

1 Amendments to §224.27 are being adopted with a change to the proposed text as published in the August
2 23, 2024, issue of the Texas Register (49 TexReg 6439) and are being republished. Amendments to §224.54
3 are being adopted without changes to the proposed text as published in the August 23, 2024, issue of the
4 Texas Register (49 TexReg 6439) and are not being republished.

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6 **REASONED JUSTIFICATION.**

7 Subchapter A. General Provisions.

8 Adopted amendments to §224.27(d) delete the phrase "temporary tag database" and substitute
9 the phrase "license plate system." This adopted amendment recognizes that under HB 718, the purpose of
10 the database will change from the tracking and issuance of temporary tags to the tracking and issuing of
11 license plates on July 1, 2025. At adoption the phrase "or converter" is being deleted in §224.27(d) because
12 converters will not have access to the license plate system because they are not authorized to issue license
13 plates under HB 718.

14 Subchapter B. Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement.

15 An adopted amendment to §224.54(b)(5)(C) deletes the phrase "or temporary tags" because
16 effective July 1, 2025, a dealer may only issue a license plate or set of license plates, rather than a temporary
17 tag, under Transportation Code, Chapter 503, as amended by HB 718. Adopted amendments to
18 §224.54(c)(4) delete the phrases "or temporary tags" and "use an internet down tag to" because effective
19 July 1, 2025, a dealer may only issue a license plate or set of license plates, rather than a temporary tag or
20 internet down tag, under Transportation Code, Chapter 503, as amended by HB 718. An adopted
21 nonsubstantive amendment to §224.54(c)(6) adds a period to the end of the sentence to correct missing
22 punctuation.

1 Adopted amendments to the title of §224.58 delete the phrase "or Converter" and substitute the
2 phrase "License Plate System" for "Temporary Tag System". These adopted amendments recognize that
3 under HB 718, a converter may not issue a temporary tag or license plate effective July 1, 2025, and that
4 the purpose of the database will change from the tracking and issuance of temporary tags to the tracking
5 and issuing of license plates on July 1, 2025. Adopted amendments throughout §§224.58(a)-(f)
6 substitute the phrase "license plates" for "temporary tags" because effective July 1, 2025, a dealer may only
7 issue a license plate or set of license plates, and not a temporary tag under Transportation Code, Chapter
8 503, as amended by HB 718. Adopted amendments throughout §§224.58(a) - (f) substitute the phrase
9 "license plate system" for the terms "temporary tag database", "a database", and "database" because the
10 purpose of the system will be to issue and track license plates effective July 1, 2025. Adopted amendments
11 throughout §224.58(a) - (f) delete the phrases "or converter" and "or converter's" because a converter may
12 not issue a temporary tag or license plate effective July 1, 2025, under Transportation Code, Chapter 503,
13 as amended by HB 718.

14 Adopted amendments to §224.58(a) delete a statutory reference to Transportation Code,
15 §503.0626 which was repealed by HB 718 and will no longer exist on July 1, 2025, and add references to
16 §503.063 and §503.065. These two Transportation Code provisions authorize a dealer to issue a buyer's
17 license plate or set of license plates to the purchaser of a motor vehicle in Texas under certain circumstances
18 and to issue a buyer's temporary license plate to an out-of-state buyer. An adopted amendment to
19 §224.58(a) adds "or issue" to clarify that a dealer misuses the license plate system by fraudulently obtaining
20 or issuing a license plate. An adopted amendment to §224.58(a)(4) deletes "or" and adopted amendments
21 to §215.58(a)(5) delete a period and add a semicolon and "or" because a new paragraph is adopted to be
22 added as §215.58(a)(6). Adopted nonsubstantive changes to §224.58(a)(5) delete a redundant "issued," add
23 "the dealer's" before "licensed location," and delete an unnecessary "a" before "storage lot" to clarify that

1 license plate misuse includes a dealer obtaining or issuing a license plate for a vehicle or motor vehicle not
2 located at the dealer’s licensed location or storage lot. An adopted amendment adds new §215.58(a)(6),
3 which defines license plate system misuse to include obtaining or issuing a license plate for a vehicle that is
4 not titled or permitted by law to be operated on a public highway. This adopted new language addresses
5 situations such as a dealer obtaining or issuing a license plate for a rebuilt vehicle that is not titled, or
6 obtaining or issuing a license plate for a vehicle that has not passed a required emissions inspection in a
7 nonattainment county and prevents the associated public harm.

