



Texas Department *of* Motor Vehicles
HELPING TEXANS GO. HELPING TEXAS GROW.

Customer Service and Protection Advisory Committee

1:00 P.M.
Tuesday, September 19, 2023

Contents

These proposed rules are the product of the department's review of 43 Texas Administrative Code (TAC) Chapters 206, 215 and 221. The current text of those chapters is available [here](#).

The following denotes new language, ~~[repealed or amended language]~~, and **highlights** indicate we are seeking feedback from a variety of sources.

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AGENDA
CUSTOMER SERVICE AND PROTECTION ADVISORY COMMITTEE MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
4000 JACKSON AVE., BUILDING 1, LONE STAR CONFERENCE ROOM
AUSTIN, TEXAS 78731
OPEN MEETING VIA
TELECONFERENCE CALL
PURSUANT TO GOVERNMENT CODE §551.125
TUESDAY, SEPTEMBER 19, 2023
1:00 P.M.

THIS MEETING WILL BE HELD REMOTELY VIA TELECONFERENCE CALL

The physical location of the meeting will be the Lone Star Conference Room of Building 1, 4000 Jackson Avenue, Austin, Texas 78731, where the teleconference call will be audible to the public.

Teleconference Instructions:

Attendee Join Link:

<https://texasdmv.webex.com/texasdmv/j.php?MTID=m0a815894f42198d08c2fcbc37a7f163e>

Webinar number:

2632 846 9522

Webinar password:

CSPAC (27722 from phones and video systems)

Phone number for accessing the meeting via phone:

United States Toll Free: 1-650-479-3208 United States Toll

Access code: 263 284 69522

Link to September 19, 2023, TxDMV Customer Service and Protection Committee Meeting Documents: <https://www.txdmv.gov/about-us/txdmv-board-meetings>

All agenda items are subject to possible discussion, questions, consideration, and action by the Customer Service and Protection Advisory Committee of the Texas Department of Motor Vehicles (Advisory Committee). Agenda item numbers are assigned for ease of reference only and do not necessarily reflect the order of consideration by the Advisory Committee. A quorum of the Board of the Texas Department of Motor Vehicles (board) may be present at this meeting for information-gathering purposes and discussion. However, board members will not vote on any Advisory Committee agenda items, nor will any board action be taken.

1. CALL TO ORDER

- A. Roll Call and Establishment of Quorum

2. DISCUSSION, BRIEFING, AND ACTION ITEMS

- A. Consider Amendments to 43 Texas Administrative Code (TAC) Chapters 206, Management; 215, Motor Vehicle Distribution; 221, Salvage Vehicle Dealers; and New 43 TAC Chapter 224, Adjudicative Practice and Procedure - Katie Drummond and Corrie Thompson (BRIEFING AND DISCUSSION ONLY)
- B. Recommendations of Advisory Committee on Amendments to 43 TAC Chapters 206, Management; 215, Motor Vehicle Distribution; 221, Salvage Vehicle Dealers; and New 43 TAC Chapter 224, Adjudicative Practice and Procedure; for Presentation to the Board - Presiding Officer (DISCUSSION AND ACTION ITEM)

3. PUBLIC COMMENT**4. ADJOURNMENT**

The Advisory Committee will allow an open comment period to receive public comment on any agenda item or other matter that is under the jurisdiction of the Advisory Committee. No action will be taken on matters that are not otherwise part of the agenda for the meeting. For subjects that are not otherwise part of the agenda for the meeting, Advisory Committee members may respond in accordance with Government Code Section 551.042 and consider referring the matter to the board.

If you want to comment on any agenda item (including an open comment under the agenda Item for Public Comment), you must complete a speaker's form at the registration table prior to the agenda item being taken up by the Advisory Committee or send an email to GCO_General@txdmv.gov to register by providing the required information prior to the agenda item being taken up by the Advisory Committee:

- 1. a completed [Public Comment Registration Form](#); or
- 2. the following information:
 - a. the agenda item you wish to comment on;
 - b. your name;
 - c. your address (optional), including your city, state, and zip code; and
 - d. who you are representing.

Public comment will only be accepted in person. You must wait for the presiding officer to call on you before you verbally make your comment. Each speaker will be limited to

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three minutes, and time allotted to one speaker may not be reassigned to another speaker.

Agenda items may be presented by the named presenters or other Advisory Committee members.

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than two days in advance, so that appropriate arrangements can be made. Contact Carrie Fortner by telephone at (512) 465-3044.

I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements.

CERTIFYING OFFICIAL: Laura Moriaty, General Counsel, (512) 465-5665.

1 **TEXT.**

2 **SUBCHAPTER A. ORGANIZATION AND RESPONSIBILITIES**

3 206.1. Delegation.

4 The Board of the Texas Department of Motor Vehicles (board) may, consistent with applicable
5 law, delegate any agency function to the executive director. The executive director may ~~[further]~~
6 delegate duties pursuant to Transportation Code §1001.0411 ~~[such functions to one or more employees~~
7 ~~of the department]~~.

8
9 206.2. Texas Department of Motor Vehicles.

10 (a) Executive director.

11 (1) To assist in discharging the duties and responsibilities of the executive director, the
12 executive director may organize, appoint, and retain administrative staff.

13 (2) The executive director shall:

14 (A) serve the board in an advisory capacity, without vote;

15 (B) submit to the board quarterly, annually, and biennially, detailed reports of
16 the progress of the divisions and a detailed statement of expenditures;

17 (C) hire, promote, assign, reassign, transfer, and, consistent with applicable law
18 and policy, terminate staff necessary to accomplish the roles and missions of the department;

19 (D) hire and oversee a general counsel to advise the department; and

20 (E) perform other responsibilities as required by law or assigned by the board.

21 (3) The executive director may, consistent with applicable law, delegate one or more of
22 the functions listed under paragraph (2) (A), (B), (C), and (E) ~~[(D)]~~ of this subsection to the staff of the
23 department.

1 (b) Department staff. The staff of the department, under the direction of the executive director,
2 is responsible for:

3 (1) implementing the policies and programs of the board by:

4 (A) formulating and applying operating procedures; and

5 (B) prescribing such other operating policies and procedures as may be
6 consistent with and in furtherance of the roles and missions of the department;

7 (2) providing the chair and board members administrative support necessary to perform
8 their respective duties and responsibilities;

9 (3) preparing an agenda under the direction of the chair and providing notice of board
10 meetings and hearings as required by the Texas Open Meetings Act, Government Code, Chapter 551;
11 and

12 (4) performing all other duties as prescribed by law or as assigned by the board.

13 (c) Divisions. The executive director shall organize the department into divisions reflecting the
14 various functions and duties assigned to the department.

15

1 **TEXT.**

2 **SUBCHAPTER B. PUBLIC MEETINGS AND HEARINGS**

3 206.22. Public Access to Board Meetings.

4 (a) Posted agenda items. A person may speak before the board on any matter on a posted
5 agenda by submitting a request, in a form and manner as prescribed by the department, prior to the
6 matter being taken up by the board. A person speaking before the board on an agenda item will be
7 allowed an opportunity to speak:

8 (1) prior to a vote by the board on the item; and

9 (2) for a maximum of three minutes, except as provided in subsections (d)(6), (e), and (f)
10 of this section.

11 (b) Open comment period.

12 (1) At the conclusion of the posted agenda of each regular business meeting, the board
13 shall allow an open comment period [~~, not to exceed one hour,~~] to receive public comment on any other
14 matter that is under the jurisdiction of the board.

15 (2) A person desiring to appear under this subsection shall complete a registration form,
16 as provided by the department, prior to the beginning of the open comment period.

17 (3) Except as provided in subsections (d)(6) and (e) of this section, each person shall be
18 allowed to speak for a maximum of three minutes for each presentation in the order in which the
19 speaker is registered.

20 (c) Disability accommodation. Persons with disabilities, who have special communication or
21 accommodation needs and who plan to attend a meeting, may contact the department in Austin to
22 request auxiliary aids or services. Requests shall be made at least two days before a meeting. The
23 department shall make every reasonable effort to accommodate these needs.

1 (d) Conduct and decorum. The board shall receive public input as authorized by this section,
2 subject to the following guidelines.

3 (1) Questioning of those making presentations shall be reserved to board members and
4 the department's administrative staff.

5 (2) Organizations, associations, or groups are encouraged to present their commonly
6 held views, and same or similar comments, through a representative member where possible.

7 (3) Presentations shall remain pertinent to the issue being discussed.

8 (4) A person who disrupts a meeting shall leave the meeting room and the premises if
9 ordered to do so by the chair.

10 (5) Time allotted to one speaker may not be reassigned to another speaker.

11 (6) The time allotted for presentations or comments under this section may be
12 increased or decreased by the chair, or in the chair's absence, the vice chair, as may be appropriate to
13 assure opportunity for the maximum number of persons to appear.

14 (e) Waiver. Subject to the approval of the chair, a requirement of this section may be waived in
15 the public interest if necessary for the performance of the responsibilities of the board or the
16 department.

1 TEXT.

2 **[SUBCHAPTER D. PROCEDURES IN CONTESTED CASES]**

3 ~~[206.61. Scope and Purpose.~~

4 This subchapter describes the procedures to be followed in contested cases arising under Government
5 Code, Chapter 2001. Contested cases shall be governed by the procedural rules of the State Office of
6 Administrative Hearings.]

7
8 ~~[206.62. Definitions.~~

9 The following words and terms, when used in this subchapter, shall have the following meanings,
10 unless the context clearly indicates otherwise.

11 _____ (1) Administrative Law Judge—A person appointed by the State Office of Administrative
12 Hearings to conduct a hearing on matters within the department's jurisdiction.

13 _____ (2) Claim—A claim made pursuant to Occupations Code, Chapter 2302, Salvage Vehicle
14 Dealers; Transportation Code, §681.012, Seizure and Revocation of Placard; Transportation Code,
15 Chapter 643, Motor Carrier and Leasing Company Registration; and Transportation Code, Chapter 645,
16 Single State Registration for Motor Carriers.

17 _____ (3) Department—The Texas Department of Motor Vehicles.

18 _____ (4) Executive director—The chief administrative officer of the department or, if permitted
19 by law, the director's designee.

20 _____ (5) Party—The department or a person named or permitted to participate in a contested
21 case.

1 ~~_____ (6) Petition--The document that initiates a contested case.~~

2 ~~_____ (7) Petitioner--A party who files a petition.]~~

3

4 ~~[206.63. Filing of Petition--~~

5 ~~An individual, representative, partnership, corporation, association, governmental subdivision, or public~~

6 ~~or private organization, the department, or any other entity may seek to initiate a contested case by~~

7 ~~filing an original, and one copy of a petition, with the executive director at the department's~~

8 ~~headquarters building in Austin.]~~

9

10 ~~[206.64. Content of Petition--~~

11 ~~(a) A petition must include:~~

12 ~~_____ (1) the name of the petitioner;~~

13 ~~_____ (2) the names of all other known persons with an interest in the outcome of the~~

14 ~~contested case;~~

15 ~~_____ (3) a concise statement of the facts on which the petitioner relies, including as an~~

16 ~~attachment, if applicable, the document issued by the department that notified the petitioner of the~~

17 ~~decision or action challenged by the petitioner;~~

18 ~~_____ (4) a statement of the relief demanded by the petitioner;~~

19 ~~_____ (5) any other matter required by statute;~~

20 ~~_____ (6) the signature of the petitioner or the petitioner's authorized representative; and~~

_____ (7) a department reference number, if applicable.

(b) No document including a settlement offer by a party may be enclosed with the petition, and the petition may not refer to the substance of a settlement offer][206.65. Examination by Executive Director.

(a) The executive director will examine a petition and make a preliminary determination whether the petition states a claim that entitles the petitioner to initiate a contested case and whether the petition meets the procedural requirements of §206.63 and §206.64 of this subchapter (relating to Filing of Petition and Content of Petition) and of Government Code, Chapter 2001.

(b) If the executive director finds that the petition does not meet all legal requirements, the executive director will return the petition to the petitioner along with a statement of the reasons for rejecting it. The petitioner will be given at least 10 days in which to file a corrected petition.

(c) If a corrected petition is rejected under this section, the executive director will return the corrected petition to the petitioner along with a statement of the reasons for rejecting it. The petitioner will not be given an opportunity to file another corrected petition.

(d) The executive director's preliminary determination of a petition's legal sufficiency is without prejudice to the department's right to assert, in litigation, that a contested case should be dismissed for any reason][206.66. Initiation of Contested Cases, Service of Notice of Hearing, Standard of Review, and Burden of Proof.

(a) Initiation.

_____ (1) If the executive director finds that a petition meets all legal requirements, the department will initiate a contested case in accordance with the rules of the State Office of Administrative Hearings.

1 ~~_____ (2) The department may initiate a contested case on its own initiative in accordance with~~
2 ~~the rules of the State Office of Administrative Hearings.~~

3 ~~(b) Service of notice of hearing. Service of the notice of hearing shall be accomplished by~~
4 ~~certified or registered mail to the party's last known address as shown in the department's records. A~~
5 ~~notice of a hearing in a contested case is sufficient for purposes of notice if it includes a copy of the~~
6 ~~petition, prepared in accordance with §206.64 of this subchapter (relating to Content of Petition), and~~
7 ~~the following information, unless it is included in the petition:~~

8 ~~_____ (1) a statement of the time, place, and nature of the hearing;~~

9 ~~_____ (2) a statement of the legal authority and jurisdiction under which the hearing is to be~~
10 ~~held; and~~

11 ~~_____ (3) reference to the particular sections of the statutes and rules involved.~~

12 ~~(c) Standard of review for department's decision or action.~~

13 ~~_____ (1) The standard of review is whether the department was reasonable for claims made~~
14 ~~pursuant to Transportation Code, §681.012, Seizure and Revocation of Placard, and other claims not~~
15 ~~specified in paragraph (2) of this subsection.~~

16 ~~_____ (2) The standard of review is whether the department's decision or action was based on~~
17 ~~fraud, misconduct, or such gross mistake as would imply bad faith or failure to exercise an honest~~
18 ~~judgment for:~~

19 ~~_____ (A) claims related to Occupations Code, Chapter 2302, Salvage Vehicle Dealers;~~

20 ~~_____ (B) claims related to motor carrier and leasing company registration,~~

21 ~~Transportation Code, Chapter 643; and~~

1 ~~_____ (C) claims related to single state registration for motor carriers, Transportation~~
2 ~~Code, Chapter 645.~~

3 ~~(d) Burden of proof. A party seeking monetary damages or penalties shall bear the burden of~~
4 ~~proof. In all other instances, the party challenging a department decision or action shall bear the burden~~
5 ~~of proof.]~~

6
7 ~~[206.67. Discovery.~~

8 ~~(a) Commissions to take depositions. At the written request of a party, the executive director will~~
9 ~~issue a written commission directed to officers, authorized by statute, to take a deposition of a witness.~~

10 ~~(b) Subpoenas for the production of documents. At the verified written request of a party, the~~
11 ~~executive director will issue a subpoena for the production of documents. The written request must~~
12 ~~identify the documents with as much detail as possible and must include a statement of their relevance~~
13 ~~to the issues in the case.~~

14 ~~(c) Subpoenas for attendance at hearings. At the written request of a party, the executive~~
15 ~~director will issue a subpoena for the attendance of a witness at a hearing in a contested case. The~~
16 ~~subpoena may be directed to any person within the department's jurisdiction, without regard to the~~
17 ~~distance between the location of the witness and the location of the hearing.~~

18 ~~(d) Limits on discovery. A commission or subpoena will only be issued on a showing of good cause and~~
19 ~~receipt of a deposit sufficient to ensure payment of expenses and fees related to the subpoena, including~~
20 ~~statutory witness fees. A commission or subpoena will not be issued if it appears that it is sought for the~~
21 ~~purpose of harassment or if it would unduly inconvenience the person to whom it is directed. Issuance~~

1 of a commission or subpoena will be subject to the provisions of Government Code, Chapter 2001, and
2 the rules of the State Office of Administrative Hearings.]

3
4 [206.88. Evidence.

5 The admissibility of evidence in a contested case shall be governed by Government Code, Chapter 2001,
6 and by the rules of the State Office of Administrative Hearings, except that a settlement offer shall not be
7 admissible for any purpose]

8
9 [206.69. Withdrawal or Amendment of Proposal for Decision.

10 The administrative law judge may withdraw or amend a proposal for decision at any time before
11 a final order is issued.]

12
13 [206.70. Filing of Exceptions and Replies.

14 (a) A party may file exceptions to an administrative law judge's proposal for decision or an
15 amended proposal for decision no more than 20 days after service of the proposal for decision. A reply
16 to exceptions must be filed no more than 15 days after the filing of the exceptions.

17 (b) Exceptions and replies to exceptions must be filed with the executive director at the
18 department's headquarters building in Austin. A copy must be filed simultaneously with the
19 administrative law judge.

~~(c) A request for an extension of time in which to file exceptions or a reply must be filed with the executive director no later than three days before the date sought to be extended. The request must be served on all parties by facsimile or hand delivery on the date on which it is filed, or if that is not feasible, by overnight delivery service. A request for an extension of time will be granted only in extraordinary circumstances when it is necessary in the interest of justice.]~~

~~[206.71. Forms of Exceptions and Replies.~~

~~Exceptions and replies must conform to the following standards.~~

~~_____ (1) Exceptions and replies must be typewritten or printed on paper 8-1/2 inches wide by 11 inches long with an inside margin at least one inch wide. Reproductions are acceptable if all copies are legible.~~

~~_____ (2) Exceptions and replies must contain:~~

~~_____ (A) the names of all parties;~~

~~_____ (B) a concise statement of the facts and law on which the submitting party relies;~~

~~_____ (C) a statement of the relief desired;~~

~~_____ (D) a certificate of service;~~

~~_____ (E) the signature of the submitting party or the submitting party's authorized representative; and~~

~~_____ (F) any other matter required by statute.~~

1 ~~_____ (3) Each specific exception must be separately numbered, separately set forth, and~~
2 ~~concisely stated, and it must incorporate all facts and law relating to that specific exception][206.72-~~

3 ~~Motions for Rehearing.~~

4 ~~(a) A party may file a motion for rehearing no more than 20 days after service of the final order.~~
5 ~~A reply to a motion for rehearing must be filed no more than 15 days after the filing of the motion.~~

6 ~~(b) A request for an extension of time in which to file a motion for rehearing will not be granted.~~

7 ~~(c) A motion for rehearing must conform to the standards for exceptions and replies set forth in~~
8 ~~§206.71 of this subchapter (relating to Form of Exceptions and Replies).]~~

9
10 ~~[206.73. Extension of Time for Final Order.~~

11 ~~When the administrative law judge determines that a final order cannot reasonably be issued~~
12 ~~within 60 days after the date on which the hearing is finally closed, the administrative law judge shall~~
13 ~~announce, at the conclusion of the hearing, that the time for a final order will be extended. The proposal~~
14 ~~for decision shall include a reference to the announced extension. The extension shall be for a period~~
15 ~~extending at least 45 days after the issuance of the proposal for decision to ensure enough time for the~~
16 ~~filing of exceptions and replies. A longer extension shall be granted in matters of unusual complexity]~~

1 **TEXT.**

2 **SUBCHAPTER D[~~E~~]. ADVISORY COMMITTEES**

3 206.92. Definitions.

4 The following words and terms, when used in this subchapter, shall have the following
5 meanings, unless the context clearly indicates otherwise.

6 (1) Advisory committee--Any committee created by the board to make
7 recommendations to the board or to the executive director pursuant to Transportation Code, §1001.031
8 and §643.155.

9 (2) Board--The board of the Texas Department of Motor Vehicles.

10 (3) Department--The Texas Department of Motor Vehicles.

11 (4) Division director--The chief administrative officer in charge of a division of the
12 department.

13 (5) Executive director--The chief executive officer of the Texas Department of Motor
14 Vehicles.

15 (6) Member--An appointed member of an advisory committee created under this
16 subchapter.

17 (7) Presiding officer--The presiding officer of an advisory committee elected by the
18 membership of the advisory committee created under this subchapter.

19
20 206.93. Advisory Committee Operations and Procedures.

21 (a) Role of advisory committee. The role of an advisory committee under this subchapter is to
22 provide advice and recommendations to the board and executive director. Advisory committees shall

TITLE 43. TRANSPORTATION

Part 10. Texas Department of Motor Vehicles

Chapter 206 - Management

1 meet and carry out their functions upon a request from the department or board for advice and
2 recommendations on any issues. ~~[an issue(s)]~~

3 (b) Appointment of advisory committee. The board shall appoint members to an advisory
4 committee by selecting potential members from a list provided to the board by the executive director.
5 Each advisory committee shall elect from its members a presiding officer, who shall report the advisory
6 committee's recommendations to the board or the executive director. The board shall appoint
7 representatives of the department to serve as members of the Household Goods Rules Advisory
8 Committee pursuant to Transportation Code §643.155. The executive director may designate a division
9 or divisions of the department to participate with, or to provide subject-matter expertise, guidance, or
10 administrative support to the advisory committee as necessary.

11 (c) Member qualifications. Members shall have knowledge about and interests in, and represent
12 a broad range of viewpoints about, the work of the committee or applicable division(s). The board shall
13 appoint representatives of the department to serve as members of the Household Goods Rules Advisory
14 Committee pursuant to Transportation Code §643.155. Board members shall not serve as advisory
15 committee members.

16 (d) Composition of advisory committees. In making appointments to the advisory committees,
17 the board shall, to the extent practical, ensure representation of members from diverse geographical
18 regions of the state. ~~[who have an interest in or expertise in the subject area of the particular advisory~~
19 ~~committee.]~~

20 (e) Committee size and quorum requirements. An advisory committee shall be composed of a
21 reasonable number of members not to exceed 24 as determined by the board. A simple majority of
22 advisory committee members will constitute a quorum. An advisory committee may only deliberate on
23 issues within the jurisdiction of the department or any public business when a quorum is present.

1 (f) Terms of service. Advisory committee members will serve terms of four years. A member will
2 serve on the committee until the member resigns, is dismissed or replaced by the board, or the
3 member's term expires.

4 (g) Member training requirements. Each member of an advisory committee must receive
5 training regarding the Open Meetings Act, Government Code, Chapter 551; and the Public Information
6 Act, Government Code, Chapter 552.

7 (h) Compliance with Open Meetings Act. The advisory committee shall comply with the Open
8 Meetings Act, Government Code, Chapter 551.

9 (i) Public input and participation. The advisory committee shall accept public comments made
10 in-person at advisory committee meetings or submitted in writing. Public comments made in writing
11 should be submitted to the advisory committee five business days in advance of the advisory committee
12 meeting with sufficient copies for all members.

13 (j) Reporting recommendations. Recommendations of the advisory committee shall be reported
14 to the board at a board meeting prior to board action on issues related to the recommendations. The
15 recommendations shall be in writing and include any necessary supporting materials. The presiding
16 officer of the advisory committee or the presiding officer's designee may appear before the board to
17 present the committee's advice and recommendations. This subsection does not limit the ability of the
18 advisory committee to provide advice and recommendations to the executive director as necessary.

19 (k) Board use of advisory committee recommendations. In developing department policies, the
20 board shall consider the written recommendations and reports submitted by advisory committees.

21 (l) Reimbursement. The department, if authorized by law and the executive director, reimburse
22 advisory committee members for reasonable and necessary travel expenses.

- 1 (m) Expiration dates for advisory committees. Unless a different expiration date is established
- 2 by the board for the advisory committee, each advisory committee is abolished on the fourth
- 3 anniversary of its creation by the board.
- 4

1 **TEXT.**

2 **SUBCHAPTER E ~~[F]~~. DEPARTMENT VEHICLE FLEET MANAGEMENT**

3 206.111. Restrictions on Assignment of Vehicles.

4 (a) Definitions. The following words and terms, when used in this section, shall have the
5 following meanings, unless the context clearly indicates otherwise.

6 (1) Department--The Texas Department of Motor Vehicles.

7 (2) Division director--The chief administrative officer in charge of a division of the
8 department.

9 (3) Executive Director--The executive director of the Texas Department of Motor
10 Vehicles or the executive director's designee not below the level of division director.

11 (b) Motor pool. Each department vehicle, with the exception of a vehicle assigned to a field
12 employee, shall be assigned to the department's motor pool and be available for checkout.

13 (c) Regular vehicle assignment. The department may assign a vehicle to an individual
14 administrative or executive employee on a regular or everyday basis only if the executive director makes
15 a written documented finding that the assignment is critical to the needs and mission of the
16 department.

1 **TEXT.**

2 **SUBCHAPTER F[~~G~~]. DIGITAL CERTIFICATES [~~ELECTRONIC SIGNATURES~~]**

3 206.131. Digital Certificates.

4 (a) General. This section prescribes the requirements that govern the issuance, use, and
5 revocation of digital certificates issued by the Texas Department of Motor Vehicles (department) for
6 electronic commerce in eligible department programs. The provisions of 1 TAC Chapter 203, Subchapter
7 B govern this section in the event of a conflict between that subchapter and a provision of this section.

8 (b) Definitions. The following words and terms, when used in this section, shall have the
9 following meanings, unless the context clearly indicates otherwise.

10 (1) Business entity--An entity recognized by law through which business is conducted
11 with the department, including a sole proprietorship, partnership, limited liability company, corporation,
12 joint venture, educational institution, governmental agency, or non-profit organization.

13 (2) Certificate holder--An individual to whom a digital certificate is issued.

14 (3) Digital certificate--A certificate, as defined by 1 TAC §203.1, issued by the
15 department for purposes of electronic commerce.

16 (4) Digital signature--Has the same meaning assigned by 1 TAC §203.1.

17 (5) Division director--The chief administrative officer of a division of the department.

18 (c) Program authorization. A division director may authorize the use of digital signatures for a
19 particular program based on whether the applicable industries or organizations are using such
20 technology, the frequency of document submission, and the appropriateness for the program. The
21 solicitation documentation for eligible programs will include the information that digital signatures may
22 be used.

23 (d) Application and issuance of digital certificate.

1 (1) A request for a digital certificate shall be in writing and shall be signed by the
2 individual authorized by the business entity to request a digital certificate.

3 (2) The department may request information necessary to verify the identity of the
4 individual requestor or the identity of the individual to whom the certificate is to be issued. To verify
5 identity under this paragraph a person shall present:

6 (A) an unexpired Texas driver's license or unexpired identification certificate
7 with a photograph;

8 (B) an unexpired concealed handgun license or license to carry a handgun issued
9 by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

10 (C) an unexpired United States passport;

11 (D) a United States citizenship (naturalization) certificate with identifiable
12 photograph;

13 (E) an unexpired United States Bureau of Citizenship and Immigration Services
14 document that:

15 (i) was issued for a period of at least one year;

16 (ii) is valid for not less than six months from the date it is presented to
17 the department with a completed application; and

18 (iii) contains verifiable data and an identifiable photograph;

19 (F) an unexpired United States military identification card for active duty,
20 reserve, or retired personnel with an identifiable photograph; or

21 (G) a foreign passport with a valid or expired visa issued by the United States
22 Department of State with an unexpired United States Bureau of Citizenship and Immigration Services
23 Form I-94:

1 (i) that was issued for a period of at least one year, is marked valid for a
2 fixed duration, and is valid for not less than six months from the date it is presented to the department
3 with a completed application; or

4 (ii) that is marked valid for the duration of the person's stay and is
5 accompanied by appropriate documentation.

6 (3) The department may take actions necessary to confirm that the individual who
7 signed the request is authorized to act on behalf of the business entity, including requiring the individual
8 requestor or the person authorizing the request to personally appear at the department location
9 responsible for the issuing of the certificate.

10 (4) The department shall issue a digital certificate only to an individual. Information
11 identifying the business entity that authorized the issuance of the certificate may be embedded in the
12 digital certificate.

13 (e) Refusal to issue a digital certificate. The department shall not issue a digital certificate if the
14 identity of the individual to whom the certificate is to be issued, or the identity of the individual
15 requesting the certificate on behalf of a business entity, cannot be established. The department will not
16 issue a digital certificate if the business entity on whose behalf the request is allegedly being made does
17 not authorize its issuance.

18 (f) Responsibilities of certificate holder. A certificate holder shall:

19 (1) maintain the security of the digital certificate;

20 (2) use the certificate solely for the purpose for which it was issued; and

21 (3) renew the certificate in a timely manner, if continued use is intended.

22 (g) Responsibilities of business entity. A business entity is responsible for:

23 (1) determining what individual may request a certificate for the business entity;

1 (2) determining to what individual a certificate is to be issued; and
2 (3) requesting within a reasonable time the revocation of the business entity's
3 certificate if the security of the certificate has been compromised or if the business entity is changing its
4 certificate holder.

5 (h) Revocation of certificate. The department shall revoke a digital certificate:

6 (1) upon receipt of a written request for revocation of the business entity's certificate,
7 signed by an individual authorized to act on behalf of the business entity for which it was issued;

8 (2) for suspension or debarment of the individual or business entity; or

9 (3) if the department has reason to believe that continued use of the digital certificate
10 would present a security risk.

11 (i) Use of digital certificate.

12 (1) A digital signature issued by the department shall only be used for the purpose of
13 digitally signing electronic documents filed with the department. A digital signature is binding on the
14 individual to whom the certificate was issued and the represented business entity, as if the document
15 were signed manually.

16 (2) The department may use the digital certificate to identify the certificate holder when
17 granting or verifying access to secure computer systems used for electronic commerce.

18 (j) Forms. The department may prescribe forms to request, modify, or revoke a digital
19 certificate.

1 TEXT.

2 SUBCHAPTER G[H]. RISK-BASED MONITORING AND PREVENTING FRAUDULENT ACTIVITY

3 §206.151. Internal Risk-Based Monitoring.

4 (a) All users of the Registration and Titling System (RTS) employed by the Texas Department
5 of Motor Vehicles (department) are subject to RTS compliance reviews conducted by the department.

6 (b) The frequency and prioritization of RTS compliance reviews will be determined by:

7 (1) Volume of RTS transactions;

8 (2) Types of RTS transactions conducted by the RTS user; and

9 (3) Complaints alleging non-compliance with department policies and procedures.

10 ~~[The department shall establish a risk-based system of monitoring and preventing fraudulent~~
11 ~~activity related to vehicle registration and titling in order to efficiently allocate resources and personnel,~~
12 ~~including:]~~

13 ~~[(1) establishing a risk-based system of monitoring the department's regional service~~
14 ~~centers;]~~

15 ~~[(2) developing criteria to determine varying risk levels for the department's internal~~
16 ~~fraud monitoring functions to strategically allocate resources and personnel;]~~

17 ~~[(3) reviewing the department's methods for collecting and evaluating related~~
18 ~~information; and]~~

19 ~~[(4) developing and providing training to department staff.]~~

1 TEXT.

2 SUBCHAPTER A. GENERAL PROVISIONS

3 215.1 Purpose and Scope

4 Occupations Code, Chapter 2301 and Transportation Code, Chapters 503 and 1001~~[1000]~~ - 1005 require
5 the Texas Department of Motor Vehicles to license and regulate the motor vehicle industry~~[dealers,~~
6 ~~manufacturers, distributors, converters, representatives, vehicle lessors and vehicle lease facilitators, in~~
7 ~~order]~~ to ensure a sound system of distributing and selling motor vehicles; provide for compliance with
8 manufacturers' warranties; and to prevent fraud, unfair practices, discrimination, impositions, and other
9 abuses of the people of this state in connection with the distribution and sale of motor vehicles. This
10 chapter describes licensing requirements and the rules governing the operation of ~~[prescribes the~~
11 ~~policies and procedures for the regulation of the motor vehicle industry]~~ license holders under
12 Occupations Code Chapter 2301 and Transportation Code Chapter 503.

13
14
15 215.2 Definitions; Conformity with Statutory Requirements

16 (a) The definitions contained in Occupations Code, Chapter 2301 and Transportation Code,
17 Chapters 503 and 1001~~[1000]~~ -- 1005 govern this chapter. In the event of a conflict, the definition or
18 procedure referenced in Occupations Code, Chapter 2301 controls.

19 (b) The following words and terms, when used in this chapter, shall have the following
20 meanings, unless the context clearly indicates otherwise.

21 (1) ~~[ALJ--An Administrative Law Judge of the State Office of Administrative Hearings.~~

22 ~~(2)--The Board of the Texas Department of Motor Vehicles, including any~~

23 ~~person]~~ to whom the board delegates any duty assigned.

1 (2) Day--The word "day" refers to a calendar day.

2 (3) Director—The director of the division~~[department]~~ that regulates the distribution
3 and sale of motor vehicles, including any person~~nel~~ to whom the director delegates any duty assigned
4 under this chapter.

5 (4) ~~[Executive director—The executive director of the Texas Department of Motor~~
6 ~~Vehicles.]~~

7 ~~[(5) Final order authority—The person(s) with authority under Occupations Code,~~
8 ~~Chapter 2301; Transportation Code, Chapters 503 and 1000--1005; or board rules to issue a final order.]~~

9 ~~[(6)]~~GDN--General distinguishing number, a license issued under Transportation Code,
10 Chapter 503.

11 ~~(5)~~~~[(7)]~~Governmental agency—A state agency other than the department, [All other
12 ~~state and]~~all local governmental agencies, and all agencies of the United States government, whether
13 executive, legislative, or judicial.

14 (6) Standard license plate--a motor vehicle license plate issued by the department to a
15 license holder that is not a personalized prestige license plate issued under Transportation Code
16 §503.0615.

17 ~~[(8) [Hearing officer—An ALJ, a hearings examiner, or any other person designated,~~
18 ~~employed, or appointed by the department to hold hearings, administer oaths, receive pleadings and~~
19 ~~evidence, issue subpoenas to compel the attendance of witnesses, compel the production of papers and~~
20 ~~documents, issue interlocutory orders and temporary injunctions, make findings of fact and conclusions~~
21 ~~of law, issue proposals for decision, and recommend or issue final orders.~~

~~(9) Motion for rehearing authority—The person(s) with authority under Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1000—1005; or board rules to decide a motion for rehearing.~~

~~(10) SOAH—The State Office of Administrative Hearings.]~~

~~SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE~~

[Repeal entire subchapter; incorporated into new Chapter 224]

SUBCHAPTER B[C]. LICENSES, GENERALLY

215.81. Purpose and Scope

This subchapter implements Occupations Code, Chapter 2301 and Transportation Code, Chapter 503, regarding licenses required under those chapters.

215.82. Duplicate [~~Licenses and~~] Plates and Stickers

~~[(a) A request for a duplicate license must:~~

- ~~(1) be made on a department-approved form;~~
- ~~(2) state the reason for the duplicate license; and~~
- ~~(3) be accompanied by the required duplicate license fee.]~~

~~[(b) A license holder may receive one duplicate license at no charge if the license holder:~~

- ~~(1) did not receive the original license; and~~
- ~~(2) makes the request within 45 days of the date the license was mailed to the license holder.]~~

1 ~~[(c)]~~A license holder may receive a replacement standard~~[metal]~~ dealer's, converter's,
2 drive-a-way in-transit, or manufacturer's license plate or assigned sticker, as~~[if]~~ applicable, at no
3 charge if the license holder:

4 (1) did not receive the applicable standard~~[metal dealer's]~~ license plate or sticker;
5 ~~[and]~~

6 (2) makes the request within 45 days of the date the applicable standard~~[metal~~
7 ~~dealer's]~~ license plate or sticker was mailed to the license holder; and

8 (3) submits a request [on a department approved form] electronically in the system
9 designated by the department for licensing.

11 215.83. License Applications, Amendments, or Renewals

12 (a) An application for a new license, license amendment, or license renewal filed with the
13 department must be:

14 (1) filed electronically in the department-designated licensing system on a form
15 approved by the department;

16 (2) completed by the applicant, license holder, or authorized representative who is
17 an employee, a licensed attorney, or a certified public accountant;

18 (3) accompanied by the required fee, paid by~~[check,]~~ credit card~~;~~ or by electronic
19 funds transfer, drawn from an account held by the applicant or license holder, or drawn from a
20 trust account of the applicant's attorney or certified public accountant; and

21 (4) accompanied by proof of a surety bond, if required.

1 (b) An authorized representative of the applicant or license holder who files an application
2 with the department on behalf of an applicant or license holder may be required to provide
3 written proof of authority to act on behalf of the applicant or license holder.

4 (c) The department will not provide information regarding the status of an application,
5 application deficiencies, or pending new license numbers to a person other than a person listed in
6 subsection (a)(2) of this section, unless that person files a written request under Government
7 Code, Chapter 552.

8 (d) Prior to the expiration of a license, a license holder or authorized representative must
9 electronically file with the department a sufficient license renewal application. Failure to receive
10 notice of license expiration from the department does not relieve the license holder from the
11 responsibility to timely file a sufficient license renewal application. A license renewal application is
12 timely filed if[:

13 (1) the department receives a sufficient license renewal application on or before
14 the date the license expires[; ~~or~~

15 (2) ~~a legible postmark on the envelope transmitting the sufficient license renewal~~
16 ~~application clearly indicates that the license holder or authorized representative mailed the license~~
17 ~~renewal application on or before the date the license expires].~~

18 (e) An application for a new license, ~~[or] license amendment,~~ or license renewal filed with
19 the department must be sufficient. An application is sufficient if the application[:

20 ~~(1) includes all information and documentation required by the department; and~~

21 ~~(2)] is filed in accordance with subsection (a) of this section.~~

22 (f) ~~[A license renewal application received by the department is sufficient if:~~

1 ~~(1) the renewal application form is completed by the license holder or authorized~~
2 ~~representative of the license holder who is an employee, an unpaid agent, a licensed attorney, or~~
3 ~~certified public accountant;~~

4 ~~(2) accompanied by the required license renewal application fee payment; and~~

5 ~~(3) accompanied by proof of a surety bond, if required.]~~

6 ~~[(g)]~~ If an applicant, license holder, or authorized representative does not provide the
7 information or documentation required by the department, the department will issue a written
8 notice of deficiency. The information or documentation requested in the written notice of
9 deficiency must be received by the department within 20 calendar days of the date of the notice of
10 deficiency, unless the department issues a written extension of time. If an applicant, license
11 holder, or authorized representative fails to respond or fully comply with all deficiencies listed in
12 the written notice of deficiency within the time prescribed by this subsection, the application will
13 be deemed withdrawn and will be administratively closed.

