

1 fraud related to auction and other consignment sales and to eliminate any unnecessary operational or
2 cost impacts to license holders. The effective date for this proposed rule would be July 1, 2025.

3 **EXPLANATION.**

4 Proposed new §215.163 would address how a license holder must handle a license plate or set
5 of license plates for motor vehicles sold at auction or on consignment. Proposed new §215.163 is
6 necessary to clarify license plate disposition and the reporting responsibilities of a dealer and a
7 wholesale motor vehicle auction general distinguishing number (GDN) holder when offering a motor
8 vehicle for sale at a wholesale auction, and to clarify a dealer's responsibilities when offering a motor
9 vehicle with an assigned license plate or set of license plates for sale at auction or on consignment at the
10 dealer's licensed location consistent with the requirements of Transportation Code, §503.063 and
11 §504.901 effective July 1, 2025. This proposed rule will also align license plate transfer requirements in
12 the auction and consignment contexts with the amended rules regarding license plate transfers that the
13 department adopted in October 2024 to implement HB 718; those amended rules will become effective
14 July 1, 2025.

15 Proposed new §215.163(a) would address license plate disposition requirements for motor
16 vehicles offered for sale at a wholesale motor vehicle auction, in which only dealers are allowed to
17 purchase a motor vehicle under Transportation Code, §503.037. The only exception allowed under
18 Transportation Code, §503.037(d) is for the sale of a vehicle owned by a state or federal government
19 entity, and such a motor vehicle typically has an exempt license plate which does not transfer with the
20 motor vehicle. Proposed new §215.163(a)(1) would require a wholesale motor vehicle auction GDN holder
21 that receives a motor vehicle on consignment from a person who is not a GDN holder to remove and mark
22 any license plate with the vehicle as void; destroy, recycle, or return any license plate as required under
23 adopted amended 43 TAC §215.158 (relating to General Requirements for Buyer's License Plates); and

1 update the license plate database to notify the department of the auction sale. Proposed new
2 §215.163(a)(2) would require a GDN dealer that consigns or delivers a motor vehicle from the GDN
3 dealer's inventory for sale at a wholesale auction to remove and mark the vehicle's license plate or set of
4 license plates as void; destroy, recycle, or return any license plate as required under adopted amended
5 43 TAC §215.158 (relating to General Requirements for Buyer's License Plates); and update the license
6 plate database. Proposed new §215.163(a) is necessary to prevent Texas license plates from being
7 distributed out-of-state or exported and used fraudulently. These proposed provisions are also consistent
8 with Transportation Code, §503.063 and §504.901 as amended by HB 718, because a retail buyer may not
9 purchase a motor vehicle at a wholesale motor vehicle auction with an assigned general issue license
10 plate, so the cost and delay associated with securely maintaining and transferring an assigned license
11 plate with the vehicle are unnecessary.

12 Proposed new §215.163(b) would define a dealer's license plate disposition responsibilities if a
13 motor vehicle is sold at a public auction, at which members of the public can bid on and purchase a motor
14 vehicle. Proposed new §215.163(b) closely aligns with the more general rules the department has already
15 adopted for license plate disposition in sales by a dealer to a member of the public, requiring general issue
16 license plates to be removed, securely stored, and reassigned to the buyer except in certain circumstances
17 where destruction of the plates is necessary to reduce the opportunity for fraud. If a dealer offers a motor
18 vehicle from the dealer's inventory or a vehicle consigned to the dealer for sale at a public auction, the
19 dealer is required to maintain any license plate assigned to the vehicle in a secure storage area as required
20 in adopted amended 43 TAC §215.150(f) (relating to Dealer Authorization to Issue License Plates) until the
21 motor vehicle is sold. If the purchaser is a Texas retail buyer, the dealer must securely transfer the license
22 plates to the purchaser and update the license plate database unless the buyer has a specialty
23 personalized or other qualifying license plate to transfer, consistent with adopted amended 43 TAC

