

ADOPTION OF REVISIONS TO

SUBCHAPTER A. CRIMINAL OFFENSE AND ACTION ON LICENSE

43 TAC §211.1 AND §211.2

REPEAL OF

SUBCHAPTER A. CRIMINAL OFFENSE AND ACTION ON LICENSE

43 TAC §§211.3-211.6

NEW

SUBCHAPTER B. CRIMINAL HISTORY EVALUATION GUIDELINES AND PROCEDURES

43 TAC §§211.10-211.13

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code, (TAC) §211.1 and §211.2; repeal of §§211.3 - 211.6; and new sections §§211.10 - 211.13. The amendments, repeals, and new sections are necessary to organize the rules into two subchapters for consistency with other chapters in TAC Title 43, to clarify the types of licenses to which the chapter applies, to clarify which crimes relate to the duties and responsibilities of these license holders, to delete duplicative language found in statute, to conform rule language with statutory changes; to clarify existing requirements, and to modernize language and improve readability. Adopted language implements Senate Bill (SB) 2587, 89th Legislature, Regular Session (2025), which clarified the persons from whom the department could require a fingerprint-based criminal history background check; and SB 1080, 89th Legislature, Regular Session (2025), which added circumstances in which a state agency is required to revoke a license upon imprisonment of the license holder. Adopted language also conforms with SB 224, 88th Legislature, Regular Session (2023), which amended the Penal Code to add felony offenses involving damage to motor vehicles during the removal or attempted removal of a catalytic converter.

1 The department adopts amendments to §211.1 and §211.2 and new §§211.10 - 211.12 without
2 changes to the proposed text as published in the July 25, 2025, issue of the *Texas Register* (50 TexReg
3 4349) and is not republishing these rules. The department adopts §211.13 with changes at adoption and
4 is republishing this rule. In conjunction with this adoption, the department is adopting the repeal of
5 §§211.3 - 211.6 without changes, as published in the July 25, 2025, issue of the *Texas Register*. The
6 repealed rules will not be republished.

7 **REASONED JUSTIFICATION.** The department is conducting a review of its rules under Chapter 211
8 in compliance with Government Code, §2001.039. As a part of the review, the department is adopting
9 necessary amendments, repeals, and new sections as detailed in the following paragraphs.

10 Occupations Code, Chapter 53 and §§2301.651, 2302.104, 2302.105, and 2302.108, and
11 Transportation Code, §503.034 and §503.038 authorize the department and its board to investigate and
12 act on a license application, or on a license, when a person has committed a criminal offense. Chapter 211
13 allows the department to maintain fitness standards for license holders with prior criminal convictions
14 while implementing the legislature's stated statutory intent in Occupations Code, §53.003 to enhance
15 opportunities for a person to obtain gainful employment after the person has been convicted of an offense
16 and discharged the sentence for that offense.

17 The department must follow the requirements of Occupations Code, Chapter 53 to determine
18 whether a person's past criminal history can be considered in evaluating the person's fitness for licensing.
19 Occupations Code, §53.021 gives a licensing authority the power to suspend or revoke a license, to
20 disqualify a person from receiving a license, or to deny a person the opportunity to take a licensing
21 examination on the grounds that the person has been convicted of: (1) an offense that directly relates to
22 the duties and responsibilities of the licensed occupation; (2) an offense listed in Article 42A.054, Code of
23 Criminal Procedure; or (3) a sexually violent offense, as defined by Article 62.001, Code of Criminal

1 Procedure. The department's evaluation of past criminal history applies to all license applications. Under
2 Occupations Code, §53.021(a)(1), the department is responsible for determining which offenses directly
3 relate to the duties and responsibilities of a particular licensed occupation.

4 Occupations Code, §53.022 sets out criteria for consideration in determining whether an offense
5 directly relates to the duties and responsibilities of the licensed occupation. Based on those criteria, the
6 department has determined that certain offenses directly relate to the duties and responsibilities of an
7 occupation licensed by the department. However, conviction of an offense that directly relates to the
8 duties and responsibilities of the licensed occupation or is listed in Occupations Code, §53.021(a)(2) and
9 (3) is not an automatic bar to licensing; the department must also consider the factors listed under
10 Occupations Code, §53.023 in making its fitness determination. The factors include, among other things,
11 the person's age when the crime was committed, rehabilitative efforts, and overall criminal history. The
12 department is required to publish guidelines relating to its practice under this chapter in accordance with
13 Occupations Code, §53.025.