14 ~~[(g)]~~~~[(h)]~~ The department will evaluate a sufficient application for a new license, license
15 amendment, or license renewal in accordance with applicable rules and statutes to determine
16 whether to approve or deny the application. If the department determines that there are grounds
17 for denial of the application, the department may pursue denial of the application in accordance
18 with Subchapter J of this chapter (relating to Administrative Sanctions).

19 ~~[(h)]~~~~[(i)]~~ The department will process an application for a new license, license amendment,
20 or license renewal filed by a military service member, military spouse, or military veteran in
21 accordance with Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient
22 application for a license renewal because that license holder was on active duty is exempt from

1 any increased fee or penalty imposed by the department for failing to renew the license in a timely
2 manner.

3 ~~(i)(4)~~ A military service member or military spouse may engage in a business or occupation
4 for which a department issued license is required if the military service member or military spouse
5 meets the requirements of Occupations Code, §55.0041 and this section. This section establishes
6 requirements and procedures authorized or required by Occupations Code, Chapter 55, and does
7 not modify or alter rights that may be provided under federal law.

8 (1) ~~To meet the requirements of Occupations Code, §55.0041, a~~ A military
9 service member or military spouse must submit to the department:

10 (A) notice of the military service member or military spouse's intent
11 to engage in a business or occupation in Texas for which a department issued license is required;

12 (B) proof of the military service member or military spouse's being
13 stationed ~~[residency]~~ in Texas and a copy of the military service member or military spouse's
14 military identification card~~[, as required by Occupations Code, §55.0041(b)(2)]~~; and

15 (C) documentation demonstrating that the military service member or
16 military spouse is licensed and in good standing in another jurisdiction for the relevant business or
17 occupation.

18 (2) Upon receipt of the notice and documentation required by paragraphs
19 (1)(B) and (1)(C) of this subsection, the department shall:

20 (A) confirm with the other licensing jurisdiction that the military
21 service member or military spouse is currently licensed and in good standing for the relevant
22 business or occupation; and

1 (B) conduct a comparison of the other jurisdiction's license
2 requirements, statutes, and rules with the department's licensing requirements to determine if the
3 requirements are substantially equivalent.

4 (3) If the department confirms that a military spouse is currently licensed in
5 good standing in another jurisdiction with substantially equivalent licensing requirements, the
6 department shall~~may~~ issue a license to the military service member or military spouse for the
7 relevant business or occupation within 30 days. The license is subject to requirements in Chapter
8 215 of this title and Occupations Code, Chapter 2301 in the same manner as a license issued under
9 the standard application process, unless modified or exempted under Occupations Code, Chapter
10 55.

11 (j)~~(k)~~ A license holder who timely files a sufficient license renewal application in
12 accordance with subsection (d) of this section may continue to operate under the expired license
13 until the license renewal application is determined in accordance with Government Code
14 §2001.054.

15 (k)~~(l)~~ A license holder who fails to timely file a sufficient license renewal application in
16 accordance with subsection (d) of this section is not authorized to continue licensed activities after
17 the date the license expires. A license holder may dispute a decision that a license renewal
18 application was not timely or sufficient by submitting evidence to the department demonstrating
19 that the license renewal application was timely and sufficient. Such evidence must be received by
20 the department within 10 ~~calendar~~ days of the date the department issues notice that a timely or
21 sufficient license renewal application was not received by the department.

22 (l)~~(m)~~ The department shall accept a late license renewal application up to 90 days after
23 the date the license expires. In accordance with subsection (k)~~(l)~~ of this section, the license

holder is not authorized to continue licensed activities after the date the license expires until the department approves the late license renewal application. If the department grants a license renewal under this section, the licensing period begins on the date the department issues the renewed license. The license holder may resume licensed activities upon receipt of the department's written verification or upon receipt of the renewed license.

(m)~~(n)~~ If the department has not received a late license renewal application within 90 days after the date the license expires, the department will close the license. A person must apply for and receive a new license before that person is authorized to resume activities requiring a license.

(n)~~(o)~~ A standard ~~metal~~ dealer's license plate issued in accordance with Transportation Code, Chapter 503, Subchapter C expires on the date the associated license expires, is canceled, or when a license renewal application is determined, whichever is later.

215.84. Brokering, New Motor Vehicles

(a) Brokering is prohibited.

(b) For purposes of this ~~sub~~chapter, the phrase "arranges or offers to arrange a transaction," as used in Occupations Code, §2301.002, includes the practice of arranging or offering to arrange a transaction involving the sale of a new motor vehicle for a fee, commission, or other valuable consideration. Advertising is not acting as a broker~~ing~~, provided the person's business primarily is~~includes~~ the business of broadcasting, printing, publishing, or advertising for others in their own names.

(c)~~(d)~~ A buyer referral service, program, plan, club, or any other entity that accepts a fee for arranging a transaction involving the sale of a new motor vehicle is a broker. The payment of a

1 fee to such entity is aiding and abetting brokering. However, a referral service, program, plan, club,
2 or other entity that forwards a referral to a franchised dealership may lawfully operate in a
3 manner that includes all of the following conditions.

4 (1) There is no exclusive market area offered to a franchised dealer by the program.
5 All dealers are allowed to participate in the program on equal terms.

6 (2) Participation by a franchised dealer in the program is not restricted by
7 conditions, such as limiting the number of line-makes or discrimination by size of dealership or
8 location. The total number of participants in the program may be restricted if the program is
9 offered to all dealers at the same time, with no regard to the line-make.

10 (3) All participants pay the same fee for participation in the program. The program
11 fee shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by
12 the franchised dealer.

13 (4) A person is not to be charged a fee on a per referral fee basis or any other basis
14 that could be considered a transaction-related fee.

15 (5) The program does not set or suggest to the franchised dealer any price of a
16 motor vehicle or a trade-in.

17 (6) The program does not advertise or promote its plan in a manner that implies
18 that the buyer, as a customer of that program, receives a special discounted price that cannot be
19 obtained unless the customer is referred through that program.

20 (7) A program must comply with Subchapter H of this chapter (related to
21 Advertising).

22 (d)[(e)] Subsections (a)-(c) of this section do not apply to any person or entity who is not a
23 [exempt from the] broker as defined[definition] in Occupations Code, §2301.002.

1 ~~[(d) All programs must comply with Subchapter H of this chapter (relating to Advertising).]~~

2
3 215.85. Brokering, Used Motor Vehicles

4 (a) Brokering is prohibited.

5 (b) Transportation Code, §503.021 prohibits a person from engaging in business as a
6 dealer, directly or indirectly, including by consignment without a GDN. Except as provided by this
7 section, "directly or indirectly" includes the practice of arranging or offering to arrange a
8 transaction involving the sale of a used motor vehicle for a fee, commission, or other valuable
9 consideration. A person who is a bona fide employee of a dealer holding a GDN and acts for the
10 dealer is not a broker for the purposes of this section.

11 ~~(c)[(b)]~~ A buyer referral service, program, plan, club, or any other entity that accepts a fee
12 for arranging a transaction involving the sale of a used motor vehicle is required to meet the
13 requirements for and obtain a GDN.~~[,] However, a referral service, program, plan, club, or other~~
14 entity that forwards a referral to a dealer may lawfully operate without a GDN in a manner that
15 includes all of the following conditions[, unless the referral service, program, plan, or club is
16 operated in the following manner].

17 (1) There is no exclusive market area offered to a dealer by the program. All dealers
18 are allowed to participate in the program on equal terms.

19 (2) Participation by a dealer in the program is not restricted by conditions, such as
20 limiting the number of line-makes or discrimination by size of dealer~~ship~~ or location. The total
21 number of participants in the program may be restricted if the program is offered to all dealers at
22 the same time, with no regard to the line-make.

1 (3) All participants pay the same fee for participation in the program. The program
2 fee shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by
3 the dealer.

4 (4) A person is not to be charged a fee on a per referral fee basis or any other basis
5 that could be considered a transaction-related fee.

6 (5) The program does not set or suggest to the dealer any price of a motor vehicle
7 or a trade-in.

8 (6) The program does not advertise or promote its plan in a manner that implies
9 that the buyer, as a customer of that program, receives a special discounted price that cannot be
10 obtained unless the customer is referred through that program.

11 (7) A program must comply with Subchapter H of this chapter (relating to
12 Advertising).

13 (c) ~~[All programs must comply with Subchapter H of this chapter (relating to Advertising).~~

14 ~~(d)]~~ A ~~[licensed]~~ dealer holding a GDN pursuant to Transportation Code, §503.029(a)(6)(B),
15 may pay a referral fee in cash or value to an individual who has purchased a vehicle from the
16 ~~[licensed]~~ dealer within the four-year period preceding the referral. The fee may be paid
17 contingent upon either the new referred individual:

18 (1) purchasing a vehicle from the ~~[independent motor vehicle]~~ dealer; or

19 (2) the referral of a new potential purchaser.

20
21 215.87. License and Standard~~[-Metal Dealer's]~~ License Plate Terms and Fees

22 (a) Except as provided by other law, the term of a license or standard~~[metal dealer's]~~
23 license plate issued by the department to a dealer, converter, drive-a-way operator, distributor, or

1 manufacturer under Occupations Code, Chapter 2301 or Transportation Code, Chapter 503 is two
2 years.

3 (b) A standard~~[-metal-dealer's]~~ license plate issued by the department expires on the date
4 the associated license expires or is canceled.

5 (c) The fee for a license or standard~~[-metal-dealer's]~~ license plate is computed by
6 multiplying the applicable annual fee by the number of years of the license term. The entire[
7 ~~amount of the~~] fee including any tax owed under Tax Code §152.027 is due at the time of
8 application for the license or license renewal.

9 (d) A dealer may apply for a personalized prestige plate issued under Transportation Code
10 §503.0615 by completing a department form, providing a copy of a department-issued license, and
11 submitting payment to a county tax assessor-collector. A personalized prestige plate may be
12 renewed in an electronic system designated by the department.

13
14 215.89. Fitness

15 (a) In determining a person's fitness for a license issued or to be issued by the department
16 under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, the board~~[-or~~
17 ~~department]~~ will consider:

18 (1) the requirements of Occupations Code, Chapter 53;

19 (2) the provisions of Occupations Code, §2301.651 and Transportation Code
20 §503.034;

21 (3) any specific statutory licensing criteria or requirements;

22 (4) mitigating factors; and

1 (5) other evidence of a person's fitness, as allowed by law, including the standards
2 identified in subsection (b) of this section.

3 (b) The board~~[-or department]~~ may determine that a person is unfit to perform the duties
4 and discharge the responsibilities of a license holder and may, following notice and an opportunity
5 for hearing, deny a person's license application or revoke or suspend a license if the person:

6 (1) fails to meet or maintain the qualifications and requirements of licensure;

7 (2) is convicted, or considered convicted under Occupations Code §53.021(d), by
8 any local, state, federal, or foreign authority of an offense that directly relates to the duties or
9 responsibilities of the licensed occupation as described in §211.3 of this title (relating to Criminal
10 Offense Guidelines) or is convicted, or considered convicted under Occupations Code §53.021(d),
11 of an offense that is independently disqualifying under Occupations Code §53.021;

12 (3) omits information or provides false, misleading, or incomplete information on
13 an initial application, renewal application, or application attachment, for a license or other
14 authorization issued by the department or by any local, state, or federal regulatory authority;

15 (4) is found to have violated an administrative or regulatory requirement based on
16 action taken on a license, permit, or other authorization, including disciplinary action, revocation,
17 suspension, denial, corrective action, cease and desist order, or assessment of a civil penalty,
18 administrative fine, fee, or similar assessment, by the board, department, or any local, state, or
19 federal regulatory authority;

20 (5) is insolvent or fails to obtain or maintain financial resources sufficient to meet
21 the financial obligations of the license holder;

22 (6) is a corporation or other legal entity that fails to maintain its charter, certificate,
23 registration, or other authority to conduct business in Texas;

1 (7) is assessed a civil penalty, administrative fine, fee, or similar assessment, by the
2 board, department, or a local, state, or federal regulatory authority, for violation of a requirement
3 governing or impacting the distribution or sale of a vehicle or a motor vehicle, or the acquisition,
4 sale, repair, rebuild, reconstruction, or other dealing of a salvage motor vehicle or nonrepairable
5 motor vehicle, and fails to comply with the terms of a final order or fails to pay the penalty
6 pursuant to the terms of a final order;

7 (8) was or is a person described in §211.2 of this title (relating to Application of
8 Subchapter) whose actions or omissions could be considered unfit, who is ineligible for licensure,
9 or whose current or previous license, permit, or other authorization issued by any local, state, or
10 federal regulatory authority has been subject to disciplinary action including suspension,
11 revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty,
12 administrative fine, fee, or similar assessment;

13 (9) has an ownership, organizational, managerial, or other business arrangement,
14 that would allow a person the power to direct or cause the direction of the management, policies,
15 and activities, of an applicant or license holder, whether directly or indirectly, when the person
16 could be considered unfit, ineligible for licensure, or whose current or previous license, permit, or
17 other authorization issued by any local, state, or federal regulatory authority, has been subject to
18 disciplinary action, including suspension, revocation, denial, corrective action, cease and desist
19 order, or assessment of a civil penalty, administrative fine, fee, or similar assessment, by the
20 board, department, or any local, state, or federal regulatory authority;

21 (10) is found in an order issued after~~through~~ a contested case hearing to be unfit
22 or acting in a manner detrimental to the system of distribution or sale of motor vehicles in Texas,
23 the economy of the state, the public interest, or the welfare of Texas citizens.

SUBCHAPTER C[~~D~~]. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS

215.101. Purpose and Scope

This subchapter implements Occupations Code, Chapter 2301 and Transportation Code, Chapters 503 and 1001[~~1000~~] – 1005, and applies to franchised dealers, manufacturers, distributors, and converters.

215.102. Application Requirements

(a) No person may engage in business, serve in the capacity of, or act as a manufacturer, distributor, converter, or franchised dealer in Texas unless that person holds a license.

(b) A license application shall be on a form prescribed by the department and properly completed by the applicant. A license application shall include all required information, supporting documents, and fees and shall be submitted to the department electronically in a system designated by the department for licensing.

(c) A license holder renewing or amending its license must verify current license information, provide related information and documents for any new license requirements or changes to the license, and pay required fees including any outstanding civil penalties owed the department under a final order.

(d) An applicant for a new license must register for an account in the department-designated licensing system by selecting the licensing system icon on the dealer page of the department website. An applicant must designate the account administrator and provide the name and email address for that person, and provide the business telephone number, name, business type, and social security number or

1 employer identification number, as applicable. The applicant's licensing account administrator must be
2 an owner, officer, manager, or bona fide employee.

3 (e) Once registered, an applicant may apply for a new license and must provide the
4 following:

5 (1) Required information:

6 (A) type of license requested;

7 (B) business information, including the name, physical and mailing
8 addresses, telephone number, Secretary of State file number (if applicable), and website address
9 (if applicable);

10 (C) contact name, email address, and telephone number of the person
11 submitting the application;

12 (D) contact name, email address, and telephone number of a person who
13 can provide information about business operations and the motor vehicle products or services
14 offered;

15 (E) the name, social security number, date of birth, identity document
16 information, and ownership percentage for each owner, partner, member, beneficiary, or principal
17 if the applicant is not a publicly traded company;

18 (F) the name, social security number, date of birth, and identity document
19 information for each officer, director, manager, trustee, or other representative authorized to act
20 on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

21 (G) the name, employer identification number, ownership percentage, and
22 non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

1 (H) criminal history record information under the laws of Texas, another
2 state in the United States, the United States, and any foreign jurisdiction for each person listed in
3 the application, including offense description, date, and location;

4 (I) military service status;

5 (J) licensing history required to evaluate fitness for licensure under §215.89
6 of this title (relating to Fitness);

7 (K) if applying for a manufacturer, distributor, or converter license;

8 (i) financial resources, business integrity and experience, facilities
9 and personnel for serving franchised dealers;

10 (ii) a description of the business model or business process and
11 product and services used or offered sufficient to allow department to determine if the license
12 type applied for is appropriate under Texas law; and

13 (iii) number of standard license plates requested.

14 (L) if applying for a manufacturer or distributor license:

15 (i) if the applicant or any entity controlled by the applicant owns an
16 interest in a Texas motor vehicle dealer or dealership, controls a Texas dealer or dealership, or acts
17 in the capacity of a Texas dealer;

18 (ii) a statement regarding the manufacturer's compliance with
19 Occupations Code Chapter 2301, Subchapter I and Sections 2301.451-2301.476;

20 (iii) if a franchise agreement for each line-make being applied for
21 exists which states the obligations of a Texas franchised dealer to the applicant and the obligations
22 of the applicant to the Texas franchised dealer; and

1 (iv) the terms of the contract under which the distributor will act for
2 the manufacturer.

3 (M) if applying for a manufacturer license, the line-make information
4 including the world manufacturer identifier assigned by the National Highway Traffic Safety
5 Administration, line-make name, and vehicle type;

6 (N) if applying for a distributor license:
7 (i) the manufacturer for whom the distributor will act,
8 (ii) whether the manufacturer is licensed in Texas,
9 (iii) the person in this state who is responsible for compliance with
10 the warranty covering the motor vehicles to be sold, and
11 (iv) whether a franchise agreement for each line-make being applied
12 for exists which states the obligations of a Texas franchised dealer to the applicant and the
13 obligations of the applicant to the Texas franchised dealer.

14 (O) if applying for a converter license:
15 (i) a name and description for each conversion package, and
16 (ii) the manufacturer or distributor and line-make of the underlying
17 new motor vehicle chassis to be converted.

18 (P) if applying for a franchised dealer license:
19 (i) reason for the new application
20 (ii) dealership location on a system-generated map;
21 (iii) if the dealership is under construction and expected completion
22 date;

1 (iv) information about the performance of sales or warranty services
2 at the location; and

3 (v) information necessary to obtain a franchised dealer GDN under
4 §215.133 of this title (relating to General Distinguishing Number).

5 (Q) signed Certificate of Responsibility, which is a form provided by the
6 department; and

7 (R) any other information required by the department to evaluate the
8 application under current law and board rules.

9 (2) A legible and accurate electronic image of each applicable required document:

10 (A) the certificate of filing, certificate of incorporation, or certificate of
11 registration on file with the Secretary of State, if applicable;

12 (B) each assumed name certificate on file with the Secretary of State or
13 county clerk;

14 (C) at least one of the following identity documents for each natural person
15 listed in the application:

16 (i) current driver license;

17 (ii) current Texas Identification Card issued by the Texas Department
18 of Public Safety under Transportation Code, Chapter 521, Subchapter E;

19 (iii) current license to carry a handgun issued by the Texas
20 Department of Public Safety under Government Code, Chapter 411, Subchapter H;

21 (iv) current passport; or

22 (v) current United States armed forces identification.

1 (D) if applying for a manufacturer, distributor, or converter license, a
2 written description of the business model or business process and brochures, photos, or other
3 documents describing products and services sufficient to allow the department to identify a motor
4 vehicle product type and the appropriate license required under Texas law;

5 (E) if applying for a manufacturer or distributor license:

6 (i) a list of each franchised dealer in Texas including the dealer's
7 name and physical address, or if offers for sale or sales of motor vehicle in Texas will solely be over
8 the internet, a list of each out-of-state franchised dealer authorized by the manufacturer or
9 distributor to sell a product online to a Texas citizen including the dealer's name, physical address,
10 and dealer license number issued by the state in which the dealer is located; and

11 (ii) a list of motor vehicle product line-makes manufactured or
12 distributed for sale;

13 (F) if applying for a manufacturer license:

14 (i) a list of authorized distributors or representatives; and
15 (ii) a franchised dealer's preparation and delivery obligations before
16 delivery of a new vehicle to a retail purchaser and the schedule of compensation to be paid to the
17 franchised dealer;

18 (G) if applying for a distributor license, the distribution agreement between
19 a manufacturer and distributor;

20 (H) if applying for a franchise dealer license, pages of the executed
21 franchise agreement containing at minimum the following:

22 (i) the legal business name of each party;

23 (ii) authorized signature of each party;

1 (iii) authorized dealership location;

2 (iv) list of motor vehicle line-makes and vehicle types to be sold or
3 served; and

4 (v) a department Evidence of Relocation form signed by the
5 manufacturer or distributor (if applicable); and

6 (l) any other documents required by the department to evaluate the
7 application under current law and board rules.

8 (3) Required fees:

9 (A) the license fee as prescribed by law; and

10 (B) the fee as prescribed by law for each plate requested by the applicant.

11 (f) An applicant operating under a name other than the applicant shall use the name under
12 which the applicant is authorized to do business, as filed with the Secretary of State or county
13 clerk, and the assumed name of such legal entity shall be recorded by the applicant on the
14 application using the letters "DBA." The applicant may not use an assumed name that may be
15 confused with or is similar to that of a governmental entity or that is otherwise deceptive or
16 misleading to the public.

17 (g) A manufacturer or distributor may add a new line-make to an existing license during the
18 license period by submitting a license amendment application and providing brochures, photos, or
19 other documents describing the new line-make sufficient to allow the department to identify the
20 line-make and vehicle product type. A license amendment to add a line-make to a manufacturer or
21 distributor license must be approved by the department before the new line-make may be added
22 to a franchised dealer's license.

23

1 215.103. Service-only Facility

2 (a) A service-only facility is a location occupied and operated by a franchised dealer that is
3 a completely separate, noncontiguous site, from the franchised dealer's new motor vehicle sales
4 and service or sales only location, where the franchised dealer performs ~~[will]~~ only ~~[perform]~~
5 warranty~~[and nonwarranty]~~ repair services and not new motor vehicle sales. ~~[Except as allowed in~~
6 ~~subsection (d) of this section, warranty repair services may only be performed at either a licensed~~
7 ~~dealership or a licensed service-only facility.]~~

8 (b) A franchised dealer must obtain a license to operate a service-only facility. A dealer may
9 not obtain a service-only facility license to service a ~~[particular]~~ line-make of new motor vehicles,
10 unless that dealer is franchised and licensed to sell that line-make.

11 (c) A service-only facility is a dealership subject to protest under Occupations Code,
12 Chapter 2301.

13 (d) Upon the manufacturer's or distributor's prior written approval, which cannot be
14 unreasonably withheld, ~~[only]~~ a franchised dealer of the manufacturer or distributor may contract
15 with another person as a subcontractor to perform warranty repair services that the dealer is
16 authorized to perform under a franchise agreement with a manufacturer or distributor. Payment
17 shall be made by the franchised dealer to the subcontractor and not by the manufacturer or
18 distributor to the subcontractor.

19 (e) A person with whom a franchised dealer contracts to perform warranty repair services
20 is not eligible to obtain a service-only facility license and may not advertise the performance of
21 warranty repair services in any manner to the public.

22
23 215.104. Changes to a Franchised Dealer's License

1 (a) In accordance with Occupations Code, §2301.356, a franchised dealer must file an
2 application to amend the franchised dealer's license [~~in order~~] to request [~~inclusion of~~] an
3 additional line-make at the dealer's currently licensed showroom. The amendment application
4 must be filed electronically in a system designated by the department for licensing.

5 (1) In accordance with §215.110 of this title (relating to Evidence of Franchise), the
6 franchised dealer must attach to the amendment application a legible and accurate electronic
7 image[copy] of:

8 (A) the executed franchise agreement;
9 (B) the required excerpt from the executed franchise agreement; or
10 (C) an evidence of franchise form completed by the manufacturer,
11 distributor, or representative.

12 (2) The amendment application for an additional franchise at the showroom is
13 considered an original application and is subject to protest, in accordance with Occupations Code,
14 Chapter 2301, this chapter, and Chapter 224 of this title (relating to Adjudicative Practice and
15 Procedure).

16 (b) A franchised dealer may propose to sell or assign to another any interest in the licensed
17 entity, whether a corporation or otherwise, provided the physical location of the licensed entity
18 remains the same.

19 (1) The franchised dealer shall notify the department in writing within 10 days of
20 the sale or assignment of interest by filing an application to amend the franchised dealer's license
21 electronically in a system designated by the department for licensing.

1 (2) If the sale or assignment of any portion of the business results in a change of
2 business entity, then the purchasing entity or assignee must apply for and obtain a new license in
3 the name of the new business entity.

4 (3) A publicly-held corporation must only file an amendment application~~[needs only~~
5 ~~to inform the department of a change in ownership]~~ if one person or entity acquires 10% or
6 greater interest in the licensed entity.

7 (c) A franchised dealer is required to file an amendment application electronically in a
8 system designated by the department for licensing within 10 days of a license change, including:

9 (1) deletion of a line-make from the dealer's license;

10 (2) a change of assumed name on file with the Office of the Secretary of State or
11 county clerk;

12 (3) a change of mailing address;

13 (4) a change of telephone number; or

14 (5) ~~[a change of facsimile number; or~~

15 ~~(6)]~~ a change of email address.

16 (d) A franchised dealer is required to file a business entity amendment application
17 electronically in a system designated by the department for licensing within 10 days of an entity
18 change, including:

19 (1) a change in management, dealer principal, or change of other person who
20 oversees~~[is in charge of]~~ a franchised dealer's business activities, including a managing partner,
21 officer, director of a corporation, or similar person; or

22 (2) a change of legal entity name on file with the Office of the Secretary of State.

1 (e) If a franchised~~[licensed new motor vehicle]~~ dealer changes or converts from one type of
2 business entity to another type of business entity without changing ownership of the dealership,
3 the submission of a franchise agreement in the name of the new entity is not required in
4 conjunction with an amendment application. The franchise agreement on file with the department
5 prior to the change or conversion of the dealer's business entity type applies to the successor
6 entity until the parties agree to replace the franchise agreement. This subsection does not apply to
7 a sole proprietorship or general partnership.

8 (f) If a franchised dealer adopts a plan of conversion under a state or federal law that
9 allows one legal entity to be converted into another legal entity, only an amendment
10 application~~[to amend the license]~~ is necessary to be filed with the department. The franchise
11 agreement on file with the department continues to apply to the converted entity. If a license
12 holder becomes another legal entity by any means other than by conversion, a new application is
13 required, subject to subsection (e) of this section.

14 (g) In addition to obtaining permission from the manufacturer or distributor, a franchised
15 dealer shall obtain department approval prior to opening a supplemental location or relocating an
16 existing location by filing an amendment application electronically in a system designated by the
17 department for licensing. A franchised dealer must notify the department electronically in a
18 system designated by the department for licensing when closing an existing location.

19
20 215.105. Notification of License Application; Protest Requirements

21 (a) The provisions of this section are not applicable to an application filed with the department
22 for a franchised dealer license as a result of the purchase or transfer of an existing entity holding a

1 current franchised dealer's license that does not involve a physical relocation of the purchased or
2 transferred line-makes.

3 (b) Upon receipt of an application for a franchised~~[new motor vehicle]~~ dealer's license, including
4 an application filed with the department by reason of the relocation of an existing dealership, the
5 department shall give notice of the filing of the application to each franchised dealer that may have
6 standing to protest the application.

7 (c) If it appears to the department that there are no franchised dealers with standing to protest,
8 then no notice shall be given.

9 (d) A person holding a franchised dealer's license for the sale of the same line-make of a new
10 motor vehicle as proposed for sale in the subject application and that has standing to protest the
11 application may file with the department a notice of protest opposing the granting of a license by timely
12 filing a protest electronically in eLICENSING, the system designated by the department for licensing, and
13 paying the required fee.

14 (e) A franchised dealer that wishes to protest the application shall give notice in accordance with
15 Occupations Code, Chapter 2301.

16 (1) The notice of protest shall be in writing and shall be signed by an authorized officer
17 or other official authorized to sign on behalf of the protesting dealer filing the notice.

18 (2) The notice of protest shall state the statutory basis upon which the protest is made
19 and assert how the protesting dealer meets the standing requirements under §215.119 of this title
20 (relating to Standing to Protest) to protest the application.

1 (3) The notice of protest shall state that the protest is not made for purposes of delay or
2 for any other purpose except for justifiable cause.

3 (4) If a protest is filed against an application for the establishment of a dealership or for
4 addition of a line-make at an existing dealership, the notice of protest shall state under which provision
5 of Occupations Code, Chapter 2301 the protest is made.

6
7 215.106. Time for Filing Protest

8 (a) A notice of protest must be:

9 (1) received by the department not later than 5:00 p.m. Central Standard Time (CST) on
10 the date 15 days from the date of mailing of the department's notification to the license holder of the
11 filing of the application;

12 (2) filed in ~~[with the department [by United States mail, facsimile, hand delivery, or~~
13 ~~through]~~ the department's designated electronic filing system[when available; however, a notice of
14 protest may not be filed by email]; and

15 (3) ~~[accompanied by the required filing fee]~~ submitted with the filing fee paid. [If the
16 filing fee does not accompany the notice of protest, the fee must be received by the department not
17 later than 5:00 p.m. CST on the date 20 days from the date of mailing of the department's notification to
18 the license holder of the filing of the application.

19 (b) The department will reject a notice of protest if:

20 (1) the complete notice of protest is not filed within 15 days from the date of mailing of
21 the department's notification to the license holder of the filing of the application; or

1 (2) the required filing fee is not paid when the protest is submitted in the department's
2 designated electronic filing system or is later dishonored~~[remitted within 20 days from the date of~~
3 ~~mailing of the department's notification to the license holder of the filing of the application.~~

4
5 215.108. Addition or Relocation of Line-make

6 An application to amend an existing franchised~~[new motor vehicle]~~ dealer's license for the
7 addition of another line-make at the existing dealership or for the relocation of a line-make to the
8 existing dealership shall be deemed an "application to establish a dealership" insofar as the line-make to
9 be added is concerned, and shall be subject to the provisions of §215.105 of this title (relating to
10 Notification of License Application; Protest Requirements) and §215.106 of this title (relating to Time for
11 Filing Protest).

12
13 215.109. Replacement Dealership

14 An application for a franchised~~[new motor vehicle]~~ dealer's license for a dealership intended as a
15 replacement for a previously existing dealership shall be deemed an application for a "replacement
16 dealership" required to be established in accordance with Occupations Code, §2301.453 and shall not be
17 subject to protest under the provisions of §215.105 of this title (relating to Notification of License
18 Application; Protest Requirements), provided that:

19 (1) the application states that the applicant is intended as a replacement dealership and
20 identifies the prior dealership to be replaced;

(2) the manufacturer or distributor of the line-make gives notice to the department and to other dealers franchised for the same line-make that meet the provisions of Occupations Code, §2301.652(b) and (c);

(3) the notice under paragraph (2) of this subsection is given within 60 days following the closing of the prior dealership;

(4) the application is filed electronically in eLICENSING, a system designated by the department for licensing, ~~[with the department]~~ not later than one year following the closing of the prior dealership; and

(5) the location of the applicant's proposed dealership is not more than two miles from the location of the prior dealership.

215.110. Evidence of Franchise

(a) Upon application for a franchised~~[new motor vehicle]~~ dealer's license or an amendment of an existing franchised~~[new motor vehicle]~~ dealer's license to add a line-make, the applicant must submit a legible and accurate electronic image~~[photocopy]~~ of the ~~[pages of the]~~ franchise agreement~~[(s)]~~ pages that reflect:

(1) the parties~~[to the agreement(s)],~~

(2) the authorized signatures of the parties~~[to the agreement(s)],~~ ~~[and]~~

(3) each line-make listed in the application, and

(4) the address of the franchised dealership's physical location.

1 **(b)** To meet this requirement temporarily for the purpose of application processing, a form
2 prescribed by the department and completed by the manufacturer or distributor may be electronically
3 submitted with the application in lieu of the information described in this ~~[sub]~~section.

4 **(c)** The applicant must submit the required legible and accurate electronic image~~[photocopies]~~
5 of the franchise agreement~~[(s)]~~ pages described in this subsection immediately upon the applicant's
6 receipt of the franchise agreement~~[(s)]~~ as the department will not issue a license without verifying that
7 the franchise agreement has been executed.

8 **(d)**~~[(b)]~~ Upon application to relocate a franchised~~[new motor vehicle]~~ dealership, the franchised
9 dealer applicant must submit a form prescribed by the department and completed by the manufacturer
10 or distributor that identifies the license holder and the new franchised dealership location.

11
12 215.111. Notice of Termination or Discontinuance of Franchise and Time for Filing Protest

13 A notice of termination or discontinuance of a dealer's franchise to a franchised dealer and the
14 department in accordance with Occupations Code, §2301.453. A notice of protest of the franchise
15 termination or discontinuance by a dealer pursuant to Occupations Code, §2301.453 shall be in writing
16 and shall be filed with the department electronically in eLICENSING, the system designated by the
17 department for licensing, prior to the effective date of the franchise termination or discontinuance
18 stated in the notice from the manufacturer or distributor.

19
20 ~~[215.112. Motor Home Show Limitations and Restrictions]~~

1 ~~[(a) Applicability. This rule implements Occupations Code, §2301.358 and is expressly limited to~~
2 ~~motor home shows that require department approval in accordance with subsection (b) of this section.]~~

3 ~~[(b) Show approval required. Without written approval by the department, a person may not~~
4 ~~promote or conduct a show involving a new motor home that will be sold or offered for sale.]~~

5 ~~[(c) Show requirements. The department may approve a motor home show in accordance with~~
6 ~~this section if the show:~~

7 ~~(1) does not exceed six consecutive days;~~

8 ~~(2) is not conducted within 90 days of a previous show in the same county; and~~

9 ~~(3) complies with Occupations Code, Chapter 2301; Transportation Code, Chapters 503~~
10 ~~and 1000–1005; and board rules.]~~

11 ~~[(d) Additional motor home shows. The department may authorize additional motor home~~
12 ~~shows in any county upon a showing of good cause by the promoter for waiver from the show~~
13 ~~requirements of subsection (c) of this section.]~~

14 ~~[(e) Show approval requirements. For purposes of this section, the promoter or coordinator of a~~
15 ~~motor home show must submit an application to the department. The application must:~~

16 ~~(1) be completed and submitted on a form and in the manner prescribed by the~~
17 ~~department;~~

18 ~~(2) be accompanied by all required attachments;~~

19 ~~(3) be submitted no less than 30 days and no more than 90 days before the proposed~~
20 ~~show date;~~

1 (4) be accompanied by a \$25,000 surety bond if the promoter or coordinator of the
2 show is not a license holder, an association of license holders, or an organization of license holders;

3 (5) affirm that at least three franchised dealers of new motor homes, each participating
4 with at least one different line make, will participate in the show;

5 (6) affirm that each franchised dealer that participates in the show holds a valid
6 franchised dealer's license issued by the department for each motor home line make that the franchised
7 dealer will participate with in the show; and

8 (7) designate either Saturday or Sunday for suspension of the sale of any motor home, in
9 accordance with Transportation Code, Chapter 728, Subchapter A, when the show is conducted over a
10 consecutive Saturday and Sunday.]

11 [(f) Dealer participation approval required. Without written approval by the department, a
12 motor home dealer may not participate in a show of new motor homes, where a motor home will be
13 sold or offered for sale.]

14 [(g) Dealer participation requirements. A dealer of new motor homes requesting approval to
15 participate in a show must submit a sufficient application to the department. To be sufficient, the
16 application must be on a form prescribed by the department and accompanied by all required
17 attachments.]

18 [(h) Located within 70 miles of show site. For the purpose of this section, a franchised dealer
19 located within 70 miles of the site of the proposed show has a right equal to any other franchised dealer
20 that is also located within 70 miles of the show site to participate in the show with a like line motor
21 home.]

1 ~~[(i) Located more than 70 miles from show site. For the purpose of this section, a franchised~~
2 ~~dealer that is located more than 70 miles from the proposed show site does not have a right to~~
3 ~~participate in the show; however, the department may approve that franchised dealer to participate in~~
4 ~~the motor home show, if:~~

5 ~~(1) there is no franchised dealer of a like line motor home located within 70 miles of the~~
6 ~~proposed show site; or~~

7 ~~(2) the franchised dealer obtains a written waiver from each like line franchised motor~~
8 ~~home dealer located within 70 miles of the proposed show site.]~~

9 ~~[(j) Suspension of sales. For the purpose of this section and pursuant to Transportation Code,~~
10 ~~Chapter 728, Subchapter A, when a show is conducted over a consecutive Saturday and Sunday, all~~
11 ~~franchised dealers of motor homes will suspend sales on the same Saturday or Sunday, as designated by~~
12 ~~the show promoter or coordinator. On the day sales are suspended, a motor home dealer:~~

13 ~~(1) may quote a price;~~

14 ~~(2) may open and attend to the motor home product;~~

15 ~~(3) may not sell, offer to sell, negotiate a price, or enter into a contract or letter of~~
16 ~~intention to contract for the sale of the motor home; and~~

17 ~~(4) is not required to remove or cover the suggested retail price the manufacturer may~~
18 ~~have affixed to the motor home.]~~

19
20 215.113. Manufacturer Ownership of Franchised Dealer; Good Cause Extension; Dealer Development

1 (a) In the absence of a showing of good cause, an application for a franchised~~[new motor~~
2 ~~vehicle]~~ dealer's license of which a manufacturer or distributor owns any interest in or has control of the
3 dealership entity must be submitted to the department electronically in a system designated by the
4 department for licensing no later than 30 days before:

5 (1) the opening of the dealership;

6 (2) close of the buy-sell agreement; or

7 (3) the expiration of the current license.

8 (b) If a manufacturer or distributor applies for a franchised~~[new motor vehicle]~~ dealer's license
9 of which the manufacturer or distributor holds an ownership interest in or has control of the dealership
10 entity in accordance with Occupations Code, §2301.476(d) - (f), the license application must contain a
11 sworn statement from the manufacturer or distributor that the dealership was purchased from a
12 franchised dealer and is for sale at a reasonable price and under reasonable terms and conditions, and
13 that the manufacturer or distributor intends to sell the dealership to a person not controlled or owned
14 by the manufacturer or distributor within 12 months of acquiring the dealership, except as provided by
15 subsection (h) of this section.

