

1                                   **PROPOSAL OF**

2                                   **SUBCHAPTER H. RISK-BASED MONITORING AND PREVENTING FRAUDULENT ACTIVITY**

3                                   **43 TAC §206.151**

4     **INTRODUCTION.** The Texas Department of Motor Vehicles (department) proposes new 43 TAC §206.151,  
5 concerning an internal risk-based system of monitoring and preventing fraudulent activity related to  
6 vehicle registration and titling in order to efficiently allocate resources and personnel. The new section is  
7 necessary to implement Transportation Code §520.004(4) as added by Senate Bill 604, 86th Legislature,  
8 Regular Session (2019).

9             This proposal addresses risk based monitoring of department operations, including regional  
10 services centers. The department has also proposed new 43 TAC §223.101 concerning the risk based  
11 monitoring of external persons in this issue of the *Texas Register*.

12     **EXPLANATION.** Proposed §206.151 is necessary under Transportation Code §520.004(4), as enacted in SB  
13 604. Transportation Code §520.004(4) requires the department, by rule, to establish a risk-based system  
14 of monitoring and preventing fraudulent activity related to vehicle registration and titling in order to  
15 efficiently allocate resources and personnel. The requirement is included within Sunset Advisory  
16 Commission's Change in Statute Recommendation 2.4, as stated in the Sunset Staff Report with  
17 Commission Decisions, 2018-2019, 86th Legislature (2019). The Sunset recommendation envisioned that  
18 the department develop criteria to determine varying risk levels, such as transaction volume and past  
19 violations, to strategically allocate resources and personnel. Further, monitoring and investigation would  
20 extend both to counties and their contractors, dealers, and the department's regional service centers.

21             To implement Transportation Code §520.004(4) in line with the Sunset recommendation, the  
22 department has developed internal and external risk-based monitoring systems. The internal system is  
23 overseen through department management and the Internal Audit Division. The external system is

1 overseen through by the department's Compliance and Investigations Division. Each system rule is placed  
2 in its appropriate chapter based on its focus.

3 Proposed new §206.151 outlines the program generally, to allow flexibility for change over time  
4 and because detailed disclosure of the of the means and methods that the department's system could be  
5 used to evade the monitoring. The monitoring system does not add additional requirements or costs on  
6 any regulated person.

7 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,  
8 has determined that for each year of the first five years the proposed new section will be in effect, there  
9 will be no fiscal impact to state or local governments as a result of the enforcement or administration of  
10 the proposal. Sandra Menjivar-Suddeath, Director of the Internal Audit Division, has determined that  
11 there will be no measurable effect on local employment or the local economy as a result of the proposal.

12 **PUBLIC BENEFIT AND COST NOTE.** Ms. Menjivar-Suddeath has also determined that, for each year of the  
13 first five years the proposed new section is in effect, the public benefits include establishing a risk-based  
14 system of monitoring and preventing fraudulent activity related to vehicle registration and titling in order  
15 to efficiently allocate resources and personnel.

16 Ms. Menjivar-Suddeath anticipates that there will be no additional costs on regulated persons to  
17 comply with these rules, because the rules do not establish any additional requirements on regulated  
18 person.

19 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government  
20 Code, §2006.002, the department has determined that the proposed new section will not have an adverse  
21 economic effect on small businesses, micro-businesses, or rural communities because the proposal  
22 imposes no additional requirements, and has no financial effect, on any small businesses, micro-

1 businesses, or rural communities. Therefore, the department is not required to prepare a regulatory  
2 flexibility analysis under Government Code §2006.002.

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

7 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first  
8 five years the proposed new section is in effect, the proposed rule:

9 --will not create or eliminate a government program;

10 --will not require the creation of new employee positions or the elimination of existing employee  
11 positions;

12 --will not require an increase or decrease in future legislative appropriations to the department;

13 --will not require an increase or decrease in fees paid to the department;

14 --will create new regulation §206.151 to implement Transportation Code §520.004(4);

15 --will not expand existing regulations;

16 --will not repeal existing regulations;

17 --will not increase or decrease the number of individuals subject to the rule's applicability; and

18 --will not positively or adversely affect the Texas economy.

19 **REQUEST FOR PUBLIC COMMENT.**

20 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on September  
21 21, 2020. A request for a public hearing must be sent separately from your written comments. Send  
22 written comments or hearing requests by email to [rules@txdmv.gov](mailto:rules@txdmv.gov) or by mail to Office of General

1 Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is  
2 held, the department will consider written comments and public testimony presented at the hearing.

3 **STATUTORY AUTHORITY.** The department proposes new section to §206.151 under Transportation Code  
4 §§520.003, 520.004, and §1002.001.

5 --Transportation Code §520.003 authorizes the department to adopt rules to administer Transportation  
6 Code Chapter 520.

7 --Transportation Code §520.004 requires the department to establish by rule a risk-based system of  
8 monitoring and preventing fraudulent activity related to vehicle registration and titling in order to  
9 efficiently allocate resources and personnel.

10 --Transportation Code §1002.001, authorizes the board to adopt rules that are necessary and appropriate  
11 to implement the powers and the duties of the department.

12 **CROSS REFERENCE TO STATUTE.** Transportation Code §520.004.

13 **TEXT.**

14 **SUBCHAPTER H. RISK-BASED MONITORING AND PREVENTING FRAUDULENT ACTIVITY**

15 **43 TAC §206.151**

16 §206.151. Internal Risk-Based Monitoring System.

17 The department shall establish a risk-based system of monitoring and preventing fraudulent  
18 activity related to vehicle registration and titling in order to efficiently allocate resources and personnel,

19 including:

20 (1) establishing a risk-based system of monitoring the department's regional service  
21 centers;

22 (2) developing criteria to determine varying risk levels for the department's internal fraud  
23 monitoring functions to strategically allocate resources and personnel;

1                    (3) reviewing the department's methods for collecting and evaluating related  
2 information; and

3                    (4) developing and providing training to department staff.

4 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be  
5 within the state agency's legal authority to adopt.

6                    Issued at Austin, Texas, on August 7, 2020.

7                    /s/ Tracey Beaver  
8 Tracey Beaver, General Counsel

DRAFT