15 **Adopted New Subchapter A, General Provisions**

16 Prior to the adoption of these revisions, Chapter 211 contained only one subchapter. The adopted
17 amendments divide Chapter 211 into two subchapters. An adopted amendment retitles Subchapter A
18 "General Provisions," consistent with the organization and naming conventions found in Chapters 215 and
19 221 of this title. This adopted amendment provides consistency and improves readability because Chapter
20 211 applies to the same applicants and license holders as Chapters 215 and 221. Sections 211.1 and 211.2
21 are adopted for inclusion in retitled Subchapter A for consistency and ease of reference.

22 An adopted amendment to the title of §211.1 adds "Purpose and" to the section title to indicate
23 that adopted amendments to this section include the purpose for the chapter in addition to definitions.

1 This adopted change places the chapter purpose description in the same subchapter and in the same
2 order as similar language in Chapters 215 and 221 of this title for improved understanding and readability.
3 Adopted new §211.1(a) describes the purpose of Chapter 211 by incorporating existing language from
4 repealed §211.3(a). The adopted amendments add, at the end of the paragraph, the obligation for the
5 department to review criminal history of license applicants before issuing a new or renewal license and
6 the option for the department to act on the license of an existing license holder who commits an offense
7 during the license period, consistent with Occupations Code, Chapter 53 and §§2301.651, 2302.104,
8 2302.105, and 2302.108, Transportation Code, §503.034 and §503.038, and existing department
9 procedures.

10 An adopted amendment to §211.1 reorganizes the definitions into a subsection (b). Adopted
11 amendments to §211.1(2) delete references to “registration or authorization,” including any related
12 punctuation. Other adopted amendments add an “or” to §211.1(2)(B), delete an “or” and add sentence
13 punctuation in §211.1(2)(C), and delete §211.1(2)(D). These adopted amendments clarify that Chapter
14 211 only applies to licenses issued by the department under Transportation Code, Chapter 503 and
15 Occupations Code, Chapters 2301 and 2302, and does not apply to registrations the department may issue
16 under the authority of another Transportation Code chapter. Registrations or permits that the
17 department issues under other Transportation Code chapters do not currently require a review of an
18 applicant’s criminal history. Adopted amendments to §211.1(3) delete the list of specific retail license
19 types and define the term “retail” by listing only those license types that are not considered to be retail.
20 This adopted amendment shortens the sentence to improve readability without changing the meaning or
21 scope of the definition. Additionally, this adopted amendment eliminates the need to update the rule if a
22 future statutory change creates a new type of vehicle, changes the name of an existing vehicle type, or
23 creates a new retail license type.

1 An adopted amendment to the title of §211.2 substitutes “Chapter” for “Subchapter” for
2 consistency with the rule text. An adopted amendment in §211.2(b) adds a comma after Occupations
3 Code for consistency in punctuation.

4 The remaining sections in Subchapter A are adopted for repeal as each of these sections are
5 adopted for inclusion in new Subchapter B.

6
7 **Adopted New Subchapter B, Criminal History Evaluation**

8 An adopted amendment adds a new subchapter, Subchapter B. Criminal History Evaluation
9 Guidelines and Procedures. Adopted for inclusion in new Subchapter B are new sections §§211.10- 211.13.
10 These adopted new sections contain the rule language previously found in repealed §§211.3 - 211.6, with
11 the addition of the adopted changes described below.

12 Adopted new §211.10 includes the rule text of repealed §211.3 with changes as follows. The
13 repealed text of §211.3(a) is not incorporated into adopted new §211.10 because that language has been
14 incorporated into adopted new §211.1(a), which describes the purpose of Chapter 211. Adopted new
15 §211.10(a) incorporates the language of repealed §211.3(b), except for the two paragraphs at the end of
16 that subsection which duplicate a statutory requirement in Occupations Code, §53.022 and do not need
17 to be repeated in rule. Adopted new §211.10(b) recodifies language from repealed §211.3(c), except for
18 §§211.3(c)(1) and (2), which were redundant and unnecessary statutory references.