16 (c) A request for an extension of the initial 12-month period for manufacturer or distributor
17 ownership or control of a franchised~~[new motor vehicle]~~ dealership, in accordance with Occupations
18 Code, §2301.476(e), must be submitted to the department in accordance with subsection (a) of this
19 section along with a sufficient application to renew the new motor vehicle dealer's license. The request
20 must contain a detailed explanation, including appropriate documentary support, to show the
21 manufacturer's or distributor's good cause for failure to sell the dealership within the initial 12-month
22 period. The director will evaluate the request and determine whether the license should be renewed for

1 a period not to exceed 12 months or deny the renewal application. If the renewal application is denied,
2 the manufacturer or distributor may request a hearing on the denial in accordance with Occupations
3 Code, Chapter 2301, Subchapter O~~[\$§2301.701 – 2301.713]~~ and the matter will be referred to SOAH for a
4 hearing under Chapter 224, Subchapter C of this title (relating to Contested Cases Between Motor
5 Vehicle License Holders or Applicants).

6 (d) Requests for extensions after the first extension is granted, as provided by Occupations Code,
7 §2301.476(e), must be submitted at least 120 days before the expiration of the current license
8 electronically in eLICENSING, a system designated by the department for licensing. Upon receipt of a
9 subsequent request, the department~~[board]~~ will initiate a hearing in accordance with Occupations Code,
10 Chapter 2301, Subchapter O~~[\$§2301.701 – 2301.713]~~, at which the manufacturer or distributor will be
11 required to show good cause for the failure to sell the dealership. The manufacturer or distributor has
12 the burden of proof and the burden of going forward on the sole issue of good cause for the failure to
13 sell the dealership.

14 (e) The department will give notice of the hearing described in subsection (d) of this section to
15 all other franchised dealers holding franchises for the sale and service or service only of the same line-
16 make of new motor vehicles that are located in the same county in which the dealership owned or
17 controlled by the manufacturer or distributor is located or in an area within 15 miles of the dealership
18 owned or controlled by the manufacturer or distributor. Such dealers, if any, will be allowed to intervene
19 and protest the granting of the subsequent extension. Notices of intervention by dealers afforded a right
20 to protest under Occupations Code, §2301.476(e) must be filed with the department electronically in
21 eLICENSING, a system designated by the department within 15 days of the date of mailing of the
22 notice of hearing, and a copy must be provided to the manufacturer or distributor. The department will
23 reject a notice of intervention if the notice is not filed at least 30 days before:

1 (1) the opening of the dealership;

2 (2) close of the buy-sell agreement; or

3 (3) the expiration of the current license.

4 (f) A hearing under subsection (d) of this section will be referred to SOAH for a hearing under
5 Chapter 224, Subchapter C of this title (relating to Contested Cases Between Motor Vehicle License
6 Holders or Applicants).~~[conducted as expeditiously as possible, but not later than 120 days after receipt~~
7 ~~of the subsequent request for extension from the manufacturer or distributor. An ALJ will prepare a~~
8 ~~written decision and proposed findings of fact and conclusions of law as soon as possible, but not later~~
9 ~~than 60 calendar days after the hearing is closed.]~~ The franchised~~[new motor vehicle]~~ dealer's license
10 that is the subject of the hearing will continue in effect until a final decision on the request for a
11 subsequent extension is issued~~[rendered]~~ by the board.

12 (g) The procedures described in subsections (d) - (f) of this section will be followed for all
13 extensions requested by the manufacturer or distributor after the initial extension.

14 (h) An application for a new motor vehicle dealer's license of which a manufacturer or
15 distributor owns any interest in the dealership entity in accordance with Occupations Code,
16 §2301.476(g) must contain sufficient documentation to show that the applicant meets the requirements
17 of Occupations Code, §2301.476(g).

18
19 215.115. Manufacturer, Distributor, and Converter Records

1 (a) A manufacturer or distributor must maintain, for a minimum period of 48 months, a record of
2 each vehicle sold to any person in this state. The manufacturer or distributor shall make the record
3 available during business hours for inspection and copying by ~~a representative of~~ the department.

4 (b) A converter must maintain, for a minimum period of 48 months, a record of each vehicle
5 converted to any person in this state, including to a Texas franchised dealer. The converter shall make the
6 record available during business hours for inspection and copying by ~~a representative of~~ the
7 department.

8 (c) A manufacturer, distributor, or converter is required to maintain at its licensed location a
9 record reflecting each purchase, sale, or conversion for a minimum period of 24 months. Records for
10 prior time periods may be kept off-site.

11 (d) Within 15 days of receipt of a request sent by mail or electronic document transfer from ~~a~~
12 ~~representative of~~ the department, a manufacturer, distributor, or converter must submit a copy of
13 specified records to the address listed in the request.

14 (e) Records required to be maintained and made available to the department must include the
15 following:

16 (1) the date of sale or conversion of the motor vehicle;

17 (2) the VIN;

18 (3) the name and address of the purchasing dealer or converter;

19 (4) a copy of or a record with the information contained in the manufacturer's certificate
20 of origin or title;

(5) information regarding the prior status of the motor vehicle such as the Reacquired Vehicle Disclosure Statement;

(6) the repair history of any motor vehicle subject to a warranty complaint;

(7) technical service bulletin or equivalent advisory; and

(8) any audit of a dealership.

(f) Any record required by the department may be maintained in an electronic format, if the electronic record can be printed at the licensed location upon request ~~[for the record]~~ by ~~a representative of~~ the department.

215.116. Franchised Dealership Lease or Sublease Listing

A franchised dealer that lists its dealership for lease or sublease to mitigate damages in accordance with Occupations Code, §2301.4651(e) is required to list ~~for lease or sublease~~:

(1) the entire real property if the termination or discontinuance effectively terminates all line-makes and all franchises for the entire dealership; or

(2) only that portion of the real property associated with the terminated line-make or franchise, if the termination or discontinuance does not affect all line-makes and all franchises of the dealership.

215.117. Market Value Property Appraisal

1 (a) An appraiser performing a[A] market value property appraisal[~~assessment made~~] in
2 accordance with Occupations Code, §2301.482(c) must be a Texas[~~requires three general~~] certified real
3 estate appraiser.[~~s certified by the State of Texas.~~]

4 (b) Necessary real estate and necessary construction are each determined by the applicable
5 property use agreement.

6 (c) The[~~To determine~~] market value of property in accordance with Occupations Code,
7 §2301.482(c), is the[~~an~~] average of the market value property appraisals[~~will be calculated from the~~
8 ~~independent market value property assessment determinations~~] of the three [general]certified real
9 estate appraisers.

10
11 215.119. Standing to Protest

12 (a) A protesting dealer has the burden to demonstrate standing to protest.

13 (b) Standing requirements are established by the type of application.

14 (1) Protest of an application to establish a dealership or to add a new line-make to an
15 existing dealership requires the protesting dealer to meet standing requirements under Occupations
16 Code, §2301.652;

17 (2) Protest of an application to relocate a dealership requires the protesting dealer to
18 meet standing requirements under Occupations Code, §2301.652;

19 (3) Protest of an application to relocate a dealership within an affected county or from
20 an affected county to an adjacent affected county requires the protesting dealer to meet standing
21 requirements under Occupations Code, §2301.6521;

1 (4) Protest of an application to relocate an economically impaired dealership requires
2 the protesting dealer to meet standing requirements under Occupations Code, §2301.6522; and

3 (5) Protest of an application filed by a manufacturer[, or distributor[, ~~or representative~~]
4 for an extension of time for ownership or control of a dealership requires the protesting dealer to meet
5 standing requirements under Occupations Code, §2301.476.

6 (c) A person has standing to protest an application to establish a dealership or to add a
7 franchised line-make at an existing dealership if:

8 (1) the person is a franchised dealer of the same line-make; and

9 (2) the person's dealership is located either in the same county as, or within 15 miles of,
10 the dealership for which the application was filed.]

11 (d) Except as provided in subsections (e) and (f) of this section, a person has standing to protest
12 an application to relocate a dealership or to relocate a franchised line-make of an existing dealership if:

13 (1) the person is a franchised dealer of the same line-make;

14 (2) the person's dealership is located either in the same county as, or within 15 miles of,
15 the dealership for which the application for relocation is filed;

16 (3) the proposed relocation site is more than two miles from the location where the
17 dealership is currently licensed; and

18 (4) the proposed relocation site is nearer to the protesting franchised dealer than the
19 location from which the relocating dealership is currently licensed.

1 (e) An application may be filed under Occupations Code, §2301.6521 to relocate a dealership
2 from a location in an affected county to a location that is either within the same affected county or in an
3 adjacent affected county.

4 (1) No dealer has standing to protest an application filed in accordance with this
5 subsection if the proposed relocation site is two miles or less from the relocating dealer's existing
6 licensed location.

7 (2) No dealer has standing to protest an application filed in accordance with this
8 subsection if the proposed relocation site is farther from the protesting dealer's licensed location than
9 the relocating dealer's existing licensed location.

10 (3) If a dealership of the same line-make as the relocating dealership is located within 15
11 miles of the proposed relocation site, then a person has standing to protest an application to relocate
12 filed in accordance with this subsection, if:

13 (A) the person is a franchised dealer of the same line-make;

14 (B) the person's dealership is located within 15 miles of the proposed relocation
15 site;

16 (C) the proposed relocation site is more than two miles from the location where
17 the dealership is currently licensed; and

18 (D) the proposed relocation site is nearer to the protesting franchised dealer
19 than the location from which the relocating dealership is currently licensed.

1 (4) If no dealership of the same line-make as the relocating dealership is located within
2 15 miles of the proposed relocation site, then a person has standing to protest an application to relocate
3 filed in accordance with this subsection, if:

4 (A) the person is a franchised dealer of the same line-make;

5 (B) no other dealership of the same line-make is located nearer to the proposed
6 relocation site;

7 (C) the person's dealership is located in the same affected county as the
8 relocating dealership is proposed to be located;

9 (D) the proposed relocation site is more than two miles from the location where
10 the relocating dealership is currently licensed; and

11 (E) the proposed relocation site is nearer to the protesting franchised dealer
12 than the location from which the relocating dealership is currently licensed.

13 (f) If an economically impaired dealer files an application under Occupations Code, §2301.6522
14 to relocate its dealership, then a dealer may have standing to protest the application if:

15 (1) the dealer is franchised for a line-make that is the same as a line-make proposed to
16 be relocated;

17 (2) the proposed relocation site is more than two miles closer to the protesting dealer's
18 dealership than the site of the economically impaired dealer's existing licensed location; and

19 (3) there is no other dealer located nearer to the proposed relocation site that is
20 franchised for a line-make that is proposed to be relocated.

1 (g) A dealer has standing to protest an application for an extension of time that was filed by a
2 manufacturer, distributor, or representative under Occupations Code, §2301.476 if:

3 (1) the protesting dealer is franchised for a line-make being sold or serviced from the
4 dealership owned or controlled by a manufacturer, distributor, or representative; and

5 (2) the protesting dealer is located either in the same county as, or within 15 miles of,
6 the dealership owned or controlled by the manufacturer, distributor, or representative.

7
8 215.120 License Plates

9 (a) A manufacturer, distributor, or converter may apply for a standard manufacturer or converter
10 license plate for use on a new unregistered vehicle of the same vehicle type assembled or modified in
11 accordance with Transportation Code §503.064 or §503.0618, as applicable:

12 (1) when applying for a new or renewal license, or

13 (2) by submitting a plate request application electronically in the system designated by
14 the department.

15 (b) A manufacturer, distributor, or converter shall attach a license plate to the rear of a vehicle in
16 accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

17 (c) A manufacturer, distributor, or converter shall maintain a record of each license plate issued
18 to the manufacturer, distributor, or converter by the department. The record of each license plate issued
19 must contain:

20 (1) the license plate number;

1 (2) the year and make of the vehicle to which the license plate is affixed;

2 (3) the VIN of the vehicle; and

3 (4) the name of the person in control of the vehicle to which the license plate is affixed.

4 (d) If a manufacturer, distributor, or converter cannot account for a license plate or a license
5 plate is damaged, the manufacturer, distributor, or converter must:

6 (1) document the license plate as "void" in plate record in subsection (c); and

7 (2) within three days of discovering that the license plate is missing or damaged, report
8 the license plate as lost, stolen, or damaged electronically in the system designated by the department;
9 and

10 (3) if found after reported missing, cease use of the license plate.

11 (e) A license plate is no longer valid for use after the manufacturer, distributor, or converter
12 reports to the department that the plate is lost, stolen, or damaged. A manufacturer, distributor, or
13 converter must render a void plate unusable by permanently marking the front of the plate with the
14 word "VOID" or a large "X" and once marked, may destroy or recycle the license plate, or return the
15 license plate to the department for recycling.

16 (f) The license holder's license plate record must be available for inspection and copying by the
17 department during normal business hours or be available to submit electronically to the department
18 upon request.

19 (g) In evaluating requests for additional standard license plates, the department will consider the
20 business justification provided by a license holder including the following:

1 (1) the number of vehicles assembled or modified;

2 (2) the highest number of motor vehicles in inventory in the prior 12 months;

3 (3) the size and type of business;

4 (4) how the license holder typically uses the plates;

5 (5) the license holder's record of tracking and reporting missing or damaged plates to
6 the department; and

7 (6) any other factor the Department in its discretion deems necessary to support the
8 number of plates requested.

9 (h) a license holder must return a department-issued license plate to the department within
10 fifteen days of the license holder closing the associated license or the associated license being revoked,
11 canceled, or closed.

12
13 215.121 Sanctions

14 (a) The board or department may:

15 (1) deny an application;

16 (2) revoke a license;

17 (3) suspend a license; and

18 (4) assess a civil penalty or other action against a license applicant, a license holder, or a
19 person engaged in business for which a license is required.

1 **(b) The board or department may take action described in subsection (a) of this section if a**
2 **license applicant, a license holder, or a person engaged in business for which a license is required:**

3 **(1) fails to maintain records required under this chapter;**

4 **(2) refuses or fails to timely comply with a request for records made by a representative**
5 **of the department;**

6 **(3) sells or offers to sell a motor vehicle to a retail purchaser other than through a**
7 **licensed or authorized dealer;**

8 **(4) fails to submit a license amendment application in the electronic system designated**
9 **by the department for licensing to notify the department of a change of the license holder's physical**
10 **address, mailing address, telephone number, or email address within 10 days of the change;**

11 **(5) fails to timely submit a license amendment application in the electronic system**
12 **designated by the department for licensing to notify the department of a license holder's business or**
13 **assumed name change, deletion of a line-make, or management or ownership change;**

14 **(6) fails to notify the department or pay or reimburse a franchised dealer as required by**
15 **law;**

16 **(7) misuses or fails to display a license plate as required by law;**

17 **(8) fails to provide a manufacturer's certificate for a new vehicle if a manufacturer or**
18 **distributor;**

19 **(9) fails to remain regularly and actively engaged in the business of manufacturing,**
20 **assembling, or modifying a new motor vehicle of the type and line make for which a license has been**
21 **issued by the department;**

(10) violates a provision of Occupations Code, Chapter 2301; Transportation Code Chapters 503 and 1001 - 1005; a board order or rule; or a regulation of the department relating to the manufacture, assembly, sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter H of this chapter (relating to Advertising);

(11) is convicted of an offense that directly relates to the duties or responsibilities of the occupation in accordance with §211.3 of this title (relating to Criminal Offense Guidelines);

(12) is determined by the board or department, in accordance with §215.89 of this title (relating to Fitness), to be unfit to hold a license;

(13) omits information or makes a material misrepresentation in any application or other documentation filed with the department including providing a false or forged identity document or a false or forged photograph, electronic image, or other document;

(14) fails to remit payment as ordered for a civil penalty assessed by the board or department;

(15) sells a new motor vehicle without a franchised dealer's license issued by the department;

(16) violates any state or federal law or regulation relating to the manufacture, distribution, modification, or sale of a motor vehicle;

(17) fails to issue a refund as ordered by the board or department; or

(18) fails to participate in a statutorily required mediation without good cause.

SUBCHAPTER D[~~E~~]. GENERAL DISTINGUISHING NUMBERS

1 215.131. Purpose and Scope

2 This subchapter implements Transportation Code, Chapters 503 and 1001 – 1005 and Occupations
3 Code, Chapter 2301, and applies to general distinguishing numbers issued by the department.
4

5 215.132. Definitions

6 The following words and terms, when used in this subchapter, shall have the following meanings,
7 unless the context clearly indicates otherwise.

8 (1) Barrier--A material object or set of objects that separates or demarcates.

9 ~~(2)[Charitable organization--Has the meaning assigned by Transportation Code,~~
10 ~~§503.062(c).~~

11 ~~(3)[~~Consignment sale--The owner-authorized sale of a motor vehicle by a person other
12 than the owner.

13 ~~(3)[(4)]~~ House trailer--A nonmotorized vehicle designed for human habitation and for
14 carrying persons and property on its own structure and for being drawn by a motor vehicle. A
15 house trailer does not include manufactured housing. A towable recreational vehicle, as defined by
16 Occupations Code, §2301.002, is included in the terms "house trailer" or "travel trailer."

17 ~~[(5) License--A dealer's GDN assigned by the department identifying the type of business~~
18 ~~for a specified location from which the person engages in business.]~~

19 ~~(4)[(6)]~~ Person--Has the meaning assigned by Occupations Code, §2301.002.

20 ~~(5)[(7)]~~ Sale--With regard to a specific vehicle, the transfer of possession of that vehicle to
21 a purchaser for consideration.

22 ~~(6)[(8)]~~ Temporary tag--A buyer's temporary tag, converter's temporary tag, or dealer's
23 temporary tag as described under Transportation Code, Chapter 503.

1 ~~(7)~~~~(9)~~ Towable recreational vehicle--Has the same meaning as "house trailer" defined by
2 this section.

3 ~~(8)~~~~(10)~~ Travel Trailer--Has the same meaning as "house trailer" defined by this section.

4 ~~(9)~~~~(11)~~ Vehicle--Has the meaning assigned by Transportation Code, §503.001.

5 ~~(10)~~~~(12)~~ VIN--Vehicle identification number.

6
7 215.133. ~~[General Distinguishing Number]~~Licensing Requirements for a Dealer or a Wholesale
8 Motor Vehicle Auction GDN

9 (a) No person may engage in business as a dealer or as a wholesale motor vehicle auction
10 unless that person has a ~~currently~~ valid GDN assigned by the department for each location from
11 which the person engages in business. A dealer must also hold a GDN for a consignment location,
12 unless the consignment location is a wholesale motor vehicle auction.

13 (b) Subsection (a) of this section does not apply to a person exempt from the requirement
14 to obtain a GDN under Transportation Code §503.024.

15 (c) A GDN dealer or wholesale motor vehicle auction application shall be on a form
16 prescribed by the department and properly completed by the applicant. A GDN dealer or wholesale
17 motor vehicle auction application shall include all required information, required supporting
18 documents, and required fees and shall be submitted to the department electronically in a system
19 designated by the department for licensing. A GDN dealer or wholesale motor vehicle auction GDN
20 holder renewing or amending its GDN must verify current license information, provide related
21 information and documents for any new requirements or changes to the GDN, and pay required
22 fees including any outstanding civil penalties owed the department under a final order. An
23 applicant for a new dealer or wholesale motor vehicle auction GDN must provide the following:

1 (1) Required information:

2 (A) type of GDN requested;

3 (B) business information, including the name, physical and mailing
4 addresses, telephone number, Secretary of State file number (if applicable), and website address
5 (if applicable);

6 (C) ~~[application contact name, email address, and telephone~~
7 ~~number]~~contact name, email address, and telephone number of the person submitting the
8 application;

9 (D) contact name, email address, and telephone number of a person who
10 can provide information about business operations and the motor vehicle products or services
11 offered;

12 (E)~~[(D)]~~ the name, social security number, date of birth, identity document
13 information, and ownership percentage for each owner, partner, member, or principal if the
14 applicant is not a publicly traded company;

15 (F)~~[(E)]~~ the name, social security number, date of birth, and identity
16 document information for each officer, director, manager, trustee, or other representative
17 authorized to act on behalf of the applicant if the applicant is owned in full or in part by a legal
18 entity;

19 (G)~~[(F)]~~ the name, employer identification number, ownership percentage,
20 and non-profit or publicly traded status for each legal entity that owns the applicant in full or in
21 part;

22 (H)~~[(G)]~~ the name, social security number, date of birth, and identity
23 document information of at least one manager or other bona fide employee who will be present at

1 the established and permanent place of business if the owner is out of state or will not be present
2 during business hours at the established and permanent place of business in Texas;

3 (I)~~(H)~~ if a dealer, the name and business email address of the temporary
4 tag database account administrator designated by the applicant who must be an owner or
5 representative listed in the application;

6 (J)~~(I)~~ criminal history record information under the laws of Texas, another
7 state in the United States, the United States, and any foreign jurisdiction for each person listed in
8 the application, including offense description, date, and location;

9 (K)~~(J)~~ military service status;

10 (L)~~(K)~~ licensing history required to evaluate fitness for licensure under
11 §215.89 of this title (relating to Fitness);

12 (M)~~(L)~~ information about the business location and business premises,
13 including whether the applicant will operate as a salvage vehicle dealer at the location;

14 (N)~~(M)~~ history of insolvency, including outstanding or unpaid debts,
15 judgments, or liens, unless the debt was discharged under 11 U.S.C. §§101 et seq. (Bankruptcy Act)
16 or is pending resolution under a case filed under the Bankruptcy Act;

17 (O)~~(N)~~ signed Certification~~Certificate~~ of Responsibility, which is a form
18 provided by the department; and

19 (P)~~(O)~~ any other information required by the department to evaluate the
20 application under current law and board rules.

21 (2) A legible and accurate electronic image of each applicable required document:

22 (A) proof of a surety bond if required under §215.137 of this title (relating
23 to Surety Bond);

1 (B) the certificate of filing, certificate of incorporation, or certificate of
2 registration on file with the Secretary of State, if applicable;

3 (C) each assumed name certificate on file with the Secretary of State or
4 county clerk;

5 (D) at least one of the following current identity documents for each natural
6 person listed in the application:

7 (i) [~~current~~] driver license;

8 (ii) [~~current~~] Texas Identification Card issued by the Texas
9 Department of Public Safety under Transportation Code, Chapter 521, Subchapter E;

10 (iii) [~~current~~] license to carry a handgun issued by the Texas
11 Department of Public Safety under Government Code, Chapter 411, Subchapter H;

12 (iv) [~~current~~] passport; or

13 (v) [~~current~~] United States military identification card[~~armed forces~~
14 ~~identification~~].

15 (E) a certificate of occupancy, certificate of compliance, or other official
16 documentation confirming the business location complies with municipal ordinances, including
17 zoning, occupancy, or other requirements for a vehicle business;

18 (F) documents proving business premises ownership, or lease or sublease
19 agreement for the license period;

20 (G) business premises photos and a notarized affidavit certifying that all
21 premises requirements in §215.140 of this title (relating to Established and Permanent Place of
22 Business Premises Requirements) are met and will be maintained during the license period;

1 (H) evidence of franchise if applying for a franchised motor vehicle dealer

2 GDN;

3 (I) proof of completion of the dealer education and training required under

4 Transportation Code §503.0296, if applicable; and

5 (J) any other documents required by the department to evaluate the

6 application under current law and board rules.

7 (3) Required fees:

8 (A) the fee ~~for the GDN~~ for each type of license requested as prescribed by

9 law; and

10 (B) the fee, including applicable taxes, for each standard ~~metal~~ dealer plate

11 requested by the applicant as prescribed by law.

12 (d) An applicant for a dealer or wholesale GDN must also comply with fingerprint

13 requirements in §211.6 of this title (relating to Fingerprint Requirements for Designated License

14 Types ~~General Distinguishing Numbers~~), if applicable.

15 (e) An applicant for a dealer GDN operating under a name other than the applicant's

16 business name shall use the assumed name under which the applicant is authorized to do business,

17 as filed with the Secretary of State or county clerk, and the assumed name of such legal entity shall

18 be recorded by the applicant on the application using the letters "DBA." The applicant may not use

19 an assumed name that may be confused with or is similar to that of a governmental entity or that

20 is otherwise deceptive or misleading to the public.

21 (f) A wholesale motor vehicle dealer GDN holder may sell or exchange vehicles with

22 licensed or authorized dealers only. A wholesale motor vehicle dealer GDN holder may not sell or

23 exchange vehicles at retail.

1 (g) An independent mobility motor vehicle dealer shall retain and produce for inspection all
2 records relating to the license requirements under Occupations Code, §2301.002(17-b) and all
3 information and records required under Transportation Code §503.0295.

4 (h) In evaluating a new or renewal~~[dealer]~~ GDN application or an application for a new
5 GDN location, the department may require a site visit to determine if the business location meets
6 the requirements in §215.140. The department will require the applicant or GDN holder to provide
7 a notarized affidavit confirming that all premises requirements are met and will be maintained
8 during the license period.

9 (i) A person holding an independent motor vehicle GDN does not have to hold a salvage
10 vehicle dealer license to:

- 11 (1) act as a salvage vehicle dealer or rebuilder; or
12 (2) store or display a motor vehicle as an agent or escrow agent of an insurance
13 company.

14 (j) To be eligible for an independent motor vehicle GDN, a person must complete dealer
15 education and training specified by the department, except as provided in this subsection:

16 (1) once a person has completed the required dealer education and training, the
17 person will not have to retake the dealer education and training for subsequent GDN renewals, but
18 may be required to provide proof of dealer education and training completion as part of the GDN
19 renewal process;

20 (2) a person holding an independent motor vehicle GDN for at least 10 years as of
21 September 1, 2019, is exempt from the dealer education and training requirement; and.

1 (3) a military service member, military spouse, or military veteran will receive
2 appropriate credit for prior training, education, and professional experience and may be exempted
3 from the dealer education and training requirement.
4

5 215.134 Requirements for a Drive-a-way In-Transit License

6 (a) No drive-a-way operator may engage in business in Texas unless that person has a
7 currently valid drive-a-way operator in-transit license issued by the department.

8 (b) A drive-a-way operator in-transit application shall be on a form prescribed by the
9 department and properly completed by the applicant. A drive-a-way operator in-transit application
10 shall include all required information, required supporting documents, and required fees and shall
11 be submitted to the department electronically in a system designated by the department for
12 licensing.

13 (c) A drive-a-way operator in-transit license holder renewing or amending its license must
14 verify current license information, provide related information and documents for any new
15 requirements or changes to the license, and pay required fees.

16 (d) An applicant for a new license must register for an account in the department-designated
17 licensing system by selecting the licensing system icon on the dealer page of the department website. An
18 applicant must designate the account administrator and provide the name and email address for that
19 person, and provide the business telephone number, name, business type, and social security number or
20 employer identification number, as applicable. The applicant's licensing account administrator must be
21 an owner, officer, manager, or bona fide employee.

22 (e) Once registered, an applicant may apply for a new license and must provide the
23 following:

1 (1) Required information:

2 (A) type of license requested;

3 (B) business information, including the name, physical and mailing
4 addresses, telephone number, Secretary of State file number (if applicable), and website address
5 (if applicable);

6 (C) contact name, email address, and telephone number of the person
7 submitting the application;

8 (D) contact name, email address, and telephone number of a person who
9 can provide information about business operations and the motor vehicle services offered;

10 (E) the name, social security number, date of birth, identity document
11 information, and ownership percentage for each owner, partner, member, beneficiary, or principal
12 if the applicant is not a publicly traded company;

13 (F) the name, social security number, date of birth, and identity document
14 information for each officer, director, manager, trustee, or other representative authorized to act
15 on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

16 (G) the name, employer identification number, ownership percentage, and
17 non-profit or publicly traded status for each legal entity that owns the applicant in full or in part;

18 (H) criminal history record information under the laws of Texas, another
19 state in the United States, the United States, and any foreign jurisdiction for each person listed in
20 the application, including offense description, date, and location;

21 (I) military service status;

22 (J) licensing history required to evaluate fitness for licensure under §215.89
23 of this title (relating to Fitness);

1 (K) signed Certification of Responsibility, which is a form provided by the
2 department; and

3 (L) any other information required by the department to evaluate the
4 application under current law and board rules.

5 (2) A legible and accurate electronic image of each applicable required document:

6 (A) the certificate of filing, certificate of incorporation, or certificate of
7 registration on file with the Secretary of State, if applicable;

8 (B) each assumed name certificate on file with the Secretary of State or
9 county clerk;

10 (C) at least one of the following current identity documents for each natural
11 person listed in the application:

12 (i) driver license;

13 (ii) Texas Identification Card issued by the Texas Department of
14 Public Safety under Transportation Code, Chapter 521, Subchapter E;

15 (iii) license to carry a handgun issued by the Texas Department of
16 Public Safety under Government Code, Chapter 411, Subchapter H;

17 (iv) passport; or

18 (v) United States military identification card;

19 (D) a list of manufacturers, distributors, dealers, or auctions for which the
20 applicant provides drive-a-way services;

21 (E) a description of the business model or business process, transportation
22 methods, compensation agreements, products, and services used or offered sufficient to allow
23 department to determine if the license type applied for is appropriate under Texas law; and

1 (F) any other documents required by the department to evaluate the
2 application under current law and board rules.

3 (3) Required fees:

4 (A) the license fee as prescribed by law; and

5 (B) the fee, including any taxes, for each standard drive-a-way in-transit
6 license plate requested by the applicant as prescribed by law.

7 (f) An applicant for a drive-a-way operator in-transit license must also comply with
8 fingerprint requirements in §211.6 of this title (relating to Fingerprint Requirements for
9 Designated License Types).

10 (g) An applicant operating under a name other than the applicant's business name shall use
11 the name under which the applicant is authorized to do business, as filed with the Secretary of
12 State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant
13 on the application using the letters "DBA." The applicant may not use an assumed name that may
14 be confused with or is similar to that of a governmental entity or that is otherwise deceptive or
15 misleading to the public.

16
17 215.135. More than One Location

18 (a) A dealer that holds a GDN for a particular type of vehicle may operate from more than one
19 location within the limits of a municipality~~[city]~~, provided each location is operated by the same legal
20 entity and meets the requirements of §215.140 of this title (relating to Established and Permanent Place
21 of Business Premises Requirements).

22 (b) Additional locations not located within the limits of the same municipality~~[city]~~ of the initial
23 dealership are required to:

1 (1) obtain a new GDN; and

2 (2) provide a new surety bond reflecting the additional location^[7] unless the licensed
3 location is exempt by statute from the surety requirement.

4 (c) A dealer that relocates from a point outside the limits of a city or relocates to a point not
5 within the limits of the same city of the initial location is required to:

6 (1) obtain a new GDN; and

7 (2) provide a new surety bond reflecting the new address^[7] unless the licensed location
8 is exempt by statute from the surety requirement.

9 (d) A dealer shall notify the department in writing within 10 days of opening, closing, or
10 relocating a~~ny~~ licensed location by filing an amendment application electronically in the system
11 designated by the department for licensing. Each location must meet and maintain the requirements of
12 §215.140.

13 (e) A dealer may not commence business at any location until the department issues a license
14 specific to that location.

15
16 215.137. Surety Bond

17 (a) The surety bond required by Transportation Code, §503.033 shall be in the legal business
18 name in which the dealer's GDN~~license~~ will be issued and shall contain the complete physical address
19 of each ~~dealership~~ location licensed under the GDN that the surety bond is intended to cover.

1 (b) A surety bond executed by an agent representing a bonding company or surety must be
2 supported by an original power of attorney from the bonding company or surety.

3 (c) The identity of the obligee on a surety bond or a rider to a surety bond must be approved by
4 the department. A surety bond or rider to a surety bond may be identified as:

5 (1) a person who obtains a court judgment assessing damages and attorney's fees for an
6 act or omission on which the bond is conditioned; or

7 (2) unknown.

8 (d) A bonding company that pays any claim against a surety bond shall immediately report the
9 payment to the department.

10 (e) A bonding company shall give written notice to the department 30 days prior to canceling any
11 surety bond.

12 (f) The surety bond required by this section does not apply to a:

13 (1) franchised motor vehicle dealer licensed by the department;

14 (2) franchised motorcycle dealer licensed by the department;

15 (3) franchised house trailer or travel trailer dealer licensed by the department; or

16 (4) trailer or semitrailer dealer licensed by the department.

17
18 215.138. Use of ~~[Metal]~~ Dealer's License Plates

1 (a) A ~~metal~~ dealer's license plate shall be attached to the rear ~~[license plate holder]~~ of a vehicle
2 in accordance with §217.27 of this title (relating to Vehicle Registration Insignia)~~[Transportation Code,~~
3 ~~§503.061]~~.

4 (b) A copy of the receipt for the ~~metal~~ dealer's license plate issued by the department should
5 be carried in the vehicle to present~~[so that the receipt can be presented]~~ to law enforcement personnel
6 upon request.

7 (c) A ~~metal~~ dealer's license plate may not be displayed on:

8 (1) a laden commercial vehicle being operated or moved on the public streets or
9 highways; or

10 (2) the dealer's service or work vehicle, except as provided by Transportation Code,
11 §503.068(b-1).

12 (d) For purposes of this section, a dealer's service or work vehicle includes:

13 (1) a vehicle used for towing or transporting another vehicle;

14 (2) a vehicle, including a light truck, used in connection with the operation of the
15 dealer's shops or parts department;

16 (3) a courtesy car on which a courtesy car sign is displayed;

17 (4) a rental or lease vehicle; and

18 (5) a boat trailer owned by a dealer or manufacturer that is used to transport more than
19 one boat.

1 (e) ~~[As used in this section, "light truck" has the meaning assigned by Transportation Code,~~
2 ~~§541.201.~~

3 ~~(f)]~~For purposes of this section, a light truck as defined by Transportation Code, §541.201, is not
4 considered a laden commercial vehicle when it is:

5 (1) mounted with a camper unit; or

6 (2) towing a trailer for recreational purposes.

7 ~~(f)]~~~~(g)]~~ A ~~metal~~ dealer's license plate may be displayed only on the type of vehicle for which the
8 GDN is issued and for which a dealer is licensed to sell. A nonfranchised dealer may not display a ~~metal~~
9 dealer's license plate on a new motor vehicle.

10 ~~(g)]~~~~(h)]~~ A ~~metal~~ dealer's license plate may be displayed only on a vehicle that has a valid
11 inspection in accordance with Transportation Code, Chapter 548.

12 ~~(h)]~~~~(i)]~~ A dealer shall maintain a record of each ~~metal dealer's~~ license plate issued to that
13 dealer including standard and personalized prestige plates issued by the department. The record must
14 contain:

15 (1) the assigned ~~metal~~ dealer's license plate number;

16 (2) the year and make of the vehicle to which the ~~metal~~ dealer's license plate is affixed;

17 (3) the VIN of the vehicle; and

18 (4) the name of the person in control of the vehicle.

19 ~~(i)]~~~~(j)]~~ If a dealer cannot account for a ~~metal~~ dealer's license plate that the department issued
20 to that dealer, the dealer must:

(1) document the~~metal~~ dealer's license plate as "void" in the~~metal~~ dealer's license plate record;

(2) within three days of discovering that the~~metal~~ dealer's license plate is missing~~;~~ or damaged, report the dealer's license plate as lost, stolen, or damaged in the electronic system designated by the department~~report to the department in writing that the metal dealer's license plate is lost or stolen~~; and

(3) if found, cease use of the ~~metal~~ dealer's license plate.

~~(j)~~(k) A~~metal~~ dealer's license plate is no longer valid for use after the dealer reports to the department that the~~metal~~ dealer's license plate is lost, stolen, or damaged~~missing~~. A dealer must render a void plate unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once marked, may destroy or recycle the license plate, or return the license plate to the department for recycling.

(k) A dealer's license plate record must be available for inspection and copying by the department during normal business hours or be available to submit electronically to the department upon request.

(l) A dealer holder must return a department-issued license plate to the department within fifteen days of the license holder closing the associated license or the associated license being revoked or canceled by the department.

215.139. ~~Metal~~ Dealer's Standard License Plate Allocation

(a) The number of ~~[metal]~~dealer's standard license plates a dealer may order for business use is based on the type of license for which the dealer applied and the number of vehicles the dealer sold during the previous year.

(b) A new license applicant is allotted a predetermined number of ~~[metal]~~dealer's standard license plates for the duration of the dealer's first license term.

(c) Unless otherwise qualified under this section, the maximum number of ~~[metal]~~dealer's standard license plates the department will issue to a new license applicant during the applicant's first license term is indicated in the following table.

Attached Graphic

(d) A dealer that submits an application to the department for a license is not subject to the initial allotment limits described in this section and may rely on that dealer's existing allocation of ~~[metal]~~ dealer's standard license plates if that dealer is:

(1) a franchised dealership subject to a buy-sell agreement, regardless of a change in the entity or ownership;

(2) any type of dealer that is relocating and has been licensed by the department for a period of one year or longer; or

(3) any type of dealer that is changing its business entity type and has been licensed by the department for a period of one year or longer.

(e) The maximum number of ~~[metal]~~ dealer's standard license plates the department will issue to a vehicle dealer per license term is indicated in the following table.

Attached Graphic

1 (f) A dealer may obtain more than the maximum number of ~~[metal]~~ dealer's standard license
2 plates provided by this section by submitting to the department proof of sales for the previous 12-month
3 period that justifies additional allocation.

4 (1) The number of additional ~~[metal]~~ dealer's standard license plates the department
5 will issue to a dealer that demonstrates a need through proof of sales is indicated in the following table.

6 Attached Graphic

7 (2) For purposes of this section, proof of sales for the previous 12-month period may
8 consist of a copy of the most recent vehicle inventory tax declaration or monthly statements filed with
9 the taxing authority in the county of the dealer's licensed location. Each copy must be stamped as
10 received by the taxing authority. A franchised dealer's license renewal application that indicates sales of
11 more than 200 units is considered to be proof of sales of more than 200 units and no additional proof is
12 required.

13 (3) The department may not issue more than two ~~[metal]~~ dealer's standard license
14 plates to a wholesale motor vehicle dealer. For purposes of this section, a wholesale motor vehicle
15 dealer's proof of sales may be demonstrated to the department by submitting:

16 (A) evidence of the wholesale motor vehicle dealer's sales for the previous 12-
17 month period, if the wholesale motor vehicle dealer has been licensed during those 12 months; or

18 (B) other documentation approved by the department demonstrating the
19 wholesale motor vehicle dealer's transactions.

20 (g) The director may waive the ~~[metal]~~ dealer's standard license plate issuance restrictions if the
21 waiver is essential for the continuation of the business. The director will determine the number of ~~[metal]~~

1]dealer's standard license plates the department will issue based on the dealer's past sales, dealer's
2 inventory, and any other factor the director determines pertinent.

3 (1) A request for a waiver must be submitted to the director in writing and specifically
4 state why the additional plate is necessary for the continuation of the applicant's business.