1 §215.151 (relating to License Plate General Use Requirements). If the purchaser at the public auction is a
2 dealer, export buyer, or out-of-state buyer, the selling dealer must mark any license plate previously
3 assigned to the vehicle as void; destroy, recycle, or return the license plate as required in adopted
4 amended 43 TAC §215.158 (relating to General Requirements for Buyer's License Plates); and update the
5 license plate database. Additionally, if the purchaser at an auction is an out-of-state buyer, the dealer may
6 only issue a buyer's temporary license plate if the buyer requires this license plate to transport the vehicle
7 to another state in accordance with Transportation Code, §503.063, as amended by HB 718, and with
8 adopted amended 43 TAC §215.150(c) (relating to Dealer Authorization to Issue License Plates). Proposed
9 new §215.163(b) is necessary to clarify license plate disposition for different types of sales that can occur
10 at a public auction and to minimize potential fraud or misuse of license plates that may occur, consistent
11 with the requirements of Transportation Code, §503.063 and §504.901, as amended by HB 718, and of
12 adopted amended 43 TAC §§215.150, 215.151, and 215.158.

13 Proposed new §215.163(c) would implement dealer requirements for other types of consignment
14 sales which occur at a dealer's licensed location and not at auction. Proposed new §215.163(c) is
15 necessary to address license plate disposition for other types of consignment sales and to minimize
16 potential fraud or misuse of license plates, consistent with the requirements of Transportation Code,
17 §503.063 and §504.901, as amended by HB 718, and the requirements of the department's adopted
18 amended rules implementing HB 718. Proposed new §215.163(c)(1) would require a dealer to remove
19 and securely store any license plate during the period of consignment at the licensed location, to align
20 with adopted amended 43 TAC §215.150(f) (relating to Dealer Authorization to Issue License Plates).
21 Proposed new §215.163(c)(1) would further clarify that a dealer may use its dealer's temporary license
22 plate to demonstrate the consigned vehicle to a potential purchaser, in accordance with adopted
23 amended 43 TAC §215.138 (relating to Use of Dealer's License Plates).

1 Proposed new §215.163(c)(2) would align the requirements for dealer consignment sales with the
2 general license plate disposition requirements in the department’s adopted amended rules implementing
3 HB 718. Proposed new §215.163(c)(2) would require a dealer, upon the sale of a consigned motor vehicle,
4 to provide any assigned license plate to a Texas retail buyer that purchases the vehicle unless the buyer
5 has a specialty personalized or other qualifying license plate to transfer and to update the license plate
6 database, consistent with adopted amended 43 TAC §215.151 (relating to License Plate General Use
7 Requirements). If the vehicle is sold to an out-of-state buyer, for export, or to a Texas dealer, a dealer
8 must mark any license plate as void; destroy, recycle, or return the license plate, as required in adopted
9 amended 43 TAC §215.158 (relating to General Requirements for Buyer’s License Plates); and update the
10 license plate database, as required by adopted amended 43 TAC §215.151 (relating to License Plate
11 General Use Requirements).

12 Proposed new §215.163(c)(3) is necessary to clarify license plate disposition requirements for
13 independent motor vehicle dealers whose business includes the sale of salvage vehicles or total loss
14 vehicles as defined by the applicable insurance contract, and who may receive consignments from non-
15 GDN holders such as insurance or finance companies. In these situations, an independent motor vehicle
16 dealer must remove and mark any license plate as void; destroy, recycle, or return the license plate as
17 required in adopted amended §215.158 (relating to General Requirements for Buyer’s License Plates);
18 and update the license plate database, as required by adopted amended 43 TAC §215.151 (relating to
19 License Plate General Use Requirements). Under Occupations Code, §2302.009, an independent motor
20 vehicle dealer that acts as a salvage vehicle dealer or displays a motor vehicle as an agent of an insurance
21 company must comply with Occupations Code, Chapter 2302, including the requirement to immediately
22 remove any unexpired license plate. Requiring an independent motor vehicle dealer to void, destroy,
23 recycle, or return the license plate as required in adopted amended §215.158 (relating to General

1 Requirements for Buyer’s License Plates) is necessary to reduce the risk of fraud or misuse of the plates,
2 since salvage or total loss vehicles may not be driven on Texas roads. Proposed new §215.163(c) is
3 necessary to minimize potential fraud or misuse of these license plates and is consistent with the
4 requirements of Occupations Code, Chapter 2302, and Transportation Code, §503.063 and §504.901.