19 Adopted new §211.10(c) incorporates §211.3(d) with the following changes. Adopted new
20 §211.10(c) adds a comma to correct missing punctuation after “Occupations Code” and deletes three
21 sentences that specify which offenses apply to a license type. Adopted new §211.10(c) includes clarifying
22 paragraph numbers: paragraph (1) identifies offenses that apply to all license types, and paragraph (2)

1 separates and identifies additional offenses that apply only to retail license types. The adopted new
2 language adds clarity and improves readability by dividing the offense categories from repealed
3 §211.3(d)(1) – (16) between the new paragraphs as relettered subparagraphs of §§211.10(c)(1) and (2).

4 Adopted new §211.10(c)(1)(B), incorporates language from repealed §211.3(d)(2) and adds
5 language to clarify that offenses involving forgery, falsification of records, or perjury include the
6 unauthorized sale, manufacturing, alteration, issuance, or distribution of a license plate or temporary tag.
7 This adopted clarifying language provides additional notice to applicants and license holders that the
8 department considers forging or falsification of license plates or temporary tags to be a serious and
9 potentially disqualifying offense.

10 Adopted new §211.10(c)(1)(E) incorporates language from repealed §211.3(d)(5) and adds
11 possession and dismantling of motor vehicles to the list of felony offenses under a state or federal statute
12 or regulation that could potentially be disqualifying. Adopted new §211.10(c)(1)(E) also includes “motor
13 vehicle parts” to clarify that disqualifying felony offenses include crimes related to motor vehicle parts as
14 well as to motor vehicles. These adopted clarifications are important due to the increasing frequency of
15 motor vehicle parts theft targeting catalytic converters, tailgates, batteries, wheel rims, and tires.

16 Adopted new §211.10(c)(1)(G) incorporates language from repealed §211.3(d)(7) and clarifies
17 that an offense committed while engaged in a licensed activity or on a licensed premises includes
18 falsification of a motor vehicle inspection required by statute. This clarification is important because
19 emissions inspections in certain counties are required by law and harm the health and safety of Texas
20 citizens if not performed.

1 Adopted new §211.10(c)(1)(I) adds that offenses of attempting or conspiring to commit any of the
2 foregoing offenses are potentially disqualifying offenses because the person intended to commit an
3 offense. This adopted new language incorporates language from repealed §211.3(d)(16) and is necessary
4 to add because the offenses that apply to all license holders and the additional offenses that only apply
5 to retail license types are adopted to be reorganized into separate paragraphs to improve readability, so
6 the language regarding conspiracies or attempts to commit the offenses must be repeated in each
7 paragraph to provide notice of these potentially disqualifying offenses.

8 Adopted new §211.10(c)(2)(E) makes felony offenses under Penal Code, §28.03 potentially
9 disqualifying when a motor vehicle is damaged, destroyed, or tampered with during the removal or
10 attempted removal of a catalytic converter. This new amendment aligns with Senate Bill (SB) 224, 88th
11 Legislature, Regular Session (2023), which amended Penal Code, §28.03 to create new felony offenses
12 based on the damage caused by the removal or attempted removal of a catalytic converter from a motor
13 vehicle.

14 Adopted new §211.10(c)(2)(D) incorporates §211.3(d)(12) and adds two additional offenses
15 against the family: Penal Code, §25.04 and §25.08. Penal Code, §25.04 includes offenses involving the
16 enticement of a child away from the parent or other responsible person, and Penal Code, §25.08 includes
17 offenses related to the sale or purchase of a child. These offenses are relevant to the retail professions
18 licensed by the department because parents frequently bring children to a dealership when considering
19 a vehicle purchase, and a retail license holder may have unsupervised access to a child while a parent test
20 drives a vehicle or is otherwise engaged in viewing or inspecting a vehicle offered for sale. License holders
21 also have access to the parent's motor vehicle records, including the family's home address. A person with

1 a predisposition to commit these types of crimes have the opportunity to engage in further similar
2 conduct.

3 Adopted new §211.10(c)(2)(F) incorporates the language of repealed §211.3(d)(13), and clarifies
4 that the department considers any offense against the person to potentially be disqualifying, adds a
5 reference to Penal Code, Title 5, and further clarifies that an offense in which use of a firearm resulted in
6 fear, intimidation, or harm of another person is included in the list of potentially disqualifying crimes.
7 Additionally, adopted new §211.10(c)(2)(F) clarifies that a felony offense of driving while intoxicated
8 which resulted in harm to another person may also be potentially disqualifying. The department considers
9 these offenses to be related to the occupations of retail license holders because these license holders
10 have direct contact with members of the public during vehicle test drives or other settings in which no
11 one else is present, and retail license holders have access to an individual's motor vehicle records,
12 including the individual's home address. A person with a predisposition for violence or committing
13 personal harm would have the opportunity in these situations to engage in further similar conduct. These
14 adopted amendments further clarify which offenses against a person the department considers directly
15 related to the licensed occupation and therefore potentially disqualifying. The department's
16 consideration of these crimes is subject to certain limitations in Occupations Code, Chapter 53.