5 (2) A request for a waiver must be accompanied by proof of the dealer's sales for the
6 previous 12-month period, if applicable.

7 (3) A wholesale motor vehicle dealer may not apply for a waiver of the [meta] dealer's
8 standard license plate issuance restrictions.

9 (4) A waiver granted by the director under this section for a specific number of [meta]
10 dealer's standard license plates is valid for four years.

11 ~~[(h) This section does not apply to a personalized prestige dealer's license plate issued in accordance~~
12 ~~with Transportation Code, §503.0615.]~~

13
14 215.140. Established and Permanent Place of Business Premises Requirements

15 (a) A dealer must meet the following requirements at each licensed location and maintain the
16 requirements during the term of the license. If multiple dealers are licensed at a location, each dealer
17 must maintain the following requirements during the entire term of the license.

18 (1) Business hours for retail dealers.

19 (A) A retail dealer's office shall be open at least four days per week for at least
20 four consecutive hours per day and may not be open solely by appointment.

1 (B) The retail dealer's business hours for each day of the week must be posted at
2 the main entrance of the retail dealer's office that is accessible to the public. The owner or a bona fide
3 employee of the retail dealer shall be at the retail dealer's licensed location during the posted business
4 hours for the purposes of buying, selling, exchanging, or leasing vehicles. If the owner or a bona fide
5 employee is not available to conduct business during the retail dealer's posted business hours due to
6 special circumstances or emergencies, a separate sign must be posted indicating the date and time the
7 retail dealer will resume operations. Regardless of the retail dealer's business hours, the retail dealer's
8 telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner,
9 answering service, voicemail service, or answering machine. A caller must be able to speak to a natural
10 person or leave a message during these hours.

11 (2) Business hours for wholesale motor vehicle dealers. A dealer that holds only a
12 wholesale motor vehicle dealer's GDN must post its business hours at the main entrance of the
13 wholesale motor vehicle dealer's office. A wholesale motor vehicle dealer or bona fide employee shall be
14 at the wholesale motor vehicle dealer's licensed location at least two weekdays per week for at least two
15 consecutive hours per day. A wholesale motor vehicle dealer may not be open solely by appointment.
16 Regardless of the wholesale motor vehicle dealer's business hours, the wholesale motor vehicle dealer's
17 telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner,
18 answering service, voicemail service, or answering machine. A caller must be able to speak to a natural
19 person or leave a message during these hours.

20 (3) Business sign requirements for retail dealers.

21 (A) A retail dealer must display a conspicuous, permanent sign with letters at
22 least six inches in height showing the retail dealer's business name or assumed name substantially
23 similar to the name reflected on the retail dealer's GDN under which the retail dealer conducts business.

1 A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main
2 entrance of the business office. A business sign is considered permanent only if it is made of durable,
3 weather-resistant material.

4 (B) The sign must be permanently mounted at the physical address listed on the
5 application for the retail dealer's GDN. A business sign is considered permanently mounted if bolted to
6 an exterior building wall or bolted or welded to a dedicated sign pole or sign support permanently
7 installed in the ground.

8 (C) A retail dealer may use a temporary sign or banner if that retail dealer can
9 show proof that a sign that meets the requirements of this paragraph has been ordered and provides a
10 written statement that the sign will be promptly and permanently mounted upon delivery.

11 (D) A retail dealer is responsible for ensuring that the business sign complies
12 with municipal ordinances, and that any lease signage requirements are consistent with the signage
13 requirements in this paragraph.

14 (4) Business sign requirements for wholesale motor vehicle dealers.

15 (A) Exterior Sign

16 (i) A wholesale motor vehicle dealer must display a conspicuous,
17 permanent sign with letters at least six inches in height showing the wholesale motor vehicle dealer's
18 business name or assumed name substantially similar to the name reflected on the wholesale motor
19 vehicle dealer's GDN under which the wholesale motor vehicle dealer conducts business. Effective
20 September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers"
21 in letters at least three inches in height. A business sign is considered conspicuous if it is easily visible to

1 the public within 100 feet of the main entrance of the business office. A business sign is considered
2 permanent only if it is made of durable, weather-resistant material.

3 (ii) The sign must be permanently mounted on the business property at
4 the physical address listed on the application. A business sign is considered permanently mounted if
5 bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign support
6 permanently installed in the ground. A wholesale motor vehicle dealer may use a temporary exterior
7 sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the
8 requirements of this paragraph has been ordered and provides a written statement that the sign will be
9 promptly and permanently mounted upon delivery.

10 (B) Interior Sign

11 (i) If the wholesale motor vehicle dealer's office is located in an office
12 building with one or more other businesses and an outside sign is not permitted by the property owner,
13 a conspicuous permanent business sign permanently mounted on or beside the main door to the
14 wholesale motor vehicle dealer's office with letters at least two inches in height is acceptable. Effective
15 September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers"
16 in letters at least one inch in height.

17 (ii) An interior business sign is considered conspicuous if it is easily
18 visible to the public within 10 feet of the main entrance of the wholesale motor vehicle dealer's office.
19 An interior sign is considered permanent if made from durable material and has lettering that cannot be
20 changed. An interior sign is considered permanently mounted if bolted or otherwise permanently affixed
21 to the main door or nearby wall. A wholesale motor vehicle dealer may use a temporary interior sign or
22 banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of

1 this paragraph has been ordered and provides a written statement that the sign will be promptly and
2 permanently mounted upon delivery.

3 (C) A wholesale motor vehicle dealer is responsible for ensuring that the
4 business sign complies with municipal ordinances and that any lease signage requirements are
5 consistent with the signage requirements in this paragraph.

6 (5) Office requirements for a retail dealer and a wholesale motor vehicle dealer.

7 (A) A dealer's office must be located in a building with a permanent roof and
8 connecting exterior walls on all sides.

9 (B) A dealer's office must comply with all applicable municipal ordinances,
10 including municipal zoning ordinances. The dealer is responsible for obtaining a certificate of occupancy,
11 certificate of compliance, or other required document issued by a municipal government to show
12 compliance, including a new certificate or document when the building is altered or remodeled, or when
13 the building use changes.

14 (C) A dealer's office may not be located in a residence, apartment, hotel, motel,
15 rooming house, or any room or building not open to the public.

16 (D) A dealer's office may not be located in a restaurant, gas station, or
17 convenience store, unless the office has a separate entrance door that does not require a dealer's
18 customer to pass through the other business.

19 (E) A dealer's office may not be virtual or provided by a subscription for office
20 space or office services. Access to an office space or office services is not considered an established and
21 permanent location.

1 (F) The physical address of the dealer's office must be in Texas and recognized by
2 the U.S. Postal Service and~~or~~ capable of receiving U.S. mail and have an assigned emergency services
3 property address. The department will not mail a~~metal~~ dealer's license plate to an out-of-state
4 address.

5 (G) A portable-type office building may qualify as an office only if the building
6 meets the requirements of this section and is not a readily moveable trailer or other vehicle.

7 (H) The dealer's office space must:

8 (i) include at least 100 square feet of interior floor space, exclusive of
9 hallways, closets, or restrooms;

10 (ii) have a minimum seven-foot-high ceiling;

11 (iii) accommodate required office equipment; and

12 (iv) allow a dealer and customer to safely access the office and conduct
13 business in private while seated.

14 (6) Required office equipment for a retail dealer and a wholesale motor vehicle dealer.
15 At a minimum, a dealer's office must be equipped with:

16 (A) a desk;

17 (B) two chairs;

18 (C) internet access; and

19 (D) a working telephone number listed in the business name or assumed name
20 under which the dealer conducts business.

1 (7) Number of retail dealers in one building. Not more than four retail dealers may be
2 located in the same building. Each retail dealer located in the same building must meet the requirements
3 of this section.

4 (8) Number of wholesale motor vehicle dealers in one office building. Not more than
5 eight wholesale motor vehicle dealers may be located in the same office building. Each wholesale motor
6 vehicle dealer located in the same office building must meet the requirements of this section.

7 (9) Office sharing prohibition for retail dealers and wholesale motor vehicle dealers.
8 Unless otherwise authorized by the Transportation Code, a retail dealer and a wholesale motor vehicle
9 dealer licensed after September 1, 1999, may not be located in the same building.

10 (10) Dealer housed with other business.

11 (A) If a person conducts business as a dealer in conjunction with another
12 business owned by the same person and under the same name as the other business, the same
13 telephone number may be used for both businesses. If the name of the dealer differs from the name of
14 the other business, a separate telephone listing and a separate sign for each business are required.

15 (B) A person may conduct business as a dealer in conjunction with another
16 business not owned by that person only if the dealer owns the property on which business is conducted
17 or has a separate lease agreement from the owner of that property that meets the requirements of this
18 section. The same telephone number may not be used by both businesses. The dealer must have
19 separate business signs, telephone listings, and office equipment required under this section.

20 (C) A dealer's office must have permanent interior walls on all sides and be
21 separate from any public area used by another business.

1 (11) Display area and storage lot requirements.

2 (A) A wholesale motor vehicle dealer is not required to have display space at the
3 wholesale motor vehicle dealer's business premises.

4 (B) A retail dealer must have an area designated as display space for the retail
5 dealer's inventory. A retail dealer's designated display area must comply with the following
6 requirements.

7 (i) The display area must be located at the retail dealer's physical
8 business address or contiguous to the retail dealer's physical address. The display area may not be in a
9 storage lot.

10 (ii) The display area must be of sufficient size to display at least five
11 vehicles of the type for which the GDN is issued. The display area~~[These spaces]~~ must be reserved
12 exclusively for the retail dealer's inventory and may not be used for customer parking, employee parking,
13 general storage, or shared or intermingled with another business or a public parking area, a driveway to
14 the office, or another dealer's display area.

15 (iii) The display area may not be on a public easement, right-of-way, or
16 driveway unless the governing body having jurisdiction of the easement, right-of-way, or driveway
17 expressly consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part
18 of the state highway system, use as a display area may only be authorized by a lease agreement.

19 (iv) If a retail dealer shares a display or parking area with another
20 business, including another dealer, the dealer's vehicle inventory must be separated from the other
21 business's display or parking area by a material object or barrier that cannot be readily removed. A
22 barrier that cannot be readily removed is one that cannot be easily moved by one person and typically

1 weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the
2 space necessary to allow for entry and exit of vehicle inventory.

3 (v) If a dealer's business location includes gasoline pumps or a charging
4 station or includes another business that sells gasoline or has a charging station, the dealer's display area
5 may not be part of the parking area for fuel or charging station customers and may not interfere with
6 access to or from the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

7 (vi) The display area must be adequately illuminated if the retail dealer
8 is open at night so that a vehicle for sale can be properly inspected by a potential buyer.

9 (vii) The display area may be located inside a building; however, if
10 multiple dealers are displaying vehicles inside a building, each dealer's display area must be separated by
11 a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is
12 one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material
13 object or barrier must be in place on all sides except for the space necessary to allow for entry and exit
14 of vehicle inventory.

15 (C) A GDN dealer may maintain a storage lot only if the storage lot is not accessible to
16 the public and no sales activity occurs at the storage lot. A sign stating the dealer's name, contact
17 information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in
18 an access-controlled location to be considered not accessible to the public. An applicant must include
19 the physical address of a storage lot in an application for a new license if the storage lot is located at a
20 different physical address. If a storage lot is established after a license is issued and is located at a
21 different physical address, the dealer must submit a license amendment to add the physical address of
22 the storage lot within 10 days of the storage lot being established.

1 (12) Dealers authorized to sell salvage motor vehicles. If an independent motor vehicle
2 dealer offers a salvage motor vehicle for sale on the dealer's premises, the vehicle must be clearly and
3 conspicuously marked with a sign informing a potential buyer that the vehicle is a salvage motor vehicle.

4 ~~[This requirement does not apply to a licensed salvage pool operator.]~~

5 (13) Lease requirements. If the premises from which a dealer conducts business,
6 including any display area, is not owned by the dealer, the dealer must maintain a lease that is
7 continuous during the period of time for which the dealer's license will be issued. The lease agreement
8 must be on a properly executed form containing at a minimum:

9 (A) the name of the property owner as the lessor of the premises and the name
10 of the dealer as the tenant or lessee of the premises;

11 (B) the period of time for which the lease is valid;

12 (C) the street address or legal description of the property, provided that if only a
13 legal description of the property is included, a dealer must attach a statement verifying that the property
14 description in the lease agreement is the physical street address identified on the application as the
15 physical address for the established and permanent place of business;

16 (D) the signature of the property owner as the lessor and the signature of the
17 dealer as the tenant or lessee; and

18 (E) if the lease agreement is a sublease in which the property owner is not the
19 lessor, the dealer must also obtain a signed and notarized statement from the property owner including
20 the following information:

1 (i) property owner's full name, email address, mailing address, and
2 phone number; and

3 (ii) property owner's statement confirming that the dealer is authorized
4 to sublease the location and may operate a vehicle sales business from the location.

5 (14) Dealer must display GDN and bond notice. A dealer must display the dealer's GDN
6 issued by the department at all times in a manner that makes the GDN easily readable by the public and
7 in a conspicuous place at each place of business for which the dealer's GDN is issued. ~~[If the dealer's~~
8 ~~GDN applies to more than one location, a copy of the GDN and bond notice must be displayed in each~~
9 ~~supplemental location.]~~ A dealer required to obtain a surety bond must post a bond notice adjacent to
10 and in the same manner as the dealer's GDN is displayed. The notice must include the bond company
11 name, bond identification number, and procedure by which a claimant can recover under the bond. The
12 notice must also include the department's website address and notify a consumer that a dealer's surety
13 bond information may be obtained by submitting a request to the department. If the dealer's GDN
14 applies to more than one location, a copy of the GDN and bond notice must be displayed in each
15 supplemental location.

16 (b) A wholesale motor vehicle auction must comply with the following premises requirements:

17 (1) a wholesale motor vehicle auction GDN holder must hold a motor vehicle auction on
18 a regular periodic basis at the licensed location, and an owner or bona fide employee must be available
19 at the business location during each auction and during posted business hours. If the owner or a bona
20 fide employee is not available to conduct business during the posted business hours due to special
21 circumstances or emergencies, a separate sign must be posted indicating the date and time operations
22 will resume.

1 (2) the business telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a
2 bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must
3 be able to speak to a natural person or leave a message during these hours.

4 (2) a wholesale motor vehicle auction GDN holder must display a business sign that
5 meets the following requirements:

6 (A) The sign must be a conspicuous, permanent sign with letters at least six
7 inches in height showing the business name or assumed name substantially similar to the name reflected
8 on the GDN under which the GDN holder conducts business. A business sign is considered conspicuous
9 if it is easily visible to the public within 100 feet of the main entrance of the business office. A business
10 sign is considered permanent only if it is made of durable, weather-resistant material.

11 (B) The sign must be permanently mounted at the physical address listed on the
12 application for the wholesale motor vehicle auction GDN. A business sign is considered permanently
13 mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign
14 support permanently installed in the ground.

15 (C) An applicant may use a temporary sign or banner if the applicant can show
16 proof that a sign that meets the requirements of this paragraph has been ordered and provides a written
17 statement that the sign will be promptly and permanently mounted upon delivery.

18 (D) An applicant or holder is responsible for ensuring that the business sign
19 complies with municipal ordinances, and that any lease signage requirements are consistent with the
20 signage requirements in this paragraph.

21 (3) The business office of a wholesale motor vehicle auction GDN applicant and holder
22 must meet the following requirements:

1 (A) The office must be located in a building with a permanent roof and
2 connecting exterior walls on all sides.

3 (B) The office must comply with all applicable municipal ordinances, including
4 municipal zoning ordinances. The applicant or holder is responsible for obtaining a certificate of
5 occupancy, certificate of compliance, or other required document issued by a municipal government to
6 show compliance, including a new certificate or document when the building is altered or remodeled, or
7 when the building use changes.

8 (C) The office may not be located in a residence, apartment, hotel, motel,
9 rooming house, or any room or building not open to the public.

10 (D) The office may not be located in a restaurant, gas station, or convenience
11 store, unless the office has a separate entrance door that does not require a customer to pass through
12 the other business.

13 (E) The office may not be virtual or provided by a subscription for office space or
14 office services. Access to office space or office services is not considered an established and permanent
15 location.

16 (F) The physical address of the office must be in Texas and recognized by the U.S.
17 Postal Service, capable of receiving U.S. mail, and have an assigned emergency services property
18 address.

19 (G) A portable-type office building may qualify as an office only if the building
20 meets the requirements of this section and is not a readily moveable trailer or other vehicle.

1 (4) A wholesale motor vehicle auction GDN applicant and holder must have the following
2 office equipment:

3 (A) a desk;

4 (B) a chair;

5 (C) internet access; and

6 (D) a working telephone number listed in the business name or assumed name
7 under which business is conducted.

8 (5) A wholesale motor vehicle auction GDN applicant and holder must meet the
9 following display area and storage lot requirements:

10 (A) The area designated as display space for inventory must be located at the
11 physical business address or contiguous to the physical address. The display area may not be in a storage
12 lot.

13 (B) The display area must be of sufficient size to display at least five vehicles.
14 Those spaces must be reserved exclusively for inventory and may not be used for customer parking,
15 employee parking, general storage, or shared or intermingled with another business or a public parking
16 area, or a driveway to the office.

17 (C) The display area may not be on a public easement, right-of-way, or driveway
18 unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly
19 consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the
20 state highway system, use as a display area may only be authorized by a lease agreement.

1 (D) If the business location includes gasoline pumps or a charging station or
2 includes another business that sells gasoline or has a charging station, the display area may not be part
3 of the parking area for fuel or charging station customers and may not interfere with access to or from
4 the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

5 (E) The display area must be adequately illuminated if open at night so that a
6 vehicle for sale can be properly inspected by a potential buyer.

7 (F) The display area may be located inside a building.

8 (G) A wholesale motor vehicle auction GDN holder may maintain a storage lot
9 only if the storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign
10 stating the business name, contact information, and the fact the property is a storage lot is permissible.
11 A storage lot must be fenced or in an access-controlled location to be considered not accessible to the
12 public. An applicant must include the physical address of a storage lot in an application for a new license
13 if the storage lot is located at a different physical address. If a storage lot is established after a license is
14 issued and is located at a different physical address, the dealer must submit a license amendment to add
15 the physical address of the storage lot within 10 days of the storage lot being established.

16 (6) A wholesale motor vehicle auction GDN applicant and holder must meet the
17 following lease requirements if the business premises, including any display area, is not owned by the
18 applicant or holder, the applicant or holder must maintain a lease that is continuous during the period of
19 time for which the GDN will be issued. The lease agreement must be on a properly executed form
20 containing at a minimum:

21 (A) the name of the property owner as the lessor of the premises and the name
22 of the GDN applicant or holder as the tenant or lessee of the premises;

1 (B) the period of time for which the lease is valid;

2 (C) the street address or legal description of the property, provided that if only a
3 legal description of the property is included, an applicant or holder must attach a statement verifying
4 that the property description in the lease agreement is the physical street address identified on the
5 application as the physical address for the established and permanent place of business;

6 (D) the signature of the property owner as the lessor and the signature of the
7 applicant or holder as the tenant or lessee; and

8 (E) if the lease agreement is a sublease in which the property owner is not the
9 lessor, the applicant or holder must also obtain a signed and notarized statement from the property
10 owner including the following information:

11 (i) property owner's full name, email address, mailing address, and
12 phone number; and

13 (ii) property owner's statement confirming that the dealer is authorized
14 to sublease the location and may operate a wholesale motor vehicle auction business from the location.

15
16 215.141. Sanctions

17 (a) The board or department may:

18 (1) deny an application;

19 (2) revoke a license;

20 (3) suspend a license; and

1 (4) assess a civil penalty or other action against a license applicant, a license holder, or a
2 person engaged in business for which a license is required.

3 (b) The board or department may take action described in subsection (a) of this section if a
4 license applicant, a license holder, or a person engaged in business for which a license is required:

5 (1) fails to maintain a good and sufficient bond or post the required bond notice [in the
6 amount of \$25,000] if required under Transportation Code §503.033 (relating to Security Requirement);

7 (2) fails to meet or maintain the requirements of §215.140 (relating to Established and
8 Permanent Place of Business Premises Requirements);

9 (3) fails to maintain records required under this chapter;

10 (4)[3] refuses or fails to comply with a request by a representative of the department to
11 examine and copy during [the license holder's] business hours at the business[licensed] location:

12 (A) sales records required to be maintained by §215.144 of this title (relating to
13 Records);

14 (B) ownership papers for a vehicle owned by that dealer or under that dealer's
15 control;

16 (C) evidence of ownership or a current lease agreement for the property on
17 which the business is located; or

18 (D) the Certificate of Occupancy, Certificate of Compliance, business license or
19 permit, or other official documentation confirming compliance with county and municipal laws or
20 ordinances for a vehicle business at the licensed physical location.

1 (5)[(4)] refuses or fails to timely comply with a request for records made by a
2 representative of the department;

3 (6)[(5)] holds a wholesale motor vehicle dealer's license and[;]

4 [(A) fails to meet the requirements of §215.140 of this title (relating to
5 ~~Established and Permanent Place of Business~~); or

6 (B)] sells or offers to sell a motor vehicle to a person other than a licensed or
7 authorized dealer;

8 (7)[(6)] sells or offers to sell a type of vehicle that the person is not licensed to sell;

9 (8)[(7)] fails to submit a license amendment application in the electronic system
10 designated by the department for licensing to notify the department of a change of the license holder's
11 physical address, mailing address, telephone number, or email address within 10 days of the change,
12 including a change in the physical address of a storage lot;

13 (9)[(8)] fails to submit a license amendment application in the electronic system
14 designated by the department for licensing to notify the department of a license holder's name change,
15 or management or ownership change within 10 days of the change;

16 (10)[(9)] except as provided by law, issues more than one buyer's temporary tag for the
17 purpose of extending the purchaser's operating privileges for more than 60 days;

18 (11)[(10)] fails to remove a license plate or registration insignia from a vehicle that is
19 displayed for sale;

20 (12)[(11)] misuses a metal dealer's license plate or a temporary tag;

1 (13)[(12)] fails to display a metal dealer's license plate or temporary tag, as required by
2 law;

3 (14)[(13)] holds open a title or fails to take assignment of a certificate of title,
4 manufacturer's certificate, or other basic evidence of ownership for a vehicle acquired by the dealer, or
5 fails to assign the certificate of title, manufacturer's certificate, or other basic evidence of ownership for
6 a vehicle sold;

7 (15)[(14)] fails to remain regularly and actively engaged in the business of buying, selling,
8 or exchanging vehicles of the type for which the GDN is issued by the department;

9 (16)[(15)] violates a provision of Occupations Code, Chapter 2301; Transportation Code
10 Chapters 503 and 1001[1000] - 1005; a board order or rule; or a regulation of the department relating to
11 the sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under
12 Subchapter H of this chapter (relating to Advertising);

13 (17)[(16)] is convicted of an offense that directly relates to the duties or responsibilities
14 of the occupation in accordance with §211.3 of this title (relating to Criminal Offense Guidelines);

15 (18)[(17)] is determined by the board or department, in accordance with §215.89 of this
16 title (relating to Fitness), to be unfit to hold a license;

17 (19)[(18)] has not assigned at least five vehicles in the prior 12 months, provided the
18 dealer has been licensed more than 12 months;

19 (20)[(19)] files or provides a false or forged:

20 (A) title document, including an affidavit making application for a certified copy
21 of a title; or

1 (B) tax document, including a sales tax statement or affidavit;

2 ~~(21)~~~~(20)~~ uses or allows use of that dealer's license or location for the purpose of
3 avoiding a provision of Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1000 -
4 1005; or other laws;

5 ~~(22)~~~~(21)~~ omits information or makes a material misrepresentation in any application or
6 other documentation filed with the department including providing a false or forged identity document
7 or a false or forged photograph, electronic image, or other document;

8 ~~(23)~~~~(22)~~ fails to remit payment as ordered for a civil penalty assessed by the board or
9 department;

10 ~~(24)~~~~(23)~~ sells a new motor vehicle without a franchised dealer's license issued by the
11 department;

12 ~~(25)~~~~(24)~~ fails to comply with a dealer responsibility under §215.150 of this title
13 (relating to Authorization to Issue Temporary Tags);

14 ~~(26)~~ utilizes a temporary tag that fails to meet the requirements of §215.153 of this title
15 (relating to Specifications for All Temporary Tags);

16 ~~(27)~~~~(25)~~ violates any state or federal law or regulation relating to the sale of a motor
17 vehicle; ~~[or]~~

18 ~~(28)~~~~(26) effective January 1, 2017,~~ knowingly fails to disclose that a motor vehicle has
19 been repaired, rebuilt, or reconstructed and issued a title under Transportation Code, §501.100 (relating
20 to Application for Regular Certificate of Title for Salvage Vehicle);.

21 (29) fails to issue a refund as ordered by the board or department; or

1 (30) fails to acquire or maintain a required certificate of occupancy, certificate of
2 compliance, business license or permit, or other official documentation for the licensed location
3 confirming compliance with county or municipal laws or ordinances or other local requirements for a
4 vehicle business.

5
6 215.143 Drive-a-way Operator In-Transit License Plates

7 (a) A drive-a-way operator may apply for a drive-a-way in-transit standard license plate:

8 (1) when applying for a new or renewal in-transit license, or

9 (2) by submitting a plate request application electronically in the system designated by
10 the department.

11 (b) A drive-a-way operator must display an in-transit license plate in the rear of each transported
12 motor vehicle from the vehicle's point of origin to its point of destination in Texas in accordance with
13 §217.27 of this title (relating to Vehicle Registration Insignia).

14 (c) A drive-a-way operator shall maintain a record of each license plate issued to the operator by
15 the department. The record of each license plate issued must contain:

16 (1) the license plate number;

17 (2) the year and make of the vehicle to which the license plate is affixed;

18 (3) the VIN of the vehicle; and

19 (4) the name of the person in control of the vehicle.

1 (d) If a drive-a-way operator cannot account for a license plate or a license plate is damaged, the
2 operator must:

3 (1) document the license plate as "void" in the operator's plate record;

4 (2) within three days of discovering that the license plate is missing or damaged, report
5 the license plate as lost, stolen, or damaged in the electronic system designated by the department; and

6 (3) if found once reported, cease use of the license plate.

7 (e) A license plate is no longer valid for use after the drive-a-way operator reports to the
8 department that the plate is lost, stolen, or damaged. A drive-a-way operator must render a void plate
9 unusable by permanently marking the front of the plate with the word "VOID" or a large "X" and once
10 marked, may destroy or recycle the license plate, or return the license plate to the department for
11 recycling.

12 (f) The drive-a-way operator's license plate record must be available for inspection and copying
13 by the department during normal business hours or be available to submit electronically to the
14 department upon request.

15 (g) In evaluating requests for additional license plates, the department will consider the business
16 justification provided by a drive-a-way operator including the following:

17 (1) the number of vehicles currently being transported to a location in Texas;

18 (2) the highest number of motor vehicles transported in the prior 12 months;

19 (3) the size and type of business; and

1 (4) the operator's record of tracking and reporting missing or damaged plates to the
2 department.

3 (h) If a drive-a-way operator closes the associated license or the associated license is revoked or
4 canceled by the department, the operator must return a license plate to the department within 15 days.

5
6 215.144. Records

7 (a) Purchases and sales records. A dealer must maintain a complete record of all vehicle
8 purchases and sales for a minimum period of 48 months and make the record available for inspection
9 and copying by ~~[a representative]~~ of the department during business hours.

10 (b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer
11 must keep a complete written record of each vehicle purchase, vehicle sale, and any adaptive work
12 performed on each vehicle for a minimum period of 36 months after the date the adaptive work is
13 performed on the vehicle. An independent mobility motor vehicle dealer shall also retain and produce
14 for inspection all records relating to the license requirements under Occupations Code, §2301.002(17-b)
15 and all information and records required under Transportation Code §503.0295.

16 (c) Location of records. A dealer's record reflecting purchases and sales for the preceding 13
17 months must be maintained at the dealer's licensed location. Original titles are not required to be kept
18 at the licensed location~~[,]~~ but must be made available to the agency upon reasonable request. A dealer's
19 record for prior time periods may be kept off-site.

20 (d) Request for records. Within 15 days of receipt of a request sent by mail or electronic
21 document transfer from ~~[a representative of]~~ the department, a dealer must deliver a copy of the

1 specified records to the address listed in the request. If a dealer has a concern about the origin of a
2 records request, the dealer may verify that request with the division prior to submitting its records.

3 (e) Content of records. A dealer's complete record for each vehicle purchase or vehicle sale must
4 contain:

5 (1) the date of the purchase;

6 (2) the date of the sale;

7 (3) the VIN;

8 (4) the name and address of the person selling the vehicle to the dealer;

9 (5) the name and address of the person purchasing the vehicle from the dealer;

10 (6) the name and address of the consignor if the vehicle is offered for sale by
11 consignment;

12 (7) except for a purchase or sale where the Tax Code does not require payment of motor
13 vehicle sales tax, a copy of the receipt, titled "Tax Collector's Receipt for Texas Title
14 Application/Registration/Motor Vehicle Tax";

15 (8) a copy of all documents, forms, and agreements applicable to a particular sale,
16 including a copy of:

17 (A) the title application;

18 (B) the work-up sheet;

19 (C) the front and back of manufacturer's certificate of origin or manufacturer's
20 statement of origin, unless the title is obtained through the electronic title system;

1 (D) the front and back of the title, unless the title is obtained through the
2 electronic title system;

3 (E) the factory invoice;

4 (F) the sales contract;

5 (G) the retail installment agreement;

6 (H) the buyer's order;

7 (I) the bill of sale;

8 (J) any waiver;

9 (K) any other agreement between the seller and purchaser; [and]

10 (L) the purchaser's photo identification; and [Form VTR-136, relating to County of
11 Title Issuance, completed and signed by the buyer;]

12 (M) the rebuilt salvage disclosure

13 (9) the original manufacturer's certificate of origin, original manufacturer's statement of
14 origin, or original title for motor vehicles offered for sale by a dealer, and a properly stamped original
15 manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for
16 motor vehicles sold by a dealer if the title transaction is entered into the electronic system by the dealer;

17 (10) the dealer's monthly Motor Vehicle Seller Financed Sales Returns, if any; and

18 (11) if the vehicle sold is a motor home or a towable recreational vehicle subject to
19 inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at
20 the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

1 (f) Title assignments.

2 (1) For each vehicle a dealer acquires or offers for sale, the dealer must properly take
3 assignment in the dealer's name of any:

4 (A) title;

5 (B) manufacturer's statement of origin;

6 (C) manufacturer's certificate of origin; or

7 (D) other evidence of ownership.

8 (2) Unless not required by Transportation Code, §501.0234(b), a[A] dealer must apply in
9 the name of the purchaser of a vehicle for the title and registration, if applicable, of the vehicle with
10 a[the appropriate] county tax assessor-collector[as selected by the purchaser].

11 (3) To comply with Transportation Code, §501.0234(f), a registration is considered filed
12 within a reasonable time if the registration is filed within:

13 (A) 20 working days of the date of sale of the vehicle for a vehicle titled or
14 registered in Texas; or

15 (B) 45 days of the date of sale of the vehicle for a dealer-financed transaction
16 involving a vehicle that is titled or registered in Texas.

17 (4) The dealer is required to provide to the purchaser the receipt for the title and
18 registration application.

19 (5) The dealer is required to maintain a copy of the receipt for the title and registration
20 application in the dealer's sales file.

1 (g) Out-of-state sales. For a sale~~[s transaction]~~ involving a vehicle to be transferred out of state,
2 the dealer must:

3 (1) within 20 working days of the date of sale, either file the application for certificate of
4 title on behalf of the purchaser or deliver the properly assigned evidence of ownership to the purchaser;
5 and

6 (2) maintain in the dealer's record at the dealer's licensed location a photocopy of the
7 completed sales tax exemption form for out of state sales approved by the Texas Comptroller of Public
8 Accounts.

9 (h) Consignment sales. A dealer offering a vehicle for sale by consignment shall have a written
10 consignment agreement or a power of attorney for the vehicle, and shall, after the sale of the vehicle,
11 take assignment of the vehicle in the dealer's name and, pursuant to subsection (f), apply in the name of
12 the purchaser for transfer of title and registration, if the vehicle is to be registered, with a~~the~~
13 ~~appropriate~~ county tax assessor-collector~~[as selected by the purchaser]~~. The dealer must, for a
14 minimum of 48 months, maintain a record of each vehicle offered for sale by consignment, including the
15 VIN and the name of the owner of the vehicle offered for sale by consignment.

16 (i) Public motor vehicle auctions.

17 (1) A GDN holder that acts as a public motor vehicle auction must comply with
18 subsection (h) of this section.

19 (2) A public motor vehicle auction:

20 (A) is not required to take assignment of title of a vehicle it offers for sale;

1 (B) must take assignment of title of a vehicle from a consignor prior to making
2 application for title on behalf of the buyer; and

3 (C) must make application for title on behalf of the purchaser and remit motor
4 vehicle sales tax within 20 working days of the sale of the vehicle.

5 (3) A GDN holder may not sell another GDN holder's vehicle at a public motor vehicle
6 auction.

7 (j) Wholesale motor vehicle auction records. A wholesale motor vehicle auction license holder
8 must maintain, for a minimum of 48 months, a complete record of each vehicle purchase and sale
9 occurring through the wholesale motor vehicle auction. The wholesale motor vehicle auction license
10 holder shall make the record available for inspection and copying by ~~a representative of~~ the
11 department during business hours.

12 (1) A wholesale motor vehicle auction license holder must maintain at the licensed
13 location a record reflecting each purchase and sale for at least the preceding 24 months. Records for
14 prior time periods may be kept off-site.

15 (2) Within 15 days of receipt of a request sent by mail or by electronic document
16 transfer from a representative of the department, a wholesale motor vehicle auction license holder must
17 deliver a copy of the specified records to the address listed in the request.

18 (3) A wholesale motor vehicle auction license holder's complete record of each vehicle
19 purchase and sale shall, at a minimum, contain:

20 (A) the date of sale;

21 (B) the VIN;

1 (C) the name and address of the person selling the vehicle;

2 (D) the name and address of the person purchasing the vehicle;

3 (E) the dealer license number of both the selling dealer and the purchasing
4 dealer, unless either is exempt from holding a license;

5 (F) all information necessary to comply with the Truth in Mileage Act;

6 (G) auction access documents, including the written authorization and
7 revocation of authorization for an agent or employee, in accordance with §215.148 of this title (relating
8 to Dealer Agents);

9 (H) invoices, bills of sale, checks, drafts, or other documents that identify the
10 vehicle, the parties, or the purchase price;

11 (I) any information regarding the prior status of the vehicle such as the
12 Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and

13 (J) a copy of any written authorization allowing an agent of a dealer to enter the
14 auction.

15 (k) Electronic records. A license holder may maintain a record in an electronic format if the
16 license holder can print the record at the licensed location upon request by ~~a representative of~~ the
17 department, except as provided by subsection (l) of this section.

18 (l) Use of webDEALER. A license holder utilizing the department's web-based title application
19 known as webDEALER, as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle
20 Registration and Title Systems), must comply with §217.74 of this title (relating to Access to and Use of

webDEALER). Original hard copy titles are not required to be kept at the licensed location, but must be made available to the department upon request.

215.145. Change of Dealer's Status

(a) A dealer's name change requires a new bond or a rider to the existing bond reflecting the new dealer name, unless the dealer is not otherwise required to purchase a bond.

(b) A dealer shall notify the department in writing within 10 days of a change of ownership. A licensed dealer that proposes to sell or assign to another any interest in the licensed entity, whether a corporation or otherwise, and provided the physical location of the licensed entity remains the same, shall notify the department in writing within 10 days of the change by filing an application to amend the license. If the sale or assignment of any portion of the business results in a change of entity, then the new entity must apply for and obtain a new license. A publicly held corporation only needs to inform the department of a change in ownership if one person or entity acquires a 10% or greater interest in the licensed entity.

(c) Upon the death of a dealer of a dealership operated as a sole proprietorship, either the surviving spouse of the deceased dealer or other individual deemed qualified by the department shall submit to the department a bond rider adding the name of the surviving spouse or other qualifying person to the bond for the remainder of the bond and license term. The surviving spouse or other qualifying person may continue dealership operations under the current dealer license until the end of the license term.

(d) For purposes of subsection (c) of this section, if the qualifying person is the sole proprietor's surviving spouse, then the surviving spouse may change the ownership of the dealership at the time the

1 license is renewed without applying for a new GDN. At the time the renewal application is filed, the sole
2 proprietor's surviving spouse is required to submit to the department:

3 (1) an application to amend the business entity;

4 (2) a copy of the sole proprietor's certificate of death, naming the surviving spouse;

5 (3) the required ownership information; and

6 (4) a bond in the name of the surviving spouse.

7 (e) For purposes of subsection (c) of this section, if the qualifying person is not the surviving
8 spouse, then the qualifying person may operate the sole proprietorship business during the term of the
9 license. The qualifying person must file with the department:

10 (1) an application to amend the business entity, identifying the qualifying person as the
11 manager;

12 (2) an ownership information form, indicating that the qualifying person has no
13 ownership interest in the business; and

14 (3) a bond rider adding the individual's name to the existing bond.

15 (f) For purposes of subsection (c) of this section, if the qualifying person is not the surviving
16 spouse, then at the time the license is due to be renewed, the qualifying person must file with the
17 department an application for a new GDN.

18 (g) A determination made under this section does not impact a decision made by the board
19 under Occupations Code, §2301.462, Succession Following Death of Franchised Dealer.

1 (h) A license holder gives written notice under this section by timely filing a license amendment
2 electronically in the department system designated for licensing.

