensed by the department for a period of one year or longer; or

(3) any type of dealer that is changing its business entity type and has been licensed by the department for a period of one year or longer.

(d) [~~(e)~~] A dealer may obtain more than the maximum number of dealer's temporary license plates provided by this section by submitting to the department proof of sales for the previous 12-month period that justifies additional license plates.

(1) The number of additional dealer's temporary license plates the department will issue to a dealer that demonstrates need through proof of sales is indicated in the following table.

Attached Graphic

(2) For purposes of this section, proof of sales for the previous 12-month period may consist of a copy of the most recent vehicle inventory tax declaration or monthly statements filed with the taxing authority in the county of the dealer's licensed location. Each copy must be stamped as received by the taxing authority.

(e) [~~(f)~~] A wholesale motor vehicle dealer may obtain more than the maximum number of dealer's temporary license plates provided by this section by submitting to the department proof of the number of vehicles the dealer has purchased in the previous 12-month period that justifies additional license plates.

(1) Evidence of the wholesale motor vehicle dealer's vehicle purchases for the previous 12-month period must include the date of purchase, VIN of the vehicle purchased, and the selling dealer's name, and any other information the department in its discretion deems necessary to determine the need for additional dealer's temporary license plates for the wholesale motor vehicle dealer.

(2) Upon review and approval of a wholesale motor vehicle dealer's proof of vehicle purchases documentation, the department shall issue up to 5 additional dealer's temporary license plates to the dealer.

(f) [~~(g)~~] The Director of the Motor Vehicle Division may waive the dealer's temporary license plate issuance restrictions if the waiver is essential for the continuation of the business. The director will determine the number of dealer's temporary license plates the department will issue based on the dealer's past sales, dealer's inventory, and any other factor the Director determines pertinent.

(1) A request for a waiver must be submitted to the director in writing and specifically state why the additional dealer's temporary license plates are necessary for the continuation of the dealer's business.

(2) A request for a waiver must be accompanied by proof of the dealer's sales and the number of vehicles transported for the previous 12-month period, if applicable.

§215.155. Buyer's License Plates.

(a) A dealer may issue and secure a buyer's license plate or a buyer's temporary license plate only on a vehicle:

(1) from the selling dealer's inventory;

(2) that can be legally operated on the public streets and highways;

(3) for which a sale or lease has been consummated; and

(4) that has a valid inspection in accordance with Transportation Code Chapter 548, unless:

(A) an inspection is not required under Transportation Code §503.063(i) or (j); or

(B) the vehicle is exempt from inspection under Chapter 548.

(b) A dealer may not issue a buyer's <u>license plate or a buyer’s</u> [~~general issue or~~] temporary license plate to the buyer of a vehicle that is to be titled but not registered.

(c) For a wholesale transaction, a dealer may not issue a buyer's license plate; rather the purchasing dealer places on the motor vehicle its own:

(1) dealer's temporary license plate; or

(2) dealer's standard or personalized prestige license plate.

(d) A buyer's temporary license plate is valid until the earlier of:

(1) the date on which the vehicle is registered; or

(2) the 60th day after the date of purchase.

(e) A dealer shall charge a buyer a fee of $10, unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. A dealer shall remit the fee to the county [~~with the title transfer application~~] for deposit to the credit of the Texas Department of Motor Vehicles fund. If the vehicle is sold by a dealer to an out-of-state resident:

(1) the dealer shall remit the entire fee to the department for deposit to the credit of the Texas Department of Motor Vehicles fund if payment is made through the department's designated electronic system; or

(2) the dealer shall remit the fee to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

(f) A governmental agency may charge a buyer a fee of $10 unless the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or §502.456. If collected by a governmental agency, the fee must be sent to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

§215.157. Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available.

If [~~In accordance with Transportation Code, §503.0631(d), if~~] a dealer or governmental agency is unable to access the internet at the time of a sale, the dealer or governmental agency must comply with Transportation Code, §503.0631(d) [~~document the issuance of a buyer's license plate or a buyer's temporary license plate on a receipt form prescribed by the department and enter the required information regarding the sale in the license plate system not later than the close of the next business day. The buyer's receipt must include a statement that the dealer or governmental agency, has internet access but, at the time of the sale, the dealer or governmental agency, was unable to access the internet or the license plate system~~] and [~~meet~~] the requirements in §215.156 of this title (relating to Buyer's License Plate Receipt).

§215.158. General Requirements for Buyer's License Plates

(a) A dealer or governmental agency is responsible for the safekeeping of all license plates in the dealer's or governmental agency's possession consistent with the requirements in §215.150 of this title (relating to Dealer Authorization to Issue License Plates). A dealer or governmental agency shall report any loss, theft, or destruction of a [~~buyer's license plate or buyer's temporary~~] license plate to the department in the system designated by the department within 24 hours of discovering the loss, theft, or destruction.

(b) When a dealer is required to void a previously assigned buyer's license plate or other type of license plate from a vehicle, the dealer shall render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X"; and within 10 days:

(1) destroy the license plate;

(2) recycle the license plate using a metal recycler registered under Occupations Code, Chapter 1956; or

(3) return the license plate to the department or county tax assessor-collector.

(c) A dealer or governmental agency must return all license plates in the dealer's possession to the department within 10 days of closing the associated license or within 10 days of the associated license being revoked, canceled, or closed by the department.

<u>§215.159. License Plate Storage Away from the Licensed Location.</u>

<u>(a) Application Requirements. A dealer may store and manage license plate inventory at one of its licensed locations or at another location if, in a license application, the dealer:</u>

<u>(1) discloses the physical address of the license plate storage location; and</u>

<u>(2) certifies that the license plate storage location satisfies all requirements in subsection (b) of this section.</u>

<u>(b) Location Requirements.</u>

<u>(1) If the license plate storage location is at a licensed location, the location must comply with the requirements of §215.140 of this title (related to Established and Permanent Place of Business Premises Requirements).</u>

<u>(2) If the license plate storage location is not at a licensed location, notwithstanding §215.140 of this title the location may be shared with other dealers and must:</u>

<u>(A) be located in Texas at an address recognized by the U.S. Postal Service which is capable of receiving U.S. mail, and has an assigned emergency services property address;</u>

<u>(B) be located in a building with a permanent roof and connecting exterior walls on all sides;</u>

<u>(C) be equipped with:</u>

<u>(i) a computer;</u>

<u>(ii) internet access;</u>

<u>(iii) a working telephone number listed in the business name or assumed name under which the dealer conducts business;</u>

<u>(iv) a locked and secured room or closet or at least one securely locked, substantially constructed safe or steel cabinet bolted or affixed to the floor or wall in such a way that the safe or steel cabinet cannot be readily removed and of sufficient size to store all license plates in a dealer's possession;</u>

<u>(D) be organized so the license plate inventory for each dealer and licensed location is separate and easily identifiable and is properly assigned to a location in the license plate management system;</u>

<u>(E) have the address clearly visible from the street;</u>

(F) have business hours posted at the main entrance in a manner and place accessible to delivery services and department staff;

(G) be open at least four days per week for at least four consecutive hours per day and may not be open solely by appointment, with the owner or a bona fide employee at the license plate storage location during the posted business hours for purposes of processing license plates, including acceptance of license plate deliveries;

(H) have a telephone that is answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine, so that a caller is able to speak to a natural person or leave a message during these hours;

(I) not be in a residence, apartment, hotel, motel, rooming house, provided by a subscription for office or storage space, or in a rented storage unit, but it may be in a portable-type office building if the building meets the requirements of this subsection and is not a readily moveable trailer or other vehicle; and

(J) not be in a restaurant, gas station, or convenience store, unless the location has a separate entrance door that does not require a person to pass through the other business.

(c) Site Visit. The department may visit the location prior to approving a dealer's application to add a license plate storage location and during the term of the license to monitor compliance with department rules as authorized under Occupations Code, §2301.256 and Transportation Code, §503.063(d).

STATUTORY AUTHORITY. The department adopts a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority;

Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, Regular Session, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules to prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts a repeal under the authority Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This repeal implements Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501–503, and 1002.

[~~§215.131. Purpose and Scope.~~]

[~~This subchapter implements Transportation Code, Chapters 503, 504, 520, and 1001-1005, and Occupations Code, Chapters 2301 and 2305, and applies to general distinguishing numbers and drive-a-way operator in-transit licenses issued by the department.~~]

SUBCHAPTER E. LESSORS AND LEASE FACILITATORS.

STATUTORY AUTHORITY. The department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code Transportation Code, §730.014, which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. These adopted amendments implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, 2301, and 2302; and Transportation Code, Chapters 501–503, 730, 1001–1003, and 1005.

Text.

§215.175. Sanctions.

[~~(a) The board or department may:~~]

[~~(1) deny a vehicle lessor or vehicle lease facilitator application;~~]

[~~(2) revoke or suspend a vehicle lessor or vehicle lease facilitator license; or~~]

[~~(3) assess a civil penalty or take other action on a vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or vehicle lease facilitator license is required.~~]

(a) [~~(b)~~] The board or department may deny [~~take action described in subsection (a) of this section if~~] a vehicle lessor or vehicle lease facilitator applicant, sanction a [~~or~~] license holder, or take action against a person engaged in business for which a vehicle lessor or vehicle lease facilitator license is required, if the person:

(1) fails to maintain an established and permanent place of business required by §215.177 of this title (relating to Established and Permanent Place of Business);

(2) fails to maintain records required under this subchapter;

(3) refuses or fails to comply with a request by a representative of the department to examine during the vehicle lessor's or vehicle lease facilitator's posted business hours at the vehicle lessor's or vehicle lease facilitator's licensed location:

(A) a vehicle leasing record required to be maintained by §215.178 of this title (relating to Records Required for Vehicle Lessors and Vehicle Lease Facilitators);

(B) ownership papers for a vehicle owned, leased, or under that vehicle lessor's or vehicle lease facilitator's control; or

(C) evidence of ownership or a current premises lease agreement for the property upon which the business is located;

(4) refuses or fails to timely comply with a request for records made by a representative of the department;

(5) fails to notify the department in writing by electronically submitting a license amendment in the licensing system designated by the department within 10 days of a change of the vehicle lessor or vehicle lease facilitator license holder's:

(A) mailing address;

(B) physical address;

(C) telephone number; or

(D) email address;

(6) fails to notify the department in writing by electronically submitting a license amendment in the licensing system designated by the department within 10 days of a change of the vehicle lessor or vehicle lease facilitator license holder's name, assumed name, management, or ownership;

(7) fails to comply with the fee restrictions or other requirements under Occupations Code, §2301.357 or Chapter 2301, Subchapter L. Vehicle Lessors and Vehicle Lease Facilitators;

(8) fails to maintain advertisement records or otherwise fails to comply with the advertising requirements of:

(A) §215.178; or

(B) Subchapter F of this chapter (relating to Advertising);

(9) violates any law relating to the sale, lease, distribution, financing, or insuring of motor vehicles;

(10) is convicted of an offense that, in accordance with Occupations Code, Chapter 53 and with §211.10 [~~§211.3~~] of this title (relating to Criminal Offense Guidelines), directly relates to the duties or responsibilities of the licensed occupation;

(11) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a vehicle lessor or vehicle lease facilitator license;

(12) uses or allows use of a vehicle lessor or vehicle lease facilitator license in violation of any law or for the purpose of avoiding any provision of Occupations Code, Chapter 2301; [~~or~~]

(13) omits material information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document; or [~~.~~]

(14) violates a provision of Transportation Code, Chapter 730, Motor Vehicle Records Disclosure Act, including a violation by an employee or other agent.

(b) [~~(c)~~] The board or department may take action on a vehicle lessor's license or assess civil penalties for the vehicle lessor's failure to notify the department in writing by electronically submitting a license amendment in the licensing system designated by the department within 10 days of any change, addition, or deletion to the list of vehicle lease facilitators with whom the vehicle lessor conducts business, including any change to a vehicle lease facilitator's mailing address, physical address, telephone number, or email address.

(c) [~~(d)~~] The board or department may take action on a vehicle lease facilitator's license or assess civil penalties for the failure to notify the department in writing within 10 days by electronically submitting a license amendment in the licensing system designated by the department of any change, addition, or deletion to the list of vehicle lessors for whom the vehicle lease facilitator conducts business, including any change to a vehicle lessor's mailing address, physical address, telephone number, or email address.

(d) [~~(e)~~] The board or department may take action on a vehicle lessor's or vehicle lease facilitator's license if the vehicle lessor or vehicle lease facilitator accepts a fee from a dealer, directly or indirectly, for referring a customer who purchases or considers purchasing a motor vehicle.

§215.177. Established and Permanent Place of Business Premises Requirements.

(a) A vehicle lessor or vehicle lease facilitator operating within Texas must meet the following requirements at each location where vehicles are leased or offered for lease.

(1) Physical location requirements.

(A) A vehicle lessor or vehicle lease facilitator operating within Texas must be open to the public. The vehicle lessor's or vehicle lease facilitator's business hours for each day of the week must be posted at the main entrance of the office. The business telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a message during these hours. The owner or an employee of the vehicle lessor or vehicle lease facilitator must be at the location during the posted business hours for the purpose of leasing vehicles. In the event the owner or an employee is not available to conduct business during the posted business hours, a separate sign must be posted indicating the date and time such owner or employee will resume vehicle leasing operations.

(B) A vehicle lessor's or vehicle leasing facilitator's office structure must be of sufficient size to accommodate the following required equipment:

(i) a desk and two chairs from which the vehicle lessor or vehicle lease facilitator transacts business;

(ii) a working telephone number listed in the business name or assumed name under which the vehicle lessor or vehicle lease facilitator conducts business; and

(iii) internet access.

(C) A vehicle lessor or vehicle lease facilitator that files an application for a new license or a vehicle lessor that files an application for a satellite location must comply with the following requirements:

(i) The office must be located in a building with a permanent roof and connecting exterior walls on all sides.

(ii) The office must comply with all applicable local zoning ordinances and deed restrictions.

(iii) The office may not be located within a residence, apartment, hotel, motel, or rooming house or building not open to the public.

(iv) The physical address of the office must be recognized by the U.S. Postal Service, capable of receiving U.S. mail, and have an assigned emergency services property address.

(v) The office may not be virtual or provided by a subscription for office space or office services. Access to office space or office services is not considered an established and permanent location.

(D) A portable-type office structure may qualify as an office only if the structure meets the requirements of this section and is not a readily moveable trailer or other vehicle.

(E) One or more licensed vehicle lessors or vehicle lease facilitators, or a combination of one or more licensed vehicle lessors and vehicle lease facilitators may occupy the same business structure and conduct vehicle leasing operations in accordance with the license held by the vehicle lessor or licensed vehicle lease facilitator. Each vehicle lessor or vehicle lease facilitator must have:

(i) a separate desk from which that vehicle lessor or vehicle lease facilitator transacts business;

(ii) a separate working telephone number listed in the vehicle lessor or vehicle lease facilitator's business name or assumed name;

(iii) a separate right of occupancy that meets the requirements of this section; and

(iv) a vehicle lessor or vehicle lease facilitator license issued by the department in the name of the vehicle lessor or vehicle lease facilitator.

(F) A vehicle lease facilitator's established and permanent place of business must be physically located within Texas.

(2) Business Sign requirements. A vehicle lessor or vehicle lease facilitator shall display a conspicuous and permanent business sign at the licensed location showing the name under which the vehicle lessor or vehicle lease facilitator conducts business. Outdoor business signs must contain <u>legible</u> letters that are at least six inches in height. The business name or assumed name on the sign must be substantially similar to the name reflected on the license issued by the department. A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the business office. A business sign is considered permanent only if it is made of durable, weather-resistant material.

(3) Premises lease requirements. If the premises from which a licensed vehicle lessor or vehicle lease facilitator conducts business is not owned by the license holder, the license holder must maintain for the licensed location a valid premises lease that is continuous during the period of time for which the vehicle lessor's or vehicle lease facilitator's license will be issued. The premises lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the property owner of the premises and the name of the vehicle lease facilitator as the tenant or lessee of the premises;

(B) the street address or legal description of the property, provided that if only a legal description of the property is included, the applicant must attach a statement that the property description in the lease agreement is the street address identified on the application as the physical address for the established and permanent place of business;

(C) the signature of the property owner as the lessor and the signature of the applicant or holder as the tenant or lessee;

(D) the period of time for which the premises lease is valid; and

(E) if the lease agreement is a sublease in which the property owner is not the lessor, the applicant or holder must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the license holder is authorized to sublease the location and may operate a motor vehicle leasing business from the location.

(b) A vehicle lessor or vehicle lease facilitator shall be independent of financial institutions and dealerships in location and in business activities, unless that vehicle lessor or vehicle lease facilitator is an:

(1) employee or legal subsidiary of the financial institution or dealership; or

(2) entity wholly owned by the financial institution or dealership.