5 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
6 has determined that for each year of the first five years the proposed new section will be in effect, there
7 will be no fiscal impact on state or local governments as a result of the enforcement or administration of
8 the proposal. Annette Quintero, Director of the Vehicle Titles and Registration (VTR) Division has
9 determined that there will be no measurable effect on local employment or the local economy as a result
10 of the proposal.

11 **PUBLIC BENEFIT AND COST NOTE.** Ms. Quintero has also determined that, for each year of the first five
12 years the proposed new section is in effect, the public will benefit because of the reduction of Texas
13 license plates leaving Texas, which will reduce the opportunity for bad actors to use these license plates
14 to commit license plate fraud and related crimes. The department prioritized the public benefits
15 associated with reducing fraud and related crime and improving public health and safety, while carefully
16 considering potential costs to license holders consistent with board and department responsibilities.

17 Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include
18 limiting the criminal activity of bad actors who may obtain Texas license plates and sell or provide these
19 license plates to persons seeking to engage in violent criminal activity, including armed robbery, human
20 trafficking, and assaults on law enforcement, or to criminally operate uninsured and uninspected vehicles
21 which are hazardous to Texas motorists and the environment.

22 Anticipated Costs To Comply With The Proposal. Ms. Quintero anticipates that while dealer GDN
23 holders will not incur additional costs to comply with the proposed rule, wholesale motor vehicle auction

1 GDN holders may incur costs to comply with the proposed rule. For dealers, proposed new §215.163 has
2 the same requirements that are already in place under other previously adopted rules or existing statutes
3 and will not impose any new cost requirements.

4 However, this proposal may require wholesale motor vehicle auction GDN holders to make an
5 operational change or incur a cost. The department can estimate certain associated costs. Proposed new
6 §215.163 would require a wholesale motor vehicle auction GDN holder to permanently mark the front of
7 a buyer's license plate with the word "void" or a large "X." Department research suggests that the cost of
8 a permanent marker is \$1.35 per marker. Proposed new §215.163 would also require a wholesale motor
9 vehicle auction GDN holder to destroy a void buyer's license plate, recycle a void plate with a registered
10 metal recycler, or return the void plate to the department, or to a county tax assessor-collector. Aviation
11 tin snips may be used to destroy a void license plate. Department research suggests that the cost of tin
12 snips, which can cut metal, is approximately \$18.50. A motor vehicle auction GDN holder may choose to
13 recycle void license plates. Department research suggests that the cost of doing so through a metal
14 recycler will vary by locality and the availability of local recycling facilities, with some regions benefitting
15 from free curbside-pickup recycling programs and others requiring license holders to expend
16 transportation costs to take the plates to a recycling facility. Department research also suggests that scrap
17 aluminum, such as voided license plates, is currently worth about \$.72 per pound when sold to a metal
18 recycler. Lastly, a motor vehicle auction GDN holder may return a void buyer's license plate to the
19 department, including one of the regional service centers, or a county tax assessor-collector office, or mail
20 a void plate to the department. Department research suggests that a typical average cost to mail a plate
21 is \$9.75. The proposed rule provides a motor vehicle auction GDN holder with multiple options for
22 responsible disposal of void license plates and each license holder may choose which option is least
23 expensive or most convenient based on the license holder's operation. Ms. Quintero has reviewed the

1 department research regarding the cost of marking and the options for destroying, recycling, or returning
2 void license plates and has determined that these costs are reasonable and necessary to reduce the
3 potential for fraudulent plate use and to protect the public, including law enforcement personnel. Indeed,
4 it is possible that many wholesale motor vehicle auction GDN holders will incur no costs as a result of the
5 proposed rule: the wholesale motor vehicle auction GDN holders who commented or provided informal
6 feedback on the draft rule stated that they already have existing systems in place to collect and dispose
7 of license plates and to report vehicle transfers using the currently available web-based tools.