3
4 ~~[215.146. Metal Converter's License Plates]~~

5 ~~[(a) A metal converter's license plate shall be attached to the rear license plate holder of a~~
6 ~~vehicle in accordance with Transportation Code, §503.0618.]~~

7 ~~[(b) A converter shall maintain a record of each metal converter's license plate issued to that~~
8 ~~converter. The record of each metal converter's license plate issued must contain:~~

9 ~~(1) the assigned metal converter's license plate number;~~

10 ~~(2) the year and make of the vehicle to which the metal converter's license plate is~~
11 ~~affixed;~~

12 ~~(3) the VIN of the vehicle; and~~

13 ~~(4) the name of the person in control of the vehicle.]~~

14 ~~[(c) If a converter cannot account for a metal converter's license plate that the department~~
15 ~~issued to the converter, the converter must:~~

16 ~~(1) document the metal converter's license plate as "void" in the converter's metal~~
17 ~~license plate record;~~

18 ~~(2) within three days of discovering that the plate is missing, report to the department in~~
19 ~~writing that the metal converter's license plate is lost or stolen; and~~

20 ~~(3) if found, cease use of the metal converter's license plate.]~~

1 ~~[(d) A metal converter's license plate is no longer valid for use after the converter reports to the~~
2 ~~department that the plate is missing.]~~

3 ~~[(e) A metal converter's license plate record shall be made available for inspection and copying~~
4 ~~by the department at the converter's licensed location during the converter's posted business hours.]~~

5
6 215.147. Export Sales

7 (a) Before selling a motor vehicle for export from the United States to another country, a dealer
8 must obtain a legible photocopy of the buyer's government-issued photo identification document. The
9 photo identification document must be issued by the jurisdiction where the buyer resides and be:

10 (1) a passport;

11 (2) a driver[~~'s~~] license;

12 (3) a ~~[concealed handgun license or]~~ license to carry a handgun issued by the Texas
13 Department of Public Safety under Government Code, Chapter 411, Subchapter H;

14 (4) a national identification certificate or identity document; or

15 (5) other identification document containing the:

16 (A) name of the issuing jurisdiction;

17 (B) buyer's full name;

18 (C) buyer's foreign address;

19 (D) buyer's date of birth;

1 (E) buyer's photograph; and

2 (F) buyer's signature.

3 (b) A dealer that sells a vehicle for export from the United States shall place a stamp on the title
4 that includes the words "For Export Only" and includes the dealer's~~license holder's~~ GDN. The stamp
5 must be legible, in black ink, at least two inches wide, and placed on the:

6 (1) back of the title in all unused dealer reassignment spaces; and

7 (2) front of the title in a manner that does not obscure any names, dates, mileage
8 statements, or other information printed on the title.

9 (c) In addition to the records required to be maintained by §215.144 of this title (relating to
10 Records), a dealer shall maintain, for each motor vehicle sold for export, a sales file record. The sales file
11 record shall be made available for inspection and copying upon request by the department. The sales file
12 record of each vehicle sold for export shall contain:

13 (1) a completed copy of the Texas Motor Vehicle Sales Tax Exemption Certificate for
14 Vehicles Taken Out of State, indicating that the vehicle has been purchased for export to a foreign
15 country;

16 (2) a copy of the front and back of the title of the vehicle, showing the "For Export Only"
17 stamp and the GDN of the dealer; and

18 (3) if applicable, an Export-only Sales Record Form, listing each motor vehicle sold for
19 export only.

20 (d) A dealer, at the time of sale of a vehicle for export, shall:

(1) enter the information required by Transportation Code, §503.061 in the temporary tag database;

(2) designate the sale as "For Export Only"; and

(3) issue a buyer's temporary tag, in accordance with Transportation Code, §503.063.

215.148. Dealer Agents

(a) A dealer must provide written authorization to each person with whom the dealer's agent or employee will conduct business on behalf of the dealer, including to a person that:

(1) buys and sells motor vehicles for resale; or

(2) operates a licensed auction.

(b) If a dealer's agent or employee that conducts business on behalf of the dealer commits an act or omission that would be cause for denial, revocation, or suspension of a license in accordance with Occupations Code, Chapter 2301 or Transportation Code, Chapter 503, the board may:

(1) deny an application for a license; or

(2) revoke or suspend a license.

(c) The board may take action described in subsection (b) of this section after notice and an opportunity for hearing, in accordance with Occupations Code, Chapter 2301 and Chapter 224 of this title (relating to Adjudicative Practice and Procedure).

(d) A dealer's authorization to an agent or employee shall:

(1) be in writing;

1 (2) be signed by the dealer principal or person in charge of daily activities of the
2 dealership;

3 (3) include the agent's or employee's name, current mailing address, and telephone
4 number;

5 (4) include the dealer's business name, address, and dealer license number or numbers;

6 (5) expressly authorize buying or selling by the specified agent or employee;

7 (6) state that the dealer is liable for any act or omission regarding a duty or obligation of
8 the dealer that is caused by that agent or employee, including any financial considerations to be paid for
9 the vehicle;

10 (7) state that the dealer's authorization remains in effect until the recipient of the
11 written authorization is notified in writing of the revocation of the authority; and

12 (8) be maintained as a required dealer's record and made available upon request by a
13 representative of the department, in accordance with the requirements of §215.144 of this title (relating
14 to Records).

15 (e) A license holder, including a wholesale motor vehicle auction license holder that buys and
16 sells vehicles on a wholesale basis, including by sealed bid, is required to verify the authority of any
17 person claiming to be an agent or employee of a licensed dealer who purports to be buying or selling a
18 motor vehicle:

19 (1) on behalf of a licensed dealer; or

20 (2) under the written authority of a licensed dealer.

1 (f) A title to a vehicle bought by an agent or employee of a dealer shall be:

2 (1) reassigned to the dealer by the seller or by the auction; and

3 (2) shall not be delivered to the agent or employee[,], but delivered only to the dealer or
4 the dealer's financial institution.

5 (g) Notwithstanding the prohibitions in this section, an authorized agent or employee may sign a
6 required odometer statement.

7 (h) In a wholesale transaction for the purchase of a motor vehicle, the seller may accept as
8 consideration only:

9 (1) a check or a draft drawn on the purchasing dealer's account;

10 (2) a cashier's check in the name of the purchasing dealer; or

11 (3) a wire transfer from the purchasing dealer's bank account.

12
13 215.150. Authorization to Issue Temporary Tags

14 (a) A dealer that holds a GDN may issue a dealer's temporary tag, buyer's temporary tag, or a
15 preprinted Internet-down temporary tag for authorized purposes only for each type of vehicle the dealer
16 is licensed to sell or lease. A converter that holds a converter's license under Occupations Code, Chapter
17 2301 may issue a converter's temporary tag for authorized purposes only.

18 (b) A license holder may issue an applicable dealer's temporary tag, buyer's temporary tag, or
19 converter's temporary tag until:

1 (1) the department denies access to the temporary tag database under Transportation
2 Code §503.0632(f) and §215.505 of this title (relating to Denial of Dealer or Converter Access to
3 Temporary Tag System);

4 (2) the license holder issues the maximum number of temporary tags authorized under
5 Transportation Code §503.0632(a)-(d); or

6 (3) the license is canceled, revoked, or suspended.

7 (c) A federal, state, or local governmental agency that is exempt under Section 503.024 from the
8 requirement to obtain a dealer general distinguishing number may issue one temporary buyer's tag, or
9 one preprinted Internet-down temporary tag, in accordance with Transportation Code §503.063. A
10 governmental agency that issues a temporary buyer's tag, or preprinted Internet-down temporary tag,
11 under this subsection:

12 (1) is subject to the provisions of Transportation Code §503.0631 and §503.067
13 applicable to a dealer; and

14 (2) is not required to charge the registration fee under Transportation Code §503.063(g).

15 (d) A dealer or converter is responsible for all use of and access to the applicable temporary tag
16 database under the dealer's or converter's account, including access by any user or unauthorized person.
17 Dealer and converter duties include monitoring temporary tag usage, managing account access, and
18 taking timely and appropriate actions to maintain system security, including:

19 (1) establishing and following reasonable password policies, including preventing the
20 sharing of passwords;

1 (2) limiting authorized users to owners and bona fide employees with a business need to
2 access the database;

3 (3) removing users who no longer have a legitimate business need to access the system;

4 (4) securing printed tags and destroying expired tags, by means such as storing printed
5 tags in locked areas and shredding or defacing expired tags; and

6 (5) securing equipment used to access the temporary tag database and print temporary
7 tags.

8
9 215.152. Obtaining Numbers for Issuance of Temporary Tags

10 (a) A dealer, a federal, state, or local governmental agency, or a converter is required to have
11 internet access to connect to the temporary tag databases maintained by the department.

12 (b) Except as provided by §215.157 of this title (relating to Advance Numbers, Preprinted
13 Internet-down Temporary Tags), before a temporary tag may be issued and displayed on a vehicle, a
14 dealer, a federal, state, or local governmental agency, or converter must:

15 (1) enter in the temporary tag database true and accurate information about the vehicle,
16 dealer, converter, or buyer, as appropriate; and

17 (2) obtain a specific number for the temporary tag.

18 (c) The department will inform each dealer annually of the maximum number of buyer's
19 temporary tags the dealer is authorized to issue during the calendar year under Transportation Code

§503.0632. The number of buyer's temporary tags allocated to each dealer by the department will be determined based on the following formula:

(1) Sales data determined from the department's systems from the previous three fiscal years. A dealer's base number will contain the sum of:

(A) the greater number of:

(i) in-state buyer's temporary tags issued in one fiscal year during the previous three fiscal years; or

(ii) title transactions processed through the Registration and Title System in one fiscal year during the previous three fiscal years; but

(iii) the amount will be limited to an amount that is not more than two times the number of title transactions identified in subparagraph (ii) of this paragraph; and

(B) the addition of the greatest number of out-of-state buyer's temporary tags issued in one fiscal year during the previous three fiscal years;

(2) the total value of paragraph (1) of this subsection will be increased by a multiplier based on the dealer's time in operation giving a 10 percent increase in tags for each year the dealer has been in operation up to 10 years;

(3) the total value of paragraph (2) of this subsection will be increased by a multiplier that is the greater of:

(A) the dealer's actual growth rate percentage identified from the preceding two fiscal years, calculated by the growth of the number of title transactions processed through the

1 Registration and Title System plus the growth of the number of out-of-state buyer's temporary tags
2 issued, except that it may not exceed 200 percent; or

3 (B) the statewide actual growth rate percentage identified from the preceding
4 two fiscal years, calculated by the growth of the number of title transactions processed through the
5 Registration and Title System plus the growth of the number of out-of-state buyer's temporary tags
6 issued, not less than zero, to determine the buyer's temporary tag allotment; and

7 (4) the department may increase the determined allotment of buyer's temporary tags
8 for dealers in the state, in a geographic or population area, or in a county, based on:

9 (A) changes in the market;

10 (B) temporary conditions that may affect sales; and

11 (C) any other information the department considers relevant.

12 (d) The department will inform each dealer annually of the maximum number of agent
13 temporary tags and vehicle specific temporary tags the dealer is authorized to issue during the calendar
14 year under Transportation Code §503.0632. The number of agent temporary tags and vehicle specific
15 temporary tags allocated to each dealer by the department, for each tag type, will be determined based
16 on the following formula:

17 (1) dealer temporary tag data for agent temporary tags and vehicle specific temporary
18 tags determined from the department's systems from the previous three fiscal years. A dealer's base
19 number will contain the maximum number of dealer temporary tags issued during the previous three
20 fiscal years;

1 (2) the total value of paragraph (1) of this subsection will be increased by a multiplier
2 based on the dealer's time in operation giving a 10 percent increase in tags for each year the dealer has
3 been in operation up to 10 years; and

4 (3) the total value of paragraph (2) of this subsection will be increased by a multiplier
5 that is the greater of:

6 (A) the dealer's actual growth rate percentage identified from the preceding two
7 fiscal years, calculated by the growth of the number of dealer's temporary tags issued, except that it may
8 not exceed 200 percent; or

9 (B) the statewide actual growth rate percentage identified from the preceding
10 two fiscal years, calculated by the growth of the number of dealer's temporary tags issued, not less than
11 zero, to determine the dealer's temporary tag allotment; and

12 (4) the department may increase a dealer's allotment of agent temporary tags and
13 vehicle specific temporary tags for dealers in the state, in a geographic or population area, or in a county,
14 based on:

15 (A) changes in the market;

16 (B) temporary conditions that may affect sales; and

17 (C) any other information the department considers relevant.

18 (e) The department will inform each converter annually of the maximum number of temporary
19 tags the converter is authorized to issue during the calendar year under Transportation Code §503.0632.
20 The number of temporary tags allocated to each converter by the department will be determined based
21 on the following formula:

1 (1) converter temporary tag data determined from the department's systems from the
2 previous three fiscal years. A converter's base number will contain the maximum number of converter
3 temporary tags issued during the previous three fiscal years;

4 (2) the total value of paragraph (1) of this subsection will be increased by a multiplier
5 based on the converter's time in operation giving a 10 percent increase in tags for each year the dealer
6 has been in operation up to 10 years; and

7 (3) the total value of paragraph (2) of this subsection will be increased by a multiplier
8 that is the greater of:

9 (A) the converter's actual growth rate percentage identified from the preceding
10 two fiscal years, calculated by the growth of the number of converter's temporary tags issued, except
11 that it may not exceed 200 percent; or

12 (B) the statewide actual growth rate percentage identified from the preceding
13 two fiscal years, calculated by the growth of the number of converter's temporary tags issued, not less
14 than zero, to determine the converter's temporary tag allotment;

15 (4) the department may increase a converter's allotment of converter temporary tags for
16 converters in the state, in a geographic or population area, or in a county, based on:

17 (A) changes in the market;

18 (B) temporary conditions that may affect sales; and

19 (C) any other information the department considers relevant.

20 (f) A dealer or converter that is licensed after the commencement of a calendar year shall be
21 authorized to issue the number of temporary tags allotted in this subsection prorated on all or part of

1 the remaining months until the commencement of the calendar year after the dealer's or converter's
2 initial license expires. The initial allocations shall be as determined by the department in granting the
3 license, but not more than:

4 (1) 1,000~~600~~ temporary tags for a franchised dealer per each tag type, buyer's
5 temporary tags, agent temporary tags, and vehicle specific tags, unless:

6 (A) the dealer provides credible information indicating that a greater number of
7 tags is warranted based on anticipated sales, and growth, to include new and used vehicle sales,
8 including information from the manufacturer or distributor, or as otherwise provided in this section; and

9 (B) if more than 600 temporary tags are determined to be needed based on
10 anticipated sales and growth, the total number of temporary tags needed, including the 600, will be
11 doubled;

12 (2) 300 temporary tags for a nonfranchised dealer per each tag type, buyer's temporary
13 tags, agent temporary tags, and vehicle specific tags, unless the dealer provides credible information
14 indicating that a greater number of tags is warranted based on anticipated sales as otherwise provided in
15 this section; and

16 (3) A converter will be allocated 600 temporary tags, unless the converter provides
17 credible information indicating that a greater number of tags is warranted based on anticipated sales,
18 including information from the manufacturer or distributor, or as otherwise provided in this section.

19 (g) An existing dealer or converter that is:

20 (1) moving its operations from one location to a different location will continue with its
21 allotment of temporary tags and not be allocated temporary tags under subsection (f) of this section;

1 (2) opening an additional location will receive a maximum allotment of temporary tags
2 based on the greater of the allotment provided to existing locations, including franchised dealers
3 opening additional locations for different line makes, or the amount under subsection (f) of this section;

4 (3) purchased as a buy-sell ownership agreement will receive the maximum allotment of
5 temporary tags provided to the location being purchased and not be allocated temporary tags under
6 subsection (f) of this section; and

7 (4) inherited by will or laws of descent will receive the maximum allotment of temporary
8 tags provided to the location being inherited and not be allocated temporary tags under subsection (f) of
9 this section.

10 (h) A new dealer or converter may also provide credible information supporting a request for
11 additional temporary tags to the amount allocated under subsection (f) of this section based on:

12 (1) franchised dealer, manufacturer, or distributor sales expectations;

13 (2) a change in license required by death or retirement, except as provided in subsection
14 (g) of this section;

15 (3) prior year's sales by a dealership moving into the state; or

16 (4) other similar change of location or ownership that indicates some continuity in
17 existing operations.

18 (i) After using 50 percent of the allotted maximum number of temporary tags, a dealer or
19 converter may request an increase in the number of temporary tags by submitting a request in the
20 department's eLICENSING system.

1 (1) The dealer or converter must provide information demonstrating the need for
2 additional temporary tags results from business operations, including anticipated needs, as required by
3 §503.0632(c). Information may include documentation of sales and tax reports filed as required by law,
4 information of anticipated need, or other information of the factors listed in §503.0632(b).

5 (2) The department shall consider the information presented and may consider
6 information not presented that may weigh for or against granting the request that the department in its
7 sole discretion determines to be relevant in making its determination. Other relevant information may
8 include information of the factors listed in §503.0632(b), the timing of the request, and the applicant's
9 temporary tag activity.

10 (3) The department may allocate a lesser or greater number of additional temporary
11 tags than the amount requested by the dealer or converter. Allocation of a lesser or greater number of
12 additional temporary tags is not a denial of the request. Allocation of additional temporary tags under
13 this paragraph does not limit the dealer's or converter's ability to submit additional requests for more
14 temporary tags.

15 (4) If a request is denied, a dealer or converter may appeal the denial to the Director of
16 the Motor Vehicle Division whose decision is final.

17 (A) The denial will be sent to the license holder by email to the email used by
18 the license holder in the request.

19 (B) The appeal must be requested within 10 business days of the denial being
20 sent to the department through the eLICENSING system.

21 (C) The appeal may discuss information provided in the request but may not
22 include additional information.

1 (D) The Motor Vehicle Division Director will review the submission and any
2 additional statements concerning the information submitted in the original request and render an
3 opinion within 10 business days of receiving the appeal. The Motor Vehicle Division Director may decide
4 to deny the request and issue no additional tags, or award an amount of additional temporary tags that
5 is lesser, equal to, or greater than the request.

6 (E) The requesting license holder will be notified as follows:

7 (i) If the Motor Vehicle Division director has decided to deny the appeal,
8 the license holder will be contacted by email regarding the decision and options to submit a new request
9 with additional relevant credible supporting documentation or to pursue a claim in district court; or

10 (ii) If the Motor Vehicle Division Director has decided to award an
11 amount of additional temporary tags that is lesser, equal to, or greater than the request, the additional
12 temporary tags will be added to the license holders account and the license holder will be contacted by
13 email regarding the decision, informed that the request has not been denied, and options the license
14 holder has to submit a new request.

15 (5) Once a denial is final, a dealer or converter may only submit a subsequent request for
16 additional temporary tags during that calendar year if the dealer or converter is able to provide
17 additional information not considered in the prior request.

18 (j) A change in the allotment under subsection (i) of this section does not create a dealer or
19 converter base for subsequent year calculations.

20 (k) The department may at any time initiate an enforcement action against a dealer or converter
21 if temporary tag usage suggests that misuse or fraud has occurred as described in Transportation Code
22 §§503.038, 503.0632(f), or 503.067.

(l) Unused dealer or converter tag allotments from a calendar year do not roll over to subsequent years.

215.154. Dealer's Temporary Tags

(a) A dealer's temporary tag may be displayed only on the type of vehicle for which the GDN is issued and for which the dealer is licensed by the department to sell or lease.

(b) A wholesale motor vehicle auction license holder that also holds a dealer GDN may display a dealer's temporary tag on a vehicle that is being transported to or from the licensed auction location.

(c) When an unregistered vehicle is sold to another dealer, the selling dealer shall remove the selling dealer's temporary tag. The purchasing dealer may display its dealer temporary tag or its metal dealer's license plate on the vehicle.

(d) A dealer's temporary tag:

(1) may be displayed on a vehicle only as authorized in Transportation Code §503.062;
and

(2) may not be displayed on:

(A) a laden commercial vehicle being operated or moved on the public streets or highways;

(B) on the dealer's service or work vehicles;

(C) a golf cart as defined under Transportation Code Chapter 551; or

(D) an off-highway vehicle as defined under Transportation Code Chapter 551A.

1 (e) For purposes of this section, a dealer's service or work vehicle includes:

2 (1) a vehicle used for towing or transporting other vehicles;

3 (2) a vehicle, including a light truck, used in connection with the operation of the
4 dealer's shops or parts department;

5 (3) a courtesy car on which a courtesy car sign is displayed;

6 (4) a rental or lease vehicle; and

7 (5) any boat trailer owned by a dealer or manufacturer that is used to transport more
8 than one boat.

9 (f) For purposes of subsection (d) of this section, a vehicle bearing a dealer's temporary tag is not
10 considered a laden commercial vehicle when the vehicle is:

11 (1) towing another vehicle bearing the same dealer's temporary tags; and

12 (2) both vehicles are being conveyed from the dealer's place of business to a licensed
13 wholesale motor vehicle auction or from a licensed wholesale motor vehicle auction to the dealer's
14 place of business.

15 (g) As used in this section, "light truck" has the meaning assigned by Transportation Code,
16 §541.201.

17 (h) A dealer's temporary tag may not be used to operate a vehicle for the personal use of a
18 dealer or a dealer's employee.

19 (i) A dealer's temporary tag must show its expiration date, which must not exceed 60 days after
20 the date the temporary tag was issued.

1 (j) A dealer's temporary tag may be issued by a dealer to a specific motor vehicle in the dealer's
2 inventory or to a dealer's agent who is authorized to operate a motor vehicle owned by the dealer.

3 (k) A dealer that issues a dealer's temporary tag to a specific vehicle must ensure that the
4 following information is placed on the temporary tag:

5 (1) the vehicle-specific number from the temporary tag database;

6 (2) the year and make of the vehicle;

7 (3) the VIN of the vehicle;

8 (4) the month, day, and year of the temporary tag's expiration; and

9 (5) the name of the dealer.

10 (l) A dealer that issues a dealer's temporary tag to an agent must ensure that the following
11 information is placed on the temporary tag:

12 (1) the specific number from the temporary tag database;

13 (2) the month, day, and year of the temporary tag's expiration; and

14 (3) the name of the dealer.

15
16 215.155. Buyer's Temporary Tags

17 (a) A buyer's temporary tag may be displayed only on a vehicle from the seller's inventory that
18 can be legally operated on the public streets and highways and for which a sale or lease has been
19 consummated.

1 (b) A buyer's temporary tag may be displayed only on a vehicle that has a valid inspection in
2 accordance with Transportation Code Chapter 548, unless:

3 (1) an inspection is not required under Transportation Code §503.063(i) or (j); or

4 (2) the vehicle is exempt from inspection under Chapter 548.

5 (c) For a wholesale transaction, the purchasing dealer places on the motor vehicle its own:

6 (1) dealer's temporary tag; or

7 (2) metal dealer's license plate.

8 (d) A buyer's temporary tag is valid until the earlier of:

9 (1) the date on which the vehicle is registered; or

10 (2) the 60th day after the date of purchase.

11 (e) The dealer, or federal, state, or local governmental agency, must ensure that the following
12 information is placed on a buyer's temporary tag that the dealer issues:

13 (1) the vehicle-specific number obtained from the temporary tag database;

14 (2) the year and make of the vehicle;

15 (3) the VIN of the vehicle;

16 (4) the month, day, and year of the expiration of the buyer's temporary tag; and

17 (5) the name of the dealer or federal, state, or local governmental agency.

18 (f) A dealer shall charge a buyer a fee of \$5 for the buyer's temporary tag or Internet-down
19 buyer's temporary tag issued, unless the vehicle is exempt from payment of registration fees under

1 Transportation Code, §502.453 or §502.456. A federal, state, or local governmental agency may charge a
2 buyer a fee of \$5 for the buyer's temporary tag or Internet-down buyer's temporary tag issued, unless
3 the vehicle is exempt from payment of registration fees under Transportation Code, §502.453 or
4 §502.456. The fee shall be remitted by a dealer to the county in conjunction with the title transfer, and, if
5 collected, by a federal, state, or local governmental agency, to the county, for deposit to the credit of the
6 Texas Department of Motor Vehicles fund, unless the vehicle is sold by a dealer to an out-of-state
7 resident, in which case:

8 (1) the dealer shall remit the entire fee to the department for deposit to the credit of the
9 Texas Department of Motor Vehicles fund if payment is made through the department's electronic title
10 system; or

11 (2) the dealer shall remit the fee to the county for deposit to the credit of the Texas
12 Department of Motor Vehicles fund.

13
14 215.160. Duty to Identify Motor Vehicles Offered for Sale as Rebuilt

15 (a) For each motor vehicle a dealer displays or offers for retail sale and which the dealer knows
16 has been a salvage motor vehicle as defined by Transportation Code, §501.091(15) and a regular title
17 subsequently issued under Transportation Code, §501.100, a dealer shall disclose in writing that the
18 motor vehicle has been repaired, rebuilt, or reconstructed and issued a title under Transportation Code,
19 §501.100. The written disclosure must:

20 (1) be visible from outside of the motor vehicle; and

(2) contain lettering that is reasonable in size, stating as follows: "This motor vehicle has been repaired, rebuilt or, reconstructed after formerly being titled as a salvage motor vehicle."

(b) Upon the sale of a motor vehicle which has been a salvage motor vehicle as defined by Transportation Code, §501.091(15) and a regular title subsequently issued under Transportation Code, §501.100, a dealer shall obtain the purchaser's signature on the vehicle disclosure form or on an acknowledgement written in eleven point or larger font that states as follows: "I, (name of purchaser), acknowledge that at the time of purchase, I am aware that this vehicle has been repaired, rebuilt, or reconstructed and was formerly titled as a salvage motor vehicle."

(c) The purchaser's acknowledgement as required in subsection (b) of this section may be incorporated in a Buyer's Order, a Purchase Order, or other disclosure document. This disclosure ~~does not~~ requires a separate signature.

(d) An original signed acknowledgement required by subsection (b) of this section or a signed vehicle disclosure form shall be given to the purchaser and a copy of the signed acknowledgement or vehicle disclosure form shall be retained by the dealer in the records of motor vehicles sales required by §215.144 of this title (relating to Records). If the acknowledgement is incorporated in a Buyer's Order, a Purchase Order, or other disclosure document, a copy of that document must be given to the purchaser and a copy retained in the dealer's records in accordance with §215.144.

(e) This section does not apply to a wholesale motor vehicle auction.

215.161. Licensing Education Course Requirements

(a) A motor vehicle dealer licensing education course provider must be a Texas institution of higher education, as defined by Education Code, §61.003, or a motor vehicle trade association domiciled in this state.

(b) The licensing education course must be approved by the department and must include information on the laws and rules applicable to motor vehicle dealers and the consequences of violating those laws and rules.

(c) The licensing education course must consist of at least 6 hours of online instruction for new applicants and 3 hours of online instruction for renewal applicants.

(d) The cost for the licensing education course must not exceed \$150 per person. A trade association course provider may not charge a different rate to a nonmember.

(e) The course provider must issue a certificate of completion to each person who successfully completes the licensing education course.

(f) Dealer training provided by the department does not satisfy the requirements of this section.

SUBCHAPTER E[F]. LESSORS AND LEASE FACILITATORS

215.171. Purpose and Scope

This subchapter implements Occupations Code, Chapter 2301 [~~and more~~] specifically, §§2301.251, 2301.253, 2301.254, 2301.261, 2301.262, 2301.357, and Subchapter L. Vehicle Lessors and Vehicle Lease Facilitators[2301.551 – 2301.556], and Transportation Code Chapters 1001 - 1005.

215.173. License

1 (a) No person may engage in business as a vehicle lessor or a vehicle lease facilitator unless
2 that person holds a valid license issued by the department[,], or is [~~otherwise~~] exempt[~~by law~~]
3 from obtaining such a license under Occupations Code §2301.254.

4 (b) Any person who facilitates vehicle leases on behalf of a vehicle lease facilitator must:

5 (1) be on the vehicle lease facilitator's payroll and receive compensation from
6 which social security, federal unemployment tax, and all other appropriate taxes are withheld from
7 the person's[~~representative's~~] paycheck and paid to the proper taxing authority; and

8 (2) have work details such as when, where, and how the final results are achieved,
9 directed, and controlled by the vehicle lease facilitator.

10
11 215.174. Application for a License

12 (a) An applicant for a vehicle lessor's or vehicle lease facilitator's license must submit a
13 sufficient application to the department. To be sufficient, the application must be on a form
14 prescribed by the department,[~~and~~] accompanied by all required supporting documentation,and
15 required fees and shall be submitted to the department electronically in a system designated by
16 the department for licensing.

17 (b) A license holder renewing or amending a license must verify current license
18 information, provide related information and documents for any new requirements or changes to
19 the license, and pay required fees.

20 (c) An applicant for a new license must register for an account in the department-designated
21 licensing system by selecting the licensing system icon on the dealer page of the department website. An
22 applicant must designate the account administrator and provide the name and email address for that
23 person, and provide the business telephone number, name, business type, and social security number or

1 employer identification number, as applicable. The applicant's licensing account administrator must be
2 an owner, officer, manager, or bona fide employee.

3 (d) Once registered, an applicant may apply for a new license and must provide the
4 following:

5 (1) type of license requested;

6 (2) business information, including the name, physical and mailing addresses,
7 telephone number, Secretary of State file number (if applicable), and website address (if
8 applicable);

9 (3) contact name, email address, and telephone number of the person submitting
10 the application;

11 (4) contact name, email address, and telephone number of a person who can
12 provide information about business operations and the motor vehicle services offered;

13 (5) the name, social security number, date of birth, identity document information,
14 and ownership percentage for each owner, partner, member, beneficiary, or principal if the
15 applicant is not a publicly traded company;

16 (6) the name, social security number, date of birth, and identity document
17 information for each officer, director, manager, trustee, or other representative authorized to act
18 on behalf of the applicant if the applicant is owned in full or in part by a legal entity;

19 (7) the name, employer identification number, ownership percentage, and non-
20 profit or publicly traded status for each legal entity that owns the applicant in full or in part;

21 (8) criminal history record information under the laws of Texas, another state in the
22 United States, the United States, and any foreign jurisdiction for each person listed in the
23 application, including offense description, date, and location;

1 (9) military service status;

2 (10) licensing history required to evaluate fitness for licensure under §215.89 of
3 this title (relating to Fitness);

4 (11) signed Certification of Responsibility, which is a form provided by the
5 department; and

6 (12) any other information required by the department to evaluate the application
7 under current law and board rules.

8 ~~(e)[(b)]~~ The supporting documentation for a vehicle lessor's license application shall
9 include a legible and accurate electronic image of each applicable required document:

10 (1) Certificate of incorporation, registration, or formation filed with the Texas
11 Secretary of State or the state in which the applicant is incorporated~~[verification of the criminal~~
12 ~~background of each owner and officer of the applicant, if applicable];~~

13 (2) at least one of the following current identity documents for each natural person
14 listed in the application:

15 (A) driver license;

16 (B) Texas Identification Card issued by the Texas Department of Public
17 Safety under Transportation Code Chapter 521, Subchapter E;

18 (C) license to carry a handgun issued by the Texas Department of Public
19 Safety under Government Code Chapter 411, Subchapter H;

20 (D) passport; or

21 (E) United States military identification card;

22 ~~[the fee required by law for each type of license required];~~

1 (3) a copy of each assumed name certificate on file with the appropriate recording
2 entity, such as the Office of the Secretary of State or the county clerk;

3 (4) a sample copy of the vehicle lease agreement between the vehicle lessor and a
4 lessee;

5 (5) a sample copy of the required fee disclosure statement regarding fees paid by
6 the vehicle lessor to a vehicle lease facilitator for the facilitation of a vehicle lease or a statement
7 that no such fees were or will be paid;

8 (6) a list including the business name(s), DBA(s), and addresses of lease facilitators
9 with whom the applicant conducts or intends to conduct business;

10 (7) a list of other satellite offices that conduct business in the State of Texas that
11 includes the address, phone number, and name of the contact person for each location;[-]

12 (8) if a vehicle lessor does not deal directly with the public to execute vehicle leases
13 and has a licensed location in another state, a vehicle lessor must provide the jurisdiction name,
14 licensed business address, and license number for each location that leases a motor vehicle to a
15 Texas citizen; and

16 (9) any other information required by the department to evaluate the application
17 under current law and board rules

18 (f) [(e)] The supporting documentation for a vehicle lease facilitator's license application
19 shall include a legible and accurate electronic image of each applicable required document:

20 (1) Certificate of incorporation, registration, or formation filed with the Texas
21 Secretary of State or the state in which the applicant is incorporated~~[verification of the criminal~~
22 ~~background of each owner and officer of the applicant, if applicable];~~

1 (2) at least one of the following current identity documents for each natural person
2 listed in the application:

3 (A) driver license;

4 (B) Texas Identification Card issued by the Texas Department of Public
5 Safety under Transportation Code Chapter 521, Subchapter E;

6 (C) license to carry a handgun issued by the Texas Department of Public
7 Safety under Government Code Chapter 411, Subchapter H;

8 (D) passport; or

9 (E) United States military identification card;

10 (3) a copy of each assumed name certificate on file with the appropriate recording
11 entity, such as the Office of the Secretary of State or the county clerk;

12 (4) a sample copy of the vehicle lease agreement between each of the lessors the
13 lease facilitator represents, and the lessee;

14 (5) a sample copy of the required fee disclosure statement regarding fees paid by a
15 vehicle lessor to the vehicle lease facilitator for the facilitation of a vehicle lease or a statement
16 that no such fees were or will be paid;

17 (6) a list of all vehicle lessors, including names and addresses, for whom any vehicle
18 lease facilitator solicits or procures a lessee. ~~[The vehicle lease facilitator shall update the list upon~~
19 ~~renewal of a license and within 10 days of the addition of any vehicle lessor to this list; and]~~

20 (7) a copy of the representation agreement between the vehicle lease facilitators
21 and each lessor; and[-]

22 (8) any other information required by the department to evaluate the application
23 under current law and board rules.

1 (d) An applicant operating under a name other than the applicant's business name shall use
2 the name under which the applicant is authorized to do business, as filed with the Secretary of
3 State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant
4 on the application using the letters "DBA." The applicant may not use an assumed name that may
5 be confused with or is similar to that of a governmental entity or that is otherwise deceptive or
6 misleading to the public.

7 (e) During the term of a license, a vehicle lessor must add, delete, or update the previously
8 submitted list of lease facilitators and a lease facilitator must add, delete, or update the previously
9 submitted list of new vehicle lessors within 10 days by electronically submitting a license
10 amendment in the system designated by the department for licensing.

11
12 215.175. Sanctions

13 (a) The board or department may:

- 14 (1) deny a vehicle lessor or vehicle lease facilitator application;
- 15 (2) revoke or suspend a vehicle lessor or vehicle lease facilitator license; or
- 16 (3) assess a civil penalty or take other action on a vehicle lessor or vehicle lease
- 17 facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or
- 18 vehicle lease facilitator license is required.

19 (b) The board or department may take action described in subsection (a) of this section if a

20 vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in

21 business for which a vehicle lessor or vehicle lease facilitator license is required:

- 22 (1) fails to maintain an established and permanent place of business required by
- 23 §215.177 of this title (relating to Established and Permanent Place of Business);

1 (2) fails to maintain records required under this subchapter;

2 (3) refuses or fails to comply with a request by a representative of the department
3 to examine during the vehicle lessor's or vehicle lease facilitator's posted business hours at the
4 vehicle lessor's or vehicle lease facilitator's licensed location:

5 (A) a vehicle leasing record required to be maintained by §215.178 of this
6 title (relating to Records Required for Vehicle Lessors and Vehicle Lease Facilitators);

7 (B) ownership papers for a vehicle owned, leased, or under that vehicle
8 lessor's or vehicle lease facilitator's control; or

9 (C) evidence of ownership or a current premises lease agreement for the
10 property upon which the business is located;

11 (4) refuses or fails to timely comply with a request for records made by a
12 representative of the department;

13 (5) fails to notify the department in writing by electronically submitting a license
14 amendment in the system designated by the department for licensing within 10 days of a change
15 of the vehicle lessor or vehicle lease facilitator license holder's:

16 (A) mailing address;

17 (B) physical address;

18 (C) telephone number; or

19 (D) email address;

20 (6) fails to notify the department in writing by electronically submitting a license
21 amendment in the system designated by the department for licensing within 10 days of a change
22 of the vehicle lessor or vehicle lease facilitator license holder's name, assumed name,
23 management, or ownership;

1 (7) fails to comply with the fee restrictions or other requirements under
2 Occupations Code, §2301.357 or Chapter 2301 Subchapter L. Vehicle Lessors and Vehicle Lease
3 Facilitators~~§§2301.551 – 2301.556~~;

4 (8) fails to maintain advertisement records or otherwise fails to comply with the
5 advertising requirements of:

6 (A) §215.178; or

7 (B) Subchapter H of this chapter (relating to Advertising);

8 (9) violates any law relating to the sale, lease, distribution, financing, or insuring of
9 motor vehicles;

10 (10) is convicted of an offense that, in accordance with Occupations Code, Chapter
11 53 and with §215.88 of this title (relating to Criminal Offense and Action on License), directly
12 relates to the duties or responsibilities of the licensed occupation;

13 (11) is determined by the board or department, in accordance with §215.89 of this
14 title (relating to Fitness), to be unfit to hold a vehicle lessor or vehicle lease facilitator license;

15 (12) uses or allows use of a vehicle lessor or vehicle lease facilitator license in
16 violation of any law or for the purpose of avoiding any provision of Occupations Code, Chapter
17 2301; or

18 (13) ~~willfully~~ omits material information or makes a material misrepresentation in
19 any application or other documentation filed with the department including providing a false or
20 forged identity document or a false or forged photograph, electronic image, or other document.

21 (c) The board or department may take action on a vehicle lessor's license or assess civil
22 penalties for the vehicle lessor's failure to notify the department in writing by electronically
23 submitting a license amendment in the system designated by the department for licensing within

1 10 days of any change, addition, or deletion to the list of vehicle lease facilitators with whom the
2 vehicle lessor conducts business, including any change to a vehicle lease facilitator's mailing
3 address, physical address, telephone number, or email address.

4 (d) The board or department may take action on a vehicle lease facilitator's license or
5 assess civil penalties for the vehicle lease facilitator's failure to notify the department in writing
6 within 10 days by electronically submitting a license amendment in the system designated by the
7 department for licensing of any change, addition, or deletion to the list of vehicle lessors for whom
8 the vehicle lease facilitator conducts business, including any change to a vehicle lessor's mailing
9 address, physical address, telephone number, or email address.

10 (e) The board or department may take action on a vehicle lessor's or vehicle lease
11 facilitator's license if the vehicle lessor or vehicle lease facilitator accepts a fee from a dealer,
12 directly or indirectly, for referring a customer who purchases or considers purchasing a motor
13 vehicle.