(c) For purposes of this section, an employee is a person who meets the requirements of §215.173(b) of this title (relating to License).

§215.181. General Distinguishing Number Exception

A licensed vehicle lessor is not required to hold a GDN in order to sell a motor vehicle that the vehicle lessor owns to the lessee or to a duly licensed dealer, either directly or through a licensed wholesale motor vehicle auction. A licensed vehicle lessor may not purchase a motor vehicle at a wholesale motor vehicle auction. The department shall cancel a vehicle lessor's GDN if the vehicle lessor is not qualified to hold the GDN. [~~Any existing GDN held by a vehicle lessor that does not otherwise qualify for a GDN shall be canceled.~~] A vehicle lessor whose GDN has been canceled under this section may reapply for a GDN once all the qualifications for a GDN are met.

STATUTORY AUTHORITY. The department adopts a repeal to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, as amended by Senate Bill (SB) 2587, 89th Legislature (2025), which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §55.004, as amended by House Bill (HB) 5629, 89th Legislature, Regular Session, which requires the department to adopt rules for the issuance of a license to military service members, military veterans, or military spouses that allow licensure if the applicant holds a current license issued by another state that is similar in scope to the license in Texas and is in good standing with that state's licensing authority, or has held a license in Texas within the preceding five years; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules to prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts a repeal under the authority of Government Code, §2001.039, in addition to the statutory authority referenced throughout this preamble. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

CROSS REFERENCE TO STATUTE. This repeal implements Government Code, Chapters 411 and 2001; Occupations Code, Chapters 53, 55, and 2301; and Transportation Code, Chapters 501–503, and 1002.

[~~§215.171. Purpose and Scope.~~]

[~~This subchapter implements Occupations Code, Chapter 2301 specifically, §§2301.251, 2301.253, 2301.254, 2301.261, 2301.262, 2301.357, and Subchapter L. Vehicle Lessors and Vehicle Lease Facilitators, and Transportation Code Chapters 1001 - 1005.~~]

SUBCHAPTER F. ADVERTISING.

STATUTORY AUTHORITY. The department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules to prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer’s license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code ; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These adopted amendments implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 730, 1001, and 1002

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Text.

§215.242. General Prohibition.

[~~A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading advertising.~~] In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the department to be false, deceptive, or misleading, [~~whether herein described,~~] shall be deemed a violation of Occupations Code, Chapter 2301 and [~~shall also be deemed a violation of~~] this rule.

§215.244. Definitions.

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

(1) Advertisement--

(A) An oral, written, graphic, or pictorial statement or representation made in the course of soliciting business, including, but not limited to a statement or representation:

(i) made in a newspaper, magazine, or other publication;

(ii) contained in a notice, sign, poster, display, circular, pamphlet, business card, or letter;

(iii) aired on the radio;

(iv) broadcast on the internet or television; [~~or~~]

(v) streamed via an online service;[~~.~~]

(vi) displayed on an internet website, social media platform, or other digital application or platform; or

(vii) transmitted electronically.

(B) Advertisement does not include direct communication between a person or person's representative and a prospective purchaser.

(2) Advertising provision--

(A) A provision of Occupations Code, Chapter 2301, relating to the regulation of advertising; or

(B) A rule relating to the regulation of advertising, adopted pursuant to the authority of Occupations Code, Chapter 2301.

(3) Bait advertisement--An alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain a lead to a person interested in buying or leasing merchandise of the type advertised and to switch a consumer from buying or leasing the advertised product in order to sell or lease some other product at a higher price or on a basis more advantageous to the dealer.

(4) Balloon payment--Any scheduled payment made as required by a consumer credit transaction that is more than twice as large as the average of all prior scheduled payments except the down payment.

(5) Clear and conspicuous--The statement, representation, or term being disclosed is of such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning.

(6) Cure--A license holder's agreement to not violate for a two-year period an advertising rule cited in a department opportunity-to-cure notice, and if applicable, any action necessary to correct a consumer harm caused by the alleged advertising violation, such as issuing a consumer refund.

(7) [~~(6)~~] Dealership addendum--A form that is displayed on a window of a motor vehicle when a dealership installs special features, equipment, parts, or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a motor vehicle for delivery to a buyer.

(A) The purpose of the addendum is to disclose:

(i) that it is supplemental;

(ii) any added feature, service, equipment, part, or accessory, including the retail price, charged and added by the dealership;

(iii) any additional charge to the selling price such as additional dealership markup; and

(iv) the total dealer selling price.

(B) The dealership addendum form shall not be deceptively similar in appearance to the Monroney label, as defined by paragraph (14) [~~(13)~~] of this section.

(8) [~~(7)~~] Demonstrator--A new motor vehicle that is currently in the inventory of the automobile dealership and used primarily for test drives by customers and for other purposes designated by the dealership.

(9) [~~(8)~~] Disclosure--Required information that is clear, conspicuous, and accurate.

(10) [~~(9)~~] Distributor Suggested Retail Price (DSRP)--means the total price shown on the Monroney Label as specified by subparagraph (D) of paragraph (14) [~~(13)~~] of this section.

(11) [~~(10)~~] Factory executive/official motor vehicle--A new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor, or their subsidiaries.

(12) [~~(11)~~] Limited rebate--A rebate that is not available to every consumer purchasing or leasing a motor vehicle because qualification for receipt of the rebate is conditioned or restricted in some manner. A rebate conditioned or restricted to purchasers who are residents of the contiguous United States is not a limited rebate.

(13) [~~(12)~~] Manufacturer's Suggested Retail Price (MSRP)--Means [~~means~~] the total price shown on the Monroney Label as specified by subparagraph (D) of paragraph (14) [~~(13)~~] of this section.

(14) [~~(13)~~] Monroney Label--The label required by the Automobile Information Disclosure Act, 15 U.S.C. §§1231 - 1233, to be affixed to the windshield or side window of certain new motor vehicles delivered to the dealer and that contains information about the motor vehicle, including, but not limited to:

(A) the retail price of the motor vehicle suggested by the manufacturer or distributor, as applicable;

(B) the retail delivered price suggested by the manufacturer or distributor, as applicable, for each accessory or item of optional equipment, physically attached to the motor vehicle at the time of its delivery to a dealer, which is not included within the price of the motor vehicle as stated in subparagraph (A) of this paragraph;

(C) the amount charged, if any, to a dealer for the transportation of the motor vehicle to the location at which it is delivered to the dealer; and

(D) the total of the amounts specified pursuant to subparagraphs (A), (B), and (C) of this paragraph.

(15) [~~(14)~~] Online service--A network that connects computer users.

(16) [~~(15)~~] Rebate or cash back--A sum of money applied to the purchase or lease of a motor vehicle or refunded after full payment has been rendered for the benefit of the purchaser.

(17) [~~(16)~~] Savings claim or discount--An offer to sell or lease a motor vehicle at a reduced price, including, but not limited to, a manufacturer's or distributor's customer rebate, a dealer discount, or a limited rebate.

(18) [~~(17)~~] Subsequent violation—A license holder's violation of the same advertising rule cited in an opportunity to cure notice within a two-year period. [~~Conduct that is the same or substantially the same as conduct the department has previously alleged in a notice of an opportunity to cure to be a violation of an advertising provision.~~]

§215.246. Accuracy.

Advertisements shall be accurate, clear, and conspicuous. [~~Advertisements shall not be false, deceptive, or misleading.~~] For an internet advertisement, a disclosure may be considered accurate, clear, and conspicuous if:

(1) the viewer highlights, hovers a mouse or cursor over, or otherwise selects certain text or images on a screen that results in an immediate and legible visible disclosure; or

(2) only one click on select text or image(s) is required to view the disclosure; and

(3) the internet advertisement clearly and conspicuously indicates where to hover or click for the disclosure and is in close proximity to the information being disclosed.

§215.270. Enforcement.

(a) The department may file a Notice of Department Decision against a license holder alleging a violation of an advertising provision pursuant to Occupations Code, §2301.203, provided the department can show:

(1) that the department notified the license holder of the opportunity to cure the alleged violation [~~who allegedly violated an advertising provision has received from the department a notice of an opportunity to cure the violation~~] by email and certified mail, return receipt requested, and that the notice complied [~~in compliance~~] with subsection (b) of this section; and

(2) that the license holder:

(A) did not timely respond to the notice of an opportunity to cure, or

(B) agreed to cure the violation but violated the cure agreement by failing to correct a consumer harm or by committing a subsequent violation. [~~committed a subsequent violation of the same advertising provision~~.]

(b) An effective notice of an opportunity to cure issued under subsection (a)(1) of this section must:

(1) state that the department has reason to believe that the license holder violated an advertising provision and must identify the provision;

(2) set forth the facts upon which the department bases its allegation of a violation; and

(3) state that if the license holder does not timely agree to cure the violation or violates a cure agreement [~~commits a subsequent violation of the same advertising provision~~], the department will file a Notice of Department Decision under §224.56 of this title (relating to Notice of Department Decision).

[~~(c) As a part of the cure procedure, the department may require a license holder who allegedly violated an advertising provision to publish a retraction notice to effect an adequate cure of the alleged violation. A retraction notice must:~~]

[~~(1) appear in a newspaper of general circulation in the area in which the alleged violation occurred;~~]

[~~(2) appear in the portion of the newspaper devoted to motor vehicle advertising, if any;~~]

[~~(3) identify the date and the medium of publication, print, electronic, or other, in which the advertising alleged to be a violation appeared; and~~]

[~~(4) identify the alleged violation of the advertising provision and contain a statement of correction.~~]

(c) [~~(d)~~] A cure is made solely for the purpose of settling an allegation and is not an admission of a violation of these rules; Occupations Code, Chapter 2301; or other law.

STATUTORY AUTHORITY. The department adopts repeals to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules to prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts repeals under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. Government Code, §2001.039 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

CROSS REFERENCE TO STATUTE. These repeals implements Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003, and 1005.

Text.

[~~§215.241. Purpose and Scope.~~]

[~~This subchapter implements Occupations Code, Chapter 2301 by regulating the advertising of persons under the jurisdiction of the department by requiring truthful and accurate advertising practices for the benefit of the citizens of this state.~~]

[~~§215.243. Specific Rules~~]

[~~The violation of an advertising rule shall be considered by the department as a prima facie violation of Occupations Code, Chapter 2301.~~]

[~~§215.269. Finding of Violation~~]

[~~A person shall not be held in violation of the rules, including the general prohibition, except upon a finding of a violation made by the department after the filing of a Notice of Department Decision and an opportunity to request a hearing as provided in Occupations Code, Chapter 2301.~~]

SUBCHAPTER G. ADMINISTRATIVE SANCTIONS.

STATUTORY AUTHORITY. The department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301, and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for an original or renewal general distinguishing number who proposes to be an independent motor vehicle dealer complete web-based education and training developed or approved by the department; Transportation Code, §503.033, which authorizes the board to adopt rules to prescribe the form of the notice of a surety bond and the procedure by which a claimant may recover against the surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; Transportation Code, §503.0631, which requires the department to adopt rules to implement and manage the department's database of dealer-issued buyer’s license plates; Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates or sets of license plates a dealer may obtain annually under Transportation Code ; Transportation Code, §730.014 which authorizes state agencies to adopt rules to implement and administer the Motor Vehicle Records Disclosure Act; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties of the department, as well as the statutes referenced throughout this preamble.

The department also adopts amendments under the authority of Transportation Code, §501.0041 and §502.0021; and Government Code, §§2001.004, 2001.039, and 2001.054, in addition to the statutory authority referenced throughout this preamble.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, Chapters 411 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 730, 1001–1003, and 1005.

Text.

§215.500. Administrative Sanctions.

An administrative sanction may include one or more penalties authorized by Occupations Code, Chapter 2301 or Transportation Code, Chapter 503, including a refund under §215.504 of this title (relating to Buyer or Lessee Refund).[~~:~~]

[~~(1) denial of an application for a license;~~]

[~~(2) suspension of a license;~~]

[~~(3) revocation of a license;~~]

[~~(4) the imposition of civil penalties; or~~]

[~~(5) a refund under §215.504 of this title (relating to Buyer or Lessee Refund).~~]

Figure: 43 TAC §215.154(b)

If a new license applicant is:	Maximum number of dealer's temporary license plates issued during the first license term is:
1. a franchised motor vehicle dealer	200
2. a franchised motorcycle dealer	50
3. an independent motor vehicle dealer	25
4. an independent motorcycle dealer	10
5. a franchised or independent travel trailer dealer	10
6. a trailer or semitrailer dealer	15 [~~5~~]
7. an independent mobility motor vehicle dealer	5
8. a wholesale motor vehicle dealer	10
9. a wholesale motor vehicle dealer who also holds a wholesale motor vehicle auction GDN	40

Figure: 43 TAC §215.154<u>(d)(1)</u>[~~(e)(1)~~]

If a vehicle dealer is:	Maximum number of additional dealer's temporary license plates issued with a demonstrated need through proof of sales is:
1. A dealer selling 26 to 50 during the previous 12-month period	5
2. A dealer selling 51 to 100 during the previous 12-month period	10
3. A dealer selling 101 to 150 during the previous 12-month period	15
4. A dealer selling 151 to 199 during the previous 12-month period	20
5. A dealer selling 200-299 during the previous 12-month period	25
6. A dealer selling more than 300 vehicles during the previous 12-month period	30

TEXAS INDEPENDENT AUTOMOBILE DEALERS ASSOCIATION

May 26, 2026

Laura Moriaty
General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731

Re: Comments to Proposed Amendments Published in 51 TexReg 2797 to 2798

Dear Ms. Moriaty:

The Texas Independent Automobile Dealers Association (TIADA) appreciates the opportunity to submit comments on the Texas Department of Motor Vehicles' (TxDMV's) proposed amendments. TIADA represents more than 1,000 independent automobile dealers across Texas. While TIADA applauds TxDMV's goal of updating its rules, TIADA strongly urges TxDMV to withdraw proposed amendments that alter rules that are already functioning effectively.

The rule preambles cite intentions to "streamline language," "improve readability," and "modernize phrasing" without changing the underlying meaning. However, TIADA believes both TxDMV and stakeholders benefit far more from the preservation of existing language where it has already developed a stable operational meaning through consistent use by dealers, county tax offices, compliance personnel, and TxDMV enforcement staff.

This continuity protects critical reliance interests. Over many years, stakeholders have invested substantial resources into compliance training and operational procedures built around the current phrasing. Altering familiar language solely for stylistic or organizational purposes diminishes regulatory certainty. Even minor adjustments intended to "streamline" text can:

- Trigger conflicting interpretations among the 254 county tax assessor-collectors.
- Generate false signals that a substantive policy shift was intended.
- Disrupt established compliance training and organizational procedures.
- Produce inconsistent application by TxDMV field staff and regulated parties.

Administrative stability provides independent value to both regulators and the regulated community. When longstanding rule language is altered, enforcement staff and courts reasonably infer that the revision was intended to have a new legal effect. Consequently, edits made solely to "modernize phrasing" often create the very ambiguity they seek to resolve.

Accordingly, unless a specific amendment is necessary to implement a new statute, resolve a demonstrated conflict, or address a documented regulatory failure, TIADA recommends retaining the existing language to preserve market predictability.

Accordingly, unless a specific amendment is necessary to implement a new statute, resolve a demonstrated conflict, or address a documented regulatory failure, TIADA recommends retaining the existing language to preserve market predictability.

Earl Cooke
Director of Regulatory Affairs
earl.cooke@txiada.org

TADA®
Texas Automobile Dealers Association

1108 Lavaca, Suite 800
Austin, Texas 78701
Phone: 512-476-2686
www.tada.org

May 26, 2026

Texas Department of Motor Vehicles
Office of General Counsel
4000 Jackson Avenue
Austin, TX 78731

Sent via email: rules@txdmv.gov

Re: Proposed TxDMV Rules & Proposed Repeals, Amendments, Deletions, and Re-lettering of Current Rules
51 *TexReg* 2638 - 2684;
Figures: 51 *TexReg* 2797 - 2798

Office of General Counsel:

On behalf of the Texas Automobile Dealers Association (TADA), the following comments are offered regarding the current proposed Texas Department of Motor Vehicle (TxDMV) rules and the proposed repeals, amendments, deletions, and re-lettering of adopted rules as published in the April 24, 2026, *Texas Register*.

Rules can clarify and inform. Re-writing, amending, repealing, deleting, and re-lettering rules should be carefully considered as an alteration may create confusion for the industry and change an understanding of a previously adopted rule that may not be necessary as well as serve no significant purpose.