17 Adopted new §211.11 incorporates language from repealed §211.4, with the addition of adopted
18 new §211.11(a), which clarifies that the department will deny a pending application if an applicant or an
19 applicant's representative as defined in §211.2(a)(2) is imprisoned. Occupations Code, §53.021(b)
20 requires an agency to revoke a license holder's license on the license holder's imprisonment following a
21 felony conviction, felony community supervision revocation, revocation of parole, or revocation of
22 mandatory supervision. Because the department also determines licensure eligibility based on individuals
23 serving as representatives for the license holder, the department also considers the effect of

1 imprisonment of those persons on a license holder. Because the revocation for a felony conviction is
2 mandatory in Occupations Code, §53.021(b), the department must also deny a pending application. An
3 applicant who is imprisoned may reapply once the applicant is no longer imprisoned and an applicant
4 whose application is denied based on an imprisoned individual serving in a representative capacity may
5 choose a different representative and reapply for licensure. Adopted new §211.11(b) substitutes “of” for
6 “or” to correct a typographical error made at adoption of §211.4. Adopted new §211.11(b) implements
7 SB 1080, 89th Legislature (2025), which amended Occupations Code, §53.021 to require the department
8 to revoke a license if the license holder is imprisoned following a felony conviction for an offense that
9 directly relates to the duties and responsibilities of the licensed occupation, an offense in Code of Criminal
10 Procedure, Article 42A.054, or a sexually violent offense in Code of Criminal Procedure, Article 62.001.
11 Adopted amendments to new §211.11(b) also incorporate the existing language from current §211.4(c)
12 as phrased in Occupations Code, §53.021(b). Adopted new §211.11(c) incorporates language from
13 repealed §211.4(d). Adopted new §211.11(d) incorporates language from repealed §211.4(c).

14 Adopted new §211.12 incorporates without change the language in repealed §211.5 that
15 addresses the procedure for a person to obtain a criminal history evaluation letter from the department.
16 This process allows a person to request an evaluation prior to applying for a license if the person so
17 desires.

18 Adopted new §211.13(a) incorporates the repealed language of §211.6(a) and clarifies that
19 fingerprint requirements apply to “an applicant for a new or renewal license” to improve readability
20 without changing meaning. Adopted §211.13(b) moves the introductory phrase “Unless previously
21 submitted for an active license issued by the department,” to adopted §211.13(c) to improve readability
22 and to allow the department to further clarify submission requirements in §211.13(c). Adopted new
23 §211.13(b)(1) incorporates the language of current §211.6(b)(1). At adoption, the phrase describing the

1 various types of persons who may apply was deleted as unnecessary, because the type of persons who
2 apply and may be fingerprinted is in Government Code, §411.12511(a) and does not need to be repeated
3 in rule. These adopted amendments implement Government Code, §411.12511, as amended by SB 2587,
4 89th Regular Session (2025). Adopted new §211.13(b)(2) incorporates the language of current
5 §211.6(b)(2) and clarifies that a person acting in a representative capacity includes an officer, director,
6 manager, trustee, principal, manager of business affairs, or other employee whose act or omission in the
7 course or scope of the representation would be cause for denying, revoking, or suspending a license. The
8 adopted language recognizes that many license holders are small businesses that may employ only one
9 or a few employees and may assign or delegate key management tasks such as administering the license
10 plate system for the license holder, and that a principal may be a representative and not necessarily an
11 owner of the applicant. These adopted amendments implement Government Code, §411.12511, as
12 amended by SB 2587, 89th Regular Session (2025). Adopted new §211.13(c) incorporates the current
13 language of §211.6(c) and the introductory phrase from §211.6(b), and further clarifies that the
14 department will not require a person to submit fingerprints if the person previously submitted a complete
15 and acceptable set of fingerprints, and the person remains fully enrolled in the Texas Department of Public
16 Safety's (DPS) criminal history clearinghouse and validly subscribed in the federal criminal history
17 database maintained by the Federal Bureau of Investigation (FBI). This clarification is important as DPS or
18 the FBI may change the enrollment or subscription status of a person previously fingerprinted if, for
19 example, a court expunges a crime from a person's criminal history record. If DPS or the FBI change a
20 person's enrollment or subscription status, the department must require the person to be fingerprinted
21 again, or the department will not be able to access that person's criminal history records for use in
22 evaluating the license application.