14
15 215.176. More Than One Business Location

16 (a) A vehicle lease facilitator must be licensed separately for each business location.

17 (b) A vehicle lessor or vehicle lease facilitator that relocates from a point outside the limits
18 of a municipality[city] or relocates to a point not within the limits of the same municipality[city] of
19 the initial business location is required to obtain a new license.

20 (c) A vehicle lessor is required to obtain a license for the vehicle lessor's primary location. A
21 vehicle lessor must provide the address, telephone number, and the name of a contact person for
22 all other satellite offices that conduct business in the state of Texas.

23

1 215.177. Established and Permanent Place of Business Premises Requirements

2 (a) A vehicle lessor or vehicle lease facilitator operating within ~~[the State of]~~ Texas must
3 meet the following requirements at each location where vehicles are leased or offered for lease.

4 (1) Physical location requirements.

5 (A) A vehicle lessor or vehicle lease facilitator operating within~~[the State of]~~
6 Texas must be open to the public. The vehicle lessor's or vehicle lease facilitator's business hours
7 for each day of the week must be posted at the main entrance of the office. The business telephone
8 must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering
9 service, voicemail service, or answering machine. A caller must be able to speak to a natural person or
10 leave a message during these hours. The owner or an employee of the vehicle lessor or vehicle lease
11 facilitator must be at the location during the posted business hours for the purpose of leasing
12 vehicles. In the event the owner or an employee is not available to conduct business during the
13 posted business hours, a separate sign must be posted indicating the date and time such owner or
14 employee will resume vehicle leasing operations.

15 (B) A vehicle lessor's or vehicle leasing facilitator's office structure must be
16 of sufficient size to accommodate the following required equipment:

17 (i) a desk and two chairs from which the vehicle lessor or vehicle
18 lease facilitator transacts business;~~and~~

19 (ii) a working telephone number listed in the business name or
20 assumed name under which the vehicle lessor or vehicle lease facilitator conducts business; and~~[-]~~

21 (iii) internet access.

1 (C) A vehicle lessor or vehicle lease facilitator that files an application for a
2 new license or a vehicle lessor that files an application for a satellite location must comply with the
3 following requirements:

4 (i) The office must be located in a building with a permanent roof and
5 connecting exterior walls on all sides.

6 (ii) The office must comply with all applicable local zoning
7 ordinances and deed restrictions.

8 (iii) The office may not be located within a residence, apartment,
9 hotel, motel, or rooming house or building not open to the public.

10 (iv) The physical address of the office must be recognized by the U.S.
11 Postal Service and capable of receiving U.S. mail and have an assigned emergency services property
12 address.

13 (v) The office may not be virtual or provided by a subscription for
14 office space or office services. Access to office space or office services is not considered an
15 established and permanent location.

16 (D) A portable-type office structure may qualify as an office only if the
17 structure meets the requirements of this section and is not a readily moveable trailer or other
18 vehicle.

19 (E) One or more licensed vehicle lessors or vehicle lease facilitators, or a
20 combination of one or more licensed vehicle lessors and vehicle lease facilitators may occupy the
21 same business structure and conduct vehicle leasing operations in accordance with the license
22 held by the vehicle lessor or licensed vehicle lease facilitator. Each ~~[person engaged in business as~~
23 ~~a]~~ vehicle lessor or vehicle lease facilitator must have:

1 (i) a separate desk from which that vehicle lessor or vehicle lease
2 facilitator transacts business;

3 (ii) a separate working telephone number listed in the vehicle lessor
4 or vehicle lease facilitator's business name or assumed name;

5 (iii) a separate right of occupancy that meets the requirements of
6 this section; and

7 (iv) a vehicle lessor or vehicle lease facilitator license issued by the
8 department in the name of the vehicle lessor or vehicle lease facilitator.

9 (F) A vehicle lease facilitator's established and permanent place of business
10 must be physically located within ~~the State of~~ Texas.

11 (2) Sign requirements. A vehicle lessor or vehicle lease facilitator shall display a
12 conspicuous and permanent business sign at the licensed location showing the name under which
13 the vehicle lessor or vehicle lease facilitator conducts business. Outdoor business signs must
14 contain letters that are at least six inches in height. The business name or assumed name on the
15 sign must be substantially similar to the name reflected on the license issued by the department. A
16 business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main
17 entrance of the business office. A business sign is considered permanent only if it is made of durable,
18 weather-resistant material.

19 (3) Premises lease requirements. If the premises from which a licensed vehicle
20 lessor or vehicle lease facilitator conducts business is not owned by the license holder, the license
21 holder must maintain for the licensed location a valid premises lease that is continuous during the
22 period of time for which the vehicle lessor's or vehicle lease facilitator's license will be issued. The
23 premises lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the property owner~~[landlord]~~ of the premises and the name of the vehicle lease facilitator as the tenant or lessee of the premises;

(B) the street address or legal description of the property, provided that if only a legal description of the property is included, the applicant must attach a statement that the property description in the lease agreement is the street address identified on the application as the physical address for the established and permanent place of business; [and]

(C) the signature of the property owner as the lessor and the signature of the applicant or holder as the tenant or lessee;

(D)[(C)] the period of time for which the premises lease is valid;[-] and

(E) if the lease agreement is a sublease in which the property owner is not the lessor, the applicant or holder must also obtain a signed and notarized statement from the property owner including the following information:

(i) property owner's full name, email address, mailing address, and phone number; and

(ii) property owner's statement confirming that the dealer is authorized to sublease the location and may operate a motor vehicle leasing business from the location.

~~[(b) A vehicle lessor that does not deal directly with the public to execute vehicle leases and whose licensed location is in another state must and meet the following requirements at each location.~~

~~(1) Physical location requirements.~~

~~(A) The vehicle lessor's office structure must be of sufficient size to accommodate the following required equipment:~~

1 (i) a desk and chairs from which the vehicle lessor transacts
2 business; and

3 (ii) a working telephone number listed in the business name or
4 assumed name under which the vehicle lessor conducts business.

5 (B) A vehicle lessor that files an application for a new license or a satellite
6 location with a primary licensed location in another state must conform to the following
7 requirements:

8 (i) The office must be located in a building with connecting exterior
9 walls on all sides.

10 (ii) The office must comply with all applicable local zoning
11 ordinances and deed restrictions.

12 (iii) The office may not be located within a residence, apartment,
13 hotel, motel, or rooming house.

14 (iv) The physical address of the office must be recognized by the U.S.
15 Postal Service and capable of receiving U.S. mail.

16 (C) A portable type office structure may qualify as an office only if the
17 structure meets the requirements of this section and is not a readily moveable trailer or other
18 vehicle.

19 (D) More than one licensed vehicle lessor may occupy the same business
20 structure and conduct vehicle leasing operations under different names in accordance with the
21 license held by each vehicle lessor. Each person engaged in business as a vehicle lessor must have:

22 (i) a separate desk from which that vehicle lessor transacts business;

1 ~~(ii) a separate working telephone number listed in the vehicle~~
2 ~~lessor's business name or assumed name;~~

3 ~~(iii) a separate right of occupancy that meets the requirements of~~
4 ~~this section; and~~

5 ~~(iv) a vehicle lessor license issued by the department in the name of~~
6 ~~the vehicle lessor.~~

7 ~~(2) Sign requirements. An out of state vehicle lessor shall display a conspicuous and~~
8 ~~permanent sign at the licensed location showing the name under which the vehicle lessor conducts~~
9 ~~business. Outdoor signs must contain letters at least six inches in height.~~

10 ~~(3) Premises lease requirements. If the out of state premises from which a licensed~~
11 ~~vehicle lessor conducts business is not owned by the license holder, the license holder must~~
12 ~~maintain a valid premises lease for the property of the licensed location. The premises lease must~~
13 ~~be continuous during the period of time for which the license will be issued. The premises lease~~
14 ~~agreement must be on a properly executed form containing at a minimum:~~

15 ~~(A) the name of the landlord of the premises and the name of the licensed~~
16 ~~lessor identified as the tenant of the premises;~~

17 ~~(B) the street address or legal description of the property, provided that if~~
18 ~~only a legal description of the property is included, the applicant must attach a statement that the~~
19 ~~property description in the lease agreement is the street address identified on the application; and~~

20 ~~(C) the period of time for which the premises lease is valid.~~

21 ~~(b)[(e)]~~ A vehicle lessor or vehicle lease facilitator shall be independent of financial
22 institutions and dealerships in location and in business activities, unless that vehicle lessor or
23 vehicle lease facilitator is an:

1 (1) employee or legal subsidiary of the financial institution or dealership; or

2 (2) entity wholly owned by the financial institution or dealership.

3 ~~(c)(4)~~ For purposes of this section, an employee is a person who meets the requirements
4 of §215.173(b) of this title (relating to License).

5
6 215.178. Records Required for Vehicle Lessors and Vehicle Lease Facilitators

7 (a) Purchase and leasing records. A vehicle lessor or vehicle lease facilitator must maintain
8 a complete record of all vehicle purchases and sales for at least one year after the expiration of the
9 vehicle lease.

10 (1) Complete r[R]records reflecting vehicle lease transactions that occurred within
11 the preceding 24 months must be maintained at the licensed location. Records for prior time
12 periods may be kept off-site ~~[at a location within the same county or within 25 miles of the~~
13 ~~licensed location]~~.

14 (2) Within 15 days of receipt of a request sent by mail or by electronic document
15 transfer from ~~[a representative of]~~ the department, a vehicle lessor or vehicle lease facilitator
16 must deliver a copy of the specified records to the address listed in the request.

17 (b) Content of records for lease transaction. A complete record for a vehicle lease
18 transaction must contain:

19 (1) the name, address, and telephone number of the vehicle lessor ~~[of the vehicle~~
20 ~~subject to the transaction]~~;

21 (2) the name, mailing address, physical address, and telephone number of each
22 vehicle lessee ~~[of the vehicle subject to the transaction]~~;

1 (3) the name, address, telephone number, and license number of the lease
2 facilitator~~[of the vehicle subject to the transaction];~~

3 (4) the name, work~~[home]~~ address, and telephone number of each employee of the
4 vehicle lease facilitator that handled the transaction;

5 (5) a complete description of the vehicle involved in the transaction, including the
6 VIN;

7 (6) the name, address, telephone number, and GDN of the dealer selling the
8 vehicle, as well as the franchise license number of the dealer if the vehicle involved in the
9 transaction is a new motor vehicle;

10 (7) the amount of fee paid to the vehicle lease facilitator or a statement that no fee
11 was paid;

12 (8) a copy of the buyer's order and sales contract for the vehicle;

13 (9) a copy of the vehicle lease contract;

14 (10) a copy of all other contracts, agreements, or disclosures between the vehicle
15 lease facilitator and the consumer lessee; and

16 (11) a copy of the front and back of the manufacturer's statement of origin,
17 manufacturer's certificate of origin, or the title of the vehicle if the vehicle involved in the
18 transaction is a new motor vehicle.

19 (c) Content of records for sale of leased vehicle. A vehicle lessor's complete record for each
20 vehicle sold at the end of a lease to a lessor, a dealer, or at a wholesale motor vehicle auction must
21 contain:

22 (1) the date of the purchase;

23 (2) the date of the sale;

1 (3) the VIN;

2 (4) the name and address of the person selling the vehicle to the vehicle lessor;

3 (5) the name and address of the person purchasing the vehicle from the vehicle lessor;

4 (6) except for a purchase or sale where the Tax Code does not require payment of motor
5 vehicle sales tax, a copy of the receipt, titled "Tax Collector's Receipt for Texas Title
6 Application/Registration/Motor Vehicle Tax";

7 (7) a copy of all documents, forms, and agreements applicable to a particular sale,
8 including a copy of:

9 (A) the title application;

10 (B) the work-up sheet;

11 (C) the front and back of manufacturer's certificate of origin or manufacturer's
12 statement of origin, unless the title is obtained through the electronic title system;

13 (D) the front and back of the title, unless the title is obtained through the
14 electronic title system;

15 (E) the factory invoice;

16 (F) the sales contract;

17 (G) the retail installment agreement;

18 (H) the buyer's order;

19 (I) the bill of sale;

1 (J) any waiver;

2 (K) any other agreement between the seller and purchaser; and

3 (L) the purchaser's photo identification if sold to a lessee;

4 (8) the original manufacturer's certificate of origin, original manufacturer's statement of
5 origin, or original title for motor vehicles offered for sale, and a properly stamped original
6 manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for
7 motor vehicles sold if the title transaction is entered into the electronic system by a dealer;

8 (10) the monthly Motor Vehicle Seller Financed Sales Returns, if any; and

9 (11) if the vehicle sold is a motor home or a towable recreational vehicle subject to
10 inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at
11 the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

12 (d) Records of advertising. A vehicle lessor or vehicle lease facilitator must maintain a copy
13 of all advertisements, brochures, scripts, or an electronically reproduced copy in whatever medium
14 appropriate, of promotional materials for a period of at least 18 months. Each copy is subject to
15 inspection upon request by ~~[a representative of]~~ the department at the business ~~[of the~~
16 ~~licenseholder]~~ location during posted business hours.

17 (1) A vehicle lessor and a vehicle lease facilitator ~~[Vehicle Lessors and vehicle lease~~
18 ~~facilitators]~~ must comply with all federal and state advertising laws and regulations, including
19 Subchapter H of this chapter (relating to Advertising).

20 (2) A vehicle lessor or vehicle lease facilitator may not state or infer in any
21 advertisement, either directly or indirectly, that the business involves the sale of new motor
22 vehicles.

1 ~~(e)~~~~(d)~~ Title assignments. Each certificate of title, manufacturer's certificate of origin, or
2 other evidence of ownership for a vehicle that has been acquired by a vehicle lessor for lease must
3 be properly assigned from the seller in the vehicle lessor's name.

4 ~~(f)~~~~(e)~~ Letters of appointment. A letter of appointment between a vehicle lessor and a
5 vehicle lease facilitator with whom the vehicle lessor conducts business must be executed by both
6 parties.

7 ~~(g)~~~~(f)~~ Electronic records. Any record required to be maintained by a vehicle lessor or
8 vehicle lease facilitator may be maintained in an electronic format, provided the electronic record
9 can be printed at the licensed location upon request~~[for the record by a representative of the~~
10 ~~department]~~.

11
12 215.179. Change of Vehicle Lessor or Vehicle Lease Facilitator Status

13 (a) Change of ownership. A vehicle lessor or vehicle lease facilitator that ~~[proposes to]~~ sells
14 or assigns to another any interest in the licensed entity, whether a corporation or otherwise,
15 provided the physical location of the licensed entity remains the same, shall notify the department
16 in writing within 10 days by filing an application to amend the license in the electronic system
17 designated by the department for licensing. If the sale or assignment of any portion of the business
18 results in a change of entity, then the purchasing or assignee entity must apply for and obtain a
19 new license by submitting a new license application in the electronic system designated by the
20 department for licensing. A publicly held corporation licensed as a vehicle lessor or vehicle lease
21 facilitator needs only inform the department of a change in ownership if one person or entity
22 acquires 10% or greater interest in the licensed entity by submitting a license amendment
23 application in the electronic system designated by the department for licensing.

(b) Change of operating status of business location. A license holder shall obtain department approval prior to opening a satellite location or relocating an existing location, in accordance with §215.176 of this title (relating to More than One Business Location) by electronically submitting a new license application in the system designated by the department for licensing and receiving electronic notice of approval prior to relocating or opening a satellite location. A license holder must notify the department when closing an existing location or a satellite location by electronically submitting a license amendment to close the license or close the satellite location in the system designated by the department for licensing.

215.180. Required Notices to Lessees

Vehicle lessors and vehicle lease facilitators shall provide notice of the complaint procedures provided by Occupations Code, §[§]2301.204 and Subchapter M (relating to Warranties: Rights of Vehicle Owners), [2301.601—2301.613] to each lessee of a new motor vehicle with whom they enter into a vehicle lease.

~~SUBCHAPTER G. WARRANTY PERFORMANCE OBLIGATIONS~~

[Repeal entire subchapter; incorporated into new Chapter 224]

SUBCHAPTER F[H]. ADVERTISING

215.242. General Prohibition

1 A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading
2 advertising. In addition to a violation of a specific advertising rule, any other advertising or
3 advertising practices found by the department to be false, deceptive, or misleading, whether
4 herein described, shall be deemed a violation of Occupations Code, Chapter 2301 and shall also be
5 deemed~~considered~~ a violation of this rule.

6
7 215.244. Definitions

8 The following words and terms, when used in this subchapter, shall have the following
9 meanings, unless the context clearly indicates otherwise.

10 (1) Advertisement--

11 (A) An oral, written, graphic, or pictorial statement or representation made
12 in the course of soliciting business, including, but not limited to a statement or representation:

- 13 (i) made in a newspaper, magazine, or other publication;
14 (ii) contained in a notice, sign, poster, display, circular, pamphlet, or
15 letter;
16 (iii) aired on the radio;
17 (iv) broadcast on the internet or television; or
18 (v) streamed via an online service.

19 (B) Advertisement does not include direct communication between a person
20 or person's representative and a prospective purchaser.

21 (2) Advertising provision--

22 (A) A provision of Occupations Code, Chapter 2301, relating to the
23 regulation of advertising; or

1 (B) A rule relating to the regulation of advertising, adopted pursuant to the
2 authority of Occupations Code, Chapter 2301.

3 (3) Bait advertisement--An alluring but insincere offer to sell or lease a product of
4 which the primary purpose is to obtain a lead to a person interested in buying or leasing
5 merchandise of the type advertised and to switch a consumer from buying or leasing the
6 advertised product in order to sell or lease some other product at a higher price or on a basis more
7 advantageous to the dealer.

8 (4) Balloon payment--Any scheduled payment made as required by a consumer
9 credit transaction that is more than twice as large as the average of all prior scheduled payments
10 except the down payment.

11 (5) Clear and conspicuous--The statement, representation, or term being disclosed
12 is of such size, color, contrast, and audibility and is presented so as to be readily noticed and
13 understood. All language and terms, including abbreviations, shall be used in accordance with their
14 common or ordinary usage and meaning.

15 (6) Dealership addendum--A form that is required to be displayed on a window of a
16 motor vehicle when the dealership installs special features, equipment, parts, or accessories, or
17 charges for services not already compensated by the manufacturer or distributor for work required
18 to prepare a motor vehicle for delivery to a buyer.

19 (A) The purpose of the addendum is to disclose:

20 (i) that it is supplemental;

21 (ii) any added feature, service, equipment, part, or accessory,

22 including the retail price, charged and added by the dealership;

1 (iii) any additional charge to the selling price such as additional
2 dealership markup; and

3 (iv) the total dealer selling price.

4 (B) The dealership addendum form shall not be deceptively similar in appearance to
5 the Monroney label, as defined by paragraph (14) of this section.

6 (7) Demonstrator--A new motor vehicle that is currently in the inventory of the
7 automobile dealership and used primarily for test drives by customers and for other purposes
8 designated by the dealership.

9 (8) Disclosure--Required information that is clear, conspicuous, and accurate.

10 (9) Distributor Suggested Retail Price (DSRP)--means the total price shown on the
11 Monroney Label as specified by sub-paragraph (D) of paragraph (14) of this section.

12 (10) Factory executive/official motor vehicle--A new motor vehicle that has been
13 used exclusively by an executive or official of the dealer's franchising manufacturer, distributor, or
14 their subsidiaries.

15 (11) License holder--Any person required to obtain a license from the department.

16 (12) Limited rebate--A rebate that is not available to every consumer purchasing or
17 leasing a motor vehicle because qualification for receipt of the rebate is conditioned or restricted
18 in some manner. A rebate conditioned or restricted to purchasers who are residents of the
19 contiguous United States is not a limited rebate.

20 (13) Manufacturer's Suggested Retail Price (MSRP)--means the total price shown on
21 the Monroney Label as specified by sub-paragraph (D) of paragraph (14) of this section.

22 (14) Monroney Label--The label required by the Automobile Information Disclosure
23 Act, 15 U.S.C. §§1231 - 1233, to be affixed to the windshield or side window of certain new motor

1 vehicles delivered to the dealer and that contains information about the motor vehicle, including,
2 but not limited to:

3 (A) the retail price of the motor vehicle suggested by the manufacturer or
4 distributor, as applicable;

5 (B) the retail delivered price suggested by the manufacturer or distributor,
6 as applicable, for each accessory or item of optional equipment, physically attached to the motor
7 vehicle at the time of its delivery to a dealer, which is not included within the price of the motor
8 vehicle as stated in subparagraph (A) of this paragraph;

9 (C) the amount charged, if any, to a dealer for the transportation of the
10 motor vehicle to the location at which it is delivered to the dealer; and

11 (D) the total of the amounts specified pursuant to subparagraphs (A), (B),
12 and (C) of this paragraph.

13 (15) Online service--A network that connects computer users.

14 (16) Rebate or cash back--A sum of money applied to the purchase or lease of a
15 motor vehicle or refunded after full payment has been rendered for the benefit of the purchaser.

16 (17) Savings claim or discount--An offer to sell or lease a motor vehicle at a reduced
17 price, including, but not limited to, a manufacturer's or distributor's customer rebate, a dealer
18 discount, or a limited rebate.

19 (18) Subsequent violation--Conduct that is the same or substantially the same as
20 conduct the department has previously alleged in a notice of an opportunity to cure~~an earlier~~
21 ~~communication~~] to be a violation of an advertising provision.

22
23 215.249. Manufacturer's or~~/~~ Distributor's Suggested Retail Price

1 (a) Except as provided by subsection (b) of this section, the suggested retail price of a new motor
2 vehicle advertised by a manufacturer or distributor shall include all costs and charges for the motor
3 vehicle advertised.

4 (b) The following costs and charges may be excluded if an advertisement described in subsection
5 (a) of this section clearly and conspicuously states the costs and charges are excluded:

6 (1) destination and dealer preparation charges;

7 (2) registration, certificate of title, license fees, or an additional registration fee, if any;

8 (3) taxes; and

9 (4) other fees or charges that are allowed or prescribed by law.

10 (c) Except as provided by this subsection, if the price of a motor vehicle is stated in an
11 advertisement placed with local media in ~~the State of~~ Texas by a manufacturer or distributor and the
12 names of the local dealers for the motor vehicles advertised are included in that advertisement, then the
13 price must include all costs and charges for the motor vehicle advertised, including destination and
14 dealer preparation charges. The only costs and charges that may be excluded from the price are:

15 (1) registration, certificate of title, license fees, or an additional registration fee, if any;

16 (2) taxes; and

17 (3) other fees or charges that are allowed or prescribed by law.

18
19 215.250. Dealer Price Advertising; Savings Claims; Discounts

1 (a) When featuring a sales price of a ~~[new or used]~~ motor vehicle in an advertisement, the dealer
2 must be willing to sell the motor vehicle for that featured sales price to any retail buyer. The featured
3 sales price shall be the price before the addition or subtraction of any other negotiated items.
4 Destination and dealer preparation charges and market adjustments must be included in the featured
5 sales price.

6 (b) The only costs and charges that may be excluded from the featured sales price are:

7 (1) registration, certificate of title, or license fees;

8 (2) taxes; and

9 (3) other fees or charges that are expressly allowed ~~[or prescribed]~~ by law.

10 (c) A qualification may not be used when featuring a sales price for a motor vehicle such as "with
11 trade," "with acceptable trade," "with dealer-arranged financing," "rebate assigned to dealer," or "with
12 down payment."

13 (d) Advertising an "internet price," "e-price," or using similar terms that indicate or create the
14 impression that there is a different or unique sales price for an online or internet consumer or
15 transaction is prohibited.

16 (e) A savings claim or discount offer is prohibited except to advertise a new motor vehicle. No
17 person may advertise a savings claim or discount offer on a used motor vehicle.

18 (f) Statements such as "up to," "as much as," and "from" shall not be used by a dealer in
19 connection with savings claims or discount offers.

20 (g) The savings claim or discount offer for a new motor vehicle, when advertised by a dealer,
21 must be the savings claim or discount available to any and all members of the buying public.

1 (h) If an advertisement includes a savings claim or discount offer, the amount and type of each
2 incentive that makes up the total amount of the savings claim or discount offer must be disclosed.

3 (1) If a savings claim or discount offer includes only a dealer discount, that incentive
4 must be disclosed as a deduction from the MSRP/DSRP, as applicable. The following are acceptable
5 formats for advertising a dealer discount with and without a sales price.

6 Attached Graphic

7 (2) If a savings claim or discount offer includes only a customer rebate, that incentive
8 must be disclosed as a deduction from the MSRP/DSRP, as applicable. The following are acceptable
9 formats for advertising a customer rebate with and without a sales price.

10 Attached Graphic

11 (3) If a savings claim or discount offer includes both a customer rebate and a dealer
12 discount, the incentives must be disclosed as deductions from the MSRP/DSRP, as applicable. The
13 following are acceptable formats for advertising both a customer rebate and a dealer discount with and
14 without a sales price.

15 Attached Graphic

16 (i) If a savings claim or discount offer includes an option package discount, that discount should
17 be disclosed above, or prior to, the MSRP/DSRP, as applicable, with a total sales price of the motor
18 vehicle before option discounts. Any additional savings or discounts should then be disclosed below the
19 MSRP/DSRP, as applicable. The following are acceptable formats for advertising an option package
20 discount with and without a sales price.

21 Attached Graphic

(j) Except as provided herein, the calculation of the featured sales price or featured savings claim or discount may not include a limited rebate. A limited rebate may be advertised by providing the amount of the limited rebate and explaining the conditions or restrictions on qualification for the limited rebate in a statement below the featured sales price or featured savings claim or discount.

Attached Graphic

(k) In an internet advertisement with multiple limited rebates available on an advertised new motor vehicle, a dealer may display each limited rebate separately allowing a potential buyer to "click" on the limited rebate to view the sales price after deducting the applicable limited rebate or applicable multiple rebates.

Attached Graphic

(l) If a dealer has added an option that was not obtained from the manufacturer or distributor of the motor vehicle, a dealer discount may not be advertised for that vehicle. If a dealer has added an option obtained from the manufacturer or distributor and disclosed that option and its suggested retail price on a dealership addendum, the dealer may advertise a dealer discount for that motor vehicle if the option is listed, and the difference is shown between the dealer's sales price and the MSRP/DSRP, as applicable, of the vehicle including the option obtained from the manufacturer or distributor.

Attached Graphic

215.259. Rebate and Financing Rate Advertising by Dealers

(a) It is unlawful for a dealer to advertise an offer of a manufacturer's or distributor's rebate, interest or finance charge reduction, or other financial inducement or incentive if the dealer contributes

1 to the incentive program, unless such advertising discloses that the dealer's contribution may affect the
2 final negotiated price of the motor vehicle.

3 (b) An advertisement containing an offer of an interest or finance charge incentive that is paid
4 for or financed by the dealer rather than the manufacturer or distributor shall disclose:

5 (1) that the dealer pays for or finances the interest or finance charge rate reduction;

6 (2) the amount of the dealer's contribution in either a dollar or percentage amount; and

7 (3) that such arrangement may affect the final negotiated price of the motor vehicle.

8 (c) An offer or promise to pay or to tender cash to a buyer of a motor vehicle, as in a rebate or
9 cash back program, may not be advertised unless the rebate or cash back program is offered and paid in
10 part by the ~~[motor vehicle]~~ manufacturer or distributor directly to the retail purchaser or to the assignee
11 of the retail purchaser and unless the advertisement sets forth the contribution disclosures required by
12 this rule.

13
14 215.261. Manufacturer or ~~[/]~~ Distributor Sales and Wholesale Prices

15 A motor vehicle shall not be advertised for sale in any manner that creates the impression that it
16 is being offered for sale by the manufacturer or distributor of the motor vehicle. An advertisement shall
17 not:

18 (1) contain terms such as "factory sale," "fleet prices," "wholesale prices," "factory
19 approved," "factory sponsored," "manufacturer sale," or "distributor sale";

1 (2) use a manufacturer's or ~~/~~ distributor's name or abbreviation in any manner
2 calculated or likely to create an impression that the motor vehicle is being offered for sale by the
3 manufacturer or distributor; or

4 (3) use any other similar terms which indicate sales other than retail sales from the
5 dealer.

6
7 215.264. Payment Disclosure - Vehicle Lease

8 (a) An advertisement that promotes a consumer lease and contains the amount of any payment
9 or that contains either a statement of any capitalized cost reduction or other payment or a statement
10 that no payment is required at consummation or prior to consummation or delivery, if delivery occurs
11 after consummation, must clearly and conspicuously include the following:

12 (1) that the transaction advertised is a vehicle lease;

13 (2) the total amount due at consummation or prior to consummation or delivery, if
14 delivery occurs after consummation;

15 (3) the number, amount, and due date or period of scheduled payments under the
16 vehicle lease;

17 (4) a statement of whether a security deposit is required; and

18 (5) a statement that an extra charge may be imposed at the end of the vehicle lease
19 term where the lessee's liability, if any, is based on the difference between the residual value of the
20 leased property and its realized value at the end of the vehicle lease term.

1 (b) Except for a periodic payment, a reference to a charge described in subsection (a)(2) of this
2 section cannot be more prominently advertised than the disclosure of the total amount due at vehicle
3 lease signing or delivery.

4 (c) Except for disclosures of limitations on rate information, if a percentage rate is advertised,
5 that rate shall not be more prominently advertised than any of the following disclosures in the
6 advertisement.

7 (1) Description of payments.

8 (2) Amount due at vehicle lease signing or delivery.

9 (3) Payment schedule and total amount of periodic payments.

10 (4) Other itemized charges that are not included in the periodic payment. These charges
11 include the amount of any liability that the vehicle lease imposes upon the lessee at the end of the
12 vehicle lease term.

13 (5) Total number of payments.

14 (6) Payment calculation, including:

15 (A) gross capitalized cost;

16 (B) capitalized cost reduction;

17 (C) adjusted capitalized cost;

18 (D) residual value;

19 (E) depreciation and any amortized amounts;

20 (F) rent charge;

1 (G) total of base periodic payments;

2 (H) vehicle lease term;

3 (I) base periodic payment;

4 (J) itemization of other charges that are a part of the periodic payment; and

5 (K) total periodic payment.

6 (7) Early termination conditions and disclosure of charges.

7 (8) Maintenance responsibilities.

8 (9) Purchase option.

9 (10) Statement referencing nonsegregated disclosures.

10 (11) Liability between residual and realized values.

11 (12) Right of appraisal.

12 (13) Liability at the end of the vehicle lease term based on residual value.

13 (14) Fees and taxes.

14 (15) Insurance.

15 (16) Warranties or guarantees.

16 (17) Penalties and other charges for delinquency.

17 (18) Security interest.

1 (d) If a vehicle lessor provides a percentage rate in an advertisement, a notice stating "this
2 percentage may not measure the overall cost of financing this lease" shall accompany the rate
3 disclosure. The vehicle lessor shall not use the terms "annual percentage rate," "annual lease rate," or
4 any equivalent terms in any advertisement containing a percentage rate.

5 (e) A multi-page advertisement that provides a table or schedule of the required disclosures is
6 considered a single advertisement, provided that for vehicle lease terms appearing without all of the
7 required disclosures, the advertisement refers to the page or pages on which the table or schedule
8 appears.

9 (f) A merchandise tag stating any item listed in subsection (a) of this section must comply with
10 subsection (a)[~~(1)–(5)~~] of this section by referring to a sign or to a display prominently posted in the
11 vehicle lessor's place of business. The sign or display must contain a table or schedule of the required
12 disclosures under subsection (a)[~~(1)–(5)~~].

13 (g) An advertisement made through television or radio stating any item listed in subsection (a) of
14 this section, must include the following statements:

15 (1) that the transaction advertised is a vehicle lease;

16 (2) the total amount due at consummation or due prior to consummation or delivery, if
17 delivery occurs after consummation; and

18 (3) the number, amount, and due date or period of scheduled payments under the
19 vehicle lease.

20 (h) In addition to the requirements of subsection (g)[~~(1)–(3)~~] of this section, an advertisement
21 made through television or radio stating any item listed in subsection (a) of this section, must:

1 (1) provide a toll-free telephone number along with a statement that the telephone
2 number may be used by consumers to obtain the information in subsection (a) of this section; or

3 (2) direct the consumer to a written advertisement in a publication of general circulation
4 in the community served by the media station, including the name and the date of the publication, with
5 a statement that the required disclosures in subsection (a) of this section are included in the
6 advertisement.

7 (i) The toll-free telephone number required by subsection (h)(1) of this section shall be available
8 for at least 10 days, beginning on the date of the broadcast. Upon request, the vehicle lessor shall
9 provide the information in subsection (a) of this section orally or in writing.

10 (j) The written advertisement required by subsection (h)(2) of this section shall be published
11 beginning at least three days before the broadcast and ending at least 10 days after the broadcast.

12
13 215.268. Bankruptcy and Liquidation Sales

14 A person who advertises a liquidation sale, auction sale, or going out of business sale shall state
15 the correct name and permanent address of the ~~owner of the~~ business in the advertisement. The
16 phrases "going out of business," "closing out," "shutting doors forever," "bankruptcy sale," "foreclosure,"
17 "bankruptcy," or similar phrases or words indicating that a business~~[an enterprise]~~ is ceasing
18 operation~~[business]~~ shall not be used unless the business is closing its operations and follows the
19 procedures required by Business and Commerce Code, Chapter 17, Subchapter F.

20
21 215.270. Enforcement

1 (a) The department may file a Notice of Department Decision against a license holder alleging a
2 violation of an advertising provision pursuant to Occupations Code, §2301.203, provided the department
3 can show:

4 (1) that the license holder who allegedly violated an advertising provision has received
5 from the department a notice of an opportunity to cure the violation by certified mail, return receipt
6 requested, in compliance with subsection (b) of this section; and

7 (2) that the license holder committed a subsequent violation of the same advertising
8 provision.

9 (b) An effective notice of an opportunity to cure issued under subsection (a)(1) of this section
10 must:

11 (1) state that the department has reason to believe that the license holder violated an
12 advertising provision and must identify the provision;

13 (2) set forth the facts upon which the department bases its allegation of a violation; and

14 (3) state that if the license holder commits a subsequent violation of the same
15 advertising provision, the department will ~~formally~~ file a Notice of Department Decision.

16 (c) As a part of the cure procedure, the department may require a license holder who allegedly
17 violated an advertising provision to publish a retraction notice to effect an adequate cure of the alleged
18 violation. A retraction notice must:

19 (1) appear in a newspaper of general circulation in the area in which the alleged
20 violation occurred;

21 (2) appear in the portion of the newspaper devoted to motor vehicle advertising, if any;

1 (3) identify the date and the medium of publication, print, electronic, or other, in which
2 the advertising alleged to be a violation appeared; and

3 (4) identify the alleged violation of the advertising provision and contain a statement of
4 correction.

5 (d) A cure is made solely for the purpose of settling an allegation and is not an admission of a
6 violation of these rules; Occupations Code, Chapter 2301; or other law.

7
8 **~~SUBCHAPTER I. PRACTICE AND PROCEDURE FOR HEARINGS CONDUCTED BY THE STATE OFFICE OF~~**
9 **~~ADMINISTRATIVE HEARINGS~~**

10 **[Repeal entire subchapter; incorporated into new Chapter 224]**

11
12 **SUBCHAPTER G[J]. ADMINISTRATIVE SANCTIONS**

13 215.500. Administrative Sanctions~~[-and Procedures]~~

14 ~~[(a)]~~ An administrative sanction may include:

15 (1) denial of an application for a license;

16 (2) suspension of a license;

17 (3) revocation of a license;

18 (4) the imposition of civil penalties; or

19 (5) a refund under §215.504 of this title (concerning buyer or lessee refund).

20 ~~[(b)] The department shall issue and mail a Notice of Department Decision to a license~~
21 ~~applicant, license holder, or other person by certified mail, return receipt requested, to the last~~
22 ~~known address upon a determination under Occupations Code, Chapters 2301 and 2302 or~~
23 ~~Transportation Code, Chapter 503 that:~~

1 ~~(1) an application for a license should be denied; or~~

2 ~~(2) administrative sanctions should be imposed.]~~

3 ~~[(c) The last known address of a license applicant, license holder, or other person is the last~~
4 ~~mailing address provided to the department when the license applicant applies for its license,~~
5 ~~when a license holder renews its license, or when the license holder notifies the department of a~~
6 ~~change in the license holder's mailing address.]~~

7 ~~[(d) The Notice of Department Decision shall include:~~

8 ~~(1) a statement describing the department decision and the effective date;~~

9 ~~(2) a description of each alleged violation;~~

10 ~~(3) a description of each administrative sanction being adopted;~~

11 ~~(4) a statement regarding the legal basis for each administrative sanction;~~

12 ~~(5) a statement regarding the license applicant, license holder, or other person's~~
13 ~~right to request a hearing;~~

14 ~~(6) the procedure to request a hearing, including the deadline for filing; and~~

15 ~~(7) notice to the license applicant, license holder, or other person that the adopted~~
16 ~~decision and administrative sanctions in the Notice of Department Decision will become final on~~
17 ~~the date specified if the license applicant, license holder, or other person fails to timely request a~~
18 ~~hearing.]~~

19 ~~[(e) The license applicant, license holder, or other person must submit, in writing, a request~~
20 ~~for a hearing under this section. The department must receive a request for a hearing within 26~~
21 ~~days of the date of the Notice of Department Decision.]~~

1 ~~[(f) If the department receives a timely request for a hearing, the department will set a~~
2 ~~hearing date and give notice to the license applicant, license holder, or other person of the date,~~
3 ~~time, and location of the hearing.]~~

4 ~~[(g) If the license applicant, license holder, or other person does not make a timely request~~
5 ~~for a hearing or enter into a settlement agreement within 27 days of the date of the Notice of~~
6 ~~Department Decision, the department decision becomes final.]~~

7
8 ~~[215.501. Final Decisions and Orders; Motions for Rehearing]~~

9 ~~[(a) If a department decision becomes final under a Notice of Department Decision issued under~~
10 ~~§215.500 of this title (relating to Administrative Sanctions and Procedures), the matter will be forwarded~~
11 ~~to the final order authority for issuance of a final order incorporating the decisions, findings, and~~
12 ~~administrative sanctions imposed by the Notice of Department Decision. The department will send a~~
13 ~~copy of the final order to the parties.]~~

14 ~~[(b) The provisions of Government Code, Chapter 2001, Subchapter F govern:~~

15 ~~(1) the issuance of a final order issued under this subchapter; and~~

16 ~~(2) motions for rehearing filed in response to a final order.]~~

17
18 ~~[215.502. Judicial Review of Final Order]~~

19 ~~[The provisions of Government Code, Chapter 2001, Subchapter G govern the appeal of a final~~
20 ~~order issued under this subchapter.]~~

215.505. Denial of Dealer or Converter Access to Temporary Tag System

(a) In this section "fraudulently obtained temporary tags from the temporary tag database" means a dealer or converter account user misusing the temporary tag database authorized under Transportation Code §503.0626 or §503.0631 to obtain:

- (1) an excessive number of temporary tags relative to dealer sales;
- (2) temporary tags for a vehicle or vehicles not in the dealer's or converter's inventory (a vehicle is presumed not to be in the dealer's or converter's inventory if the vehicle is not listed in the relevant monthly Vehicle Inventory Tax Statement); [or]
- (3) access to the temporary tag database for a fictitious user or person using a false identity; [or]
- (4) temporary tags for a vehicle or vehicles when a dealer is no longer operating at the licensed location; or
- (5) temporary tags issued for vehicles not located at the licensed location or a storage lot listed on the application.