The April 24, 2026, proposals before the board amend many of the rules previously adopted in 2024 with the stated aim to clarify the 2024 adoptions. Licensees request continuity in the many rules for which they are subject. Unless there is a material need or a legislative amendment requiring a rule modification, re-adoption of a current rule is requested (51 *TexReg* 2638 - 2684; 51 *TexReg* 2797 - 2798).

Subchapter B. Licenses, Generally

43 TAC §215.84. *Brokering, New Motor Vehicles.*

The TxDMV proposed the current language to the motor vehicle brokering rule, §215.84(a)[1] in the December 29, 2023, *Texas Register*. The amendment was adopted by the board as proposed and published in the April 26, 2024, *Texas Register*. This same 2024 amendment is now proposed for repeal.

The 2024 explanation for §215.84(a) stated that the new introductory paragraph is added:

> . . .to enable a person to more easily determine whether the section applies and to clarify the basic statutory prohibition against brokering. . .
> (48 *TexReg* 8204)

The 2026 explanation for repealing §215.84(a) states that it "unnecessarily duplicates language in Occupations Code, §2301.002(3) and §2301.006" (51 *TexReg* 2639).

TADA requests that the current 2024 adopted language remain in the rule as it assists the public as well as the industry and persons who are not familiar with the broker statutes to understand who is considered a broker and the statutory prohibition for new motor vehicle brokering.

The TxDMV 2024 explanation for the subsection remains as relevant in 2026 as in 2024.

As the industry is periodically confronted with who or what is a broker and this State's prohibition with respect to new motor vehicles, TADA requests that subsection (a) not be repealed and §215.84 be retained in its current 2024 adopted form.

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[1]"(a) Unless excluded from the definition of "Broker" in Occupations Code, §2301.002, a person may not act, offer to act, or claim to be a broker "

43 TAC §215.85. *Brokering, Used Motor Vehicles.*

The TxDMV proposed in the December 29, 2023, *Texas Register,* changes to §215.85 so as to make punctuation corrections and "move language" from one subsection to another subsection, delete redundant subsections and words, and re-letter the section (48 *TexReg* 8204). These corrections and deletions and re-letterings were adopted by the board, as proposed, in the April 26, 2024, *Texas Register* (49 *TexReg* 2704).

The proposed 2026 amendments to the rule are "to streamline language and delete language found in the statute, clarify requirements, and modernize phrasing" (51 *TexReg* 2639 - 2640).

The legislature has made no substantive change to the broker definition nor to the broker prohibition, which was adopted in 1979.[2]

As the broker definition and broker prohibition have remained constant, TADA requests that the current rule as adopted in its amended form in 2024, remain in its present form as the proposed 2026 amendments are not necessary.

Subchapter C. Franchised Dealers, Manufacturers, Distributors, and Converters

43 TAC §215.101. *Purpose and Scope.*

In 2023, the TxDMV proposed an amendment to this section to delete an incorrect reference to a non-existent Transportation Code Chapter and to include the license types "for clarity" to the subchapter (48 *TexReg* 8204, 8220).

The board adopted the amendments, as proposed, in the *Texas Register* on April 26, 2024 (48 *TexReg* 8204, 8220, proposed; 49 *TexReg* 2704, 2707).

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[2]The "broker" definition, adopted in 1979, was amended by the legislature in 1999 to repeal "for purposes other than resale."
(Act of September 1, 1979, 66th Leg., R.S., ch. 709, §1, 1979; Act of June 18, 1999, 76th Leg., R.S., ch. 1047, §1, 1999).

Today, this same 2024 adopted section is proposed for repeal as it is now considered unnecessary because statutory references may be in each rule (51 *TexReg* 2640).

The need for clarity has not changed since the board adopted the 2024 amendment and TADA requests that this rule remain in its current form and that the board not adopt the proposed 2026 amendment.

43 TAC §215.105. ***Notification of License Application; Protest Requirements.***

Amendments to this section were proposed and adopted approximately 2 years ago. According to the 2023 published explanation, phrases were added and deleted for consistency and clarity and to modernize the process for a franchised dealer to file a protest electronically (48 *TexReg* 8205) with the board adopting the published amendments in the April 26, 2024, *Texas Register,* (49 *TexReg* 2704).

The explanation for the 2026 amendment to this section is to "modernize and simplify text and to improve readability without changing the meaning" (51 *TexReg* 2641).

As the proposed new language does not change the meaning of the rule and as there is no legislative amendment creating a need for a rule change, it is preferable to maintain the status quo of the current rule language so that licensees and counsel have settled rules with which to work.

TADA requests that the rule not be amended in order to maintain the status quo of the 2024 amended rules.

43 TAC §215 .107. ***Sale or Transfer of a Line-Make.***

This new rule proposal provides that if a manufacturer or distributor sells, licenses, or otherwise transfers an existing line-make to another person, the acquiring person is to apply for a manufacturer or distributor license or amend their current license.

The stated explanation for the new proposed subsection (a) is to describe the licensing requirements for a manufacturer or distributor (51 *TexReg* 2641). Yet, there is no indication that a manufacturer or distributor is not aware of their TxDMV licensing requirements.

No statutory amendments have been made to a manufacturer's or distributor's required TxDMV license and TADA requests that the proposed §215.107 not be adopted.

Subsection (b) of the proposal describes information that is on a manufacturer's or distributor's TxDMV application or license. Such information as to what is asked is unnecessary to include within a rule as the TxDMV may determine in the future to change the application's requirements, which may create another unnecessary rule amendment.

In addition, the 203 page "TxDMV eLICENSING User Guide for Manufacturer and Manufacturer's Representative Licenses" provides ample licensing information for a manufacturer. Sections 2.1 - 2.10 of the Guide discuss applying for a manufacturer's license without the need for a separate rule.

The new subsection (a) also includes a statement that if a manufacturer or distributor "licenses" an existing line-make to another person, that person must apply for a license or amend an existing license (51 *TexReg* 2656). TADA requests that if (a) is adopted that "licensing" be omitted as there is no provided explanation as to when a manufacturer or distributor licenses a line-make to another (51 *TexReg* 2641).

Proposed subsection (b)(3), if adoption is necessary, should include additional language to reflect Occupations Code, Chapter 2301 and TADA suggests the following underlined language:

> (b) As part of the application or license amendment application process, the person acquiring the line-make must:
>
> . . .
>
> (3) identify <u>the</u> person responsible for warranty <u>payment to the franchised dealer</u> and <u>the</u> franchised dealer obligations incurred prior to the transfer; and

. . .

The underlined TADA suggested language above removes any confusion as to the dealer's obligation to perform warranty work as well as to receive payment for warranty work.

Whether the proposed §215.107 rule is necessary is unclear as it creates confusion in its current proposed form as manufacturers and distributors currently appear to be aware of their licensing obligations. In addition, the 203 page "TxDMV eLICENSING User Guide for Manufacturer" as well as the TxDMV "Distributor Agreement Questionnaire" should provide the necessary information for licensing by the TxDMV to any manufacturer or distributor.

43 TAC §215.108. ***Addition or Relocation of Line-Make***

The 2024 adopted amendment to this rule added "franchised" and deleted a phrase "for consistency in describing a dealer under this subchapter" (48 *TexReg* 8205, 8224, proposal; 49 *TexReg* 2705, 2708, adopted).

The explanation for the proposed 2026 amendment is to "modernize and simplify text" "without changing meaning" (51 *TexReg* 2641, 2656 - 2657).

Presumed simplification and modernization are agreeable goals; however, maintaining the current text is preferable for the licensees who must comply with the many TxDMV rules.

Frequent nonessential re-wording of rules is not in the interest of licensees who must comply with the numerous state and federal agency rules.

43 TAC §215.114. ***Sale of a Vehicle by a Manufacturer or Distributor at a Wholesale Motor Vehicle Auction.***

The stated rationale to amend this rule is "to modernize and simplify without changing the meaning" (51 *TexReg* 2641, 2657-2658).

Industry prefers to maintain rules as previously adopted unless the legislature makes a statutory change or a compelling need requires a new rule or rule amendment.

TADA requests that this rule remain in its current form as the 2026 proposal is not necessary.

43 TAC §215.120. ***Standard License Plates.***

This rule was proposed in 2023 (48 *TexReg* 8206, 8226) and adopted by the board as published in the April, 26, 2024, *Texas Register*, (49 *TexReg* 2704).

The general purpose for the rule, as stated in the December 29, 2023, *Texas Register*, is to "set out the requirements for manufacturers, distributors, and converters using license plates issued by the department" (48 *TexReg* 8206).

A manufacturer is eligible for a "manufacturer's license plate" as discussed in Transportation Code, §503.064.[3] This specific plate is issued to a licensed manufacturer to use on a new vehicle that a manufacturer intends to test on a public street or highway as allowed by the Transportation Code, or for use on a vehicle to loan to a consumer as allowed by Occupations Code, Subchapter M, specifically §2301.605(c), under the "lemon law."

The "lemon law" allows that a rebuttable presumption that a reasonable number of attempts have been undertaken to conform a motor vehicle and the nonconformity still exists after the vehicle is out-of-service for repair for a cumulative total of 30 or more days under Occupations Code, §2301.605(a)(3).

The 30-day time period is tolled if the manufacturer or distributor loans a motor vehicle to the owner while the franchised dealer repairs the vehicle:

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[3]**§503.064. Manufacturer's License Plates**
(a) Instead of registering a new vehicle that a manufacturer intends to test on a public street or highway or to loan to a customer for the purpose described by Section 2301.605, Occupations Code, the manufacturer may apply for, receive, and attach manufacturer's plates to the vehicle.
(b) If the vehicle to which the manufacturer's license plates are attached is a commercial motor vehicle, the vehicle may not carry a load. (TEX. TRANSP. CODE ANN. §503.064 (Vernon 2018).

The 30 days do not include any period during which the manufacturer or distributor lends the owner a comparable motor vehicle while the owner's vehicle is being repaired by a franchised dealer.
(Occupations Code, §2301.605(c))

Therefore, a "manufacturer's" plate may be used on a vehicle that is loaned to a customer while the franchised dealer is repairing the customer's vehicle.

A converter is eligible for a "converter's license plate" as expressed in Transportation Code, §503.0618.[4] In lieu of registering a vehicle, the converter may apply for a converter's license plate for a vehicle if it is the type of vehicle that the converter is engaged in the business of assembling or modifying. The fee for this plate is $20 for one year.

[4]**§503.0618. Converter's License Plates**
(a) In this section, "converter" means a person who holds a converter's license issued under Chapter 2301, Occupations Code.
(b) Instead of registering under Chapter 502 a vehicle that a converter operates or permits to be operated on a public street or highway, the converter may apply for, receive, and attach converter's license plates to the vehicle if it is the type of vehicle t hat the converter is engaged in the business of assembling or modifying.
(c) The fee for a converter's license plate is $20 a year.
(d) A fee collected under this section shall be deposited to the credit of the Texas Department of Motor Vehicles fund.
(TEX. TRANSP. CODE ANN. §503.0618 (Vernon Supp. 2025).

The manufacturer's and converter's plates are specific to those licensees and TADA requests that the proposed deletion of the "manufacturer or converter" description of the plate type in subsections (a), (b), and (d), not be adopted for exclusion because removing the "manufacturer" and "converter" before "standard license plate" may cause confusion with other types of TxDMV plates.

As a manufacturer's plate and a converter's plate are provided for in the Transportation Code, this plate description should be retained within the rule.

The rule heading "Standard License Plates" should also be amended to reflect that the rule applies to a manufacturer or converter plate .

As a manufacturer or distributor is eligible for a "manufacturer" plate and a converter is eligible for a "converter" plate, the proposal deletes the franchised dealer and GDN dealer's discussion for additional standard license plates in subsection (g). The proposal in subsection (g) is recommended to read:

> §215.120(g):
> In evaluating requests for additional manufacturer or converter ~~standard~~ license plates [~~from any eligible license holder, including franchised or other GDN dealer,~~] the department shall consider the business justification provided by a manufacturer or converter [~~license holder~~] including the following:
>
> . . .
>
> (4) how the manufacturer or converter [~~license holder~~] typically uses manufacturer or converter [~~standard licenses~~] license plates;
> (5) the manufacturer's or converter's [~~license holder's~~] record of tracking and reporting missing or damaged license plates to the department; and
>
> . . .

The proposal should be clarified so that it is understood that the rule is only applicable regarding a manufacturer or a converter plate and that the plates available to a manufacturer, distributor, and a converter should be described as "manufacturer" and "converter" throughout §215.120 so as not to be confused with any other TxDMV issued plates.

TADA requests that the rule, as proposed, not be adopted as the deletion of the "manufacturer" and "converter" descriptions may create misunderstandings in that a manufacturer's and a converter's plate is only available for the specific purposes as provided in the Transportation Code, §503.064 and §503.0618.

§215.121. *Sanctions*

This rule was proposed December 29, 2023, with the explanation that the new rule would set out the powers of the board and department to sanction a manufacturer, distributor, or converter; describe existing administrative sanctions; and, provide which actions may result in a sanction (48 *TexReg* 8206; 48 *TexReg* 8226-8227, as proposed).

The rule was subsequently adopted by the board, with changes, April 26, 2024. The April 26, 2024, explanation for the rule adoption provides:

> Adopted new §215.121 describes the powers of the board and department to sanction a manufacturer, distributor, or converter. This adopted new section provides these license holders with information about which violations may result in civil penalties or may affect licensing eligibility. Adopted new §215.121(a) describes existing administrative sanctions that the board or department may take if a manufacturer, distributor, or converter violates a law or rule enforced by the department.
>
> . . .
>
> (49 *TexReg* 2709)

The April 24, 2026, proposed rule lists 19 reasons to sanction "a license applicant, a license holder, or a person engaged in business for which a license is required" (51 *TexReg* 2658 - 2659).

As written, the rule does not limit its application to a manufacturer, distributor, or converter. The rule is also shown to be in Subchapter C. Franchised Dealers, Manufacturers, Distributors, and Converters.

In the April 24, 2026, Sanctions rule proposal to Subchapter D. General Distinguishing Numbers and In-Transit Licenses, §215.141 *Sanctions*, there are 39 reasons to sanction a "license applicant, a license holder, or a person engaged in business for which a license is required" (51 *TexReg* 2668).

TADA requests that the §215.121 rule incorporate the rule's explanation for its application as discussed in 2023 and 2026, as being applicable to a manufacturer, distributor, or converter.

If this §215.121 sanctions rule is to apply to a franchised dealer, as is provided for in the heading to Subchapter C., clarification regarding its application is requested as "license applicant, license holder, or a person engaged in business for which a license is required" is broader than the explanation for the rule in 2024.

The rule states that "[T]he board or department may sanction a license applicant, a license holder, or a person engaged in business for which a license is required . . ." The rule is written to include any license applicant, any license holder, or any person for which a TxDMV license is required–not just a manufacturer, distributor, or converter.

Neither the 2023 proposed §215.121 "Sanctions" rule (48 *TexReg* 8226 - 8227), the 2024 adopted rule (49 *TexReg* 2725) nor the proposed 2026 proposed rule (51 *TexReg* 2658 -2659) limit the rule to a manufacturer, distributor, or converter, in accordance with the rule's explanation (48 *TexReg* 8206, proposed; 49 *TexReg* 2709, adopted).

TADA requests that:

(1) the listed actions in §215.121(a), i.e., denying an application, revoking a license, suspending a license, assessing a civil penalty, issuing a cease and desist order, or taking other authorized action that the board or department may take for a violation, remain in the rule as it gives notice of the various actions that the board or department may take for a violation listed in subsection (b);

(2) the rule be amended to state which licensees the stated violations apply. As written, §215.121 applies to "a license applicant, a license holder, or a person engaged in business for which a license is required" and it is not

limited to a manufacturer, distributor, or converter as provided in the 2023 and 2024 explanation (48 *TexReg* 8206; 49 *TexReg* 2709).

Subchapter D. General Distinguishing Numbers and In-Transit Licenses

§215.133. *GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction.*

This rule was amended in the 2023-2024 time period and subsequently adopted by the board (48 *TexReg* 8229-8230, proposed; 49 *TexReg* 2727 - 2728, adopted).

TxDMV's 2023 explanation for the 2024 adopted amendments include: re-titling, clarifications, re-lettering, and modernizing phrases (48 *TexReg* 8206, proposed; 49 *TexReg* 2705, adopted with amendments).

In 2026, the proposal deletes subsection (a). This subsection explains that "no person may engage in business as a dealer or as a wholesale motor vehicle auction without a valid GDN assigned by the department for each person's business location and the requirement that a dealer must hold a GDN for a consignment location unless a wholesale motor vehicle auction" (51 *TexReg* 2642, 2661).

Also proposed for deletion is subsection (b), providing that subsection (a) does not apply to a person exempt from the GDN requirement under Transportation Code §503.024 (51 *TexReg* 2642, 2661).