23 **SUMMARY OF COMMENTS.**

1 The department received no comments on the adopted amendments within the public comment
2 period, which ended on August 25, 2025.

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5 **SUBCHAPTER A. GENERAL PROVISIONS**

6 **43 TAC §211.1 AND §211.2**

7 **STATUTORY AUTHORITY.** The department adopts amendments to Chapter 211 under Government Code,
8 §411.122(d), which authorizes department access to criminal history record information maintained by
9 DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record
10 information from DPS and the FBI for license applicants, license holders, and representatives whose act
11 or omission would be cause for denying, revoking, or suspending a general distinguishing number or
12 license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302;
13 Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease
14 of motor vehicles and the authority to take any action that is necessary or convenient to exercise that
15 authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of
16 license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by
17 statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses
18 in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations
19 Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which
20 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter
21 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives
22 the board authority to deny an application for a license, to revoke or suspend a license, to place on
23 probation, or to reprimand a license holder 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; 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; 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.

CROSS REFERENCE TO STATUTE. The adopted amendments implement Government Code, Chapter 411; Occupations Code, Chapters 53, 2301 and 2302; Transportation Code, Chapters 503 and 1002; Penal Code, Chapters 25, 28, 43, 49 and Title 5; and Code of Criminal Procedure, Article 42A and 62.

Text.

§211.1. Purpose and Definitions.

(a) The licenses issued by the department create positions of trust. License holder services involve access to confidential information; conveyance, titling, and registration of private property; possession of monies belonging to or owed to private individuals, creditors, and governmental entities; and compliance with federal and state environmental and safety regulations. License holders are provided with opportunities to engage in fraud, theft, money laundering, and related crimes, and to endanger the public through violations of environmental and safety regulations. Many license holders provide services directly to the public, so licensure provides persons predisposed to commit assaultive or sexual crimes with greater opportunities to engage in such conduct. To protect the public from these harms, the department shall review the criminal history of license applicants before issuing a new or

1 renewal license and may take action on a license holder who commits an offense during the license
2 period based on the guidelines in this chapter.

3 (b) When used in this chapter, the following words and terms have the following meanings,
4 unless the context clearly indicates otherwise.

5 (1) "Department" means the Texas Department of Motor Vehicles.

6 (2) "License" means any license issued by the department under:

7 (A) Transportation Code, Chapter 503;

8 (B) Occupations Code, Chapter 2301; or

9 (C) Occupations Code, Chapter 2302.

10 (3) "Retail license types" means those license types which require holders to interact
11 directly with the public, but does not include other license types that do not generally interact directly
12 with the public, including manufacturers, distributors, and general distinguishing number holders for the
13 following vehicle categories: ambulance, axle, bus, engine, fire truck/fire fighting vehicle, heavy duty
14 truck, transmission, wholesale motor vehicle dealer, and wholesale motor vehicle auction.

15
16 §211.2. Application of Chapter.

17 (a) This chapter applies to the following persons:

18 (1) applicants and holders of any license; and

1 (2) persons who are acting at the time of application, or will later act, in a representative
2 capacity for an applicant or holder of a license, including the applicant's or holder's officers, directors,
3 members, managers, trustees, partners, principals, or managers of business affairs.

4 (b) In this chapter a "conviction" includes a deferred adjudication that is considered to be a
5 conviction under Occupations Code, §53.021(d).

6
7 **STATUTORY AUTHORITY.** The department adopts repeals to Chapter 211 under Government Code,
8 §411.122(d), which authorizes department access to criminal history record information maintained by
9 DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record
10 information from DPS and the FBI for license applicants, license holders, and representatives whose act
11 or omission would be cause for denying, revoking, or suspending a general distinguishing number or
12 license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302;
13 Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease
14 of motor vehicles and the authority to take any action that is necessary or convenient to exercise that
15 authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of
16 license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by
17 statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses
18 in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations
19 Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which
20 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter
21 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives
22 the board authority to deny an application for a license, to revoke or suspend a license, to place on
23 probation, or to reprimand a license holder 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; 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; and Transportation Code, §1002.001, which authorizes the board to adopt or rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted repeals implement Government Code, Chapter 411; Occupations Code, Chapters 53, 2301 and 2302; Transportation Code, Chapters 503 and 1002; Penal Code, Chapters 25, 28, 43, 49 and Title 5; and Code of Criminal Procedure, Article 42A and 62.