8 An adopted amendment to §224.58(b) substitutes the phrase “or issued a license plate in the license
9 plate system” for “temporary tags from the temporary tag database” to implement the change from
10 temporary tags to license plates mandated by HB 718.

11 An adopted nonsubstantive change to §224.58(c) adds “address” after “email” to clarify that a
12 notice under this section will be sent to the license holder’s last known email address in the department-
13 designated licensing system.

14 **SUMMARY OF COMMENTS.**

15 The department received two written comments from the Texas Automobile Dealers Association (TADA)
16 and an individual.

17 **Comment:** TADA requests that a dealer not be denied access to the license plate system when a buyer
18 returns a vehicle with an assigned license plate and the dealer later sells the same vehicle to another
19 customer. TADA further requests the department adopt a rule to address what the dealer should do with a
20 license plate that was assigned to a vehicle if a customer decides to return the vehicle to the dealer.

21 **Response:** The department disagrees with this comment. A dealer will not be denied access to the license
22 plate system if the dealer documents the return of the vehicle and the assigned license plate in the
23 department’s designated system. The department denies access to the license plate system only when data

1 suggests a dealer is committing fraud and a dealer may request a hearing prior to the decision becoming
2 final.

3 The department will be providing system training to dealers which will include examples of how to
4 properly void license plate assignments.

5 **Comment:** An individual comments that our temporary tag and license plate systems have become
6 increasingly cumbersome and complex and reliant on the internet which can have outages, and that the
7 department should improve related technology management or simplify the process.

8 **Response:** The department disagrees with this comment as the comment is not within the scope of this rule
9 proposal. The department agrees that the new license plate management system must be built on a reliable
10 technology platform and designed to be easy to use and is working with vendors to find and implement such
11 a solution.

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SUBCHAPTER A. GENERAL PROVISIONS.

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43 TAC §224.27

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STATUTORY AUTHORITY. In addition to the rulemaking authority provided in Section 34 of HB 718, the department adopts amendments to Chapter 224 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

1 adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern
2 practice and procedure before the board; Occupations Code, §2301.651, which gives the board
3 authority to deny an application for a license, revoke or suspend a license, place on probation, or
4 reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation,
5 violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully
6 defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle;
7 Transportation Code, §501.0041, which authorizes the department to adopt rules to administer
8 Transportation Code, Chapter 501; Transportation Code, §502.0021 which authorizes the department
9 to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §503.002, which
10 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503;
11 Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases;
12 Transportation Code, §503.061, as amended by HB 718, which allows the board to adopt rules regulating
13 the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the
14 department to adopt rules to implement and manage the department's database of dealer-issued
15 buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the
16 maximum number of license plates or sets of license plates a dealer may obtain annually under
17 Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011, which authorizes the
18 board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.003, which
19 authorizes the department to adopt rules to administer Chapter 520; Transportation Code, §520.021,
20 which allows the department to adopt rules and policies for the maintenance and use of the
21 department's automated registration and titling system; and Transportation Code, §1002.001, which
22 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and
23 the duties of the department, as well as the statutes referenced throughout this preamble.

1 The department also adopts amendments under the authority of Government Code, §2001.004
2 and §2001.054, in addition to the statutory authority referenced throughout this preamble.
3 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and
4 requirements of all available formal and informal procedures. Government Code, §2001.054 specifies
5 the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or
6 withdrawal of a license.

7 **CROSS REFERENCE TO STATUTE.** These adopted revisions implement Government Code, Chapter 2001;
8 Occupations Code, Chapter 2301; and Transportation Code, Chapters 501-504, 520, 1001, and 1002.

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10 Text.

11 §224.27. Final Order; Motion for Rehearing.

12 (a) The provisions of Government Code, Chapter 2001, Subchapter F, govern the issuance of a
13 final order issued under this subchapter and a motion for rehearing filed in response to a final order.

14 (b) Except as provided by subsection (c) of this section and §224.29 of this title (relating to
15 Delegation of Final Order Authority), the board has final order authority in a contested case filed
16 under Occupations Code, Chapters 2301 or 2302, or under Transportation Code, Chapters 502, 503,
17 621-623, 643, 645, and 1001-1005.