The explanation for the proposed deletion of subsections (a) and (b) is that they unnecessarily repeat statutory requirements (51 *TexReg* 2642). There is merit to include statutory requirements and not just a statutory reference in a rule for those licensees who are charged with complying with agency rules and regulations.

TADA requests that the language in subsections (a) and (b) remain as adopted in 2024 as it assists in clarifying that a GDN is necessary to engage in business as a dealer and that a GDN is necessary for a consignment location unless the location is a wholesale motor vehicle auction.

Subsections (a) and (b) give context to the GDN requirements and provide clarification as to the necessity to obtain a GDN.

The board previously determined subsections (a) and (b) should be maintained and TADA requests these provisions remain so as to allow for a more complete understanding of the requirement to obtain a GDN in order to engage in business as a dealer in Texas.

§215.134. *Requirement for a Drive-a-way Operator In-Transit License.*

As proposed in 2023, this rule was necessary to define the application requirements for a drive-a-way operator in-transit license and subsection (a) "defined the requirement that a person have a drive-a-way operator license to engage in the business in Texas" (48 *TexReg* 8206; 49 *TexReg* 2710).

In 2023, subsection (a) was considered necessary to "set out the requirement for a license" (48 *TexReg* 8206) in that it defined the requirement for a person to engage in business in Texas with a drive-away operator license and the Board subsequently adopted the language in 2024 (49 *TexReg* 2710).

In 2026, this same provision is proposed for deletion "because the deleted subsection unnecessarily repeats statutory requirements" (51 *TexReg* 2642).

The other amendment to this section, subsection (e), updates the fingerprint reference because the previous "Fingerprint Requirements for Designated License Types" was repealed by 50 *TexReg* 6501, effective November 1, 2025, and relocated to another TxDMV rule, 43 TAC §211.13, effective November 1, 2025, 50 *TexReg* 6501.

TADA requests that subsection (a) not be deleted as it gives notice that no drive-a-way operator may engage in business in Texas unless that person has a currently valid drive-a-way operator in-transit license issued by the department.

The discussion in subsection (a) continues to be necessary in 2026 as it was incumbent in 2024. If deleted, the board may find that it is needed for context in the future and re-propose the rule with the proposed language to be deleted.

§215.137. *Surety Bond.*

Subsection (f), which describes the dealers who are not required to obtain a surety bond, is proposed to be deleted because the Transportation Code, §503.033 describes those dealers who are not required to obtain a surety bond (51 *TexReg* 2642, 2664).

Including those GDN holders who are not required to obtain a surety bond in the TxDMV's rules gives necessary information through the department's regulatory framework to a potential dealer as to whether a surety bond is a requirement for the GDN license.

Tracking the information from the statute assists out-of-state persons who may be considering Texas as a potential business location as well as persons in-state who are determining whether to go forward with obtaining a dealer's license in Texas.

Information and departmental requirements included within a rule when tracking the statutory language may be unnecessary for those parties familiar with the licensing requirements but informative and useful for persons considering obtaining a GDN or dealer's license.

TADA requests retaining the current rule as adopted in its current form without amendment.

§215.140. *Established and Permanent Place of Business.*

TADA thanks Ms. Monique Johnston, Division Director, Motor Vehicle Division, for the proposed new sign and plate storage amendments. Specifically, TADA supports the proposal in §215.140(a)(3)(B), §215.140(a)(4)(A)(ii) and §215.140(b)(3)(B), allowing a sign to be permanently affixed or etched on an exterior window, wall, or door. This new provision allows flexibility for those dealers to open a new facility or relocate a facility who may also be waiting for a new dealership sign to be delivered (51 *TexReg* 2664 - 2667).

TADA again thanks Ms. Johnston and supports the proposed amendment to §215.140(a)(5)(F) which will authorize dealer's or buyer's license plates to be mailed or delivered to a dealer's licensed physical location or other physical location listed in the dealer's license record that is approved by the department.

These two amendments will allow for a smoother licensing process as well as give a dealer the opportunity to centralize secure plate storage.

§215.141. *Sanctions.*

Subsection (a) was considered needed in the proposal published in the *Texas Register* on December 29, 2023, as it reordered language for consistency with §215.141(b) and added a reference to a cease-and-desist order, which is an action the board is authorized to take under Occupations Code, §2301.153 and §2301.802 (48 *TexReg* 8207).

In 2026, the listed actions that the board or department may take against a license applicant, a license holder, or a person engaged in business for which a license is required and proposed for deletion are: (1) deny an application; (2) revoke a license; (3) suspend a license; (4) assess a civil penalty; (5) issue a cease and desist order; or (6) take other authorized action (51 *TexReg* 2668).

The above-stated board and department actions are proposed to be deleted from the existing rule. The explanation for their deletion is because the actions are stated in statute and the deletion would cancel the orphaned remaining subsection designation (51 *TexReg* 2642).

Although the statutory penalties and actions can be found in the statutes, it is preferable for the public, attorneys, licensees, and potential licensees to know the actions that are allowable by the board or department if a TxDMV licensee is non-compliant with a TxDMV requirement.

The 39 listed prohibitions that are subject to board or departmental sanction can also be found in various statutes; however, it is preferable to give notice in the rule and as the 39 listed prohibitions give notice to a licensee, so do the 6 listed actions that the board or department may take (51 *TexReg* 2668 - 2669).

This rule allows that it is applicable to a "license applicant, license holder, or a person engaged in business for which a license is required," if the person fails one of the 39 listed sanctions (51 *TexReg* 2668-2669). Although the listed sanctions are included within Subchapter D., *General Distinguishing Numbers and In-Transit Licenses,* just as §215.121 in Subchapter C., *Franchised Dealers, Manufacturers, Distributors, and Converters*, applies to a "license applicant, a license holder, or a person engaged in business for which a license is required" (51 *TexReg* 2658 - 2659), clarification is suggested as to which sanctions apply to which license applicant or licensee, especially since a franchised dealer is subject to both Subchapter C and D.

TADA requests subsection (a) be retained for information and understanding by the public, counsel, and licensees. Maintaining subsection (a) will also nullify the expressed concern regarding the alleged orphaned subsection designation.

§215.157. *Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available.*

Amendments were proposed July 12, 2024, to implement HB 718 by describing the process for a dealer to issue a license plate and a receipt when the internet is unavailable. The proposed amendments were considered to be "necessary for implementation of HB 718 and to maintain the integrity of the license plate database" (49 *TexReg* 5031, 5036).

These 2024 amendments to §215.157 were adopted by the board and published in the November 8, 2024, *Texas Register* (49 *TexReg* 8959, 8976).

In 2026, amendments are again proposed to §215.157. This time, the previously adopted necessary language is proposed for deletion in order "to streamline the text by deleting language that restates the statute and instead references the applicable Transportation Code, §503.0631(d) and 43 TAC §215.156" (51 *TexReg* 2644).

TADA requests that the language proposed for deletion remain in the rule as it explains the actions for a dealer or a governmental agency to take if the internet is unavailable. As is allowed by Transportation Code, §503.0631(d), if a dealer or governmental agency is unable to access the internet at the time of sale, the dealer documents the issuance of a buyer's license plate or buyer's temporary license plate on a departmental receipt form and enters the information as to the sale in the license plate system not later than the close of the next business day. The buyer's receipt includes a statement that the dealer or governmental agency at the time of sale, was not able to access the internet or license plate system (51 *TexReg* 2675).

Including the process in the rule for a dealer or governmental agency to follow when the internet or license plate system is not available is instructive as well as useful to incorporate in the rule and should not be deleted.

Referencing another rule or a statutory citation in lieu of the required process for a licensee to follow is problematic, especially when a statutory cite is changed by the legislature, which may then cause a regulatory cite to be amended by an agency.

The information was considered necessary in 2024 and remains necessary going forward. TADA requests that the proposed deletion not be adopted as it describes the process to follow when the internet is not available.

§215.159. *License Plate Storage Away from the Licensed Location.*

TADA appreciates Ms. Corrie Thompson, Director, Enforcement Division and Ms. Monique Johnston, Division Director, Motor Vehicle Division, for responding to the dealer's requests for the ability to store, manage, and centralize plate inventory.

TADA supports the proposed rule with respect to license plate storage at a centralized or secondary location.

Subchapter E. Lessors and Lease Facilitators.

§215.175. *Sanctions.*

As with §215.121, §215.141, and §215.500, disclosing the penalties that may be assessed by the board or department gives notice within the rule to those licensees who can be impacted by a regulatory or statutory violation.

The explanation for their deletion is because these actions are stated in statute (51 *TexReg* 2645).

Deleting subsection (a) serves no viable purpose and TADA requests that the allowable actions that may be taken against a lessor or vehicle lease facilitator by the board or department remain in the rule as previously adopted as it provides notice to lessors and lease facilitators (51 *TexReg* 2677).

Subchapter F. Advertising.

§215.244. *Definitions.*

A new definition is proposed for the statutory "cure" requirement in Occupations Code, §2301.203 in which the TxDMV is required to provide a licensee with a notice of an alleged advertising violation along with an opportunity to "cure" the alleged violation prior to any TxDMV proceeding or liability.

The proposed "cure" definition requires a licensee to agree not to violate an advertising rule that is referenced in the department's opportunity to cure notice for a two-year period plus action that the department determines is necessary to correct a consumer harm[5] that is caused by the alleged advertising violation, including a consumer refund (51 *TexReg* 2681).

The "subsequent violation" definition is also proposed to be amended to reference the two-year period in the proposed two-year "cure" definition for notice.[6]

Background

The statutory "cure" in Occupations Code, §2301.203(c) provides:

> The board may not file a complaint alleging a violation of this chapter or a board rule relating to advertising until the

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[5] The proposed cure definition discusses "a consumer harm;" however, the harm to competitors is an area that should also be considered by the board or department.

[6]The definition of "subsequent violation" leaves at issue when the two-year period begins to run.

board has notified the license holder involved of the alleged violation and given the license holder an opportunity to cure the violation without further proceedings or liability.

In a 2024 case before the State Office of Administrative Hearings (SOAH), the Presiding Administrative Law Judge (ALJ), dismissed the alleged advertising violation cause of action, *Texas Department of Motor Vehicles v. Classic Autoplex F LLC d/b/a Nissan of Boerne,* SOAH Docket No. 608-24-23923, for lack of jurisdiction, lack of statutory authorization, or failure to state a claim for which relief can be granted (*See* Ftnt. 8, 1 Tex Admin. Code §155.503(d)(1)(A), (B), (D)).

In this case, advertising rules were alleged to be violated, specifically, §215.250(e)[7] and §215.266(a).[8] The dealership was sent a notice in 2020 with respect to the dealership's alleged 2018 advertising violations with an opportunity to cure their 2018 advertising.

In March 2024, a Departmental Notice of Decision advising the dealership of enforcement against their February 2024 advertisements was sent.

The TxDMV argued that its 2020 Notice satisfies the TxDMV's prerequisites for statutory authority to enforce all subsequent violations of the same advertising provision, as reflected in its rules, and that the Department has discretion to interpret the statute and issue rules implementing that interpretation.

The Department also asserted that it has no time limit regarding its notice and cure letter as it could authorize enforcement of a subsequent violation as many as 10 years later; however, departmental attorney's practice varies and counsel for the TxDMV indicated a new letter would be sent if the original was from 9 years prior to the advertisement that is the subject of the violation.

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[7]43 TAC §215.250(e): "A savings claim or discount offer is prohibited except to advertise a new motor vehicle. No person may advertise a savings claim or discount offer on a used motor vehicle."

[8]43 TAC §215.266(a): "Claims that represent a lowest price, best price, best deal, or similar superlative claims shall not be used in advertising."

The SOAH Order (*see* Attachment 1) provides that a state agency's powers are limited to those expressly granted by statute and necessarily implied to implement the agency's authority. The Occupations Code, §2301.203, allows the Department to go forward with enforcement for an advertising violation–but not until a notification to the licensee of the alleged violation and the licensee has an opportunity to cure the alleged violation without further TxDMV proceedings and liability.

In a similar advertising complaint, the Third Court of Appeals in *Cont'l Imports, Ltd. v. Brunke*, found that the cure statute in §2301.203 requires a separate notice and an opportunity to cure each advertising violation before that particular advertising violation can be included in a complaint from the TxDMV[9] (*see* Attachment 2).

The *Nissan of Boerne* SOAH Order, referencing *Brunke* and the Court of Appeals, cited cases for the position that courts "do not defer to an agency interpretation when a statute is unambiguous," quoting *Railroad Comm'n v. Texas Citizens for a Safe Future and Clean Water*, 336 S.W.3d 619, 624, n. 6 (Tex. 2011).

While *Brunke* is not a published opinion, the ALJ concurs with the Court of Appeals that the TxDMV is required to send a separate notice for each advertising violation, each time, and the agency interpretation is not at issue.

The ALJ determined that no notice letter was sent as to the February 2024 advertisements, no opportunity to cure was given, and as a result, the TxDMV cannot bring the enforcement action and subsequently dismissed the case for lack of jurisdiction, lack of statutory authorization, or failure to state a claim for which relief can be granted (1 TAC §155.503(d)(1)(A), (B), (D)). The case was thereafter dismissed from SOAH's docket.

Based upon the *Nissan of Boerne* dismissal and the *Cont'l Imports Ltd. v. Brunke* findings by the Court of Appeals, it is questionable if defining a "cure" as an agreement by a license holder not to violate for a two-year period, an advertising rule

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[9]No. 03-10-00719-CV, 2011 WL, 6938439 (Tex. App.–Austin, Dec. 30, 2011, no pet.) (mem. op.).

cited in an opportunity-to-cure notice (51 *TexReg* 2681)[10], that such a work-around negates the required statutory notice and opportunity to cure.

Whether a licensee can agree not to violate an advertising rule for a period of time without the TxDMV complying with Occupations Code, §2301.203(c) which requires a notice and an opportunity to cure the violation without any further proceeding or liability, is problematic, especially as the statute is unambiguous.

§215.264. *Payment Disclosures–Vehicle Lease.*

Federal Regulation M, 12 C.F.R. §213.7(f), (*see* Attachment 3) provides for alternative disclosures for a television or radio advertisement that directs the consumer to a written advertisement in a publication of general circulation in the community, including the name and date of the publication with a statement of required disclosures which is published at least 3 days before and ending at least 10 days after the broadcast.

The Regulation M alternative disclosure which is partially set forth in the current rule is, in part, proposed to be deleted (51 *TexReg* 2682).

Although the vehicle lease payment disclosure advertising rule is challenging to follow and may need to be modernized, TADA requests that any amendment to §215.264 track the required federal Regulation M advertising disclosures so that a licensee is compliant with both state and federal consumer lease advertising and is given the available alternative disclosures as provided in Regulation M.

§215.270. *Enforcement.*

The proposed amendments to the Enforcement rule are considered to streamline, improve readability, and modernize the methods to contact a licensee. Deletions are also proposed to be consistent with the proposed definitions for a "cure"

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[10] §214.244(6) Cure–a license holder's agreement to not [sic] violate for a two-year period an advertising rule cited in a department opportunity-to-cure notice, and if applicable, any action necessary to correct a consumer harm caused by the alleged advertising violation, such as issuing a consumer refund.

and a "subsequent violation." Also proposed for deletion is the provision to require a retraction to be printed in a local newspaper. The TxDMV now considers a retraction to be ineffective or inefficient for public notice (51 *TexReg* 2646).

As discussed above, the proposed "cure" definition seeks to hold a licensee to a two-year agreement not to violate an advertising rule in an opportunity to cure notice and any action that the department deems necessary to correct a consumer harm that is caused by the alleged advertising violation (51 *TexReg* 2681).

Statutorily, Occupations Code, §2301.203, provides that a licensee is to be notified of a violation of "this chapter" or a "board rule" relating to advertising and no complaint alleging a violation may be filed until notification to the licensee and an opportunity to cure the violation is given without further proceedings or liability.

It remains questionable if the TxDMV requirement of notice and an opportunity to cure an alleged violation can be circumvented by defining a cure as a two-year agreement not to violate an advertising rule cited in an opportunity-to-cure notice.

The legislature did not limit the required notice and cure to a period of time, although it could have included a limitation in the1997 statute.

Another concern is the proposed language in subsection (a)(2) allowing the TxDMV to file a Notice of Department Decision against a licensee if the notification of an opportunity to cure is emailed and sent by certified mail and the licensee did not "timely" respond or agree to the "cure agreement."

When is a licensee "timely" or "not timely" in responding to the notice–72 hours or 1 week from the receipt of the email or the certified mail by the licensee or is another time period to be "timely" or "not timely"?