(b) The department shall deny a dealer or converter access to the temporary tag database effective on the date the department sends notice electronically and by certified mail to the dealer or converter that the department has determined, directly or through an account user, the dealer or converter has fraudulently obtained temporary tags from the temporary tag database. A dealer or converter may seek a negotiated resolution with the department by demonstrating corrective actions taken or that the department's determination was incorrect.

1 (c) Notice shall be sent to the dealer's or converter's last known email and mailing address in the
2 department's records.

3 (d) A dealer or converter may request a hearing on the denial as provided by Subchapter O,
4 Chapter 2301, Occupations Code. The request must be submitted in writing and request a hearing under
5 this section. The department must receive a written request for a hearing within 26 days of the date of
6 the notice denying access to the database. The request for a hearing does not stay the denial of access
7 under subsection (b) of this section. A dealer may continue to seek a negotiated resolution with the
8 department after a request for hearing has been submitted under this subsection by demonstrating
9 corrective actions taken or that the department's determination was incorrect.

10 (e) The department may also issue a Notice of Department Decision stating administrative
11 violations as provided in §215.500 concurrently with the notice of denial of access under this section. A
12 Notice of Department Decision may include notice of any violation, including a violation listed under
13 subsection (a) of this section.

14 (f) A department determination and action denying access to the temporary tag database
15 becomes final if the dealer or converter does not request a hearing or enter into a settlement agreement
16 with the department within 26 days of the date of the notice denying access to a database.

Figure: 43 TAC §215.139(c)

If a new license applicant is:	Maximum number of <u>standard</u> [metal] dealer's license plates issued during the first license term is:
1. a franchised motor vehicle dealer	5
2. a franchised motorcycle dealer	5
3. an independent motor vehicle dealer	2
4. an independent motorcycle dealer	2
5. a franchised or independent travel trailer dealer	2
6. a trailer or semi-trailer dealer	2
7. an independent mobility motor vehicle dealer	2
8. a wholesale motor vehicle dealer	1

Figure: 43 TAC §215.139(e)

If a vehicle dealer is:	Maximum number of standard [metal] dealer's license plates issued per license term is:
1. a franchised motor vehicle dealer	30
2. a franchised motorcycle dealer	10
3. an independent motor vehicle dealer	3
4. an independent motorcycle dealer	3
5. a franchised or independent travel trailer dealer	3
6. a trailer or semi-trailer dealer	3
7. an independent mobility motor vehicle dealer	3
8. a wholesale motor vehicle dealer	1

Figure: 43 TAC §215.139(f)(1)

If a vehicle dealer is:	Number of additional <u>standard</u> [metal- dealer's] license plates issued to a dealer with a [that] <u>demonstrated</u> <u>need</u> [demonstrates a need] through proof of sales is:
1. a wholesale motor vehicle dealer	1
2. a dealer selling fewer than 50 vehicles during the previous 12-month period	1
3. a dealer selling 50 to 99 vehicles during the previous 12-month period	<u>2</u> [5]
<u>4. a dealer selling 100 to 200 vehicles during the previous 12-month period</u>	<u>5</u>
4. a dealer selling more than 200 vehicles during the previous 12-month period	any number of <u>standard</u> [metal dealer's] license plates the dealer requests.

1 **TEXT.**

2 **SUBCHAPTER A. GENERAL PROVISIONS**

3 221.1 Purpose and Scope

4 Transportation Code, §1001.002, provides that the department shall administer and enforce
5 Occupations Code, Chapter 2302. Chapter 2302 provides that a person may not act as a salvage vehicle
6 dealer, unless the department issues that person a salvage vehicle dealer license, or an independent
7 motor vehicle dealer's general distinguishing number issued under Chapter 503; Transportation Code, or
8 is exempt from licensure under Occupations Code, §2302.009. This chapter describes the procedures by
9 which a person obtains a salvage vehicle dealer license and the rules governing how a license holder or
10 an independent motor vehicle dealer with authority to operate as a salvage vehicle dealer, must operate,
11 and the procedures by which the department will administer and enforce Occupations Code, Chapter
12 2302 and this chapter.

13
14 221.2 Definitions

15 The following words and terms, when used in this chapter, shall have the following meanings,
16 unless the context clearly indicates otherwise.

17 (1) Board--The Board of the Texas Department of Motor Vehicles.

18 (2) Casual sale--A sale as defined by Transportation Code, §501.091.

19 (3) Component part--As defined by Occupations Code, §2302.251.

20 (4) Day--Means a calendar day unless otherwise stated or context clearly indicates
21 otherwise.~~[Corporation--A business entity, including a corporation, or limited liability company, but not a~~

1 ~~sole proprietorship or general partnership, which has filed a certificate of formation or registration with~~
2 ~~the Texas Secretary of State.]~~

3 (5) Department--The Texas Department of Motor Vehicles.

4 (6) Director--Means the division director that regulates the distribution and sales of
5 motor vehicles, including any personnel to whom the director delegates any duty assigned under this
6 chapter.~~[Final order authority--The person with authority under Occupations Code, Chapter 2302, or~~
7 ~~board rules to issue a final order.]~~

8 (7) General Distinguishing Number or GDN--As defined by Occupations Code,
9 §2301.002(17).

10 (8) License holder--A person that holds a department-issued salvage vehicle dealer
11 license or a department-issued independent motor vehicle dealer GDN that authorizes the dealer to
12 operate as a salvage vehicle dealer.

13 ~~[(8) Major component part--As defined by Transportation Code, §501.091.]~~

14 (9) Metal recycler--As defined by Transportation Code, §501.091.

15 (10) ~~[Minor component part--As defined by Occupations Code, §2302.251.~~

16 ~~(11)]~~ Nonrepairable motor vehicle--As defined by Transportation Code, §501.091.

17 ~~(11)]~~~~(12)]~~ Nonrepairable record of title--As defined by Transportation Code, §501.091.

18 ~~(12)]~~~~(13)]~~ Nonrepairable vehicle title--As defined by Transportation Code, §501.091.

19 ~~(13)]~~~~(14)]~~ Out-of-state buyer--As defined by Transportation Code, §501.091.

(14)[(15)] Out-of-state ownership document--As defined by Transportation Code, §501.091.

(15)[(16)] Person--Has the meaning assigned by Occupations Code, §2301.002.~~[A natural person, partnership, corporation, trust, association, estate, or any other legal entity.]~~

(16)[(17)] Public highway--As defined by Transportation Code, §502.001.

(17)[(18)] Retail sale--As defined by Occupations Code, §2301.002.

(18)[(19)] Salvage motor vehicle--As defined by Transportation Code, §501.091.

(19)[(20)] Salvage record of title--As defined by Transportation Code, §501.091.

(20)[(21)] Salvage vehicle dealer--As defined by Transportation Code, §501.091.

(21)[(22)] Salvage vehicle title--As defined by Transportation Code, §501.091.

(22)[(23)] Used part--As defined by Transportation Code, §501.091.

SUBCHAPTER B. LICENSING

221.11. License Required

(a) A person must hold a salvage vehicle dealer license, or an independent motor vehicle dealer's general distinguishing number issued under Chapter 503; Transportation Code to:

(1) act as a salvage vehicle dealer or rebuilder; or

(2) store or display a motor vehicle as an agent or escrow agent of an insurance

company.

(b) A person may not engage in the business of buying, selling or exchanging motor vehicles that can be titled or registered to operate on public highways, including selling a salvage motor vehicle that has been rebuilt, repaired or reconstructed, unless the person holds a general distinguishing number issued by the department under Transportation Code, Chapter 503.

(c) The provisions of this subchapter do not apply to a person exempt from licensure under Occupations Code, Chapter 2302.[:

~~(1) a person who purchases no more than five (5) nonrepairable or salvage motor vehicles at casual sale in a calendar year from:~~

~~(A) a salvage vehicle dealer; or~~

~~(B) an insurance company;~~

~~(2) a metal recycler, unless a motor vehicle is sold, transferred, released, or delivered to the metal recycler for the purpose of reuse or resale as a motor vehicle, or as a source of used parts, and is used for that purpose;~~

~~(3) a person who casually repairs, rebuilds, or reconstructs no more than five (5) salvage motor vehicles in the same calendar year;~~

~~(4) a person who is a non-United States resident who purchases nonrepairable or salvage motor vehicles for export only;~~

~~(5) an agency of the United States, an agency of this state, or a local government;~~

~~(6) a financial institution or other secured party that holds a security interest in a motor vehicle and is selling that motor vehicle in the manner provided by law for the forced sale of a motor vehicle;~~

~~(7) a receiver, trustee, administrator, executor, guardian, or other person appointed by or acting pursuant to the order of a court;~~

1 ~~(8) a person selling an antique passenger car or truck that is at least 25 years old or~~
2 ~~a collector selling a special interest motor vehicle as defined in Transportation Code, §683.077, if~~
3 ~~the special interest vehicle is at least 12 years old; and~~

4 ~~(9) a licensed auctioneer who, as a bid caller, sells or offers to sell property to the~~
5 ~~highest bidder at a bona fide auction under the following conditions:~~

6 ~~(A) neither legal nor equitable title passes to the auctioneer;~~

7 ~~(B) the auction is not held for the purpose of avoiding a provision of~~
8 ~~Occupations Code, Chapter 2302, or this subchapter; and~~

9 ~~(C) the auction is conducted of motor vehicles owned, legally or equitably,~~
10 ~~by a person who holds a salvage vehicle dealer's license and the auction is conducted at their~~
11 ~~licensed location or at a location approved by the department.]~~

12 13 221.13. License Terms and Fees

14 (a) The term of a salvage vehicle dealer license issued by the department under
15 Occupations Code, Chapter 2302, and this chapter, is two years. The fee for a salvage vehicle
16 dealer license is \$190. The entire amount of the fee is due at the time of application for the
17 license.

18 (b) The department may prorate the fee for a salvage vehicle dealer license to allow the
19 salvage vehicle dealer license to expire on the same day as another license issued by the
20 department under Occupations Code, Chapter 2301; Chapter 2302; or Transportation Code,
21 Chapter 503.

22 (c) The fee for a license amendment is \$25.

23 221.14. License Applications Generally

1 (a) A salvage vehicle dealer license may be issued for multiple locations within a single county. A
2 separate license and fee is required for a business location ~~[or locations located]~~ in another county.

3 (b) An application for a new license, license amendment, or license renewal filed with the
4 department must be:

5 (1) on a form approved by the department;

6 (2) completed by the applicant, license holder, or authorized representative who is an
7 employee, a licensed attorney, or a certified public accountant;

8 (3) accompanied by the required fee from an account held by the applicant or license
9 holder, or from a trust account of the applicant's or license holder's attorney or certified public
10 accountant. ~~[A license applicant must submit a signed application on a form prescribed by the~~
11 ~~department, provide any required attachments, and remit the required fees at the time of submission of~~
12 ~~the application.]~~

13 (c) License applications and fees must be submitted to the department electronically in a system
14 designated by the department for licensing. Fees may be paid by credit card or electronic funds transfer.

15 (d) In evaluating a new or renewal salvage vehicle dealer license application or an application for
16 a new location, the department may require a site visit to determine if the business location meets the
17 requirements in this chapter.

18 (e) An applicant for a salvage vehicle dealer license must also comply with fingerprint
19 requirements in §211.6 of this title (relating to Fingerprint Requirements for Designated License
20 Applicants and License Holders).

1 (f) The department will not provide information regarding the status of an application,
2 application deficiencies, or pending new license numbers to a person other than a person listed in
3 subsection (b)(2) of this section unless the person files a written request under Government Code,
4 Chapter 552.

5
6 221.15. Required License Application Information

7 (a) An applicant for a new salvage dealer license must register for an account in the department-
8 designated licensing system by selecting the licensing system icon on the dealer page of the department
9 website. An applicant must designate the account administrator and provide the name and email
10 address for that person, and provide the business telephone number, name, business type, and social
11 security number or employer identification number, as applicable. The applicant's licensing account
12 administrator must be an owner, officer, manager, or bona fide employee.

13 (b) Once registered, an applicant for a new salvage dealer license may apply for a license and
14 must provide the following~~[The following information must be provided on each salvage vehicle dealer~~
15 ~~application]:~~

- 16 (1) the application reason~~[full legal name of the applicant];~~
- 17 (2) business information including the name; mailing address; the full business physical
18 address, including number, street, municipality, county, and zip code for each location where the
19 applicant will conduct business ~~[under the license if each location is-]~~ in the same county; business email;
20 telephone number; Texas Sales Tax Identification Number; National Motor Vehicle Title Information
21 System (NMVTIS) Identification Number; Secretary of State file number, if applicable; and website
22 address, if applicable;

1 (3) application contact name, email address, and telephone number~~[the business~~
2 ~~telephone number and email address];~~

3 (4) the name, social security number, date of birth, identity document information, and
4 ownership percentage for each owner, partner, member, beneficiary, or principal if the applicant is not a
5 publicly traded company~~[the mailing address];~~

6 (5) the name, social security number, date of birth, and identity document information
7 for each officer, director, manager, trustee, or other representative authorized to act on behalf of the
8 applicant if the applicant is owned in full or in part by a legal entity~~[a statement acknowledging that the~~
9 ~~department will consider the applicant's designated mailing address the applicant's last known address~~
10 ~~for department communication, including service of process under Subchapter E of this chapter (relating~~
11 ~~to Administrative Procedures). The designated mailing address will be considered applicant's last known~~
12 ~~address until such time that the mailing address is changed in the licensing records of the department~~
13 ~~after the license holder submits an amendment to change the license holder's mailing address];~~

14 (6) the name, employer identification number, ownership percentage, and non-profit or
15 publicly-traded status for each legal entity that owns the applicant in full or in part~~[all assumed names as~~
16 ~~registered with the secretary of state or county clerk, as applicable];~~

17 (7) the name, social security number, date of birth, and identity document information
18 of at least one manager or other bona fide employee who will be present at the business location if the
19 license holder is out of state or will not be present during business hours at the business location in
20 Texas~~[if applying as a sole proprietor, the social security number, address and telephone number for the~~
21 ~~sole proprietor];~~

1 (8) criminal history record information under the laws of Texas, another state in the
2 United States, the United States, and any foreign jurisdiction for each person listed in the application,
3 including offense description, date, and location~~[if applying as a general partnership, the social security~~
4 ~~number, address and telephone number for each of the general partners];~~

5 (9) military service status~~[if applying as a limited partnership, limited liability company,~~
6 ~~or corporation, the full name, social security number, address and telephone number for each officer or~~
7 ~~director of the corporation, each member, officer, or manager of the limited liability company, each~~
8 ~~partner, and each officer of the limited partnership, including the information for the general partner~~
9 ~~based on the type of entity];~~

10 (10) licensing history required to evaluate business reputation, character, and fitness for
11 licensure including a statement indicating whether the applicant or any person described in §211.2 of
12 this title (relating to Application of Subchapter) has previously applied for a license under this chapter or
13 the salvage vehicle dealer licensing laws of another jurisdiction, the result of the previous application,
14 and whether the applicant, including a person described in §211.2 of this title, has ever been the holder
15 of a license issued by the department or another jurisdiction that was revoked, suspended, or subject of
16 an order issued by the board or by another jurisdiction to pay an administrative penalty that remains
17 unpaid~~[the state sales tax number];~~

18 (11) information about each business location and business premises to demonstrate
19 compliance with related rules in this chapter~~[the National Motor Vehicle Title Information System~~
20 ~~(NMVTIS) number evidencing that the applicant is registered with NMVTIS];~~

21 (12) signed Certification of Responsibility, which is a form provided by the department~~[a~~
22 ~~statement indicating whether the applicant or any person described in §211.2 of this title (relating to~~

Application of Subchapter) has previously applied for a license under this chapter or the salvage vehicle dealer licensing laws of another jurisdiction, the result of the previous application, and whether the applicant, including a person described in §211.2 of this title, has ever been the holder of a license issued by the department or another jurisdiction that was revoked, suspended, or subject of an order issued by the board or by another jurisdiction to pay an administrative penalty that remains unpaid]; and

(13) any other information required by the department to evaluate the application under current law and board rules.[a statement indicating whether the applicant has an ownership, organizational, affiliation, or other business arrangement that would allow a person to direct the management, policies, or activities of an applicant or license holder, whether directly or indirectly, who was the holder of a license issued by the department or by another jurisdiction that was revoked, suspended, or subject of an order issued by the board or by another jurisdiction to pay an administrative penalty that remains unpaid;

(14) details of the criminal history of the applicant and any person described in §211.2 of this title;

(15) details of the professional information of the applicant and any person described in §211.2 of this title;

(16) a statement that the applicant at the time of submitting the application is in compliance, and, after issuance of a license, will remain in compliance, with all ordinances and rules of the municipality or county of each location where the applicant will conduct business; and

(17) an acknowledgement that the applicant understands, is, and will remain in compliance with all state and federal laws relating to the licensed activity].

1 (c) A salvage vehicle dealer renewing or amending its license must verify current license
2 information and provide related information for any new requirements or changes to the license.

3
4 221.16. Required Attachments to the License Application

5 A legible and accurate electronic image of each applicable required document must be attached
6 to the license application:

7 (a) the certificate of filing, certificate of incorporation, or certificate of registration on file with
8 the Secretary of State, if applicable; [If the applicant is a sole proprietor or general partnership, in
9 addition to the information required by §221.15 of this title (relating to Required License Application
10 Information), the applicant must submit a legible copy of one of the following types of identification that
11 is valid and active at the time of application for the sole proprietor and each of the general partners:

12 (1) driver's license, Department of Public Safety identification, or state identification
13 certificate issued by a state or territory of the United States;

14 (2) concealed handgun license or license to carry a handgun issued by the Department
15 of Public Safety under Government Code, Chapter 411, Subchapter H;

16 (3) United States or foreign passport;

17 (4) United States Department of Homeland Security, United States Citizenship and
18 Immigration Services, or United States Department of State Identification document;

19 (5) United States military identification card; or

1 ~~(6) North Atlantic Treaty Organization identification or identification issued under a~~
2 ~~Status of Forces Agreement.]~~

3 (b) each assumed name certificate on file with the Secretary of State or county clerk;~~[If the~~
4 ~~applicant is a limited partnership, limited liability company, or a corporation, the applicant must submit a~~
5 ~~legible copy of one of the following current types of identification that is valid and active at the time of~~
6 ~~application for each partner of the limited partnership, each member of the limited liability company,~~
7 ~~and for each officer of the corporation:~~

8 ~~(1) driver's license, Department of Public Safety identification, or state identification~~
9 ~~certificate issued by a state or territory of the United States;~~

10 ~~(2) concealed handgun license or license to carry a handgun issued by the Department~~
11 ~~of Public Safety under Government Code, Chapter 411, Subchapter H;~~

12 ~~(3) United States or foreign passport;~~

13 ~~(4) United States Department of Homeland Security, United States Citizenship and~~
14 ~~Immigration Services, or United States Department of State Identification document;~~

15 ~~(5) United States military identification card; or~~

16 ~~(6) North Atlantic Treaty Organization identification or identification issued under a~~
17 ~~Status of Forces Agreement.~~

18 (c) at least one of the following valid and current identity documents for each natural person
19 listed in the application:

20 (1) driver's license;

1 (2) Texas Identification Card issued by the Texas Department of Public Safety under
2 Transportation Code, Chapter 521, Subchapter E;

3 (3) license to carry a handgun issued by the Texas Department of Public Safety under
4 Government Code, Chapter 411, Subchapter H;

5 (4) United States or foreign passport; or

6 (5) United States military identification card;

7 [If the applicant is a corporation, the applicant must submit a copy of the certificate of
8 incorporation issued by the secretary of state or a certificate issued by the jurisdiction where the
9 applicant is incorporated, and a verification that, at the time the application is submitted, all business
10 franchise taxes of the corporation have been paid.]

11 (d) documents proving business premises ownership, or a fully executed lease or sublease
12 agreement for the license period; [If the applicant is a limited partnership, the applicant must submit a
13 copy of the certificate of partnership issued by the secretary of state or a certificate issued by the
14 jurisdiction where the applicant is formed, and verification that, at the time the application is submitted,
15 all business franchise taxes of the limited partnership have been paid.]

16 (e) business premises photos and a notarized affidavit certifying that all premises requirements
17 in Subchapter C of the chapter are met and will be maintained during the license period; [Upon request
18 by the department, the applicant shall submit documents demonstrating that the applicant owns the
19 real property on which the business is situated or has a written lease for the property that has a term of
20 not less than the term of the license].

1 (f) Texas Use and Sales Tax Permit; ~~[If the applicant is a sole proprietor or general partnership, in~~
2 ~~addition to the information required by §221.15, the applicant must submit a legible copy of the~~
3 ~~Assumed Name Certificate (DBA) issued by the county clerk in which the business is located.]~~

4 (g) Franchise Tax Account Status issued by the Comptroller's Office; and ~~[If the applicant is a~~
5 ~~limited partnership, limited liability company, or a corporation, the applicant must submit a legible copy~~
6 ~~of the Assumed Name Certificate (DBA) as registered with the Texas Secretary of State's office.]~~

7 (h) any other documents required by the department to evaluate the application under current
8 law and board rules. ~~[If the applicant is a sole proprietor or general partnership, in addition to the~~
9 ~~information required by §221.15, the applicant must submit a legible copy of the Texas Sales and Use Tax~~
10 ~~Permit.~~

11 (i) ~~If the applicant is a limited partnership, limited liability company, or a corporation, the~~
12 ~~applicant must submit a legible copy of the Texas Sales and Use Tax Permit].~~

13
14 221.17. License Processing for Military Service Members, Spouses, and Veterans

15 (a) The department will process a license, amendment, or renewal application submitted for
16 licensing of a military service member, military spouse, or military veteran in accordance with Occupations
17 Code, Chapter 55. A license holder who fails to timely file a sufficient renewal application because the
18 license holder was on active duty is exempt from any increased fee or penalty imposed by the department.

19 (b) A military service member or military spouse may engage in a business or occupation for which
20 a department issued license is required if the military service member or military spouse meets the
21 requirements of Occupations Code, §55.0041 and this section.

1 (1) ~~[To meet the requirements of Occupations Code, §55.0041, a]~~ A military service
2 member or military spouse must submit to the department:

3 (A) notice of the military service member or military spouse's intent to engage in
4 a business or occupation in Texas for which a department issued license is required;

5 (B) proof of the military service member or ~~military spouse's~~ being stationed
6 ~~[residency]~~ in Texas and a copy of the military service member or military spouse's military identification
7 card~~[, as required by Occupations Code, §55.0041(b)(2)]~~; and

8 (C) documentation demonstrating that the military service member or military
9 spouse is licensed and in good standing in another jurisdiction for the relevant business or occupation.

10 (2) Upon receipt of the notice and documentation required by paragraphs (1)(B) and (1)(C)
11 of this subsection the department shall:

12 (A) confirm with the other licensing jurisdiction that the military service member
13 or military spouse is currently licensed and in good standing for the relevant business or occupation; and

14 (B) conduct a comparison of the other jurisdiction's license requirements,
15 statutes, and rules with the department's licensing requirements to determine if the requirements are
16 substantially equivalent.

17 (3) If the department confirms that a military service member or military spouse is
18 currently licensed in good standing in another jurisdiction with substantially equivalent licensing
19 requirements, the department ~~shall~~ may issue a license to the military service member or military spouse
20 for the relevant business or occupation within 30 days. The license is subject to the requirements of this
21 chapter and Occupations Code, Chapter 2302 in the same manner as a license issued under the standard
22 application process, unless exempted or modified under Occupations Code, Chapter 55.

1 (c) This section establishes requirements and procedures authorized or required by Occupations
2 Code, Chapter 55, and does not modify or alter rights that may be provided under federal law.

3
4 221.18. Additional, New, or Closed Location

5 (a) If the license holder intends to conduct business at more than one location within the same
6 county, the applicant must:

7 (1) notify the department no later than 10 days before opening the additional location
8 by electronically submitting a license amendment application in the department-designated licensing
9 system~~[to amend the license to add an additional location];~~

10 (2) acknowledge that the additional location~~[, at the time of submitting the~~
11 ~~amendment,~~] is and will remain in compliance with all ordinances and rules of the municipality or county
12 for the additional location and board rules; and

13 (3) obtain approval from the department before conducting business at the additional
14 location.

15 (b) If the license holder intends to relocate its business to a new location within the same
16 county, the license holder must:

17 (1) notify the department no later than 10 days before opening the new location by
18 electronically submitting a license amendment application in the department-designated licensing
19 system~~[to amend the license]~~ to add a new location and remove the existing location from the
20 department's records;

1 (2) acknowledge that the new location~~[, at the time of submitting the amendment,]~~ is
2 and will remain in compliance with all ordinances and rules of the municipality or county for the new
3 location and board rules; and

4 (3) obtain approval from the department before conducting business at the new
5 location.

6 (c) A license holder must notify the department in writing within 10 days of ~~[the] closing [of] a~~
7 business location by electronically submitting a license amendment application in the department-
8 designated licensing system to delete the location if more than one location is listed on the license, or
9 closing the license if a single location is listed on the license.

10 (d) If a license holder is opening a new location not located in the same county, the license
11 holder must apply for a new license.

12
13 221.19. Notice of Change in~~[of]~~ License Holder Information~~[s Name, Ownership, or Control]~~

14 (a) A license holder shall notify the department by electronically submitting a license
15 amendment application in the department-designated licensing system to amend its license within 30
16 days of a change in the license holder's business name or assumed name. Upon submission of an
17 amendment to change the business name or assumed name, the department shall reflect the new
18 business name in the department's records. The dealer shall retain the same salvage vehicle dealer
19 license number except if the business name change is the result of a change in the type of entity being
20 licensed, such as a sole proprietorship becoming a corporation, or if the ownership of the business
21 changes as discussed in subsection (b) of this section.

1 (b) A salvage vehicle dealer shall notify the department by electronically submitting a license
2 amendment application in the department-designated licensing system ~~[by submitting a request for~~
3 ~~license amendment]~~ within 30 days of a change to:

4 (1) the entity type of the applicant or license holder;

5 (2) the departure or addition of any person reported to the department in the original
6 license application or most recent renewal application, including any person described in §211.2 of this
7 title (relating to Application of Subchapter);

8 (3) an ownership, organizational, managerial, or other business arrangement that would
9 allow the power to direct or cause the direction of the management and policies and activities of an
10 applicant or license holder, whether directly or indirectly, to be established in or with a person not
11 described in paragraph (1) or (2) of this subsection; or

12 (4) a business email address, telephone number, mailing address, or change in license
13 contact.

14 (c) The license holder must submit to the department ~~[a notice of change and]~~ all information
15 required by the department to evaluate the license amendment application under current law and
16 rules ~~[needed for that specific license modification].~~

18 221.20. License Renewal

19 (a) A salvage vehicle dealer license expires on the second anniversary of the date the license was
20 issued ~~[of issuance of the salvage vehicle dealer license].~~

(b) The salvage vehicle dealer license may be renewed for an additional period of two years upon timely submission of a renewal application on a form approved by the department with all required information, attachments, and fees. A renewal application is considered "timely" submitted if the renewal application with all required information, attachments, and required fees are received by the department on or before the expiration date of the existing license.

(c) The department will send a written notice of expiration to a license holder's~~salvage vehicle dealer's~~ email address at least 31~~30~~ days before expiration of a license.

(d) Failure by the department to send written notice of expiration under this section does not relieve a license holder from timely renewing a license.

(e) The renewal fee for salvage vehicle dealer license is \$170.

(f) A license holder may renew an expired license by submitting a renewal application and paying a late renewal fee of \$85 in addition to the renewal fee, if 90 or fewer days have elapsed since the license expired.

(g) A license holder may renew an expired license by submitting a renewal application and paying a late renewal fee of \$170 in addition to the renewal fee, if more than 90 days but less than one year has elapsed since the license expired.

(h) If a license has been expired for ~~[a period of]~~ one year or longer and the department has not received~~[is not in receipt of]~~ a renewal application~~[with all required information and attachments]~~, the department will close the license, and the license holder must apply for a new license~~[in the same manner as an applicant for an initial license]~~.

1 (i) In accordance with Government Code, §2001.054, a license holder that timely submits a
2 renewal application under subsection (b) of this section may continue to operate under the expired
3 license until the status of the renewal application is determined by the department.

4 (j) If the department does not receive a timely~~[is not in receipt of a]~~ renewal application with all
5 required information and attachments and the applicable renewal fee on or before~~[prior to]~~ the license
6 expiration date~~[cancellation date of the license]~~, a salvage vehicle dealer may not engage in the activities
7 that require the license until the license has been renewed by the department.

10 SUBCHAPTER C. LICENSED OPERATIONS

11 221.41. Location Requirements

12 A salvage vehicle dealer must meet and maintain the following requirements at each
13 licensed business location~~[and must maintain the following requirements]~~ during the ~~[entire]~~ term
14 of the license.

15 (1) If the licensed business location is not owned by the license holder, the license
16 holder must maintain a lease that is continuous during the period of time for which the license will
17 be issued~~[that extends through the period for which the license will be issued]~~. The lease
18 agreement must be on a properly executed form ~~[an executed lease contract]~~ containing at a
19 minimum:

20 (A) the name of the property owner as the lessor of the premises and the
21 name of the dealer as the tenant or lessee of the premises~~[the names of the lessor and lessee];~~

22 (B) the period of time for which the lease is valid;~~[and]~~

1 (C) the street address or legal description of the property, provided that if
2 only a legal description of the property is provided, the license holder must attach a statement
3 verifying that the property description in the lease agreement is the physical street address
4 identified on the application;[-]

5 (D) the signature of the property owner as the lessor and the signature of
6 the dealer as the tenant or lessee; and

7 (E) if the lease agreement is a sublease in which the property owner is not
8 the lessor, the dealer must also obtain a signed and notarized statement from the property owner
9 including the following information:

10 (i) property owner's full name, email address, mailing address, and
11 phone number; and

12 (ii) property owner's statement confirming that the dealer is
13 authorized to sublease the location and may operate a salvage vehicle dealer business from the
14 location.

15 (2) Any business location requirement in this subchapter are in addition to any
16 requirements by municipal[city] ordinance, county rule, or state law.

17
18 221.42. Operations Only at Licensed Business Location

19 A salvage vehicle dealer may not sell or offer to sell a salvage motor vehicle[s] or non-
20 repairable motor vehicle[s] from any location other than a[the] licensed business location[~~that has~~
21 ~~been approved by the department~~].

22
23 221.43. Business Hours

1 (a) The office of a salvage vehicle dealer who sells to a retail customer shall be open at least four
2 days per week for at least four consecutive hours per day and may not be open solely by appointment.

3 The office of a salvage pool operator selling only to a wholesale dealer must be open at least two
4 weekdays per week for at least two consecutive hours per day and may not be open solely by
5 appointment. The business hours must be posted at the main entrance of the business's office that is
6 accessible to the public.

7 (b) The license holder or a bona fide employee of the license holder shall be at the licensed
8 business location during the posted business hours for the purpose of operating the salvage business
9 and allowing the inspection of the business location and records.

10 (c) If the license holder or a bona fide employee of the license holder is not available to conduct
11 business during the posted business hours due to special circumstances or emergencies, a separate sign
12 must be posted indicating the date and time the license holder or bona fide employee of the license
13 holder will resume operations at the licensed business location.

14 (d) Regardless of the license holder's business hours, the license holder's~~licensee's~~ telephone
15 must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering
16 service, voicemail service, or answering machine.

17
18 221.44. Business Sign Requirements

19 (a) The license holder must display a permanent business sign with letters at least six inches in
20 height showing the license holder's business name or assumed name as reflected on the ~~license~~
21 ~~holder's~~ license issued by the department. A business sign is considered permanent only if it is made of
22 durable, weather-resistant material.

1 (b) A business~~[The]~~ sign must be permanently mounted at ~~[the]~~each physical business address
2 listed on the license. A business sign is considered permanently mounted if bolted to an exterior building
3 wall or bolted or welded to a dedicated sign pole or sign support permanently installed in the ground.

4 (c) A license holder may use a temporary sign or banner if that license holder can show proof
5 that a business sign that meets the requirements of this paragraph has been ordered and provides a
6 written statement that the business sign will be promptly and permanently mounted upon delivery.

7 (d) A license holder is responsible for ensuring that the business sign complies with municipal
8 ordinances, and that any lease signage requirements are consistent with the signage requirements in this
9 paragraph.

10
11 221.45. Business Office

12 (a) The license holder's office must be located at the licensed business location in a building with
13 a permanent roof and connecting exterior walls on all sides.

14 (b) A license holder's office structure must comply with all applicable local zoning ordinances
15 and deed restrictions.

16 (c) A license holder's office may not be located within a residence, apartment house or building,
17 hotel, motel, ~~[or]~~ rooming house, or any room or building not open to the public.

18 (d) A portable-type office structure may qualify as a business office only if the structure meets
19 the requirements of this section and is not a readily moveable trailer or other vehicle.

20 (e) A license holder's office may not be virtual or provided by a subscription for office space or
21 office services.

1 (f) The physical address of the salvage vehicle dealer's office must be in Texas and recognized by
2 the U.S. Postal Service and have an assigned emergency services property address.

3 (g) A license holder's office must be equipped with internet access.

4
5 221.46. Display of License

6 At each licensed business location, a [A]license holder must continuously display [at its business
7 location the original or copy of]the license issued by the department [at all times]in a conspicuous
8 manner that makes the license easily readable by the public[and is displayed in a conspicuous place at
9 each licensed business location for which the license is issued].

10
11 221.47. Evidence of Ownership

12 A salvage vehicle dealer must receive a properly assigned salvage vehicle title, salvage record of
13 title, non-repairable vehicle title, non-repairable record of title, or out-of-state ownership document, as
14 applicable, when acquiring a non-repairable motor vehicle or salvage motor vehicle in accordance with
15 §217.86 of this title (relating to Dismantling, Scrapping, or Destruction of Motor Vehicles).

16
17 [221.48. Scrapped or Destroyed Motor Vehicle]

18 [(a) Within 30 days after a salvage vehicle dealer acquires a non-repairable motor vehicle or
19 salvage motor vehicle for the purpose of scrapping or destroying the motor vehicle, the salvage vehicle
20 dealer shall:

1 ~~(1) submit to the department a report on a form prescribed by the department stating~~
2 ~~that the motor vehicle will be scrapped or destroyed and certifying that all license plates and registration~~
3 ~~stickers have been removed from the motor vehicle; and~~

4 ~~(2) surrender to the department the properly assigned ownership document.]~~

5 ~~[(b) Not later than 60 days after the motor vehicle is scrapped or destroyed, the salvage vehicle~~
6 ~~dealer shall report to the department that the motor vehicle has been scrapped or destroyed.]~~

7 ~~[(c) A salvage vehicle dealer shall maintain records of each motor vehicle that is scrapped or~~
8 ~~destroyed, as provided by Subchapter D of this chapter (relating to Records).]~~

9 ~~[(d) License plates and registration stickers of vehicles that will be scrapped or destroyed shall be~~
10 ~~stored by the salvage vehicle dealer in a secure location until the department acknowledges receipt of~~
11 ~~the report required by subsection (a) of this section.]~~

12 ~~[(e) The salvage vehicle dealer shall recycle[destroy] the license plates and destroy the~~
13 ~~registration stickers to the vehicles reported under subsection (a) of this section upon receipt of the~~
14 ~~acknowledged report from the department.]~~

15 ~~[(f) A vehicle reported to the department under subsection (a) of this section is considered a~~
16 ~~non-repairable vehicle effective the date of the report.]~~

17
18 221.49. Unique Inventory Number

19 Occupations Code, §2302.255, sets out the requirements for a salvage vehicle dealer in assigning
20 a unique inventory number when the salvage vehicle dealer purchases or takes delivery of a component
21 part.

221.50. Restrictions on a Sale[s] of a Flood Damaged Vehicle[s]

(a) A motor vehicle that is ~~[classified as]~~ a non-repairable motor vehicle or salvage motor vehicle based solely on flood damage may be sold or transferred only as provided by this section.

(b) A license holder~~[salvage vehicle dealer]~~ may sell, transfer, or release a non-repairable motor vehicle or salvage motor vehicle to any person~~[anyone]~~ if:

(1) a non-repairable or salvage vehicle title or record of title, or a comparable out-of-state ownership document has been issued for the motor vehicle, and

(2) a the license holder provides~~[provided]~~ a written disclosure to the person ~~[has been made]~~ that the vehicle ~~is~~~~[has been classified as]~~ a non-repairable motor vehicle or salvage motor vehicle based solely on flood damage.

(c) If a non-repairable or salvage vehicle title or record of title or a comparable out-of-state ownership document has not been issued for the motor vehicle, a salvage vehicle dealer may only sell, transfer, or release a non-repairable motor vehicle or salvage motor vehicle to:

(1) an insurance company that has paid a claim on the nonrepairable or salvage motor vehicle;

(2) a governmental entity;

(3) a licensed salvage vehicle dealer;

(4) an out-of-state buyer;

(5) a metal recycler; or

1 (6) a used automotive parts recycler, and

2 (7) must provide ~~[provided]~~ a written disclosure~~[-has been made]~~ that the vehicle has

3 been classified as a non-repairable motor vehicle or salvage motor vehicle based solely on flood damage.

