

1 **PROPOSAL OF**

2 **SUBCHAPTER B. PAYMENT OF FEES FOR DEPARTMENT GOODS AND SERVICES**

3 **43 TAC §209.23**

4 **INTRODUCTION.** The Texas Department of Motor Vehicles (the department) proposes an amendment to  
5 Title 43 TAC §209.23, concerning payment of fees for department goods and services. The amendment is  
6 necessary to conform §209.23 to proposed amendments to Title 43 TAC §219.11, which is also proposed  
7 in this issue of the *Texas Register*.

8 **EXPLANATION.**

9 The proposed amendment to §209.23 is necessary to remove unnecessary citations to statutes  
10 and to conform §209.23 to proposed amendments to Title 43 TAC §219.11, which is also proposed in this  
11 issue of the *Texas Register*. Amendments to §219.11(f)(1)(A) and (B) are proposed to remove two escrow  
12 account payment methods for purchasing oversize/overweight permits in order to streamline department  
13 processes to improve program efficiency.

14 The proposed amendment to §209.23 deletes most of the language regarding the use of escrow  
15 accounts, including use of permit account cards for payment for oversize overweight vehicle permits. The  
16 amendment removes unnecessary citations to statutes and conforms §209.23 to the proposed  
17 amendments to §219.11(f)(1)(A) and (B), which remove escrow accounts as an acceptable payment  
18 method for oversize/overweight permits.

19 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,  
20 has determined that for each year of the first five years the amendment will be in effect, there will be no  
21 fiscal impact to state or local governments as a result of the enforcement or administration of the  
22 proposal. Jimmy Archer, Director of the Motor Carrier Division, has determined that there will be no  
23 measurable effect on local employment or the local economy as a result of the proposal.

1 **PUBLIC BENEFIT AND COST NOTE.** Mr. Archer has also determined that, for each year of the first five years  
2 the amended section is in effect, there is an anticipated public benefit because the amendment conforms  
3 §209.23 to proposed amendments to §219.11.

4 Mr. Archer also anticipates that regulated persons will incur no additional costs to comply with  
5 the proposed rule because the amendment conforms §209.23 to the proposed amendments in §219.11.

6 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government  
7 Code §2006.002, the department has determined that the proposed amendment will not have an adverse  
8 economic effect on small businesses, micro-business, and rural communities because it conforms §209.23  
9 to the proposed amendments in §219.11 and does not add additional requirements to regulated persons.  
10 Therefore, the department is not required to prepare a regulatory flexibility analysis under Government  
11 Code §2006.002.

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 the Government Code §2007.043.

16 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the  
17 first five years the proposed amendment is in effect, the proposed rule:

- 18 will not create or eliminate a government program;
- 19 will not require the creation of new employee positions or the elimination of existing employee  
20 positions;
- 21 will not require an increase or decrease in future legislative appropriations to the department;
- 22 will not require an increase or decrease in fees paid to the department;
- 23 will not create new regulations;

- 1 will not expand existing regulations;
- 2 will repeal existing regulations to conform with §219.11;
- 3 will not increase or decrease the number of individuals subject to the rule's applicability; and
- 4 will not positively or adversely affect the Texas economy.

5 **REQUEST FOR PUBLIC COMMENT.**

6 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on September  
7 21, 2020. A request for a public hearing must be sent separately from your written comments. Send  
8 written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General  
9 Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is  
10 held, the department will consider written comments and public testimony presented at the hearing.

11 **STATUTORY AUTHORITY.** The department proposes an amendment to §209.23 under Transportation  
12 Code §1001.009 and §1002.001.

13 Transportation Code §1001.009 authorizes the Board of the Texas Department of Motor Vehicles  
14 (board) to adopt rules regarding the method of collection of a fee for any goods or services provided by  
15 the department. Transportation Code §1002.001 authorizes the board to adopt rules that are necessary  
16 and appropriate to implement the powers and the duties of the department under the Transportation  
17 Code.

18 **CROSS REFERENCE TO STATUTE.** Transportation Code Chapters 502, 621, 622, 623, 643, and 645.

19 **TEXT.**

20 **SUBCHAPTER B. PAYMENT OF FEES FOR DEPARTMENT GOODS AND SERVICES**

21 **43 TAC §209.23**

22 §209.23. Methods of Payment.

23 (a) All fees for department goods and services and any fees required in the administration of any

1 department program shall be paid to the department with a method of payment accepted by the  
2 department at the point of sale, which may be:

3 (1) a valid debit or credit card, approved by the department, and issued by a financial  
4 institution chartered by a state or the United States, or a nationally recognized credit organization;

5 (2) electronic funds transfer;

6 (3) a personal check, business check, cashier's check, or money order, payable to the  
7 Texas Department of Motor Vehicles, except that a personal or business check is not an acceptable  
8 method of payment of fees under Transportation Code, §502.094;

9 (4) cash in United States currency, paid in person; or

10 (5) by an escrow account, established with the department for the specific purpose of  
11 paying fees [~~required by Transportation Code, Chapters 502, 621, 622, 623, 643, or 645. Use of an escrow~~  
12 ~~account includes use of a Permit Account Card (PAC) for payment of Oversize/Overweight vehicle permit~~  
13 ~~fees, as authorized by §219.11(f)(1)(A) of this title (relating to General Oversize/Overweight Permit~~  
14 ~~Requirements and Procedures)].~~

15 (b) Persons paying the department by credit card or Automated Clearing House (ACH) shall pay  
16 any applicable service charge per transaction.

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

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

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/s/ Tracey Beaver  
Tracey Beaver, General Counsel