The proposal deletes "committed a subsequent violation of the same advertising provision" in subsection (a)(2)(B) (51 *TexReg* 2682); however, "subsequent violation" is amended as a licensee's violation of the same advertising rule cited in an opportunity to cure notice within a two-year period (§215.244 (18) (51 *TexReg* 2682).

Prior to adopting the proposal, TADA continues its concerns as to the validity and compliance of a two-year cure agreement under Occupations Code, §2301.203 as the statute "is unambiguously clear that the Department must send a separate notice for each advertising violation, each time, and there is no room for agency interpretation."[11]

Subchapter G. Administrative Sanctions.

§215.500. *Administrative Sanctions.*

The previously listed administrative sanctions, i.e., denial of an application for a license; suspension of a license; revocation of a license; the imposition of civil penalties; or a refund under §215.504 of this title (relating to Buyer or Lessee Refund), are proposed for deletion (51 *TexReg* 2683).

In lieu of listing the available penalties, the proposed amendment to the rule would reference that an administrative sanction may include one or more penalties under Occupations Code, Chapter 2301 or Transportation Code, Chapter 503, including a refund under §215.504 (51 *TexReg* 2683).

The explanation for no longer listing the available administrative sanctions is because the listed penalties or sanctions duplicate language that is found in statute or this proposed rule (51 *TexReg* 2646).

It is preferable to give a licensee notice of a potential penalty that the licensee may be subject to versus listing the statutory references where a penalty can be located, such as the Occupations Code, Chapter 2301 or Transportation Code, Chapter 503, or this proposed rule.

Including a statutory reference in a rule may also cause future rule amendments as the legislature may amend the statute or change the citation.

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[11] *Texas Department of Motor Vehicles v. Classic Autoplex F LLC d/b/a Nissan of Boerne*, Order Dismissing Case, SOAH Docket No. 608-24-23923, at 3, citing *Cont'l Imports, Ltd. v. Brunke.*

TADA requests that the current listing of potential administrative sanctions remain in the rule for notice and an understanding of a potential penalty, which may also serve as a deterrent.

Not every licensee is able to find the statutory administrative penalty by searching the Occupations Code, Chapter 2301 or Transportation Code, Chapter 503 or reviewing agency rules. Deleting the list of potential penalties or sanctions does not give adequate notice nor serve the license holders.

Summary

TADA supports the following proposals for adoption as published in the April 24, 2026, *Texas Register*:

SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES

§ 215.140. *Established and Permanent Place of Business Premises Requirements.*

§215.140(a)(3)(B)–amendment allowing a retail dealer to permanently affix or etch a business sign on an exterior window, wall, or door;

§215.140(a)(4)(A)(ii)–amendment allowing a wholesale motor vehicle dealer to permanently affix or etch a sign on an exterior window, wall, or door;

§215.140(b)(3)(B)–amendment allowing a wholesale motor vehicle auction GDN holder to display a business sign permanently affixed or etched on an exterior window, wall, or door;

§215.140(a)(5)(F)–amendment requiring plate delivery to a dealer's licensed location or other physical location listed in the dealer's license record and approved by the department.

§215.159. *License Plate Storage Away from the Licensed Location.*
A new rule allowing a dealer with two or more licensed locations to store and manage plate inventory from another location if the plate storage satisfies the department's stated requirements.

TADA requests the following proposals not go forward for adoption as drafted and published in the April 24. 2026, *Texas Register*:

SUBCHAPTER B. LICENSES, GENERALLY

§215.84. *Brokering, New Motor Vehicles.*

Proposed for deletion is subsection (a),[12] previously adopted by the Board and published in the April 26, 2024, *Texas Register.*

This subsection gives context to the broker prohibition.

§215.85. *Brokering, Used Motor Vehicles.*

Proposed for deletion is language adopted in 2024. The explanation for the amendment, as adopted by the Board and published in the April 26, 2024, *Texas Register*, "for clarity" remains today and TADA requests that the language not be deleted.

SUBCHAPTER C. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS

§215.101. *Purpose and Scope.*

Proposed for repeal (51 *TexReg* 2638, 2654), are the license types, as included in the rule in 2024 for clarity and adopted by the Board in the April, 26, 2024, *Texas Register* (49 *TexReg* 2707).

TADA requests the rule remain as adopted in 2024.

§215.105. *Notification of License Application; Protest Requirements.*

The proposed language does not change the meaning of the statute (51 *TexReg* 2641); therefore, TADA requests that the current rule not be amended.

§215.107. *Sale or Transfer of a Line-Make.*

A proposed new rule. The purpose for subsection (a) is to describe licensing requirements for a manufacturer or distributor with respect to a sale, a license, or a transfer of a line-make to another, with application information listed in subsection (b) (51 *TexReg* 2641, 2656).

TADA requests the rule not be adopted as proposed.

If adopted, TADA requests the board to amend subsection (a) to delete "licenses" and amend (b)(3) to "identify the person responsible for warranty payment to the franchised dealer . . ." for clarity.

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[12]Previously adopted in 2024 and in 2026, proposed for deletion: "(a) Unless excluded from the definition of 'Broker' in Occupations Code, §2301.002, a person may not act, offer to act, or claim to be a broker."

§215.108. *Addition or Relocation of Line-Make.*
Adopted with amendments in 2024 (48 *TexReg* 8205, 8224, proposed; 49 *TexReg* 2705, 2708, adopted).
TADA requests that the proposal not be amended and that the rule remain in its current form for continuity (51 *TexReg* 2641, 2656 - 2657).
§215.114. *Sale of a Vehicle by a Manufacturer or Distributor at a Wholesale Motor Vehicle Auction.*
Without changing the rule's content, the proposed amendment is said to modernize, simplify, and improve readability (51 *TexReg* 2641, 2657-2658).
TADA requests the rule not be amended as the department rules should be reliable, permanent, and stable for licensees who are subject to the rules.
§215.120. *Standard License Plates.*
The proposal deletes the "manufacturer or converter" language when discussing "standard license plates" (51 *TexReg* 2641, 2658).
TADA requests the rule as proposed not be adopted. Maintaining the clarifying "manufacturer or converter" plate description should remain in the rule to avoid confusion.
§215.121. *Sanctions.*
Previous explanations for the proposal stated it applied to a manufacturer, distributor, or converter; however, the rule states a sanction may be lodged against a license applicant, a license holder, or a person engage engaged in business for which a license is required; the rule is in the Subchapter that includes franchised dealers, manufacturers, distributors, and converters.
TADA requests that the rule identify the licensees that are subject to the rule as well as retaining the list of penalty types that are proposed for deletion so that a licensee is aware of the penalties that may be assessed.

SUBCHAPTER D. GENERAL DISTINGUISHING NUMBERS AND IN-TRANSIT LICENSES.

§215.133. *GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction.*
TADA requests that subsections (a) and (b) remain as adopted by the board in 2024 for clarity.
§215.134. *Requirement for a Drive-a-way Operator In-Transit License.*
TADA requests that subsection (a) not be deleted. In 2023, the subsection was explained as "necessary" (48 *TexReg* 8206, proposed; 49 *TexReg* 2710,

adopted) because it gives notice of the necessity to obtain a license for certain licenses. As such, the language should not be deleted.

§215.137. *Surety Bond.*

Subsection (f), proposed for deletion, gives notice to those licensees not required to obtain surety bond (51 *TexReg* 2642, 2664).

TADA requests the rule remain in its current composition.

§215.141. *Sanctions.*

TADA requests the listed actions that the board or department may take in subsection (a) for a violation of one of the 39 listed prohibitions, be retained for notice purposes (51 *TexReg* 2668-2669) and that the rule state which licensees are subject to the rule in lieu of "a license applicant, a license holder, or a person engaged in business for which a license is required" (51 *TexReg* 2668).

§215.157. *Issuing Buyer's License Plates and License Plate Receipts When Internet Not Available.*

Previously adopted language in 2024 which was considered necessary, is proposed for deletion in 2026 (49 *TexReg* 5036, 5061, proposed; 49 *TexReg* 8976, adopted).

TADA requests that the previously adopted language remain and not be deleted as it describes the process to follow when the internet is not available (51 *TexReg* 2644, 2675).

SUBCHAPTER E. LESSORS AND LEASE FACILITATORS.

§215.175. *Sanctions.*

As with previous rules regarding sanctions that propose to delete the penalties the board or department may assess, specifically, §215.121, §215.141, and §215.500, TADA requests the allowable penalties to remain for notice to licensees and counsel and requests subsection (a) remain and not be deleted.

SUBCHAPTER F. ADVERTISING.

§215.244. *Definitions.*

A definition for "cure" is proposed in §215.244(6) and "subsequent violation" in §215.244(18) is proposed to be amended based upon the proposed "cure" definition (51 *TexReg* 2645, 2681 - 2682).

As the proposed definition for "cure" does not follow the statute, specifically, Occupations Code §2301.203, or the cases that have interpreted the statute, *Cont'l Imports, Ltd. v. Brunke* and *Texas Department of Motor Vehicles v.*

Classic Autoplex F LLC d/b/a Nissan of Boerne, the proposal should not go forward. The statute is unambiguous and requires a notice and an opportunity to cure each alleged violation without further TxDMV proceedings; thus, the proposed definitions should not be adopted.

§215 .264. *Payment Disclosures–Vehicle Lease.*

As dealers are required to follow the federal adopted lease disclosures in Federal Regulation M, 12 C.F.R. §213.7(f), TADA requests that the state's vehicle lease advertising payment disclosures track the federal rule for consistency (51 *TexReg* 2682).

§215.270. *Enforcement.*

Proposed language regarding the "cure" is requested to be deleted in that the new proposed "cure" definition in §215.244 is outside of the board's authority as it is not compliant with either the statute, Occupations Code 2301.203(c) or subsequent decisions.

SUBCHAPTER G. ADMINISTRATIVE SANCTIONS.

§215.500. *Administrative Sanctions.*

TADA requests that the listed penalties remain in the rule for administrative notice (51 *TexReg* 2683).

For continuity, constancy, and notice, an agency's adopted rules should remain fixed unless a statutory or court decision requires an amendment or an explication is needed. The rule proposals adopted by the board in 2024 are comprehensible and without a well-defined need for amendment, should remain as adopted by the board in 2024.

Sincerely,

Karen Phillips
General Counsel/EVP

ATTACHMENT 1

Texas Department of Motor Vehicles v. Classic Autoplex F LLC d/b/a Nissan of Boerne, Order Dismissing Case

ATTACHMENT 2

Cont'l Imiports,Ltd. v. Brunke, (2011 Tex. App. LEXIS 10242)

ATTACHMENT 3

Federal Regulation M, 12 C.F.R. §213.7(f)

ATTACHMENT 1

Before the State Office of Administrative Hearings

TEXAS DEPARTMENT OF MOTOR VEHICLES,
Petitioner
v.
CLASSIC AUTOPLEX F LLC d/b/a NISSAN OF BOERNE,
Respondent

Order Dismissing Case

On October 2, 2024, Classic Autoplex F LLC d/b/a Nissan of Boerne (Respondent) filed a Motion to Dismiss (Motion) for lack of jurisdiction, lack of statutory authorization, and failure to state a claim upon which relief may be granted. The Texas Department of Motor Vehicles (Department) responded to the Motion on October 4, 2024 (Response); and Respondent replied in support of the Motion on October 7, 2024. On October 10, 2024, the Administrative Law Judge convened a preliminary hearing and heard argument on the Motion.

This is an enforcement case alleging violations of advertising rules found at 43 Texas Administrative Code (TAC) sections 215.250(e) and 215.266(a), as reflected in Respondent's February 2024 advertisements. In 2020, the Department sent Respondent a letter (2020 Notice) giving notice and an opportunity to cure violations of those TAC sections and attaching Respondent's 2018 advertisements. In March 2024, the Department sent a Notice of Decision advising Respondent of its enforcement against Respondent's February 2024 advertisements. Respondent's position is that the Department had to send a new notice letter and provide an opportunity to cure, specifically as to the February 2024 advertisements.

The Department's position is that the 2020 Notice satisfies the agency's prerequisites for statutory authority to enforce *all subsequent violations of the same advertising provisions*.[1] The Department argues that this interpretation is reflected in its rules, and that it has discretion to interpret the statute and issue rules implementing that interpretation.[2]

The powers of a state agency are limited to those expressly granted by statute and necessarily implied to implement that authority.[3] Texas Occupations Code section 2301.203 (Section 2301.203) grants the Department authority to

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[1] Counsel for the Department stated that there is no time limit to the efficacy of such a "notice/cure letter"—allowing that it could authorize enforcement of subsequent violations as many as ten years later—although she also noted that Department attorneys' practice varies and she would probably send a new letter if the original was from nine years prior to the advertisements in question.

[2] Response at 7-8 (referencing 43 Tex. Admin. Code § 215.270 and citing *Tex. Comm'n on Envtl. Quality v. Maverick Cnty.*, 642 S.W.3d 537, 540 (Tex. 2022), reh'g denied (Apr. 22, 2022)).

[3] *See Tex. Mun. Power Agency v. Pub. Util. Comm'n of Tex.*, 253 S.W.3d 184, 192-93 (Tex. 2007).

initiate enforcement proceedings regarding violations of motor vehicle advertising rules, but not until it "has notified the license holder involved of the alleged violation and given the license holder an opportunity to cure the violation without further proceedings or liability."[4]

Facing an almost identical fact pattern calling for interpretation of Section 2301.203, the Third Court of Appeals found: "This language unambiguously requires separate notice and an opportunity to cure each advertising violation before that particular advertising violation can be included in any complaint filed by the Enforcement Section."[5] The court concluded that the agency "was not authorized to include in its complaint counts related to advertising violations for which it did not give . . . notice and an opportunity to cure."[6] Moreover, citing a string of cases, the court noted that courts "do not defer to an agency interpretation when a statute is unambiguous."[7]

Although *Brunke* is an unpublished opinion and, therefore, not precedent, the ALJ agrees with the court's finding that Section 2301.203 is unambiguously clear that the Department must send separate notice for each advertising violation, each time, and there is no room for agency interpretation. Here, no notice letter

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[4] Tex. Occ. Code § 2301.203(c).

[5] *Cont'l Imports, Ltd. v. Brunke*, No. 03-10-00719-CV, 2011 WL 6938489, at *8 (Tex. App.—Austin, Dec. 30, 2011, no pet.) (mem. op.). *Brunke* arose from enforcement of the motor vehicle advertising rules by the Department's predecessor agency, the Motor Vehicle Division of the Texas Department of Transportation.

[6] *Brunke*, No. 03-10-00719-CV, 2011 WL 6938489, at *8.

[7] *Railroad Comm'n v. Texas Citizens for a Safe Future and Clean Water*, 336 S.W.3d 619, 624, n. 6 (Tex. 2011).

was sent regarding Respondent's February 2024 advertisements, and Respondent was given no opportunity to cure them; therefore, the Department is not authorized to bring this enforcement.

The procedural rules of the State Office of Administrative Hearings (SOAH) allow the ALJ to dismiss a case for lack of jurisdiction, lack of statutory authorization, or failure to state a claim for which relief can be granted.[8] Accordingly, the Motion is **GRANTED** and this case is **DISMISSED** from SOAH's docket.

Signed October 11, 2024.

Heather D. Hunziker
Presiding Administrative Law Judge

[8] 1 Tex. Admin. Code § 155.503(d)(1)(A), (B), (D).

ATTACHMENT 2

Cont'l Imps., Ltd. v. Brunke

Court of Appeals of Texas, Third District, Austin

December 30, 2011, Filed

NO. 03-10-00719-CV

Reporter
2011 Tex. App. LEXIS 10242 *; 2011 WL 6938489

Continental Imports, Ltd. d/b/a Mercedes Benz of Austin, Appellant v. L. David Brunke in his Official Capacity as Acting Director of The Motor Vehicle Division of the Texas Department of Transportation, and The Motor Vehicle Division of the Texas Department of Transportation, Appellees

Subsequent History: Petition for review denied by *Castanuela v. Cont'l Imps., 2013 Tex. LEXIS 299 (Tex., Apr. 19, 2013)*

Prior History: **[*1]** FROM THE DISTRICT COURT OF TRAVIS COUNTY, 345TH JUDICIAL DISTRICT. NO. D-1-GN-07-000508, HONORABLE LORA J. LIVINGSTON, JUDGE PRESIDING.

Core Terms

advertising, counts, violations, notice, assumed name, retraction, opportunity to cure, alleged violation, license holder, dealer, misleading, notified, civil penalty, deceptive, material misrepresentation, license renewal, motor vehicle, omissions, name change, dealership, license, further proceedings, amended petition, final order, contends, reviewing court, rule violation, affirming, cure, substantial evidence

Case Summary

Procedural Posture

Appellant licensee sought review of a judgment from the District Court of Travis County, 345th Judicial District (Texas), which affirmed an order from appellee, the Motor Vehicle Division of the Texas Department of Transportation, finding that the licensee had engaged in false, misleading, or deceptive conduct; directing the licensee to publish a retraction; and assessing civil penalties.