18 (c) The hearings examiner has final order authority in a contested case filed under
19 Occupations Code, §2301.204 or Occupations Code Chapter 2301, Subchapter M.

20 (d) A department determination and action denying access to the license plate system
21 becomes final within 26 days of the date of the notice denying access to a database, unless the dealer:

22 (1) requests a hearing regarding the denial of access, or

23 (2) enters into a settlement agreement with the department.

1 (e) Unless a timely motion for rehearing is filed with the appropriate final order authority as
2 provided by law, an order shall be deemed final and binding on all parties. All administrative remedies
3 are deemed to be exhausted as of the effective date of the final order.

4 (f) If a timely motion for rehearing is not filed, the final order shall be deemed final and
5 binding in accordance with the provisions of Government Code, §2001.144.

6 (g) If a final and binding order includes an action on a license, the department may act on the
7 license on the date the final order is deemed final and binding, unless the action is stayed by a court
8 order.

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10 **SUBCHAPTER B. MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRY ENFORCEMENT**

11 **43 TAC §224.54 and §224.58**

12 **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the
13 department adopts amendments to Chapter 224 under Occupations Code, §2301.151, which gives the
14 board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take
15 any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152,
16 which authorizes the board to establish the qualifications of license holders, ensure that the
17 distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to
18 prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the
19 distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301
20 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to
21 adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern
22 practice and procedure before the board; Occupations Code, §2301.651, which gives the board
23 authority to deny an application for a license, revoke or suspend a license, place on probation, or

1 reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation,
2 violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully
3 defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle;
4 Transportation Code, §501.0041, which authorizes the department to adopt rules to administer
5 Transportation Code, Chapter 501; Transportation Code, §502.0021, which authorizes the department
6 to adopt rules to administer Transportation Code, Chapter 502; Transportation Code, §503.002, which
7 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503;
8 Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases;
9 Transportation Code, §503.061, as amended by HB 718, which allows the board to adopt rules regulating
10 the issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the
11 department to adopt rules to implement and manage the department's database of dealer-issued
12 buyer's license plates; Transportation Code, §503.0633, which allows the department to establish the
13 maximum number of license plates or sets of license plates a dealer may obtain annually under
14 Transportation Code, §503.063 and §503.065; Transportation Code, §504.0011, which authorizes the
15 board to adopt rules to implement and administer Chapter 504; Transportation Code, §520.003 which
16 authorizes the department to adopt rules to administer Chapter 520; Transportation Code, §520.021,
17 which allows the department to adopt rules and policies for the maintenance and use of the
18 department's automated registration and titling system; and Transportation Code, §1002.001, which
19 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and
20 the duties of the department, as well as the statutes referenced throughout this preamble.

21 The department also adopts amendments under the authority of Government Code, §2001.004
22 and §2001.054, in addition to the statutory authority referenced throughout this preamble.
23 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and

1 requirements of all available formal and informal procedures. Government Code, §2001.054 specifies
2 the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or
3 withdrawal of a license.

4 **CROSS REFERENCE TO STATUTE.** These adopted revisions implement Government Code, Chapter 2001;
5 Occupations Code, Chapter 2301; and Transportation Code, Chapters 501 - 504, 520, 1001, and 1002.

6
7 Text.

8 §224.54. Civil Penalty and Revocation Assessment.

9 (a) Occupations Code, §2301.801 and §2302.354, and Transportation Code, §503.095 govern
10 the amount of a civil penalty that may be assessed by the department against a license holder.

11 (b) In determining the amount of civil penalty to assess the department will consider the
12 following aggravating factors:

13 (1) the seriousness of the violation, including the nature, circumstances, extent, and
14 gravity of any prohibited act, and the harm or potential harm to the safety of the public;

15 (2) the economic damage to the public caused by the violation;

16 (3) any history of previous violations including whether the license holder previously
17 entered into an agreed order with the department or otherwise received a warning or reduced
18 penalty;

19 (4) the amount necessary to deter a future violation; and

20 (5) any other matter that justice may require, including:

21 (A) the number of violations or number of consumers harmed by violation(s);

22 (B) whether the consumer received a title;

23 (C) whether the license holder misused license plates;

1 (D) whether the license holder attempted to conceal a violation;

2 (E) whether the act constituting the violation was intentional, premeditated,
3 knowing, or grossly negligent; and

4 (F) whether an order issued by the department was violated.