8 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
9 Code, §2006.002, the department has determined that this proposal may have an adverse economic
10 effect or disproportionate economic impact on small or micro-businesses. The department has
11 determined that the proposed rule will not have an adverse economic effect on rural communities
12 because rural communities are exempt from the requirement to hold a GDN under Transportation Code,
13 §503.024.

14 The cost analysis in the Public Benefit and Cost Note section of this proposal determined that the
15 proposed new rule may result in additional costs for existing license holders. Based on data from the
16 Comptroller and the Texas Workforce Commission, the department estimates that most license holders
17 are small or micro-businesses. The department has tried to minimize costs to both wholesale motor
18 vehicle auction and dealer GDN holders. The proposed new requirements are designed to set minimum
19 standards that will prevent license plate fraud, protect public health and safety, and allow these license
20 holders to operate without incurring significant ongoing or unreasonable costs. These requirements do
21 not include requirements that will cause a license holder to incur unnecessary or burdensome costs, such
22 as employing additional persons.

1 Under Government Code, §2006.002, the department must perform a regulatory flexibility
2 analysis. The department considered the alternatives of not adopting a rule, exempting small and micro-
3 business license holders from the rule, and adopting a limited version of this rule for small and micro-
4 business applicants and license holders. The department rejected all three options. The department
5 reviewed licensing records, including records for license holders who have been denied access to the
6 temporary tag system, and determined that small and micro-business license holders are largely the bad
7 actors who have historically perpetrated fraud. The department, after considering the purpose of the
8 authorizing statutes, does not believe it is feasible to waive or limit the requirements of the proposed rule
9 for small or micro-business GDN dealers. Also, Government Code, §2006.002(c-1) does not require the
10 department to consider alternatives that might minimize possible adverse impacts on small businesses
11 and micro-businesses if the alternatives would not be protective of the health and safety of the state.

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

16 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
17 first five years the proposed new section is in effect, no government program would be created or
18 eliminated. Implementation of the proposed new section would not require the creation of new employee
19 positions or the elimination of existing employee positions. Implementation would not require an increase
20 or decrease in future legislative appropriations to the department or an increase or decrease of fees paid
21 to the department. The proposed new section would create a new regulation by creating new §215.163
22 to set out the requirements for plate disposition in the context of motor vehicle sales through auctions
23 and consignments, and would limit an existing regulation by allowing dealers selling vehicles from their

1 inventory at wholesale auction to void and destroy license plates rather than removing, securely storing,
2 and transferring a previously assigned license plate when a motor vehicle is sold to an in-state buyer. The
3 proposed new section would not expand or repeal an existing regulation. Lastly, the proposed new section
4 does not affect the number of individuals subject to the rule's applicability and will not negatively affect
5 this state's economy.

6 **REQUEST FOR PUBLIC COMMENT.**

7 If you want to comment on the proposal, submit your written comments by 5:00 p.m. (CDT or CST, as
8 applicable) on March 31, 2025. A request for a public hearing must be sent separately from your written
9 comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office
10 of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a
11 hearing is held, the department will consider written comments and public testimony presented at the
12 hearing.

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14 **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the
15 department proposes new §215.163 under Occupations Code, §2301.151, which gives the board authority
16 to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is
17 necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the
18 board to establish the qualifications of license holders, to ensure that the distribution, sale, and lease of
19 motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices,
20 discrimination, impositions, and other abuses in connection with the distribution and sale of motor
21 vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code,
22 Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or
23 convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before

1 the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a
2 license, revoke or suspend a license, place on probation a person whose license has been suspended, or
3 reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation,
4 violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds
5 a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Occupations
6 Code, §2302.051, which gives the board authority to adopt rules as necessary to administer and enforce
7 Chapter 2302; Transportation Code, §503.0631 which requires the department to adopt rules to
8 implement and manage the department's database of dealer-issued buyer's license plates; Transportation
9 Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code,
10 Chapter 503; Transportation Code, §504.0011 which allows the board to adopt rules to implement and
11 administer Transportation Code, Chapter 504; Transportation Code, §1002.001, which authorizes the
12 board to adopt rules that are necessary and appropriate to implement the powers and the duties of the
13 department; and Government Code, §2001.004, which requires state agencies to adopt rules of practice
14 stating the nature and requirements of all available formal and informal procedures, as well as the
15 statutes referenced throughout this preamble.