Overview

The licensee placed advertisements for its auto dealership using assumed names. The agency had not authorized the licensee to use those names. The court held that the agency could order a retraction pursuant to its general powers as set forth in *Tex. Occ. Code Ann. § 2301.153(a)(20)(b)* (2004), even though it did not cite *§ 2301.153* as its legal basis. Thus, it was immaterial whether the agency could order a retraction pursuant to *Tex. Occ. Code Ann. § 2301.203(c)* (2004) and former 16 Tex. Admin. Code § 105.32(c) after the proceedings had gone beyond the pre-complaint cure procedure. Moreover, *Tex. Gov't Code Ann. § 2001.052(a)(3)* (2008) did not require that the notice of hearing identify the specific provision authorizing the penalty imposed. The licensee's failure to report the assumed names in its license renewal applications was an omission and, as such, was not a material misrepresentation under *Tex. Occ. Code Ann. § 2301.651(a)(2)* (Supp. 2011). Lack of notice and opportunity to cure the advertising violations under *§ 2301.203(c)* precluded civil penalties as to advertising violations. There was substantial evidence that the advertisements caused confusion and were misleading.

Outcome
The court reversed the judgment of the trial court and remanded to the agency for further proceedings.

LexisNexis® Headnotes

Administrative Law > Judicial Review > Standards of Review > Substantial Evidence

Governments > State & Territorial Governments > Licenses

HN1[] **Standards of Review, Substantial Evidence**

Tex. Occ. Code Ann. § 2301.751 (2004) provides that judicial review of orders from the Motor Vehicle Division of the Texas Department of Transportation is conducted under the substantial evidence rule as set forth in *Tex. Gov't Code Ann. § 2001.174* (2008).

Administrative Law > Judicial Review > Standards of Review > General Overview

HN2[] **Judicial Review, Standards of Review**

In a suit for judicial review of an agency order pursuant to the Texas Administrative Procedure Act, a reviewing court may affirm the agency decision in whole or in part, and must reverse or remand the case for further proceedings if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are: (A) in violation of a constitutional or statutory provision; (B) in excess of the agency's statutory authority; (C) made through unlawful procedure; (D) affected by other error of law; (E) not reasonably supported by substantial evidence considering the reliable and probative evidence in the record as a whole; or (F) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. *Tex. Gov't Code Ann. § 2001.174(1)*, *(2)* (2008). Pursuant to *§ 2001.174(2)*, if the reviewing court finds any of the six categories of error listed and determines that such error prejudiced the substantial rights of the party seeking review, the court must reverse and/or remand the case for further proceedings.

Governments > State & Territorial Governments > Licenses

HN3[] **State & Territorial Governments, Licenses**

See *Tex. Occ. Code Ann. § 2301.203(c)* (2004).

Governments > State & Territorial Governments > Licenses

HN4[] **State & Territorial Governments, Licenses**

Former 16 Tex. Admin. Code § 105.32(c) provided that as part of the cure procedure, the Texas Motor Vehicle Board may require a licensee, who allegedly violated an advertising provision, to publish a retraction notice to effect an adequate cure of the alleged violation.

Governments > State & Territorial Governments > Licenses

HN5[] State & Territorial Governments, Licenses

See *Tex. Occ. Code Ann. § 2301.153(a)(20)(b)* (2004).

Administrative Law > Judicial Review > Standards of Review > General Overview

HN6[] Judicial Review, Standards of Review

A reviewing court is obligated to sustain an agency order on any legal basis shown in the record.

Administrative Law > ... > Hearings > Right to Hearing > General Overview

HN7[] Hearings, Right to Hearing

Tex. Gov't Code Ann. § 2001.052(a)(3) (2008) requires that a notice of hearing in a contested case include, among other things, a reference to the particular sections of the statutes and rules involved. Nothing in the statute, however, requires the agency to notify a party to a contested-case hearing of the specific penalty it will impose in the event it finds a violation of a statute or rule or to apprise it of the agency's general powers. Rather, the purpose of the notice is to provide the party to a contested-case hearing with an opportunity to respond and present evidence and argument on each issue in the case by informing it of which statutes or rules it contends the party violated. *Tex. Gov't Code Ann. § 2001.051(2)*.

Governments > State & Territorial Governments > Licenses

HN8[] State & Territorial Governments, Licenses

See *Tex. Occ. Code Ann. § 2301.651(a)(2)* (Supp. 2011).

Administrative Law > Judicial Review > Standards of Review > De Novo Standard of Review

Governments > Legislation > Interpretation

HN9[] Standards of Review, De Novo Standard of Review

The construction of a statute is a question of law that is reviewed de novo.

Governments > Legislation > Interpretation

HN10[] Legislation, Interpretation

The primary objective of courts in construing statutes is to give effect to the legislature's intent. The plain meaning of the text is the best expression of legislative intent unless a different meaning is supplied by legislative definition or is apparent from the context, or unless the plain meaning would lead to absurd or nonsensical results that the legislature could not have intended. A court looks to the entire act in determining the legislature's intent with respect to a specific provision.

Governments > Legislation > Interpretation

HN11[] Legislation, Interpretation

A court should strictly construe a statute imposing a penalty and construe it against those seeking to impose the penalty and in favor of those on whom such penalties would be imposed.

Administrative Law > Judicial Review > Standards of Review > Deference to Agency Statutory Interpretation

HN12[] **Standards of Review, Deference to Agency Statutory Interpretation**

When a statute is ambiguous, a court is required to give serious consideration to the construction of the statute by the administrative agency charged with its enforcement and uphold the agency's interpretation if it is reasonable. A court does not defer to an agency interpretation when a statute is unambiguous. Courts also do not defer to administrative interpretation in regard to questions which do not lie within administrative expertise, or which deal with a nontechnical question of law.

Governments > State & Territorial Governments > Licenses

HN13[] **State & Territorial Governments, Licenses**

The material misrepresentation prohibited by Tex. Occ. Code Ann. § 2305.651(a)(2) (Supp. 2011) does not encompass an omission or failure to disclose.

Governments > State & Territorial Governments > Licenses

HN14[] **State & Territorial Governments, Licenses**

Tex. Occ. Code Ann. § 2301.203(c) (2004) plainly states that the Texas Motor Vehicle Board may not file a complaint alleging a violation relating to advertising until the Board has notified the license holder of the alleged violation and given the license holder an opportunity to cure the violation without further proceedings or liability. This language unambiguously requires separate notice and an opportunity to cure each advertising violation before that particular advertising violation can be included in any complaint filed by the Enforcement Section of the Motor Vehicle Division of the Texas Department of Transportation.

Governments > Legislation > Interpretation

HN15[] **Legislation, Interpretation**

A court may not rewrite a statute under the guise of construing it.

Governments > State & Territorial Governments > Licenses

HN16[] **State & Territorial Governments, Licenses**

Former *16 Tex. Admin. Code § 111.11(a)(7)* provided that the Director of the Texas Motor Vehicle Board may deny, revoke or suspend a dealer's license (general distinguishing number) or assess civil penalties if that dealer fails to notify the Board of a dealer's name change or ownership within 10 days after such change.

Administrative Law > Judicial Review > Standards of Review > Substantial Evidence

HN17[] **Standards of Review, Substantial Evidence**

Under substantial evidence review of fact-based determinations, the issue for the reviewing court is not whether the agency's decision was correct, but only whether the record demonstrates some reasonable basis for the agency's action. The evidence in the record may even preponderate against the decision of the agency and nonetheless amount to substantial evidence.

Counsel: For Appellant: Mr. J. Bruce Bennett, Cardwell, Hart & Bennett, LLP, Austin, TX; Mr. William R. Crocker, Austin, TX.

For Appellee: Ms. Laura E. Miles-Valdez, Assistant Attorney General, Open Records Litigation & Administrative Law Division, Austin, TX; Ms. Linda B. Secord, Assistant Attorney General, Environmental Protection & Administrative Law Division, Austin, TX.

Judges: Before Chief Justice Jones, Justices Pemberton and Henson.

Opinion by: J. Woodfin Jones

Opinion

MEMORANDUM OPINION

Continental Imports, Ltd. d/b/a Mercedes Benz of Austin ("Continental") appeals the trial court's order affirming a final order issued by the Motor Vehicle Division of the Texas Department of Transportation ("the Division"). The Division's final order found that Continental (1) engaged in false, deceptive, unfair, or misleading advertising; (2) failed to notify the Division of a name change; (3) failed to report to the Division the use of assumed names in two of its license renewal applications; and (4) made material misrepresentations in two of its license renewal applications. *See* Tex. Occ. Code Ann. § 2301.651(a)(2) (West Supp. 2011) (board may reprimand license holder that makes material misrepresentation in any application); 16 Tex. Admin. Code §§ 105.2 (2004) (Tex. Motor Vehicle Bd., General Prohibition) (person advertising motor vehicles shall not use false, deceptive, unfair, or misleading advertising), 111.3(d) (2004) (Tex. Motor Vehicle Bd., General **[*2]** Distinguishing Number) (dealer must record assumed name of legal entity on application for general distinguishing number), 111.11(a)(7) (2004) (Tex. Motor Vehicle Bd., Sanctions) (civil penalties may be assessed against dealer who fails to notify board of dealer's name change).[1] The final order imposed $76,000 in civil penalties and directed Continental to publish a specific retraction in the automobile advertising section of the Austin American Statesman. We will sustain some of Continental's appellate issues and overrule others, reverse the trial court's judgment, and remand the case to the agency for further proceedings consistent with this opinion.

BACKGROUND

Continental has for many years been a franchised Mercedes-Benz dealer licensed by the Division to do business as both "Mercedes-Benz of Austin" and "Continental Cars."[2] Continental operates its dealership from its

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[1] After the contested-case hearing in this case, the Division's rules were recodified in the Texas Administrative Code. The provisions of former rule 105.2 are now found in 43 Tex. Admin. Code § 215.242 (2011) (Tex. Dep't of Motor Vehicles, General Prohibition). The provisions of former rule 111.3(d) are now found in 43 Tex. Admin. Code § 215.133(d) (2011) (Tex. Dep't of Motor Vehicles, General Distinguishing Number). The provisions of former rule 111.11(a)(7) are now found in 43 Tex. Admin. Code § 215.141(a)(7) (2011) (Tex. Dep't of Motor **[*3]** Vehicles, Sanctions). Because the Administrative Law Judge's proposal for decision and the Division's final order refer to the former rules, for clarity we will do the same in this opinion.

[2] The recitations of fact in this section are derived primarily from unchallenged **[*5]** findings of fact adopted by the Division in its final order.

licensed location at 6757 Airport Boulevard in Austin. In February 2002, Continental filed with the Texas Secretary of State a set of assumed name certificates, including "Mercedes-Benz of Georgetown" and "Georgetown Mercedes-Benz." In March 2002, Continental filed a second set of assumed name certificates that included "Mercedes-Benz of Georgetown & Round Rock" and "Round Rock & Georgetown Mercedes-Benz." Previously, in July 2001, Continental had filed for the assumed name certificate "Mercedes-Benz of Round Rock." Continental had not obtained approval from Mercedes-Benz USA for use of any of these assumed names. After filing the assumed name certificates, Continental placed advertisements in the December 2002 issue of SBC's Smart Yellow Pages and Business White Pages for the **[*4]** Greater Austin 5-County Metro Area using the names "Mercedes-Benz of Georgetown" and "Mercedes-Benz of Round Rock." Calls made to the telephone numbers listed for each of the names used were automatically forwarded to and answered at "Mercedes-Benz of Austin." The address listed for the telephone book listings and advertisements that Continental placed for "Mercedes-Benz of Georgetown" and "Mercedes-Benz of Round Rock" was 6757 Airport Boulevard in Austin. Continental placed similar advertisements in the July 2003 issue of SBC's Smart Yellow Pages for the Austin Northwest Suburban area and the December 2003 issue of SBC's Smart Yellow Pages and White Business Pages for the Greater Austin 5-County Metro Area. The advertisements appeared in additional telephone book publications in 2003 and 2004. Continental did not have permission from Mercedes-Benz USA to place the advertisements or telephone listings, nor was it authorized to do so by Garlyn Shelton, the owner of the dealership that in February 2002 received approval from Mercedes-Benz USA to operate as a franchised dealership in the Georgetown area.[3]

In May 2004, Shelton filed a complaint with the Division's Enforcement Section to report problems with the names and telephone numbers Continental was using. Thereafter, the Enforcement Section's Chief Investigator met with Bryan Hardeman, Continental's owner and dealer operator, to inform him that the advertisements appearing in the Yellow Pages and the Business White Pages were in violation of the Division's advertising rules. On June 7, 2004, the Enforcement Section sent Continental a letter notifying it of two alleged violations of Division **[*6]** rule 105.2[4] as follows:

> 1. Representing that Mercedes Benz of Georgetown, telephone number 868-8630, and Mercedes Benz of Round Rock, telephone number 828-3274, are authorized Mercedes Benz dealers located at 6757 Airport Blvd., Austin, TX when in fact only Continental Imports Ltd d/b/a Mercedes Benz of Austin d/b/a Continental Cars is licensed by the Board for the sale of motor vehicles at 6757 Airport Blvd.,

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[3] In February 2002, Shelton received approval from Mercedes-Benz USA to relocate from Temple to Georgetown, and he began construction of the Georgetown dealership in June 2003. Although Shelton reserved a telephone number for the new dealership in January 2004, Mercedes-Benz USA would not allow him to place an advertisement in the telephone book until the dealership was operational. Thus, the only listings for a Mercedes-Benz dealership in the Georgetown area were those placed by Continental, and all calls to those listings were forwarded to Continental's dealership located in Austin.

[4] Rule 105.2 provides:

> A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading advertising. In addition to a violation of a specific advertising rule, any other advertising or advertising practices found by the Board to be false, deceptive, or misleading, whether or not enumerated herein, shall be deemed violations of the [Texas Occupations] Code, and shall also be considered violations of the general prohibition.

16 Tex. Admin. Code § 105.2 (2004) (Tex. Motor Vehicle Bd., General **[*8]** Prohibition).

Austin, TX in violation of 16 TAC § 105.2.
2. Representing that Mercedes Benz of Austin, telephone number 868-8630 is located at 201 E[.] 10th St, Georgetown, TX when in fact Mercedes Benz of Austin is licensed by the Board for the sale of motor vehicles only at 6757 Airport Blvd., Austin, TX in violation of 16 TAC § 105.2.

The letter stated that the advertisements at issue had been published in the July 2003 issue of the SBC Austin Northwest Suburban telephone directory and the December 2003 SBC Greater Austin 5-County Metro Area telephone directory. The letter stated that its purpose was to give Continental notice of the violations and afford it an opportunity to cure them. *See* *Tex. Occ. Code Ann. § 2301.203(c)* (West 2004) (board may not file complaint alleging violation of board **[*7]** rule relating to advertising until board has notified license holder of alleged violation and given license holder "an opportunity to cure the violation without further proceedings or liability"). The letter also instructed Continental to respond in writing within 15 days to show that it "had received and understood" the letter and to "detail the affirmative steps" it was taking to cure the violation. The letter informed Continental that "[f]ailure to respond within this time period will be taken as a refusal to cure the violation, and a formal complaint will issue." The letter did not, however, specify any particular means by which Continental was to cure the asserted violations.

Continental did not respond to the letter in writing as instructed. Continental contends, however, that it responded to the notice by canceling the advertisements in July 2004 and by having the telephone numbers disconnected in August 2004. The cancellation, however, was too late to prevent the advertisements from appearing in the July 2004 and December 2004 issues of SBC's Smart Yellow Pages and Business White Pages. Thereafter, in August 2004, the Enforcement Section filed with the agency a complaint alleging that Continental had violated rule 105.2 and seeking civil penalties and suspension or revocation of Continental's license. As exhibits to the petition, the Enforcement Section attached copies of the advertisements that appeared in the July 2003 and December 2003 telephone directories.

The case was ultimately tried on the Enforcement Section's fourth amended petition, which alleged 27 counts of acts and practices the Enforcement Section contended violated various provisions of the occupations code and the Division's rules. These included 15 counts related to advertisements in telephone directories, three counts related to internet advertising, two counts related **[*9]** to Continental's alleged failure to notify the Division of a name change, six counts related to Continental's alleged failure to notify the Division of assumed names in its license renewal applications, and one count related to violation of the Texas Deceptive Trade Practices Act.

