

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 §223.101 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. Timothy Menke, Director of the Compliance and Investigations Division, has determined
11 that there will be no measurable effect on local employment or the local economy as a result of the
12 proposal.

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

17 Mr. Menke anticipates that there will be no additional costs on regulated persons to comply with
18 these rules, because the rules do not establish any additional requirements on regulated 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 §223.101 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 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 §223.101 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 B. RISK-BASED MONITORING AND PREVENTING FRAUDULENT ACTIVITY**

15 **43 TAC §223.101**

16 §223.101. External Risk-Based Monitoring System.

17 The department's Compliance and Investigations Division shall establish a risk-based system of
18 monitoring and preventing fraudulent activity related to vehicle registration and titling in order to
19 efficiently allocate resources and personnel, including:

20 (1) establishing a risk-based system of monitoring counties and their contractors;

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

- 1 (3) reviewing the department's methods for collecting and evaluating related
2 information, including the viability of incorporating more remote transaction review practices to
3 supplement periodic, but less frequent, on-site visits to counties; and
4 (4) developing and providing training to fraud investigations staff.

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

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

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

DRAFT