Text.

§211.3. Criminal Offense Guidelines.

§211.4. Imprisonment.

§211.5. Criminal History Evaluation Letters.

§211.6. Fingerprint Requirements for Designated License Types.

SUBCHAPTER B. CRIMINAL HISTORY EVALUATION GUIDELINES AND PROCEDURES

43 TAC §§211.10-211.13

STATUTORY AUTHORITY. The department adopts new sections to Chapter 211 under Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by

9/18/25

Exhibit A

1 DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record
2 information from DPS and the FBI for license applicants, license holders, and representatives whose act
3 or omission would be cause for denying, revoking, or suspending a general distinguishing number or
4 license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302;
5 Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease
6 of motor vehicles and the authority to take any action that is necessary or convenient to exercise that
7 authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of
8 license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by
9 statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses
10 in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations
11 Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which
12 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter
13 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives
14 the board authority to deny an application for a license, to revoke or suspend a license, to place on
15 probation, or to reprimand a license holder if the applicant or license holder is unfit, makes a material
16 misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor
17 vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a
18 motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as necessary to
19 administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which authorizes the board
20 to adopt rules for the administration of Transportation Code, Chapter 503; and Transportation Code,
21 §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement
22 the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. The adopted new sections implement Government Code, Chapter 411; Occupations Code, Chapters 53, 2301 and 2302; Transportation Code, Chapters 503 and 1002; Penal Code, Chapters 25, 28, 43, 49 and Title 5; and Code of Criminal Procedure, Article 42A and 62.

Text.

§211.10. Criminal Offense Guidelines.

(a) Under Occupations Code, Chapter 53, the department may suspend or revoke an existing license or disqualify an applicant from receiving a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of the licensed occupation.

(b) The department has determined under the factors listed in Occupations Code, §53.022 that offenses detailed in subsection (c) of this section directly relate to the duties and responsibilities of license holders, either because the offense entails a violation of the public trust, issuance of a license would provide an opportunity to engage in further criminal activity of the same type, or the offense demonstrates the person's inability to act with honesty, trustworthiness, and integrity. Such offenses include crimes under the laws of another state, the United States, or a foreign jurisdiction, if the offense contains elements that are substantially similar to the elements of an offense under the laws of this state. The list of offenses in subsection (c) of this section is in addition to offenses that are independently disqualifying under Occupations Code, §53.021.

(c) The list of offenses in this subsection is intended to provide guidance only and is not exhaustive of the offenses that may relate to a particular regulated occupation. After due consideration of the circumstances of the criminal act and its relationship to the position of trust involved in the

particular licensed occupation, the department may find that an offense not described below also renders a person unfit to hold a license based on the criteria listed in Occupations Code, §53.022.

(1) The following offenses apply to all license types:

(A) offenses involving fraud, theft, deceit, misrepresentation, or that otherwise reflect poorly on the person's honesty or trustworthiness, including an offense defined as moral turpitude;

(B) offenses involving forgery, falsification of records, perjury, or the unauthorized sale, manufacturing, alteration, issuance, or distribution of a license plate or temporary tag;

(C) offenses involving the offering, paying, or taking of bribes, kickbacks, or other illegal compensation;

(D) felony offenses against public administration;

(E) felony offenses under a state or federal statute or regulation involving the manufacture, sale, finance, distribution, repair, salvage, possession, dismantling, or demolition, of motor vehicles or motor vehicle parts;

(F) felony offenses under a state or federal statute or regulation related to emissions standards, waste disposal, water contamination, air pollution, or other environmental offenses;

(G) offenses committed while engaged in a licensed activity or on licensed premises, including the falsification of a motor vehicle inspection required by statute;

(H) felony offenses involving the possession, manufacture, delivery, or intent to deliver controlled substances, simulated controlled substances, dangerous drugs, or engaging in an organized criminal activity; and

(I) offenses of attempting or conspiring to commit any of the foregoing offenses.