After a contested-case hearing, the Administrative Law Judge (ALJ) issued a Proposal for Decision (PFD) that concluded that Continental committed five violations of rule 105.2 (alleged in counts 3, 4, 5, 8, and 9), two violations of rule 111.11(a)(7) (alleged in counts 19 and 20), four violations of rule 111.3(d) (alleged in counts 22, 23, 25, and 26), and two violations of *occupations code section 2301.651(a)(2)* (alleged in counts 25 and 26). The ALJ recommended that the Division assess civil penalties of $76,000 and that Continental be ordered to publish a one-quarter page retraction in the automobile advertising section of the Austin American Statesman newspaper for three days. Subsequently, the Division's Acting Director signed a final order adopting the PFD in its entirety, including the ALJ's findings of fact and conclusions of law. As recommended by the ALJ, the final order assessed $76,000 in civil **[*10]** penalties and ordered Continental to publish a retraction. After exhausting its administrative remedies, Continental filed suit for judicial review of the Division's order. The district court affirmed the order and this appeal followed. In eight issues, Continental challenges various aspects of the Division's order and contends that the district court erred in affirming it.

STANDARD OF REVIEW

HN1[] *Section 2301.751 of the occupations code* provides that judicial review of the Division's orders is conducted under the "substantial evidence rule" as set forth in *section 2001.174* of the Administrative Procedure Act (APA). *See* *Tex. Occ. Code Ann. § 2301.751* (West 2004); *Tex. Gov't Code Ann. § 2001.174* (West 2008). *HN2*[] In a suit for judicial review of an agency order pursuant to the APA, a reviewing court may affirm the agency decision in whole or in part, and must:

> reverse or remand the case for further proceedings if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
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> (A) in violation of a constitutional or statutory provision;
> (B) in excess of the agency's statutory authority;
> (C) made through unlawful procedure;
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> (D) affected **[*11]** by other error of law;
> (E) not reasonably supported by substantial evidence considering the reliable and probative evidence in the record as a whole; or
> (F) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Tex. Gov't Code Ann. § 2001.174 (1), *(2)*. Pursuant to *section 2001.174(2)*, if the reviewing court finds any of the six categories of "error" listed and determines that such error prejudiced the "substantial rights" of the party seeking review, the court must reverse and/or remand the case for further proceedings. *Id. § 2001.174(2)*.

DISCUSSION

In its first issue, Continental asserts that the Division did not have the authority to order it to print a retraction. The final order purported to order the printed retraction "in accordance with *Tex. Occ. Code Ann. § 2301.203(c)* and [16 TAC § 105.32(c)]." *Section 2301.203(c)* provides:

> *HN3*[] The board may not file a complaint alleging a violation of this chapter or a board rule relating to advertising until the board has notified the license holder of the alleged violation and given the license holder an opportunity to cure the violation without further proceedings or liability.

Tex. Occ. Code Ann. § 2301.203(c) **[*12]** (West 2004). *HN4*[] Rule 105.32(c) provides in pertinent part:

> As part of the cure procedure, the Board may require a licensee, who allegedly violated an advertising provision, to publish a retraction notice to effect an adequate cure of the alleged violation.

16 Tex. Admin. Code § 105.32(c) (2004) (Tex. Motor Vehicle Bd., Enforcement).[5] Continental contends that the referenced statute and rule authorize the Division to order a retraction only as part of a pre-contested case cure procedure. According to Continental, once the

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[5] The provisions of former rule 105.32 are now found in *43 Tex. Admin. Code § 215.270(c) (2011)* (Tex. Dep't of Motor Vehicles, Enforcement).

Enforcement Section has filed a complaint, this statute and rule no longer apply and, consequently, the Division had no authority to order the retraction as part of the punishment imposed on Continental after the contested-case hearing. Even assuming that Continental is correct on that point, however, authority for the Division to order a printed retraction is found in a separate provision—occupations code section 2301.153. *See* Tex. Occ. Code Ann. § 2301.153(a)(20)(B) (West 2004). That section provides:

> HN5[] Notwithstanding any other provision of law, the board has all powers necessary, incidental, or convenient to perform a power or duty expressly granted under this chapter, **[*13]** including the power to:
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> . . . .
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> (20) enter an order requiring a person to:
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> . . . .
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> (B) perform an act other than the payment of money.

Id. Therefore, regardless of whether the Division was without authority to order a retraction pursuant to 2301.203(c) and rule 105.32(c) after the proceedings had gone beyond the pre-complaint cure procedure, the Division was plainly authorized to order such a retraction pursuant to its general powers as set forth in section 2301.153 once it found that Continental had engaged in false, deceptive, or misleading advertising in violation of rule 105.2. *See* Tex. Occ. Code Ann. § 2301.651(a)(3) (West 2004) (authorizing board to reprimand license holder that violates board rule).

In its second issue, however, Continental argues that the Division's order that it print a retraction cannot be upheld pursuant to section 2301.153 because the order specifically states that the retraction was ordered "in accordance with" section 2301.203(c) and rule 105.32(c). Citing *City of El Paso v. El Paso Electric Co., 851 S.W.2d 896, 899 (Tex. App.—Austin 1993, writ denied)*, **[*14]** and *Professional Mobile Home Transport v. Railroad Commission, 733 S.W.2d 892, 904 (Tex. App.—Austin 1987, writ ref'd n.r.e.)*, Continental maintains that when an agency specifically identifies the legal basis for its decision, the reviewing court may not affirm the agency's decision on a different legal basis. The cases cited, however, employ the principle that a reviewing court may not sustain the agency's decision on a *factual* basis not addressed by the agency. *See City of El Paso, 851 S.W.2d at 899-900* (refusing to uphold agency order on factual basis different from that relied on by agency); *Professional Mobile Home Transport, 733 S.W.2d at 903-04* (addressing argument that evidence was insufficient to reasonably support agency's findings and discussing whether agency's findings show that agency considered and ascertained satisfaction of certain statutory criteria). This case presents a different issue—whether an agency order can be upheld by any *legal* basis shown in the record. It is well established that HN6[] a reviewing court is obligated to sustain an agency order on any such legal basis. *See, e.g., Public Util. Comm'n v. Southwestern Bell Tel. Co., 960 S.W.2d 116, 121 (Tex. App.—Austin 1997, no pet.)* **[*15]** (appellate court is obligated to sustain agency order on any legal basis shown in record);[6] *City of League City v. Texas Water*

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[6] In *Southwestern Bell Telephone*, this **[*16]** Court observed:

> This principle is sometimes confused with the erroneous idea that a reviewing court must sustain an agency order on *any* "valid basis" shown in the record. This does *not* mean, however, that the reviewing court may sustain the agency upon a *factual* basis not passed upon by the agency. It means that the reviewing court may sustain the agency order upon any *legal* basis shown in the record.

Public Util. Comm'n v. Southwestern Bell Tel. Co., 960 S.W.2d 116, 121 n.7 (Tex. App.—Austin 1997, no pet.) (emphasis in original).

Comm'n, 777 S.W.2d 802, 807 (Tex. App.—Austin 1989, no writ) ("We are not bound by any particular legal ground made a basis for the Commission's ruling, provided that a valid basis exists for the action taken.") (citing Texas Health Facilities Comm'n v. Charter Med.-Dallas, Inc., 665 S.W.2d 446, 452 (Tex. 1984), Railroad Comm'n v. City of Austin, 524 S.W.2d 262, 279 (Tex. 1975), and Gulf Land Co. v. Atlantic Ref. Co., 134 Tex. 59, 131 S.W.2d 73, 84 (Tex. 1939)); *see also* Pretzer v. Motor Vehicle Bd., 138 S.W.3d 908, 914 (Tex. 2004) ("We are mindful of the rule that '[a] reviewing court is not bound by the reasons given by an agency in its order, provided there is a valid basis for the action taken by the agency.'" (quoting Texas Health Facilities Comm'n, 665 S.W.2d at 452-53)). Having found that Continental violated one of its rules, the Division was authorized pursuant to section 2301.153(a)(20)(B) to order Continental to print a retraction. Because there is at least one valid basis for the agency action, we are obligated to uphold it.

Continental also argues that the ordered retraction cannot be upheld because, to the extent it rests on a ground not identified by the Enforcement Section or the Division in the notice of hearing, the fourth amended petition, or the final order, it violates HN7[🠝] government code section 2001.052(a)(3), which requires that a notice of hearing in a contested case include, among other things, "a reference to the particular sections of the statutes and rules involved." *See* Tex. Gov't Code Ann. § 2001.052(a)(3) (West 2008). Continental reads the notice statute to require the agency to include in the notice a reference to the specific statutory provision that authorizes **[*17]** the agency to impose the penalty it ultimately chooses to impose. Nothing in the statute, however, requires the agency to notify a party to a contested-case hearing of the specific *penalty* it will impose in the event it finds a violation of a statue or rule or to apprise it of the agency's general powers. Rather, the purpose of the notice is to provide the party to a contested-case hearing with an opportunity to respond and present evidence and argument on each issue in the case by informing it of which statutes or rules it contends the party violated. *See id.* § 2001.051(2) (party to contested case is entitled to opportunity to respond and to present evidence and argument on each issue involved in case). The notice and attached petition that were provided to Continental gave adequate notice of the statutes and rules it was alleged to have violated as well as the factual basis for the alleged violations. This satisfied the statutory requirements. We overrule Continental's first and second issues.

In its third issue, Continental contends that the district court erred in affirming the Division's findings and conclusion that it violated occupations code section 2301.651(a)(2) when it failed **[*18]** to report the assumed name "Mercedes Benz of Round Rock" in its 2003 and 2004 license renewal applications.[7] Section 2301.651(a)(2) provides:

> HN8[🠝] The board may deny an application for a license, revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder if the applicant or license holder:
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> . . . .
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> > (2) makes a material misrepresentation in any application or other information filed under this chapter or board rules[.]

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[7] This issue challenges the Division's findings and conclusions related to the portions of counts 25 and 26 that allege that Continental's failure to report an assumed name violated occupations code section 2301.651(a)(2). *See* Tex. Occ. Code Ann. § 2301.651(a)(2) (West Supp. 2011) (board may reprimand license holder that makes material misrepresentation in any application).

Tex. Occ. Code Ann. § 2301.651(a)(2). Continental argues that its failure to report certain assumed names when filling out its application is not a material misrepresentation, but rather an omission—a failure to report, notify, or disclose. *See* *16 Tex. Admin. Code § 111.3(d)* (dealer must record assumed name on application for general distinguishing number). Consequently, Continental maintains that while it may have violated a Division rule requiring that it inform the Division of all its assumed names, its failure to include those names on its license renewal application did not constitute a *material misrepresentation* that violated *section 2301.651(a)(2)*. The Division counters that it reasonably interpreted this section's **[*19]** prohibition of material misrepresentations on license renewal applications to include material omissions. This issue, therefore, turns principally on **HN9**[] the construction of a statute, a question of law that we review de novo. *See* *First Am. Title Ins. Co. v. Combs, 258 S.W.3d 627, 632 (Tex. 2008)*.

HN10[] Our primary objective in construing statutes is to give effect to the legislature's intent. *Galbraith Eng'g Consultants, Inc. v. Pochucha, 290 S.W.3d 863, 867 (Tex. 2009)*. The plain meaning of the text is the best expression of legislative intent unless a different meaning is supplied by legislative definition or is apparent from the context, or unless the plain meaning would lead to absurd or nonsensical results that the legislature could not have intended. *City of Rockwall v. Hughes, 246 S.W.3d 621, 625-26 (Tex. 2008)*; *see* *Tex. Gov't Code Ann. § 311.011* **[*20]** (West 2005) ("Words and phrases shall be read in context and construed according to the rules of grammar and common usage."). We look to the entire act in determining the legislature's intent with respect to a specific provision. *Upjohn v. Rylander, 38 S.W.3d 600, 607 (Tex. App.—Austin 2000, pet. denied)*. **HN11**[] A court should strictly construe a statute imposing a penalty and construe it against those seeking to impose the penalty and in favor of those on whom such penalties would be imposed. *Howell v. Mauzy, 899 S.W.2d 690, 704-05 (Tex. App.—Austin 1994, writ denied)*.

HN12[] When a statute is ambiguous, we are required to give "serious consideration" to the construction of the statute by the administrative agency charged with its enforcement, *Railroad Comm'n v. Texas Citizens for a Safe Future & Clean Water, 336 S.W.3d 619, 624 (Tex. 2011)*, and uphold the agency's interpretation if it is reasonable, *First Am. Title Ins. Co., 258 S.W.3d at 632* (quoting *Tarrant Appraisal Dist. v. Moore, 845 S.W.2d 820, 823 (Tex. 1993)*). We do not defer to an agency interpretation when a statute is unambiguous. *See* *Texas Citizens, 336 S.W.3d at 624 & n.6*. We also "'do not defer to administrative interpretation in **[*21]** regard to questions which do not lie within administrative expertise, or [which] deal with a nontechnical question of law.'" *Rylander v. Fisher Controls Int'l, Inc., 45 S.W.3d 291, 302 (Tex. App.—Austin 2001, no pet.)* (quoting 2B Singer, *Sutherland Statutory Construction* § 49.04, at 23-24 (6th ed. 2000)).

Employing these rules of statutory construction, we conclude that **HN13**[] the "material misrepresentation" prohibited by *section 2301.651(a)(c)* does not encompass an omission or failure to disclose such as Continental's failure to disclose all of its assumed names on its license renewal application. In various places throughout the occupations code, the legislature expressly distinguishes between acts and omissions. *See, e.g.*, *Tex. Occ. Code Ann. §§ 101.201(b)(1)* (West 2004) (false advertising includes advertising that "makes a *material misrepresentation* of fact or *omits a fact* necessary to make the statement as a whole not materially misleading"), *.157(a)* (West

2004) ("[T]he director or a board member, hearings examiner, or division employee is not personally liable for damages resulting from an official *act or omission* unless the *act or omission* constitutes intentional or malicious malfeasance."), **[*22]** .803(a) (West 2004) ("[A] person who receives notice from the board of a statutory stay imposed by this chapter may not allow or commit any *act or omission* that would . . . violate this chapter.") (all emphases added). And, significantly, the Division has a separate rule that specifically covers the conduct at issue—rule 111.3(d), which requires an applicant to record its assumed named on its application. *See* 16 Tex. Admin. Code § 111.3(d). Indeed, in the present case the Division found that the same conduct it contends was a violation of occupations code section 2301.651(a)(2) was also a violation of rule 111.3(d) and assessed penalties pursuant to that rule.

We conclude that the unambiguous language of section 2301.651(a)(2) indicates that it covers only material misrepresentations—other statutes and rules apply to omissions and failures to notify, or disclose information to, the Division. To the extent there is any ambiguity regarding whether this section applies to omissions, we are obligated to construe the statute strictly and in favor of those upon whom it would impose a penalty. *See* Howell, 899 S.W.2d at 704-05. Having concluded that Continental's conduct in failing to disclose **[*23]** all its assumed names on it license renewal applications was not a violation of occupations code section 2301.651(a)(2), we sustain Continental's third issue.

In its fourth issue, Continental asserts that the district court erred in affirming penalties assessed for advertising violations for which it was not provided the statutorily required notice and opportunity to cure. *See* Tex. Occ. Code Ann. § 2301.203(c) (board may not file complaint alleging violation of board rule relating to advertising until board has notified license holder of alleged violation and given license holder opportunity to cure violation without further proceedings or liability).[8] Continental contends that the only notice it received was the June 2004 letter advising it that the Enforcement Section considered the July 2003 and December 2003 telephone book advertisements to be false and misleading. Consequently, Continental takes the position that the Division was not authorized to assess penalties for subsequent advertising violations for which Continental never received a notice letter giving it an opportunity to cure. The Division, however, argues that all the alleged advertising violations arose out of the same **[*24]** conduct—"the use of assumed names coupled with misleading phone numbers"—and that once Continental was notified that such conduct constituted an advertising violation, the Enforcement Section was not required to provide Continental notice and an opportunity to cure subsequent violations involving the same conduct.

This issue, too, turns on statutory construction. HN14[] The statute plainly states that the board "*may not* file a complaint alleging a violation . . . relating to advertising until the board has notified the license holder *of the alleged violation* and given the license holder an opportunity to cure *the violation* without further proceedings or liability." *See id.* (emphasis added). This language unambiguously requires separate notice and an opportunity to cure each advertising violation before that particular advertising violation can be included in any complaint filed by the Enforcement Section. In its fourth amended petition, the Enforcement Section treated each deceptive advertisement as a separate violation and sought discrete

[8] This issue challenges the Division's findings and conclusions related to counts 5, 8, 9, 19, 20, 22, 23, 25, and 26.

penalties for each such violation. **[*25]** It was therefore required to give Continental notice and an opportunity to cure each violation before including it in the complaint.