5 (c) In determining whether license revocation is appropriate, the department will consider the
6 following factors:

7 (1) whether the license holder is unfit under standards governing the occupation,
8 including qualifications for a license;

9 (2) whether the license holder made a material misrepresentation in any written
10 communication or information provided to the department;

11 (3) whether the license holder willfully defrauded a purchaser;

12 (4) whether the license holder misused license plates, including whether the license
13 holder attempted to avoid inspection requirements;

14 (5) whether the license holder failed to fulfill a written agreement with a retail
15 purchaser of a vehicle or motor vehicle; and

16 (6) whether the license holder failed to attend an approved dealer training seminar as
17 ordered in an agreed final order.

18 (d) The department will consider the following mitigating factors in determining the amount
19 of civil penalty to assess or whether license revocation is appropriate:

20 (1) acknowledgment by the licensee of any wrongdoing;

21 (2) willingness to cooperate with the department; and

22 (3) efforts to correct a violation.

1 (e) The department will publish a disciplinary matrix on the department website to provide
2 guidance to license holders on the administrative penalties and other sanctions that may be assessed
3 for the most common violations. The department will consider the disciplinary matrix published at the
4 time of the violation; however, the disciplinary matrix does not prevent the department from seeking
5 administrative penalties and other sanctions above or below the recommended ranges listed in the
6 disciplinary matrix. Also, the disciplinary matrix does not prevent the board or the board's delegate
7 from ordering administrative penalties and other sanctions above or below the recommended ranges
8 listed in the disciplinary matrix.

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10 §224.58. Denial of Dealer Access to License Plate System.

11 (a) In this section "fraudulently obtained license plates from the license plate system" means
12 misuse by a dealer account user of the license plate system authorized under Transportation Code,
13 §503.063, §503.0631, or §503.065 to obtain or issue:

14 (1) an excessive number of license plates relative to dealer sales;

15 (2) a license plate for a vehicle or vehicles not in the dealer's inventory (a vehicle is
16 presumed not to be in the dealer's inventory if the vehicle is not listed in the relevant monthly Vehicle
17 Inventory Tax Statement);

18 (3) access to the license plate system for a fictitious user or person using a false
19 identity;

20 (4) a license plate for a vehicle or a motor vehicle when a dealer is no longer operating
21 at a licensed location;

1 (5) a license plate for a vehicle or a motor vehicle not located at the dealer’s licensed
2 location or storage lot; or

3 (6) a license plate for a vehicle or motor vehicle that is not titled or permitted by law
4 to be operated on a public highway.

5 (b) The department shall deny a dealer access to the license plate system effective on the date
6 the department sends notice electronically and by certified mail to the dealer that the department has
7 determined, directly or through an account user, that the dealer has fraudulently obtained or issued a
8 license plate in the license plate system. A dealer may seek a negotiated resolution with the
9 department by demonstrating the dealer took corrective action or that the department's
10 determination was incorrect.

11 (c) Notice shall be sent to the dealer's last known mailing address and last known email
12 address in the department-designated licensing system.

13 (d) A dealer may request a hearing on the denial of access to the license plate system, as
14 provided by Subchapter O, Chapter 2301, Occupations Code. The request must be in writing and the
15 dealer must request a hearing under this section. The department must receive the written request for
16 a hearing within 26 days of the date of the notice denying access to the license plate system. The
17 request for a hearing does not stay the denial of access under subsection (b) of this section. A dealer
18 may continue to seek a negotiated resolution with the department after a request for hearing has
19 been submitted under this subsection by demonstrating the dealer took corrective action or that the
20 department's determination was incorrect.

21 (e) The department may also issue a Notice of Department Decision stating administrative
22 violations as provided in §224.56 of this title (relating to Notice of Department Decision) concurrently

- 1 with the notice of denial of access under this section. A Notice of Department Decision may include
- 2 notice of any violation, including a violation listed under subsection (a) of this section.
- 3 (f) A department determination and action denying access to the license plate system
- 4 becomes final if the dealer does not request a hearing or enter into a settlement agreement with the
- 5 department within 26 days of the date of the notice denying access to the license plate system.