

PROPOSAL 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) proposes 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 proposed amendments, repeals, and new sections are necessary to: organize the rules into two subchapters for consistency with other chapters in TAC Title 43, clarify the types of licenses to which the chapter applies, clarify which crimes relate to the duties and responsibilities of these license holders, delete duplicative language found in statute, conform rule language with statutory changes, clarify existing requirements, and modernize language and improve readability. Proposed language also conforms with Senate Bill (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. The proposed language implements 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

1 circumstances in which a state agency is required to revoke a license upon imprisonment of the license
2 holder.

3 **EXPLANATION.** The department is conducting a review of its rules under Chapter 211 in compliance with
4 Government Code, §2001.039. Notice of the department’s plan to conduct this review is also published
5 in this issue of the *Texas Register*. As a part of the review, the department is proposing necessary
6 amendments, repeals, and new sections as detailed in the following paragraphs.

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

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

1 Occupations Code, §53.021(a)(1), the department is responsible for determining which offenses directly
2 relate to the duties and responsibilities of a particular licensed occupation.

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

12 The proposed rule amendments also conform with SB 1080, 89th Legislature, Regular Session
13 (2025) which amended Occupations Code, §53.021 effective May 27, 2025, to add circumstances in which
14 a state agency must revoke a license upon imprisonment of a license holder, and SB 2587, 89th Legislature,
15 Regular Session (2025), which amended Government Code, §411.12511, effective September 1, 2025, and
16 clarified which persons the department could obtain fingerprint-based criminal history record information.

17 **Proposed New Subchapter A, General Provisions**

18 Chapter 211 currently contains only one subchapter. The proposed amendments would divide
19 Chapter 211 into two subchapters. A proposed amendment would retitle Subchapter A "General
20 Provisions," consistent with the organization and naming conventions found in Chapters 215 and 221 of
21 this title. This proposed amendment would provide consistency and improve readability because Chapter

211 applies to the same applicants and license holders as Chapters 215 and 221. Sections 211.1 and 211.2 are proposed for inclusion in retitled Subchapter A for consistency and ease of reference.

A proposed amendment to the title of §211.1 would add “Purpose and” to the section title to indicate that proposed amendments to this section include the purpose for the chapter in addition to definitions. This proposed change would place the chapter purpose description in the same subchapter and in the same order as similar language in Chapters 215 and 221 of this title for improved understanding and readability. Proposed new §211.1(a) would describe the purpose of Chapter 211 by incorporating existing language from current §211.3(a). The proposed amendments would add at the end of proposed new §211.1(a) new language describing the department’s obligation to review the criminal history of license applicants before issuing a new or renewal license and the option for the department to act on the license of an existing license holder who commits an offense during the license period, consistent with Occupations Code, Chapter 53 and §§2301.651, 2302.104, 2302.105, and 2302.108, and Transportation Code, §503.034 and §503.038, and existing department procedures.

A proposed amendment to §211.1 would reorganize the current definitions into a subsection (b). Proposed amendments to §211.1(b)(2) would delete references to “registration, or authorization,” add an “or” to §211.1(b)(2)(B), delete an “or” and add sentence punctuation in §211.1(b)(2)(C), and delete §211.1(b)(2)(D). These proposed amendments would clarify that Chapter 211 only applies to licenses issued by the department under Transportation Code, Chapter 503 and Occupations Code, Chapters 2301 and 2302, and does not apply to registrations the department may issue under the authority of another Transportation Code chapter. Registrations or permits that the department issues under other Transportation Code chapters do not currently require a review of an applicant’s criminal history. Proposed amendments to §211.1(b)(3) would delete the current list of specific retail license types and

1 define the term “retail” by listing only those license types that are not considered to be retail. This
2 proposed amendment would shorten the sentence to improve readability without changing the meaning
3 or scope of the definition. Additionally, this proposed amendment would eliminate the need to update
4 the rule if a future statutory change created a new type of vehicle or retail license type or changed the
5 name of an existing vehicle type or retail licensing type.