16 **CROSS REFERENCE TO STATUTE.** The proposed new section would implement Government Code, Chapter
17 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 503, 504, and 1002.

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19 **TEXT.**

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

21 **43 TAC §215.163**

22 §215.163. License Plate Disposition for Motor Vehicles Sold at Auction or on Consignment.

23 (a) Wholesale Motor Vehicle Auctions.

1 (1) A wholesale motor vehicle auction GDN holder that receives a consignment and
2 delivery of a motor vehicle from a person who is not a GDN holder for the purpose of sale at auction shall:

3 (A) remove and mark any license plate as void;

4 (B) destroy, recycle, or return any license plate as required in §215.158 of this
5 title (relating to General Requirements for Buyer’s License Plates); and

6 (C) update the license plate database.

7 (2) A GDN dealer that consigns or delivers a motor vehicle from the GDN dealer’s
8 inventory for sale at a wholesale motor vehicle auction shall:

9 (A) remove and mark any license plate as void;

10 (B) destroy, recycle, or return any license plate as required in §215.158 of this
11 title; and

12 (C) update the license plate database.

13 (b) Public Auctions.

14 (1) A dealer shall remove and securely store any assigned license plate, as required under
15 §215.150(f) of this title (relating to Dealer Authorization to Issue License Plates), before offering a
16 consigned motor vehicle for sale at a public auction.

17 (2) If the purchaser at a public auction is a Texas retail buyer, the dealer shall securely
18 transfer the license plates to the purchaser and update the license plate database unless the buyer has a
19 specialty, personalized, or other qualifying license plate to transfer consistent with §215.151 of this title
20 (relating to License Plate General Use Requirements).

21 (3) If the purchaser at the public auction is a dealer, export buyer, or out-of-state buyer,
22 the selling dealer shall:

23 (A) mark any license plate previously issued to the vehicle as void;

1 (B) destroy, recycle, or return the license plate as required in §215.158 of this
2 title; and

3 (C) update the license plate database.

4 (4) Notwithstanding §215.150(c) of this title, if the purchaser at a public auction is an out-
5 of-state buyer, the dealer shall issue a buyer’s temporary license plate only if the buyer requires this
6 license plate to transport the vehicle to another state in which the vehicle will be titled and registered in
7 accordance with the laws of that state.

8 (c) Other Consignment Sales.

9 (1) A dealer shall remove and securely store any license plates during the period of
10 consignment at the dealer’s licensed location, as required under §215.150(f) of this title, when offering
11 for sale a consigned motor vehicle owned by a person who is not a GDN holder. The dealer to which the
12 vehicle is consigned may use its dealer’s temporary license plate to demonstrate the consigned motor
13 vehicle to a potential purchaser.

14 (2) Upon the sale of a consigned motor vehicle owned by a person who is not a GDN
15 holder, the dealer shall:

16 (A) provide any issued license plate to a Texas retail buyer that purchases the
17 vehicle unless the buyer has a specialty, personalized, or other qualifying license plate to transfer
18 consistent with §215.151 of this title and update the license plate database; or

19 (B) if the vehicle is sold to an out-of-state buyer, for export, or to a Texas dealer:

20 (i) mark any license plate previously issued to the vehicle as void;

21 (ii) destroy, recycle, or return the license plate as required in §215.158 of
22 this title; and

23 (iii) update the license plate database.

1 (3) An independent motor vehicle dealer who receives consignment and delivery of a
2 salvage vehicle or total loss vehicle (as defined by the applicable insurance contract) for sale from a person
3 who is not a GDN holder shall:

4 (A) remove and mark any license plate previously issued to the vehicle as void;

5 (B) destroy, recycle, or return the license plate as required in §215.158 of this
6 title; and

7 (C) update the license plate database.

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