The Division argues that such a reading of the statute creates an "unworkable" scenario in which repeated violations of the same conduct require the Enforcement Section to "re-send an opportunity-to-cure letter for each of those continuing violations" and that "cases would be constantly halted and restarted." While providing notice and an opportunity to cure each violation might be inconvenient and time consuming, that is what the statute requires. **HN15**[↑] We may not rewrite the statute under the guise of construing it. *See* Stockton v. Offenbach, 336 S.W.3d 610, 619 (Tex. 2011). Moreover, in the event of a repeat violator, the Division has the power to "issue cease and desist orders in the nature of temporary or permanent injunctions." *See* Tex. Occ. Code Ann. § 2301.153(a)(18) (West 2004). We conclude that the Enforcement Section was not authorized to include in its complaint counts related to advertising violations for which it did not give Continental notice and an opportunity to cure.

We do not, however, agree with Continental that this holding requires reversal **[*26]** of all of the findings of fact and conclusions of law related to the violations alleged in counts 5, 8, 9, 19, 20, 22, 23, 25, and 26 of the fourth amended petition for which no notice was given. Rather, it only affects those counts that relate to *advertising* violations. We therefore consider each of the counts to determine whether it is an advertising violation.

Counts 5, 8, and 9 relate to advertising Mercedes-Benz of Georgetown and Mercedes-Benz of Round Rock in telephone directories. These are clearly advertising violations for which no notice was given, and the Division should have dismissed those counts as Continental requested. Thus, any findings and conclusions relating to those counts are erroneous.

Counts 19 and 20 allege that Continental failed to notify the Division of a "name change" within ten days of the change, as required by rule 111.11(a)(7). *See* 16 Tex. Admin. Code § 111.11(a)(7). **HN16**[↑] This rule provides:

> (a) Revocation/Denial. The director may deny, revoke or suspend a dealer's license (general distinguishing number) or assess civil penalties if that dealer:
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> . . . .
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> (7) fails to notify the Board of a dealer's name change or ownership within 10 days after such change; . . **[*27]** . .

Id. It is undisputed that Continental did not change its legal name. The Enforcement Section and the Division, however, take the position that using the assumed names "Mercedes-Benz of Georgetown" and "Mercedes-Benz of Round Rock" in the marketplace, specifically by advertising in telephone books with those names, constituted a "name change" as that term is used in the rule. In the PFD the ALJ stated that: "The plain meaning of a name change includes the use of the two additional names in operating and advertising its business." Continental disputes the Division's interpretation of the rule and asserts that "name change" means changing the entity's legal name. We need not decide which interpretation is correct, however, because under the Division's theory, Continental's violation of the statute resulted from its use of the assumed names *in its advertisements*. Consequently, those violations are ones "related to advertising" for which the Enforcement Section was required to give Continental notice and an opportunity to cure before including it in a complaint. The Division should have dismissed these violations, as Continental requested, and any findings and conclusions related to **[*28]** these alleged violations are therefore erroneous.

Counts 22, 23, 25, and 26 allege that Continental violated rule 111.3(d) by not reporting the assumed names "Mercedes-Benz of Georgetown" and "Mercedes-Benz of Round Rock" on its license renewal applications filed in April 2003 and in March 2004.[9] These counts do not allege violations "related to advertising," and the Enforcement Section was not required to give Continental notice before including these counts in its complaint. In summary, we sustain Continental's fourth issue with regard to counts 5, 8, 9, 19, and 20 of the fourth amended petition and overrule it with regard to counts 22, 23, 25, and 26.

In its fifth issue, Continental contends that the district court erred in affirming the Division's findings **[*29]** and conclusion that it violated rule 111.11(a)(7) by failing to notify the Division of a "name change." The Division's allegations with regard to this rule violation were included in counts 19 and 20 of the fourth amended petition. Because we have already concluded that the Division should have dismissed these counts for lack of notice, we need not address this issue.

In its sixth issue, Continental complains of the Division's assessment of civil penalties for violations of both rule 111.3(d) and *occupations code section 2301.651(a)(2)*. In counts 25 and 26, the Enforcement Section alleged that Continental's failure to report the assumed name "Mercedes-Benz of Round Rock" in its April 2003 and its March 2004 license renewal applications violated both rule 111.3(d) and *section 2301.651(a)(2)*. The Division agreed and assessed penalties under both the rule and the statute. Continental complains that this was improper "stacking" of penalties and resulted in the imposition of penalties that violated the per-violation statutory caps established by *transportation code section 503.095* and *occupations code section 2301.801(a)*. *See* *Tex. Transp. Code Ann. § 503.095(a)* (West 2007) (person who violates **[*30]** rule adopted under this chapter is subject to civil penalty of not less than $50 or more than $1,000); *Tex. Occ. Code Ann. § 2301.801(a)*(West 2004) (amount of penalty may not exceed $10,000 for each violation). We have already concluded that the Division erred in finding that the failure to report the assumed name was a "material misrepresentation" that violated *section 2301.651(a)(2)*. Any penalties assessed for violations of *section 2301.651(a)(2)* as alleged in counts 25 and 26 will necessarily be eliminated. Continental's sixth issue is therefore moot.

Continental's seventh issue asserts that the Division's findings that its advertisements were false, deceptive, unfair, or misleading were not supported by substantial evidence. ***HN17***[] Under substantial evidence review of fact-based determinations, "[t]he issue for the reviewing court is not whether the agency's decision was correct, but only whether the record demonstrates some reasonable basis for the agency's action." *See* *State v. Public Util. Comm'n, 344 S.W.3d 349, 355-56 (Tex. 2011)* (quoting *Mireles v. Texas Dep't of Pub. Safety, 9 S.W.3d 128, 131 (Tex. 1999)*). The evidence in the record may even preponderate against the decision of **[*31]** the agency and nonetheless amount to substantial evidence. *Texas Health Facilities Comm'n, 665 S.W.2d at 452*.

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[9] Counts 25 and 26 also include the allegations that Continental violated the occupations code's *section 2301.651(a)(2)* prohibition on making a material misrepresentation in any application filed with the Division. We have already concluded that the district court erred in affirming the Division's conclusion that Continental's omission of the assumed names in its license renewal application constituted a material misrepresentation.

The record in the present case includes ample evidence that Continental's advertisements caused confusion and were misleading. For example, Shelton testified that when he first opened his dealership in 2004 he was surprised by the low call volume. Eventually a customer notified him that there was a listing for a "Mercedes-Benz of Georgetown" with a number different from his company's number. A number of customers told Shelton that they had a hard time finding his location because they would call the other number and end up speaking with someone from Continental. There was evidence that some customers arrived at Shelton's dealership for a service appointment only to find out that they had actually booked an appointment with Continental in Austin. A sales manager for Shelton's dealership testified that several customers came to the dealership upset because, although they had seen the dealership in Georgetown, when they called what they believed to be that location to ask a question or make an appointment, they were routed to Continental's Airport Boulevard location. Moreover, **[*32]** there is substantial evidence that the advertisements themselves are deceptive on their face as they could lead a customer to reasonably believe that they were calling an authorized Mercedes-Benz dealership located in Round Rock or Georgetown, when in fact they were calling Continental in Austin. We are unpersuaded by Continental's argument that the "net overall effect" of the advertisements was not misleading or deceptive. Applying the correct standard for reviewing agency findings, which "does not allow a court to substitute its judgment for that of the agency," *Railroad Comm'n v. Torch Operating, Co., 912 S.W.2d 790, 792 (Tex. 1995)*, we conclude that the Division's findings that Continental's advertisements were false, misleading, or deceptive are supported by substantial evidence.

In its eighth issue, Continental complains that the Division's findings and conclusions state that Continental violated statutes and rules that "cannot be violated," specifically *occupations code section 2301.651(a)(3)*, rule 111.11(a)(23), and *transportation code section 503.038(a)(14)*. *See* *Tex. Occ. Code Ann. § 2301.651(a)(3)* (West Supp. 2011) (board may reprimand license holder that "violates this chapter **[*33]** or a board rule or order"); *Tex. Transp. Code Ann. § 503.038(a)(14)* (West Supp. 2011) (department may cancel dealer's general distinguishing number if dealer "otherwise violates this chapter or rule adopted under this chapter"); *16 Tex. Admin. Code § 111.11(a)(23) (2004)* (Tex. Motor Vehicle Bd., Sanctions) (director may assess civil penalties if dealer "violates any state or federal law or regulation relating to the sale of a motor vehicle").[10] Continental argues that these provisions each function as "catchall provisions" authorizing the Division to fine or sanction an applicant or licensee for violating its rules and, as such, cannot themselves be violated. We agree with the Division that this argument is academic because in this case there is no violation that is found to be solely of one of the "catchall provisions." Each of the challenged findings and conclusions finds violations of rules that Continental concedes can be violated. For example, as the Division observes in its brief, finding of fact 75 states that:

> Respondent violated 16 TAC § 105.2 and *Occupations Code § 2301.651(a)(3)* by using false, deceptive, unfair, and misleading advertising related to Mercedes-Benz of Georgetown **[*34]** and Mercedes-Benz of Round Rock in a December 2003 SBC telephone directory.

Each violation is similarly linked to a statute or

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[10] The provisions of former rule 111.11(a)(23) are now found in *43 Tex. Admin. Code § 215.141(a)(23) (2011)* (Tex. Dep't of Motor Vehicles, Sanctions).

rule that Continental acknowledges can be violated and can be the basis for assessing civil penalties or other punishment. The Division's recitation in a finding or conclusion of a separate provision, even if it is one that cannot be "violated," does not render the finding or conclusion erroneous. We overrule Continental's eighth issue.

CONCLUSION

As set forth herein, we conclude that the trial court did not err in affirming the portion of the final order directing Continental to publish a retraction. We also conclude that the Division's findings that Continental engaged in false, misleading, or deceptive conduct are supported by substantial evidence. The trial court erred, however, in affirming the Division's order assessing civil penalties for violations of *occupations code 2301.651(a)(2)* as alleged in counts 25 and 26 of the fourth amended petition because that provision prohibits material misrepresentations as **[*35]** opposed to omissions. Additionally, we conclude that the Division should have dismissed counts 5, 8, 9, 19, and 20 of the fourth amended petition because the Enforcement Section failed to provide Continental notice and an opportunity to cure these advertising violations as required by statute. In summary, we sustain Continental's third issue and its fourth issue as to counts 5, 8, 9, 19, and 20. We overrule Continental's first and second issues, its fourth issue as to counts 22, 23, 25, and 26, and its seventh and eighth issues. Our disposition renders Continental's fifth and sixth issues moot. Consequently, we reverse the trial court's judgment and remand the case to the Division for further proceedings consistent with this opinion.

J. Woodfin Jones, Chief Justice

Before Chief Justice Jones, Justices Pemberton and Henson

Reversed and Remanded

Filed: December 30, 2011

End of Document

ATTACHMENT 3

12 CFR 213.7

This document is current through the May 4, 2026 issue of the Federal Register, with the exception of the amendments appearing at 91 FR 23530, 91 FR 23359 and 91 FR 23913.

LEXISNEXIS' CODE OF FEDERAL REGULATIONS > Title 12 Banks and Banking > Chapter II — Federal Reserve System > Subchapter A — Board of Governors of the Federal Reserve System > Part 213 — Consumer Leasing (Regulation M)

§ 213.7 Advertising.

(a) General rule. An advertisement for a consumer lease may state that a specific lease of property at specific amounts or terms is available only if the lessor usually and customarily leases or will lease the property at those amounts or terms.

(b) Clear and conspicuous standard. Disclosures required by this section shall be made clearly and conspicuously.

(1) Amount due at lease signing or delivery. Except for the statement of a periodic payment, any affirmative or negative reference to a charge that is a part of the disclosure required under paragraph (d)(2)(ii) of this section shall not be more prominent than that disclosure.

(2) Advertisement of a lease rate. If a lessor provides a percentage rate in an advertisement, the rate shall not be more prominent than any of the disclosures in § 213.4, with the exception of the notice in § 213.4(s) required to accompany the rate; and the lessor shall not use the term "annual percentage rate," "annual lease rate," or equivalent term.

(c) Catalogs or other multipage advertisements; electronic advertisements. A catalog or other multipage advertisement, or an electronic advertisement (such as an advertisement appearing on an Internet Web site), that provides a table or schedule of the required disclosures shall be considered a single advertisement if, for lease terms that appear without all the required disclosures, the advertisement refers to the page or pages on which the table or schedule appears.

(d) Advertisement of terms that require additional disclosure. —

(1) Triggering terms. An advertisement that states any of the following items shall contain the disclosures required by paragraph (d)(2) of this section, except as provided in paragraphs (e) and (f) of this section:

(i) The amount of any payment; or

(ii) A statement of any capitalized cost reduction or other payment (or that no payment is required) prior to or at consummation or by delivery, if delivery occurs after consummation.

(2) Additional terms. An advertisement stating any item listed in paragraph (d)(1) of this section shall also state the following items:

(i) That the transaction advertised is a lease;

(ii) The total amount due prior to or at consummation or by delivery, if delivery occurs after consummation;

(iii) The number, amounts, and due dates or periods of scheduled payments under the lease;

(iv) A statement of whether or not a security deposit is required; and

(v) A statement that an extra charge may be imposed at the end of the lease term where the lessee's liability (if any) is based on the difference between the residual value of the leased property and its realized value at the end of the lease term.

(e) Alternative disclosures — merchandise tags. A merchandise tag stating any item listed in paragraph (d)(1) of this section may comply with paragraph (d)(2) of this section by referring to a sign or display prominently posted in the lessor's place of business that contains a table or schedule of the required disclosures.

(f) Alternative disclosures — television or radio advertisements. —

(1) Toll-free number or print advertisement. An advertisement made through television or radio stating any item listed in paragraph (d)(1) of this section complies with paragraph (d)(2) of this section if the advertisement states the items listed in paragraphs (d)(2)(i) through (iii) of this section, and:

(i) Lists a toll-free telephone number along with a reference that such number may be used by consumers to obtain the information required by paragraph (d)(2) of this section; or

(ii) Directs the consumer to a written advertisement in a publication of general circulation in the community served by the media station, including the name and the date of the publication, with a statement that information required by paragraph (d)(2) of this section is included in the advertisement. The written advertisement shall be published beginning at least three days before and ending at least ten days after the broadcast.

(2) Establishment of toll-free number.

(i) The toll-free telephone number shall be available for no fewer than ten days, beginning on the date of the broadcast.

(ii) The lessor shall provide the information required by paragraph (d)(2) of this section orally, or in writing upon request.

Statutory Authority

Authority Note Applicable to 12 CFR Ch. II, Subch. A, Pt. 213

History

[Reg. M, 46 FR 20951, April 7, 1981; Reg. M, *61 FR 52246*, 52261, Oct. 7, 1996; Reg. M, *62 FR 15364*, 15367, April 1, 1997; Reg. M, *62 FR 51006*, Sept. 30, 1997; Reg. M, *62 FR 53733*, Oct. 16, 1997; Reg. M, *63 FR 52107*, 52109, Sept. 29, 1998; *72 FR 63456*, 63461, Nov. 9, 2007]

Annotations

Notes

[EFFECTIVE DATE NOTE:

72 FR 63456, 63461, Nov. 9, 2007, revised paragraph (c), effective Dec. 10, 2007. "The mandatory compliance date is October 1, 2008."]

Research References & Practice Aids

Hierarchy Notes:

12 CFR Ch. II

12 CFR Ch. II, Subch. A, Pt. 213

Texas Recreational Vehicle Association
Serving the RV industry of Texas since 1974

10816 Crown Colony Drive, Suite 200
Austin, Texas 78747
P (512) 327-4514 ▪ F (512) 327-4516
www.trva.org

May 26, 2026

Texas Department of Motor Vehicles
Office of General Counsel
4000 Jackson Avenue
Austin, Texas 78731

Sent via email: rules@txdmv.gov

Re: Proposed TxDMV Repeals, Amendments, Deletions and Re-lettering of Current Rules
51 *TexReg* 2638 – 2798

Office of General Counsel,

On behalf of the Texas Recreational Vehicle Association (TRVA) which represents RV dealers, I wish to **object** to the suggestion that **43 TAC §215.107 Sale or Transfer of a Line-Make** proposed language be approved.

The portion of the language which we object to is found in (a) which reads *"…If a manufacturer or distributor sells, licenses, or otherwise…"* and it is the term "…*licenses*…" which concerns our industry.

RV manufacturers are notorious for their general lack of respect for our Texas statutes and rules, therefore, any change which may provide manufacturers with the ability to license another person is very bothersome. It is our view that manufacturers issue Evidence of Franchise to dealers and the term "license" should be applicable to the licensing issued by TxDMV when dealers are provided with a Motor Vehicle or Non-motorized Travel Trailer license to sell RVs.

Respectfully submitted,

Phil Elam

Executive Director
philelam@trva.org

Texas Department
of Motor Vehicles