6 A proposed amendment to the title of §211.2 would substitute “Chapter” for “Subchapter” for
7 consistency with the rule text. A proposed amendment in §211.2(b) would add a comma after Occupations
8 Code for consistency in punctuation.

9 The remaining sections in Subchapter A are proposed for repeal as each of these sections are
10 proposed for inclusion in new Subchapter B.

11 **Proposed New Subchapter B, Criminal History Evaluation Guidelines and Procedures**

12 A proposed amendment would add a new subchapter, Subchapter B. Criminal History Evaluation
13 Guidelines and Procedures. Proposed for inclusion in new Subchapter B are new sections §§211.10-
14 211.13. These new proposed sections would contain the guidelines and procedures rule language
15 currently found in §§211.3-211.6 with the addition of the proposed changes described below.

16 Proposed new §211.10 would include the rule text of current §211.3 with changes as follows.
17 Current §211.3(a) would be deleted because that language has been incorporated into proposed new
18 §211.1(a), which describes the purpose of Chapter 211. Proposed new §211.10(a) would incorporate the
19 language of current §211.3(b), except for the last sentence which duplicates a statutory requirement in
20 Occupations Code, §53.022 and does not need to be repeated in rule. Proposed new §211.10(b) would
21 recodify language that is currently in §211.3(c), except for §§211.3(c)(1) and (2), which are redundant and
22 unnecessary statutory references.

1 Proposed new §211.10(c) would incorporate §211.3(d) with the following changes. Proposed new
2 §211.10(c) would add a comma to correct missing punctuation after “Occupations Code” and would
3 delete three sentences that specify which offenses apply to a license type. Proposed new §211.10(c)
4 would include clarifying paragraph numbers: paragraph (1) would identify offenses that apply to all license
5 types, and paragraph (2) would separate and identify additional offenses that apply only to retail license
6 types. The proposed new language would add clarity and improve readability. Proposed new language
7 would divide the offense categories currently in §§211.3(d)(1) – (16) between the new paragraphs as
8 relettered subparagraphs of §211.10(c)(1) and (2).

9 Proposed new §211.10(c)(1)(B), would incorporate language currently in §211.3(d)(2) and add
10 language to clarify that offenses involving forgery, falsification of records, or perjury include the
11 unauthorized sale, manufacturing, alteration, issuance, or distribution of a license plate or temporary tag.
12 This proposed clarifying language provides additional notice to applicants and license holders that the
13 department considers forging or falsification of license plates or temporary tags to be a serious and
14 potentially disqualifying offense.

15 Proposed new §211.10(c)(1)(E) would incorporate language currently in §211.3(d)(5) and add
16 possession and dismantling of motor vehicles to the list of felony offenses under a state or federal statute
17 or regulation that could potentially be disqualifying. Proposed new §211.10(c)(1)(E) would also include
18 motor vehicle parts to clarify that disqualifying felony offenses include crimes related to motor vehicle
19 parts as well as to motor vehicles. These two proposed amendments are important due to the consumer
20 harm caused by “chop shops” that dismantle stolen vehicles and illegally sell parts, and the increasing

1 frequency of motor vehicle parts theft, including catalytic converters, tailgates, batteries, wheel rims, and
2 tires.

3 Proposed new §211.10(c)(1)(G) would incorporate language currently in §211.3(d)(7) and would
4 clarify that an offense committed while engaged in a licensed activity or on a licensed premises includes
5 falsification of a motor vehicle inspection required by statute. This clarification is important because
6 emissions inspections in certain counties are required by law and harm the health and safety of Texas
7 citizens if not performed.

8 Proposed new §211.10(c)(1)(I) would add that offenses of attempting or conspiring to commit any
9 of the foregoing offenses are potentially disqualifying offenses because the person intended to commit
10 an offense. This proposed new language incorporates language from current §211.3(d)(16). The language
11 regarding conspiracies or attempts to commit the offenses must be included in the paragraph that applies
12 to all license holders and the paragraph that applies to retail license types because the related crimes for
13 each are proposed to be reorganized into separate paragraphs to improve readability.