(2) The following additional offenses apply to retail license types:

(A) felony offenses against real or personal property belonging to another;

(B) offenses involving the sale or disposition of another person's real or personal property;

(C) a reportable felony offense conviction under Chapter 62, Texas Code of Criminal Procedure for which the person must register as a sex offender;

(D) an offense against the family as described by Penal Code, §§25.02, 25.04, 25.07, 25.072, 25.08, or 25.11;

(E) felony offenses under Penal Code, §28.03 involving a motor vehicle that is damaged, destroyed, or tampered with during the removal or attempted removal of a catalytic converter;

(F) offenses against the person under Penal Code, Title 5, including offenses in which use of a firearm resulted in fear, intimidation, or harm of another person, and in Penal Code, Chapter 49, a felony offense of driving while intoxicated that resulted in the harm of another person;

(G) a felony stalking offense as described by Penal Code, §42.072;

(H) a felony offense against public order and decency as described by Penal Code §§43.24, 43.25, 43.251, 43.26, 43.261, or 43.262; and

(I) offenses of attempting or conspiring to commit any of the foregoing offenses.

(d) When determining a person's present fitness for a license, the department shall also consider the following evidence:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
- (6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
- (7) other evidence of the person's present fitness, including letters of recommendation.

(e) It is the person's responsibility to obtain and provide to the licensing authority evidence regarding the factors listed in subsection (d) of this section.

§211.11. Imprisonment.

1 (a) The department shall deny a license application if the applicant or a person described by
2 §211.2(a)(2) of this chapter (relating to Application of Chapter) is imprisoned while a new or renewal
3 license application is pending.

4 (b) The department shall revoke a license upon the imprisonment of a license holder following a:

5 (1) felony conviction for:

6 (A) an offense that directly relates to the duties and responsibilities of the
7 licensed occupation;

8 (B) an offense listed in Article 42A.054, Code of Criminal Procedure; or

9 (C) a sexually violent offense, as defined by Article 62.001, Code of Criminal
10 Procedure;

11 (2) felony community supervision revocation;

12 (3) revocation of parole; or

13 (4) revocation of mandatory supervision.

14 (c) A person currently imprisoned because of a felony conviction may not obtain a license,
15 renew a previously issued license, or act in a representative capacity for an application or license holder
16 as described by §211.2(a)(2).

17 (d) The department may revoke a license upon the imprisonment for a felony conviction, felony
18 community supervision revocation, revocation of parole, or revocation of mandatory supervision of a
19 person described by §211.2(a)(2) of this chapter who remains employed with the license holder.

§211.12. Criminal History Evaluation Letters.

(a) Pursuant to Texas Occupations Code, Chapter 53, Subchapter D, a person may request that the department evaluate the person's eligibility for a specific occupational license regulated by the department by:

(1) submitting a request on a form approved by the department for that purpose; and

(2) paying the required Criminal History Evaluation Letter fee of \$100.

(b) The department shall respond to the request not later than the 90th day after the date the request is received.

§211.13. Fingerprint Requirements for Designated License Types.

(a) The requirements of this section apply to an applicant for a new or renewal license for the license types designated in Chapter 215 or Chapter 221 of this title as requiring fingerprints for licensure.

(b) The following persons may be required to submit a complete and acceptable set of fingerprints to the Texas Department of Public Safety and pay required fees for purposes of obtaining criminal history record information from the Texas Department of Public Safety and the Federal Bureau of Investigation:

(1) a person applying for a new license, license amendment due to change in ownership, or license renewal; and

1 (2) a person acting in a representative capacity for an applicant or license holder who is
2 designated as an authorized representative on a licensing application, including an officer,
3 director, manager, trustee, principal, manager of business affairs, or other employee whose act or
4 omission in the course or scope of the representation would be cause for denying, revoking, or
5 suspending a license.

6 (c) After reviewing a licensure application and licensing records, the department will notify the
7 applicant or license holder of which persons in subsection (b) of this section are required to submit
8 fingerprints to the Texas Department of Public Safety. The department will not require a person to
9 submit fingerprints if the person previously submitted a complete and acceptable set of fingerprints for
10 a currently active license issued by the department, and the person remains fully enrolled in the Texas
11 Department of Public Safety's criminal history clearinghouse and validly subscribed in the federal
12 criminal history database maintained by the Federal Bureau of Investigation.