14 Proposed new §211.10(c)(2)(E) would make felony offenses under Penal Code, §28.03 potentially
15 disqualifying when a motor vehicle is damaged, destroyed, or tampered with during the removal or
16 attempted removal of a catalytic converter. This new amendment aligns with SB 224, 88th Legislature,
17 Regular Session (2023), which amended Penal Code, §28.03 to create a state jail felony for damage to a
18 motor vehicle because of removal or attempted removal of the catalytic converter.

19 Proposed new §211.10(c)(2)(D) would incorporate §211.3(d)(12) and would add two additional
20 offenses against the family: Penal Code, §25.04 and §25.08. Penal Code, §25.04 includes offenses

1 involving the enticement of a child away from the parent or other responsible person, and Penal Code,
2 §25.08 includes offenses related to the sale or purchase of a child. These offenses are relevant to the retail
3 professions licensed by the department because parents frequently bring children to a dealership when
4 considering a vehicle purchase, and a retail license holder may have unsupervised access to a child while
5 a parent test-drives a vehicle or is otherwise engaged in viewing or inspecting a vehicle offered for sale.
6 License holders also have access to the parent's motor vehicle records, including the family's home
7 address. A person with a predisposition to commit these types of crimes would have the opportunity to
8 engage in further similar conduct.

9 Proposed new §211.10(c)(2)(F) would incorporate the language of current §211.3(d)(13), and
10 clarify that the department would consider any offense against the person to be potentially be
11 disqualifying, would add a reference to Penal Code, Title 5, and would further clarify that an offense in
12 which use of a firearm resulted in fear, intimidation, or harm of another person would be included in the
13 list of potentially disqualifying crimes. Additionally, proposed new §211.10(c)(2)(F) would clarify that a
14 felony offense of driving while intoxicated that resulted in harm to another person may also be potentially
15 disqualifying. The department considers these offenses to be related to the occupations of retail license
16 holders because these license holders have direct contact with members of the public during vehicle test
17 drives or other settings in which no one else is present, and retail license holders have access to an
18 individual's motor vehicle records, including the individual's home address. A person with a predisposition
19 for violence or a tendency toward intoxicated driving would have the opportunity in these situations to
20 engage in further similar conduct. These proposed amendments would further clarify which offenses
21 against a person the department considers directly related to the licensed occupation and therefore

1 potentially disqualifying. The department's consideration of these crimes is subject to certain limitations
2 in Occupations Code, Chapter 53.

3 Proposed new §211.11 would incorporate language from current §211.4, with the addition of
4 proposed new §211.11(a), which would clarify that the department will deny a pending application if an
5 applicant or an applicant's representative as defined in §211.2(a)(2) is imprisoned. Occupations Code,
6 §53.021(b) requires an agency to revoke a license holder's license on the license holder's imprisonment
7 following a felony conviction, felony community supervision revocation, revocation of parole, or
8 revocation of mandatory supervision. Because the department also determines licensure eligibility based
9 on individuals serving as representatives for the license holder, the department will consider the effect of
10 imprisonment of those persons on a license holder. Because license revocation for a felony conviction is
11 mandatory in Occupations Code, §53.021(b), the department must also deny a pending application. An
12 applicant who is imprisoned may reapply once the applicant is no longer imprisoned and an applicant
13 whose application is denied based on an imprisoned individual serving in a representative capacity may
14 choose a different representative and reapply for licensure. Proposed new §211.11(b) would implement
15 SB 1080, 89th Legislature (2025), which amended Occupations Code, §53.021 to require the department
16 to revoke a license if the license holder is imprisoned following a felony conviction for an offense that
17 directly relates to the duties and responsibilities of the licensed occupation, an offense in Code of Criminal
18 Procedure, Article 42A.054, or a sexually violent offense in Code of Criminal Procedure, Article 62.001.
19 Proposed amendments to new §211.11(b) would also incorporate the existing language from current
20 §211.4(c) as phrased in Occupations Code, §53.021(b). Proposed new §211.11(c) incorporates language
21 from current §211.4(d). Proposed new §211.11(d) incorporates language from current §211.4(c).

1 Proposed new §211.12 would incorporate without change the language in current §211.5 that
2 addresses the procedure for a person to obtain a criminal history evaluation letter from the department.
3 This process allows a person to request an evaluation prior to applying for a license if the person so
4 desires.

5 Proposed new §211.13(a) would incorporate the current language of §211.6(a) and would clarify
6 that fingerprint requirements apply to “an applicant for a new or renewal license” to improve readability
7 without changing meaning. Proposed §211.13(b) would move the introductory phrase “Unless previously
8 submitted for an active license issued by the department,” to proposed §211.13(c) to improve readability
9 and to allow the department to further clarify submission requirements in §211.13(c). Proposed new
10 §211.13(b)(1) would incorporate the language of current §211.6(b)(1) and would clarify that an applicant
11 includes an owner, member, partner, or trust beneficiary. This is a clarification rather than an extension
12 of the existing requirements for the fingerprinting of applicants, because each of these categories has an
13 ownership interest in the license. If the owner is a trust, the license is a trust asset, and each beneficiary
14 is an equitable owner of the trust’s assets. It is necessary for the department to fingerprint trust
15 beneficiaries along with other owners because doing so will prevent a bad actor with a history of criminal
16 offenses that directly relate to the duties and responsibilities of a license holder from obtaining a license
17 from the department by using a trust to hide the bad actor’s identity and then using that license to
18 perpetrate, or benefit from, fraudulent and criminal actions, or otherwise take advantage of the position
19 of trust created by the license. These proposed amendments are consistent with Government Code,
20 §411.12511, as amended by SB 2587, 89th Regular Session (2025).

21 Proposed new §211.13(b)(2) would incorporate the language of current §211.6(b)(2) and would
22 clarify that a person acting in a representative capacity includes an officer, director, manager, trustee,

1 principal, manager of business affairs, or other employee whose act or omission in the course or scope of
2 the representation would be cause for denying, revoking, or suspending a license. The proposed language
3 recognizes that many license holders are small businesses that may employ only one or a few employees
4 and may assign or delegate key management tasks such as administering the temporary tag or license
5 plate system for the license holder, and that a principal may be a representative and not necessarily an
6 owner of the applicant. These proposed amendments are consistent with Government Code, §411.12511,
7 as amended by SB 2587, 89th Regular Session (2025).

8 Proposed new §211.13(c) would incorporate the current language of §211.6(c) and the
9 introductory phrase from §211.6(b), and would further clarify that the department will not require a
10 person to submit fingerprints if the person previously submitted a complete and acceptable set of
11 fingerprints, and the person remains fully enrolled in the Texas Department of Public Safety's (DPS)
12 criminal history clearinghouse and validly subscribed in the federal criminal history database maintained
13 by the Federal Bureau of Investigation (FBI). This clarification is important as DPS or the FBI may change
14 the enrollment or subscription status of a person previously fingerprinted if, for example, a court
15 expunges a crime from a person's criminal history record. If DPS or the FBI change a person's enrollment
16 or subscription status, the department must require the person to be fingerprinted again, or the
17 department will not be able to access that person's criminal history records for use in evaluating the
18 license application.

19 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
20 has determined that for each year of the first five years the proposal will be in effect, there will be no
21 significant fiscal impact to state or local governments as a result of the enforcement or administration of

1 the proposal. Monique Johnston, Director of the Motor Vehicle Division, has determined that there will
2 be no significant impact on local employment or the local economy as a result of the proposal.

3 **PUBLIC BENEFIT AND COST NOTE.** Ms. Johnston also determined that, for each year of the first five years
4 the proposal is in effect, public benefits are anticipated, and that applicants and license holders will not
5 incur costs to comply with the proposal. The anticipated public benefits include reduced opportunity for
6 fraud and related crime, and improved public safety. Requiring fingerprints for a trust beneficiary will
7 benefit the public by preventing bad actors with a history of criminal offenses that directly relate to the
8 duties and responsibilities of a license holder from obtaining licenses by using a trust to hide their identity
9 and then using those licenses to perpetrate, or benefit from, fraud and criminal actions, or otherwise take
10 advantage of the position of trust created by the license.

11 Ms. Johnston anticipates that there will be no additional costs on regulated persons to comply
12 with the submission and evaluation of information under this proposal because the rules do not establish
13 any new requirements or costs for regulated persons unless the person commits a crime. The proposed
14 requirement in §211.13(b)(1) for the fingerprinting of trust beneficiaries is a clarification of the existing
15 requirement that applicant owners must be fingerprinted, as trust beneficiaries are equitable owners of
16 the trust's assets. It therefore does not create a new fingerprinting requirement. Similarly, the proposed
17 new language that allows the department to fingerprint an employee, who the applicant designates as an
18 authorized representative in the application and whose acts or omission would be cause for denying,
19 revoking, or suspending a license, is a clarifying example of "a person acting in a representative capacity"
20 and not a new fingerprinting requirement. Additionally, Ms. Johnston anticipates that there will be no
21 additional costs to regulated persons to comply with the fingerprint requirements under this proposal as
22 the new section does not establish fees for fingerprinting or processing criminal background checks. Fees

1 for fingerprinting and access to criminal history reports are established by DPS under the authority of
2 Texas Government Code, Chapter 411.

3 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
4 Code, §2006.002, the department has determined that this proposal will not have an adverse economic
5 effect or disproportionate economic impact on small or micro businesses. The department has also
6 determined that the proposed amendments will not have an adverse economic effect on rural
7 communities because rural communities are exempt from the requirement to hold a license under
8 Transportation Code, §503.024. Therefore, under Government Code, §2006.002, the department is not
9 required to perform a regulatory flexibility analysis.

10 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests
11 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property
12 that would otherwise exist in the absence of government action and, therefore, does not constitute a
13 taking or require a takings impact assessment under Government Code, §2007.043.

14 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that for each year of the
15 first five years the proposed repeal and amendments are in effect the amendments will not create or
16 eliminate a government program; will not require the creation of new employee positions and will not
17 require the elimination of existing employee positions; will not require an increase or decrease in future
18 legislative appropriations to the department; will not require an increase in fees paid to the department;
19 will create new regulations and expand existing regulations, as described in the explanation section of this
20 proposal; will repeal existing regulations in §§211.3 – 211.6; will increase the number of individuals
21 subject to the rule's applicability regarding fingerprinting; and will not significantly benefit or adversely
22 affect the Texas economy.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on August 25, 2025. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

SUBCHAPTER A. GENERAL PROVISIONS [~~CRIMINAL OFFENSE AND ACTION ON LICENSE~~]

43 TAC §211.1 AND §211.2

STATUTORY AUTHORITY. The department proposes amendments to Chapter 211 under 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 Legislative Session (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, §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, to revoke or suspend a license, to place on 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. 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;

1 and compliance with federal and state environmental and safety regulations. License holders are
2 provided with opportunities to engage in fraud, theft, money laundering, and related crimes, and to
3 endanger the public through violations of environmental and safety regulations. Many license holders
4 provide services directly to the public, so licensure provides persons predisposed to commit assaultive
5 or sexual crimes with greater opportunities to engage in such conduct. To protect the public from these
6 harms, the department shall review the criminal history of license applicants before issuing a new or
7 renewal license and may take action on a license holder who commits an offense during the license
8 period based on the guidelines in this chapter.

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

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

12 (2) "License" means any license [~~, registration, or authorization,~~] issued by the
13 department under:

14 (A) Transportation Code, Chapter 503;

15 (B) Occupations Code, Chapter 2301; or

16 (C) Occupations Code, Chapter 2302_ [~~;-or~~]

17 [~~(D) any other license, registration, or authorization, that the department may~~
18 ~~deny or revoke because of a criminal offense of the applicant or license holder.~~]

19 (3) "Retail license types" means those license [~~holder~~] types which require holders to
20 [that] interact directly with the public, [including salvage dealers, converters, independent mobility

~~motor vehicle dealers, lease facilitators, and general distinguishing number holders for the following vehicle categories: all terrain vehicle, light truck, motorcycle, motorhome, moped /motor scooter, medium duty truck, neighborhood vehicle, other, passenger auto, recreational off-highway vehicle, and towable recreational vehicle,~~] but does not include other license types that do not generally interact directly with the public, including manufacturers, distributors, and general distinguishing number holders for the following vehicle categories: ambulance, axle, bus, engine, fire truck/fire fighting vehicle, heavy duty truck, transmission, wholesale motor vehicle dealer, and wholesale motor vehicle auction.

§211.2. Application of Chapter ~~[Subchapter]~~.

(a) This chapter applies to the following persons:

(1) applicants and holders of any license; and

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

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

STATUTORY AUTHORITY. The department proposes repeals to Chapter 211 under 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

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

CROSS REFERENCE TO STATUTE. 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.]~~

~~[(a) The licenses issued by the department create positions of trust. License holders provide services to members of the public. 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 engage in environmental and safety violations that endanger the public. In addition, licensure provides persons predisposed to commit assaultive or sexual crimes with greater opportunities to engage in such conduct.]~~

~~[(b) 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. The department shall consider the factors listed in the Occupations Code §53.022 in determining whether a criminal conviction directly relates to the duties and responsibilities of a license holder.]~~

~~[(c) The department has determined under the factors listed in Occupations Code §53.022 that offenses detailed in subsection (d) 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 (d) of this section is in addition to those that are independently disqualifying under Occupations Code §53.021, including:]

[(1) an offense listed in Article 42A.054, Code of Criminal Procedure; or]

[(2) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure.]

[(d) 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.

Paragraphs (1)–(8) of this subsection apply to all license types. Paragraphs (9)–(15) of this subsection apply only to retail license types. Paragraph (16) of this subsection applies to offenses applicable to a license type.]

[(1) 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;]

[(2) offenses involving forgery, falsification of records, or perjury;]

1 ~~[(3) offenses involving the offering, paying, or taking of bribes, kickbacks, or other illegal~~
2 ~~compensation;]~~

3 ~~[(4) felony offenses against public administration;]~~

4 ~~[(5) felony offenses under a state or federal statute or regulation involving the~~
5 ~~manufacture, sale, finance, distribution, repair, salvage, or demolition, of motor vehicles;]~~

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

8 ~~[(7) offenses committed while engaged in a licensed activity or on licensed premises;]~~

9 ~~[(8) felony offenses involving the possession, manufacture, delivery, or intent to deliver~~
10 ~~controlled substances, simulated controlled substances, dangerous drugs, or engaging in an organized~~
11 ~~criminal activity;]~~

12 ~~[(9) felony offenses against real or personal property belonging to another;]~~

13 ~~[(10) offenses involving the sale or disposition of another person's real or personal~~
14 ~~property;]~~

15 ~~[(11) a reportable felony offense conviction under Chapter 62, Texas Code of Criminal~~
16 ~~Procedure for which the person must register as a sex offender;]~~

17 ~~[(12) an offense against the family as described by Penal Code §§25.02, 25.07, 25.072,~~
18 ~~or 25.11;]~~

19 ~~[(13) felony offenses against the person;]~~

1 ~~[(14) a felony stalking offense as described by Penal Code §42.072;]~~

2 ~~[(15) a felony offense against public order and decency as described by Penal Code~~

3 ~~§§43.24, 43.25, 43.251, 43.26, 43.261, or 43.262; and]~~

4 ~~[(16) offenses of attempting or conspiring to commit any of the foregoing offenses~~

5 ~~applicable to the license type].~~

6 ~~[(e) When determining a person's present fitness for a license, the department shall also~~

7 ~~consider the following evidence:]~~

8 ~~[(1) the extent and nature of the person's past criminal activity;]~~

9 ~~[(2) the age of the person when the crime was committed;]~~

10 ~~[(3) the amount of time that has elapsed since the person's last criminal activity;]~~

11 ~~[(4) the conduct and work activity of the person before and after the criminal activity;]~~

12 ~~[(5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or~~

13 ~~after release;]~~

14 ~~[(6) evidence of the person's compliance with any conditions of community supervision,~~

15 ~~parole, or mandatory supervision; and]~~

16 ~~[(7) other evidence of the person's present fitness, including letters of~~

17 ~~recommendation.]~~

18 ~~[(f) It is the person's responsibility to obtain and provide to the licensing authority evidence~~

19 ~~regarding the factors listed in subsection (e) of this section.]~~

~~[§211.4. Imprisonment.]~~

~~[(a) Section 211.3 of this Chapter does not apply to persons who are imprisoned at the time the department considers the conviction.]~~

~~[(b) The department shall revoke a license upon the imprisonment of a license holder following a felony conviction or revocation or felony community supervision, parole, or mandatory supervision.]~~

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

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

~~[§211.5. 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.]~~

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

3
4 ~~[\$211.6. Fingerprint Requirements for Designated License Types.]~~

5 ~~[(a) The requirements of this section apply to applicants for and holders of license types~~
6 ~~designated in Chapter 215 or Chapter 221 of this title as requiring fingerprints for licensure.]~~

7 ~~[(b) Unless previously submitted for an active license issued by the department, the following~~
8 ~~persons may be required to submit a complete and acceptable set of fingerprints to the Texas~~
9 ~~Department of Public Safety and pay required fees for purposes of obtaining criminal history record~~
10 ~~information from the Texas Department of Public Safety and the Federal Bureau of Investigation:]~~

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

13 ~~[(2) a person acting in a representative capacity for an applicant or license holder who is~~
14 ~~required to be listed on a licensing application, including an officer, director, member, manager, trustee,~~
15 ~~partner, principal, or manager of business affairs.]~~

16 ~~[(c) After reviewing a licensure application and licensing records, the department will notify the~~
17 ~~applicant or license holder which persons in subsection (b) of this section are required to submit~~
18 ~~fingerprints to the Texas Department of Public Safety.]~~

19
20 **SUBCHAPTER B. CRIMINAL HISTORY EVALUATION GUIDELINES AND PROCEDURES**

43 TAC §§211.10-211.13

STATUTORY AUTHORITY. The department proposes new sections to Chapter 211 under 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, §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, to revoke or suspend a license, to place on 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. 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.

1 (c) The list of offenses in this subsection is intended to provide guidance only and is not
2 exhaustive of the offenses that may relate to a particular regulated occupation. After due consideration
3 of the circumstances of the criminal act and its relationship to the position of trust involved in the
4 particular licensed occupation, the department may find that an offense not described below also
5 renders a person unfit to hold a license based on the criteria listed in Occupations Code, §53.022.

6 (1) the following offenses apply to all license types:

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

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

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

15 (D) felony offenses against public administration;

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

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

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

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

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

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

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

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

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

16 (D) an offense against the family as described by Penal Code, §§25.02, 25.04,
17 25.07, 25.072, 25.08, or 25.11;

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

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

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

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

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

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

11 (1) the extent and nature of the person's past criminal activity;

12 (2) the age of the person when the crime was committed;

13 (3) the amount of time that has elapsed since the person's last criminal activity;

14 (4) the conduct and work activity of the person before and after the criminal activity;

15 (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or
16 after release;

17 (6) evidence of the person's compliance with any conditions of community supervision,
18 parole, or mandatory supervision; and

19 (7) other evidence of the person's present fitness, including letters of recommendation.

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

3
4 §211.11. Imprisonment.

5 (a) The department shall deny a license application if the applicant or a person described by
6 §211.2(a)(2) of this chapter (relating to Application of Chapter) is imprisoned while a new or renewal
7 license application is pending.

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

9 (1) felony conviction for:

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

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

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

15 (2) felony community supervision revocation;

16 (3) revocation of parole; or

17 (4) revocation of mandatory supervision.

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

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

7
8 §211.12. Criminal History Evaluation Letters.

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

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

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

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

16
17 §211.13. Fingerprint Requirements for Designated License Types.

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

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

8 (1) a person, including an owner, member, partner, or trust beneficiary, applying for a
9 new license, license amendment due to change in ownership, or license renewal; and

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

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