4
5 221.51. Duty to Identify a Motor Vehicle[s] Offered for Sale

6 (a) A salvage vehicle dealer shall place a notice~~[sign]~~ on each salvage motor vehicle it displays or
7 offers for sale that:

8 (1) is visible from outside of the salvage motor vehicle;

9 (2) contains lettering that is two inches or more in height identifying the vehicle is a
10 salvage motor vehicle; and

11 (3) states as follows: "This is a salvage titled vehicle that cannot be operated on a public
12 highway. If the salvaged vehicle is to be registered in Texas, the purchaser must apply to a county tax
13 assessor-collector's office, surrender the salvage title, submit the required information on repairs that
14 have been made to the vehicle and pay the applicable fees before the vehicle may be titled and/or
15 registered to operate on the public highway."

16 (b) Upon the sale of a salvage motor vehicle, a salvage vehicle dealer shall obtain the purchaser's
17 signature to a disclosure statement written in eleven point or larger font that states as follows: "I, (name
18 of purchaser), acknowledge that at the time of purchase, I am aware that: the vehicle is titled on a
19 salvage title; if I intend to operate the vehicle on a public highway in Texas, I am responsible for applying
20 for a title for this salvage vehicle through a Texas county tax assessor-collector's office accompanied by
21 the required forms showing that repairs have been made to the vehicle; I am responsible for paying the

1 applicable fees; and, I may not drive this salvage vehicle on a public highway until after a titled branded
2 rebuilt salvage and registration have been issued."

3 (c) A salvage vehicle dealer shall place a sign on each non-repairable motor vehicle it displays or
4 offers for sale that:

5 (1) is visible from outside of the non-repairable motor vehicle;

6 (2) contains lettering that is two inches or more in height; and

7 (3) states as follows: "This is a non-repairable titled motor vehicle that can never be
8 operated on a public highway of this state~~[or any other state]~~."

9 (d) Upon the sale of a non-repairable motor vehicle, a salvage vehicle dealer shall obtain the
10 purchaser's signature to a disclosure statement written in eleven point or larger font that states as
11 follows: "I, (name of purchaser), acknowledge that at the time of purchase, I am aware that the vehicle is
12 a non-repairable vehicle; this vehicle will never be able to operate on a public highway of this state~~[or~~
13 ~~any other state]~~ and will never be registered to operate on a public highway of this state~~[or any other~~
14 ~~state]~~; and, before selling this non-repairable vehicle I must have the non-repairable vehicle titled in my
15 name."

16 (e) A salvage vehicle dealer shall maintain a copy of the written disclosures required by this
17 section as part of its records of sales in accordance with §221.73 of this title (relating to Content of
18 Records).

19 (f) The notice requirements of subsections (a) and (c) can be met if the salvage vehicle dealer
20 conspicuously displays a permanent sign that~~[single notice or notices if]~~ all of the vehicles being offered
21 for sale by the salvage vehicle dealer are salvage motor vehicles or non-repairable motor vehicles.

(g) If the salvage vehicle dealer conducts a sale of a salvage motor vehicle or a non-repairable motor vehicle in Spanish or other foreign language, the notices and disclosures required by this section shall be in that language.

(h) This section does not apply to a vehicle that is displayed or offered for sale by a salvage vehicle dealer who operates solely as a salvage pool operator and only sells vehicles at wholesale~~[person who holds a salvage pool license on the premises of the licensed salvage pool operator]~~.

221.52. Export-only Sales

(a) A license holder may sell a non-repairable motor vehicle or a salvage motor vehicle to a person who resides in a jurisdiction outside the United States only as provided by Transportation Code, §501.099 and §217.88 of this title (relating to Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle).

~~(b) A license holder may accept any of the following types of government-issued photo identification documents to establish that the purchaser resides outside the United States:~~

~~(1) passport;~~

~~(2) driver's license;~~

~~(3) consular identity document;~~

~~(4) national identification certificate or identity document; or~~

~~(5) other photo identification card issued by the jurisdiction where the purchaser resides that contains the name, address, and date of birth of the purchaser.~~

(c) A legible copy of the purchaser's photo identification document must be maintained in the records of the license holder for a period of 36[48] months after the sale of a salvage motor vehicle or a non-repairable motor vehicle for "export-only."

(d) The limitation on the number of casual sales that may be made to a person under §221.53 of this title (relating to Casual Sales) does not apply to sales to a person who resides in a jurisdiction outside the United States and who purchases salvage motor vehicles and non-repairable motor vehicles for "export-only."

221.53. Casual Sales

(a) A license holder may not make more than five (5) casual sales of salvage motor vehicles or non-repairable motor vehicles during a calendar year to the same person.

(b) A license holder must maintain records of each casual sale made in accordance with §217.88 of this title (relating to Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle).~~[during the previous 36 months, as provided by §221.72 of this title (relating to Record Retention).~~ Such records must contain the following information regarding each casual sale:

~~(1) the complete name, address and phone number of the purchaser;~~

~~(2) a copy of one of the following valid and current photo identification documents for the purchaser:~~

~~(A) driver's license, Department of Public Safety identification, or state identification certificate issued by a state or territory of the United States;~~

~~(B) concealed handgun license or license to carry a handgun issued by the Department of Public Safety under Government Code, Chapter 411, Subchapter H;~~

~~(C) United States or foreign passport;~~

~~(D) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State Identification document;~~

~~(E) United States military identification card; or~~

~~(F) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement; and~~

~~(3) the year, make, model, color and vehicle identification number for the salvage motor vehicle or non-repairable motor vehicle.~~

(c) A person who purchases a salvage motor vehicle or a non-repairable motor vehicle through a casual sale may not sell that salvage motor vehicle or non-repairable motor vehicle until the salvage vehicle title, salvage record or title, non-repairable vehicle title or non-repairable record of title, as applicable, is in the person's name.

221.54. Criteria for Site Visits

In determining whether to conduct a site visit at an active salvage vehicle dealer's location, the department will consider whether the dealer has:

(1) failed to respond to a records request;

(2) failed to operate from the license location; [or]

(3) an enforcement history that reveals failed compliance inspections or multiple complaints with administrative sanctions being taken by the department;

(4) a business location that fails to meet business premises rule requirements under this chapter; or

(5) records that require further investigation by the department.

SUBCHAPTER D. RECORDS

221.71. Records; Generally

(a) A salvage vehicle dealer shall maintain a record of each salvage motor vehicle and non-repairable motor vehicle purchased, sold, or exchanged by the salvage vehicle dealer.

(b) A salvage vehicle dealer's records must be maintained at the licensed business location.

(c) Any records required to be maintained by a license holder may be maintained in an electronic format if the record can be reviewed and printed at the licensed business location upon request by ~~a representative of]the department[~~ at the time the requestor is at the business location.

(d) A salvage vehicle dealer must make records available for review and copying upon request by ~~a representative of]the department~~. The department may request records ~~A request for records may be made by the department]~~ in person, by mail, or electronically from a department email or a department-designated system ~~by electronically document transfer~~.

1 (e) ~~Upon receipt of a request for review of records sent by mail or electronic document transfer~~
2 ~~from the department, a]~~ A salvage vehicle dealer must provide~~[produce]~~ copies of requested~~[specified]~~
3 records to the department [requestor] within 15~~[10 calendar]~~ days of receipt of the request~~[by mail or~~
4 ~~electronic document transfer]~~.

5 (f) Occupations Code, §2302.254, establishes the requirements that a salvage vehicle dealer
6 maintain a record of an inventory of component parts purchased by or delivered to the salvage vehicle
7 dealer.

8 9 221.72. Record Retention

10 (a) A salvage vehicle dealer must retain at the licensed business location, or have electronic
11 access at the licensed business location of records stored electronically, a complete record of all
12 purchases and sales of salvage motor vehicles and nonrepairable motor vehicles for a minimum period
13 of 36 months from the date of the transaction.

14 (b) A salvage vehicle dealer shall maintain at the licensed business location a record of each
15 vehicle that is dismantled, scrapped or destroyed, and a photocopy of the front and back of all salvage
16 vehicle titles and nonrepairable vehicle titles, or a photocopy or electronic copy of all salvage records of
17 title, and nonrepairable records of title, and, if applicable, a photocopy of any out-of-state evidence of
18 ownership surrendered to the department, until the third~~[fourth]~~ anniversary of the date the report was
19 acknowledged as received by the department.

20 (c) A salvage vehicle dealer utilizing the department's web-based title application known as
21 webDEALER, as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle
22 Registration and Title Systems), must comply with §217.74 of this title (relating to Access to and Use of

webDEALER). Original hard copy titles are not required to be kept at the licensed business location[,] but must be made available to the department upon request.

221.73. Content of Records

(a) The records of a salvage vehicle dealer for purchases and sales shall include:

(1) the date the license holder purchased ~~[of purchase of]~~ the salvage motor vehicle, or non-repairable motor vehicle;

(2) the name and address of the person who sold the salvage motor vehicle or non-repairable motor vehicle to the salvage vehicle dealer;

(3) if the person ~~[who sold the salvage motor vehicle or non-repairable motor vehicle to the salvage motor vehicle dealer]~~ is not an insurance company or a license holder ~~[salvage pool operator]~~, a photocopy of ~~[one of]~~ the ~~[following current]~~ photo identification document[s] of the person who purchased the salvage motor vehicle or non-repairable motor vehicle from the salvage vehicle dealer or sold the salvage motor vehicle or non-repairable motor vehicle to the salvage vehicle dealer[:

~~(A) driver's license, Department of Public Safety identification, or state identification certificate issued by a state or territory of the United States;~~

~~(B) concealed handgun license or license to carry a handgun issued by the Department of Public Safety under Government Code, Chapter 411, Subchapter H;~~

~~(C) United States or foreign passport;~~

1 ~~(D) United States Department of Homeland Security, United States Citizenship~~
2 ~~and Immigration Services, or United States Department of State Identification document;~~

3 ~~(E) United States military identification card; or~~

4 ~~(F) North Atlantic Treaty Organization identification or identification issued~~
5 ~~under a Status of Forces Agreement];~~

6 (4) a description of the salvage motor vehicle or non-repairable motor vehicle, including
7 the model, year, make, and vehicle identification number, if applicable;

8 (5) the ownership document number and state of issuance of the salvage motor vehicle
9 or non-repairable motor vehicle ownership document, if applicable;

10 (6) a copy of the salvage record of title or non-repairable record of title, if applicable, or
11 a copy of the front and back of the ownership document for the salvage motor vehicle or non-repairable
12 motor vehicle;

13 (7) a copy of the **form** if the ownership document has been surrendered to the
14 department; ~~and~~

15 (8) any evidence indicating that the motor vehicle was dismantled, scrapped, or
16 destroyed;

17 (9) the sales contract or buyer's order;

18 (10) the salvage disclosure notice required under §221.51 of this title (relating to Duty to
19 Identify a Motor Vehicle Offered for Sale);

1 (11) a copy of the photo identification document required for export sales under
2 §221.52 (relating to Export-Only Sales);

3 (12) records for a casual sale as required under §221.53 (relating to Casual Sales); and

4 (13) any other records required under current rules in this title.

5 (b) If the salvage motor vehicle has been rebuilt, repaired, or reconstructed by the salvage
6 vehicle dealer the salvage vehicle dealer's records must also include a form prescribed by the
7 department ~~[for "Rebuilt Vehicle Statement," listing all repairs made to the motor vehicle, and, when~~
8 ~~required to be completed, a form prescribed by the department for "Component Part(s) Bill of Sale."]~~in
9 accordance with §217.89 of this title (relating to Rebuilt Salvage Motor Vehicles).

12 **SUBCHAPTER E. ADMINISTRATIVE PROCEDURES**

13 ~~[221.91. Notice of Department Decision]~~

14 ~~[(a) Upon a determination that an application for a license issued under Occupations Code,~~
15 ~~Chapter 2302, and this chapter should be denied, or that a license be revoked or suspended, or~~
16 ~~that administrative sanctions should be imposed based on alleged violations of Occupations Code,~~
17 ~~Chapter 2302, or this chapter, the department shall issue and mail, by certified mail, a Notice of~~
18 ~~Department Decision to the applicant's, license holder's or person's last known mailing address, as~~
19 ~~reflected in the department's licensing records.]~~

20 ~~[(b) The Notice of Department Decision includes a statement:~~

21 ~~(1) that describes the department decision and its effective date;~~

22 ~~(2) that describes each alleged violation;~~

1 ~~(3) that describes each administrative sanction being proposed;~~
2 ~~(4) which sets out the legal basis for each administrative sanction;~~
3 ~~(5) informing the license applicant, license holder or other person of the right to~~
4 ~~request a hearing;~~
5 ~~(6) setting forth the procedures for requesting a hearing, including the period~~
6 ~~during which a request for a hearing must be received by the department; and~~
7 ~~(7) informing the license applicant, license holder, or other person that the~~
8 ~~proposed decision and administrative sanctions in the Notice of Department Decision will become~~
9 ~~final on the date specified if the license applicant, license holder, or other person fails to timely~~
10 ~~request a hearing.]~~
11 ~~[(c) A request for an administrative hearing under this section must be made in writing and~~
12 ~~received by the department within 26 days of the date the Notice of Department Decision is~~
13 ~~mailed by the department.]~~
14 ~~[(d) If the license applicant, license holder, or person does not make a timely request for~~
15 ~~hearing or enter into a settlement agreement before the 27th day after the date the Notice of~~
16 ~~Department Decision is mailed, the matter becomes final in accordance with the Government~~
17 ~~Code, Chapter 2001.]~~
18
19 ~~[221.91. Notice of Hearing]~~
20 ~~[(a) If a request for administrative hearing is timely received, the department shall set a hearing~~
21 ~~with the State Office of Administrative Hearings and give notice to the license applicant, license holder~~
22 ~~or other person of the date, time and location where the hearing will be held.]~~

1 ~~[(b) The hearing shall be conducted under the provisions set forth in this chapter and by an~~
2 ~~administrative law judge of the State Office of Administrative Hearings.]~~

3
4 ~~[221.93. Final Decisions and Orders; Motions for Rehearing]~~

5 ~~[(a) If a department decision becomes final under a Notice of Department Decision issued under~~
6 ~~§221.91 of this title (relating to Notice of Department Decision), the matter will be forwarded to the final~~
7 ~~order authority for issuance of a final order incorporating the decisions, findings and administrative~~
8 ~~sanctions imposed by the Notice of Department Decision. The department will send a copy of the final~~
9 ~~order to the license applicant, license holder, or other person.]~~

10 ~~[(b) The provisions of Government Code, Chapter 2001, Subchapter F, govern the issuance of a~~
11 ~~final order issued under this subchapter and motions for rehearing filed in response to issuance of a final~~
12 ~~order.]~~

13
14 ~~[221.94. Judicial Review of Final Order]~~

15 ~~[The provisions of Government Code, Chapter 2001, Subchapter G, govern the appeal of a final~~
16 ~~order issued under this subchapter.]~~

17
18 ~~[221.95. Delegation of Final Order Authority]~~

19 ~~[(a) In accordance with Transportation Code, §1003.005(b), in cases brought under Occupations~~
20 ~~Code, Chapter 2302, the director of the division that regulates the distribution and sale of motor vehicles~~

1 is authorized to issue a final order in a case without a decision on the merits, including, but not limited
2 to a case resolved:

3 (1) by settlement;

4 (2) by agreed order;

5 (3) by withdrawal of the complaint;

6 (4) by dismissal for want of prosecution;

7 (5) by dismissal for want of jurisdiction;

8 (6) by summary judgment or summary disposition;

9 (7) by default judgment; or

10 (8) when a party waives opportunity for a hearing.]

11 [(b) In contested cases in which the board has delegated final order authority under subsection
12 (a) of this section, a motion for rehearing shall be filed with and decided by the final order authority
13 delegate.]

14
15 [221.96. Cease and Desist Order]

16 [(a) The board may issue a cease and desist order if the board reasonably believes a person who
17 is not licensed under Occupations Code Chapter 2302 is violating that chapter or a rule or order adopted
18 under that chapter.]

19 [(b) A cease and desist order may require a person to cease and desist from committing a
20 violation. The order must contain a notice that a request for hearing may be filed under this section.]

1 ~~[(c) A person to whom a cease and desist order is issued may file a written request for a hearing~~
2 ~~before the board. The order is final unless a request for hearing is timely filed. The person must file the~~
3 ~~hearing request not later than the 10th day after the date of receipt of the order.]~~

6 **SUBCHAPTER E~~F~~. ADMINISTRATIVE SANCTIONS**

7 221.111. Denial of License

8 (a) The ~~board or~~ department may deny an application for a new license or an application
9 for a license renewal~~[of a license]~~ under Occupations Code Chapter 53 or Chapter 2302, and
10 §211.3 of this title (relating to Criminal Offense Guidelines) or this chapter, if:

11 (1) all the information required on the application is not complete;

12 (2) the applicant or any owner, officer, director, or other person described in
13 §211.2 of this title (relating to Application of Subchapter) made a false statement, material
14 misrepresentation, or a material omission, on the application to issue, renew, or amend a license;

15 (3) the applicant, or any owner, officer, director, or other person described in
16 §211.2 of this title, has been convicted, or considered convicted under Occupations Code
17 §53.021(d), by any local, state, federal, or foreign authority, of an offense that directly relates to
18 the duties or responsibilities of the licensed occupation as described in §211.3 of this title or is
19 convicted of an offense that is independently disqualifying under Occupations Code §53.021;

20 (4) the applicant's or any owner's, officer's, director's, or other person described in
21 §211.2 of this title, previous license was revoked;

22 (5) the applicant~~[or license holder]~~ has an ownership, organizational, managerial,
23 or other business arrangement that would allow a person the power to direct, management,

1 policies, or activities, of the applicant or license holder, whether directly or indirectly, who [~~is~~
2 ~~unfit, ineligible for license, or~~] has been subject to disciplinary action, including suspension,
3 revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty,
4 administrative fine, or similar assessment for a current or previous license, permit, or other
5 authorization issued by any local, state, or federal regulatory authority; or

6 (6) the applicant, or any owner, officer, or director, or other person described in
7 §211.2 of this title [~~is unfit to hold the license, is ineligible for licensure, or~~] whose current or
8 previous license, permit, or other authorization issued by any local, state, or federal regulatory
9 authority has been subject to disciplinary action, including suspension, revocation, denial,
10 corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee,
11 or similar assessment.

12 (b) If the department denies an application for a license to be issued under the authority of
13 Occupations Code Chapter 2302, the applicant may request an administrative hearing in the
14 manner specified in §224.102 of this title (relating to Notice of Department Decision).

15 (c) In accordance with Occupations Code §2302.108, the [~~board or~~] department shall reject
16 any application for issuance of a new license under Occupations Code Chapter 2302 filed by a
17 person whose license is revoked before the first anniversary of the date of revocation.

18
19 221.112. Suspension, Revocation and Administrative Penalties

20 The [~~board or~~] department may suspend or revoke a license or impose an administrative penalty
21 if the license holder:

22 (1) fails to meet or maintain the qualifications and requirements for a license;

1 (2) violates any law relating to the purchase, sale, exchange, storage, or distribution of
2 motor vehicles, including salvage motor vehicles and nonrepairable motor vehicles;

3 (3) willfully defrauds a purchaser;

4 (4) fails to maintain purchase, sales, and inventory records as required by Occupations
5 Code, Chapter 2302, Transportation Code, Chapter 501, Chapter 217, Subchapter D of this title, or this
6 chapter;

7 (5) refuses~~[to permit]~~, or fails to comply with a request by the department to examine,
8 during normal business hours, the license holder's records as required by Occupations Code, Chapter
9 2302, or this chapter;

10 (6) engages in motor vehicle or salvage business without the required license;

11 (7) engages in business as a salvage vehicle dealer at a location for which a license has
12 not been issued by the department;

13 (8) fails to notify the department of a change of the salvage vehicle dealer's ~~[legal~~
14 ~~business entity name, assumed name, mailing address, or email address within 30 days of such change~~
15 ~~by submitting an amendment to the license]~~ license holder information as required under §221.19 of
16 this title (relating to Notice of Change in License Holder Information);

17 (9) fails to notify the department of a change in location~~[described in §221.19(b) of this~~
18 ~~title (relating to Change of License Holder's Name, Ownership, or Control)] as required in that section]~~
19 prior to operating in a new location or closing a location in accordance with §221.18 of this title (relating
20 to Additional, New, or Closed Location);

1 (10) fails to remain regularly and actively engaged in the business for which the salvage
2 vehicle dealer license is issued;

3 (11) sells more than five (5) nonrepairable motor vehicles or salvage motor vehicles to
4 the same person in a casual sale during a calendar year;

5 (12) violates any provision of Occupations Code Chapters 2301 or 2302, Transportation
6 Code Chapters 501, 502, or 503, or any board rule or order promulgated under those statutes;

7 (13) uses or allows use of the salvage vehicle dealer's license or business location for the
8 purpose of avoiding the requirements of Occupations Code Chapters 2301 or 2302, Transportation Code,
9 Chapters 501, 502 or 503, or any board rule or order promulgated under those statutes;

10 (14) violates any law, ordinance, rule or regulation governing the purchase, sale,
11 exchange, or storage, of salvage motor vehicles or nonrepairable motor vehicles;

12 (15) sells or offers for sale a nonrepairable motor vehicle or a salvage motor vehicle from
13 any location other than the salvage vehicle dealer's licensed business location;

14 (16) is, or any owner, officer, director, or other person described in §211.2 of this title
15 (relating to Application of Subchapter), is convicted, or considered convicted under Occupations Code
16 §53.021(d), by any local, state, federal, or foreign authority, of an offense that directly relates to the
17 duties or responsibilities of the licensed occupation as described in §211.3 of this title (relating to
18 Criminal Offense Guidelines) or an offense that that is independently disqualifying under Occupations
19 Code §53.021 after initial issuance or renewal of the salvage vehicle dealer license, or that has not been
20 reported to the department as required;

(17) makes a false statement, material misrepresentation, or material omission in any application or other information filed with the department;

(18) fails to timely remit payment for administrative penalties imposed by the department;

(19) engages in business without a license required under Occupations Code Chapters 2301 or 2302, or Transportation Code Chapter 503;

(20) operates a salvage motor vehicle or a nonrepairable motor vehicle on ~~the~~ public highways or allows another person to operate a salvage motor vehicle or a nonrepairable motor vehicle on public highways; or

~~(21) [dismantles a salvage motor vehicle or a nonrepairable motor vehicle~~

~~(22)]~~deals in used automotive parts as more than an incidental part of the salvage vehicle dealer's primary business.

221.115. Refund of Fees

In the absence of director approval, the department will not refund a fee paid by a license applicant or a license holder if:

(1) the application or license is withdrawn, denied, suspended, or revoked; or

(2) the license applicant or license holder is subject to an unpaid civil penalty imposed against the license applicant or license holder by a final order.~~[The department will not refund fees paid if a license is denied, suspended or revoked.]~~

1 TEXT.

2 **SUBCHAPTER A. GENERAL PROVISIONS**

3 224.1 Purpose and Scope

4 This subchapter describes the procedures by which the department will adjudicate a
5 contested case arising under Occupations Code, Chapters 2301 or 2302, or Transportation Code,
6 Chapters 503, 621-623, 642-646, 648, or 1001-1005, consistent with the requirements of
7 Government Code, Chapter 2001. Unless expressly excluded or limited, this subchapter applies to
8 every contested case matter in which the department has jurisdiction.

9
10 224.2 Definitions

11 (a) The statutory definitions govern this chapter. In the event of a conflict, the definition or
12 procedure referenced in statute controls.

13 (b) When used in this chapter the following words and terms shall have the following
14 meanings unless the context clearly indicates otherwise.

15 (1) Administrative Law Judge or ALJ--An individual appointed to serve as a presiding
16 officer by the State Office of Administrative Hearings Chief Judge under Government Code,
17 Chapter 2003, to conduct a hearing on matters within the department's jurisdiction.

18 (2) APA--The Administrative Procedure Act, Government Code Chapter 2001.

19 (3) Authorized representative--An attorney authorized to practice law in the State
20 of Texas or, if authorized by the applicable subchapter, a non-attorney designated by a party to
21 represent the party.

22 (4) Board--The Board of the Texas Department of Motor Vehicles, including any
23 personnel to whom the board delegates any duty assigned.

1 (5) Claim--A claim made pursuant to Occupations Code, Chapter 2302, Salvage
2 Vehicle Dealers; and Transportation Code, Chapter 643, Motor Carrier Registration.

3 (6) Complaint--A matter filed under Occupations Code, Chapter 2301, Subchapter E
4 Public Interest Information and Complaint Procedures, under §2301.460 relating to a warranty,
5 preparation, or delivery agreement obligation of a manufacturer, distributor, or representative, or
6 under Occupations Code, Chapter 2301, Subchapter M, or Transportation Code, Chapter 503.

7 (7) Contested Case--A proceeding in which the legal rights, duties, or privileges of a
8 party are determined by the department after the opportunity for an adjudicative hearing.

9 (8) Day--A calendar day.

10 (9) Department--The Texas Department of Motor Vehicles.

11 (10) Director--The division director of the department authorized by the Board or by
12 statute to act, including any personnel to whom the division director delegates any duty assigned under
13 this chapter.

14 (11) Electronic filing or filed electronically--The electronic transmission of
15 documents filed in a contested case by uploading the documents to a case docket using a
16 department-designated system or department-designated email.

17 (12) Electronic signature or signed electronically--An electronic version of a
18 person's signature that is the legal equivalent of the person's handwritten signature, unless the
19 document is required to be notarized or sworn. Electronic signature formats include:

20 (A) an "/s/" and the person's name typed in the space where the signature
21 would otherwise appear;

22 (B) an electronic graphical image or scanned image of the signature; or

1 (C) a "digital signature" based on accepted public key infrastructure
2 technology that guarantees the signer's identity and data integrity.

3 (13) Electronic service or served electronically--The electronic transmission of
4 documents filed in a contested case and sent to a party or a party's authorized representative by
5 email or a department-designated system.

6 (14) Evidence--Testimony and exhibits admitted into the hearing record by an ALJ
7 or hearings examiner to prove or disprove the existence of an alleged fact.

8 (15) Ex Parte Communication--Direct or indirect communication between a state
9 agency, person, or representative of those entities and an ALJ, board member, or hearings
10 examiner in connection with an issue of law or fact in a contested case where the other known
11 parties to the proceeding do not have notice of the communication and an opportunity to
12 participate. Ex parte communication does not include:

13 (A) communication where all parties to the contested case have notice of
14 the communication and an opportunity to participate;

15 (B) communication concerning uncontested administrative or uncontested
16 procedural matters;

17 (C) consultation between an ALJ, hearings examiner, or board member and
18 legal counsel or hearings personnel;

19 (D) ex parte communication required for the disposition of an ex parte
20 matter or otherwise expressly authorized by law; and

21 (E) communication between a state agency, party, person, or representative
22 of those entities and a mediator made to evaluate a contested matter for mediation, or to mediate
23 or settle a contested matter.

1 (16) Exhibit—A document, record, photograph, or other form of data compilation,
2 regardless of media, or other tangible object offered by a party as evidence.

3 (17) Filed--The receipt by the department of a document and required payment, if
4 any.

5 (18) Final order authority--The person with authority under statute or a board rule
6 to issue a final order.

7 (20) GDN--General distinguishing number as defined in Transportation Code,
8 Chapter 503.

9 (21) Governmental agency--A state or local governmental agency or agency of the
10 United States government, whether executive, legislative, or judicial.

11 (22) Hearings Examiner--An individual appointed to serve as a presiding officer by
12 the Office of Administrative Hearings Chief Judge, to conduct a hearing on contested matters
13 under Occupations Code, §2301.204 or Subchapter M.

14 (23) License holder--A person holding a license under Occupations Code, Chapters
15 2301 or 2302, or a GDN or other license issued under Transportation Code Chapter 503.

16 (24) Mediation--A confidential, informal dispute resolution process in which a
17 qualified impartial person serves as a mediator to facilitate communication between the parties to
18 promote settlement, reconciliation, or understanding as defined by Occupations Code §2301.521.

19 (25) Motion for rehearing authority--The person with authority to decide a motion
20 for rehearing under Occupations Code, Chapter 2301 or 2302, Transportation Code, Chapters 503
21 and 1001 – 1005, or board rules.

22 (26) Party--A person, including the department, named or permitted to participate
23 in a contested case.

1 (27) Pleading--A filed document that requests procedural or substantive relief,
2 makes a claim, alleges a fact, makes a legal argument, or otherwise addresses a matter involved in
3 a contested case.

4 (28) Protest--To challenge a person's licensing application or a decision by a license
5 holder as provided under Occupations Code, Chapter 2301.

6 (29) Redaction--To remove confidential references from the document.

7 (30) SOAH--The State Office of Administrative Hearings.

8 (31) Stipulation--A binding agreement among opposing parties concerning a relevant
9 issue or fact.

10 (32) TAC--The Texas Administrative Code.

11 (33) TRCP--The Texas Rules of Civil Procedure which may be found on the website of the
12 Texas Supreme Court.

13 (34) TRE--The Texas Rules of Evidence which may be found on the website of the Texas
14 Supreme Court.

15
16 224.3 Prohibited Communication

17 (a) No person, party, attorney of record, or authorized representative in any contested
18 case shall violate Government Code, §2001.061 by directly or indirectly engaging in ex parte
19 communication concerning a contested case with an ALJ, board member, or hearings examiner
20 assigned to render a decision or make findings of fact and conclusions of law in a contested case.

21 (b) Unless prohibited by Government Code §2001.061 or SOAH rules, department staff who
22 did not participate in the hearing may advise an ALJ, board member, or a hearings examiner, or a

1 person delegated power from the board under Occupations Code §2301.154 regarding the
2 contested case and any procedural matters.

3 (c) Department staff shall not recommend a final decision to the board unless the
4 department is a party to the contested case.

5 (d) A violation of this section shall be promptly reported to the board chair or chief
6 hearings examiner, as applicable, and the general counsel of the department.

7 (e) The general counsel shall ensure that a copy or summary of the ex parte communication
8 is included with the record of the contested case and that a copy is forwarded to all parties or their
9 authorized representatives.

10 (f) The general counsel may take any other appropriate action otherwise provided by law.
11

12 224.4 Appearance

13 (a) General. Any party to a contested case may appear in person or by an authorized
14 representative. An authorized representative may be required to show authority to represent a party.

15 (b) Appearance by authorized representative. A party's authorized representative who has not
16 entered an appearance as a matter of record in a contested case shall enter an appearance by filing with
17 the department appropriate documentation that contains the representative's mailing address, email
18 address, and telephone number. If the party's representative is not licensed to practice law in Texas and
19 the authority of the representative is challenged, the representative must show authority to appear as
20 the party's representative.

21 (c) Nonresident attorney. An attorney who is a resident of and licensed to practice law in another
22 state and who is not an active member of the State Bar of Texas shall comply with the requirements of
23 Government Code §82.0361 and Rule XIX of the Rules Governing Admission to the Bar of Texas before

1 entering an appearance on behalf of a party. Rule XIX may be found on the website of the Board of Law
2 Examiners.

3 (d) Attorney in charge. When more than one attorney makes an appearance in a contested case
4 on behalf of a party, the attorney whose signature appears first on the initial document filed in the
5 contested case shall be the attorney in charge for that party unless another attorney is specifically
6 designated in writing. All communication sent by the department or other party regarding the contested
7 case shall be sent to the attorney in charge unless otherwise requested by a party.

8 (e) Intervention. Any public official or other person having an interest in a contested case may,
9 upon request to the ALJ or hearings examiner, be permitted to intervene. Any person desiring to
10 intervene in a contested case may be required to disclose that person's interest in the contested case
11 before permission to appear will be granted. A person may not intervene in a mediation unless all parties
12 and the mediator agree that the participation of the person will facilitate understanding and resolution
13 of the contested case.

14 (f) This rule does not allow a person to engage in the unauthorized practice of law.

16 224.5 Computing Time

17 Any period of time prescribed or allowed by this chapter, by order of the board, or by any
18 applicable statute shall be computed in accordance with Government Code, §311.014.

19 (a) Application of rule. This rule applies unless another method is required by statute, another
20 rule in this chapter, or order.

21 (b) Computing time periods. When computing a time period under this chapter:

1 (1) the day of the act, event, or default from which the designated time period begins to
2 run is not counted; and

3 (2) the last day of the time period is counted, unless it is a day on which the department
4 is closed, in which case the time period will end on the next day the department is open.

5 (c) Calendar days. A time limit shall be computed using calendar days rather than business days
6 unless business days are specified in statute or rule.

7 (d) A request to extend a time limit is governed by §224.14 of this chapter (relating to Extension
8 of Time).

9
10 224.6 Filing and Service of Documents

11 (a) Each document required or permitted to be filed with the department under this chapter
12 must be delivered as required under the relevant subchapter for the applicable type of contested matter.

13 (b) A copy of each document filed in any contested case shall be served on the same date upon

14 (1) the department, and

15 (2) each party or the party's authorized representative or attorney in charge.

16 (c) Delivery by electronic filing is considered timely if the document is received by 5:00 p.m.
17 Central Time. Delivery by electronic filing after 5:00 p.m. shall be deemed received on the following day
18 or the next business day if filed on a Saturday, Sunday, or legal holiday.

19 (c) A certificate of service shall accompany each document. A certificate of service by the party
20 or party's authorized representative showing timely delivery of a document in a manner described in the

1 relevant subchapter shall be prima facie evidence of timely delivery. This rule does not preclude the
2 department or any party from offering proof that the document was not timely delivered.

3 (d) To be timely filed, a document must be received by the department within the time specified
4 by statute, rule, or department order. A document received after the specified time, notwithstanding the
5 means of delivery, shall be deemed untimely.

6 (e) A document filed electronically must:

7 (1) be legible and preferably in a portable document format (PDF) unless the
8 department requests a different format;

9 (2) be directly converted to PDF rather than scanned, to the extent possible;

10 (3) not be locked;

11 (4) include the email address of a party, attorney, or representative who electronically
12 filed the document;

13 (5) include the docket number and the name of the contested case in which the
14 document is filed;

15 (6) be properly titled or described in a manner that permits the department and the
16 parties to reasonably ascertain the contents of the document; and

17 (7) include an electronic signature.

18 (f) The department is not responsible for a filing party's user or system error occurring in the
19 electronic filing, transmission, or service of electronically filed documents.

1 (g) If a document is not submitted timely due to a system outage of a department-designated
2 system, the filing party may send the document to a department-designated email address or seek
3 appropriate relief from the final order authority.

4 (h) If a document submitted for filing contains confidential information, a party must redact
5 personal identifying information such as a social security number, driver license number, home address,
6 personal telephone number, or personal email address that is not necessary to the resolution of the
7 case, or if the information is necessary, conspicuously mark the document as "CONFIDENTIAL" in bold
8 12-point or larger type;

9
10 224.7 Hearing Recording and Transcription Cost

11 (a) Except as provided by Subchapter G of this chapter (relating to Lemon Law and Warranty
12 Performance Obligations), hearings in contested cases will be transcribed by a court reporter or recorded
13 by the hearings examiner.

14 (b) In a contested case in which the hearing is transcribed by a court reporter, the costs of
15 transcribing the hearing and for the preparation of an original transcript of the record for the
16 department shall be assessed to:

17 (1) a party requesting the transcript in a contested case, or

18 (2) shared by the parties in a contested case under Subchapter C (relating to Contested
19 Cases Between Motor Vehicle License Holders or Applicants), or

20 (3) as directed by the ALJ, hearings examiner, or court.

1 (c) Copies of recordings or transcriptions of a contested case hearing will be provided to any
2 party upon written request and upon payment for the cost of the recordings or transcriptions.

3
4 224.8 Consolidation of Proceedings

5 No contested case proceedings including two or more related cases or claims shall be jointly
6 heard without the consent of all parties, unless the ALJ or hearings examiner finds that justice and
7 efficiency are better served by the consolidation.

8
9 §224.9 Informal Disposition

10 (a) Notwithstanding any other provision in this chapter, at any time during the contested case,
11 the final order authority may informally dispose of a contested case by stipulation, agreed settlement,
12 dismissal, or consent order.

13 (b) If the parties have settled or otherwise determined that a contested case proceeding is not
14 required, the party who initiated the contested case shall file a motion to dismiss the contested case
15 from the docket and present a proposed agreed order or dismissal order to the final order authority. If
16 the party who initiated the contested case fails to file a motion to dismiss as required under this
17 subsection, the final order authority may issue a dismissal order by providing the parties with a 30-day
18 notice.

19 (c) Agreed orders must contain proposed findings of fact and conclusions of law that are signed
20 by all parties or their authorized representatives.

21 (d) Upon receipt of the agreed order, the final order authority may:

1 (1) adopt the settlement agreement and issue a final order;

2 (2) reject the settlement agreement and remand the contested case for a hearing; or

3 (3) take other action that the final order authority finds just.

4

5 224.10 Waiver of Hearing

6 After the department issues a notice of hearing in a contested case, a party may waive a hearing
7 and consent to an agreed order. An agreed order proposed by the parties is subject to the approval of
8 the final order authority.

9

10 224.11 Hearing Conduct and Decorum

11 (a) All parties, witnesses, counsel, and authorized representatives shall conduct themselves in all
12 contested case hearings with proper dignity, courtesy, and respect for the final order authority and other
13 parties.

14 (b) If any party, witness, attorney, or authorized representative violates this section the final
15 order authority may:

16 (1) issue a warning;

17 (2) recess the hearing; or

18 (3) exclude a person from the contested case hearing for such period and upon such
19 conditions as are just.

1 (c) An attorney shall adhere to the standards of conduct in the Texas Lawyer's Creed
2 promulgated by the Texas Supreme Court.

3
4 224.12 Hearings to be Public

5 A hearing in a contested case shall be open to the public.

6
7 224.13 Delegation of Final Order Authority

8 (a) In accordance with Occupations Code, §2301.154(c) and Transportation Code §1003.005(b),
9 except as provided by subsection (b) of this section, the director is authorized to issue, where there has
10 not been a decision on the merits, a final order in a contested case, including, but not limited to a
11 contested case resolved:

12 (1) by settlement;

13 (2) by agreed order;

14 (3) by withdrawal of the complaint;

15 (4) by withdrawal of a protest;

16 (5) by dismissal for want of prosecution including:

17 (A) failure of a complaining party to participate in scheduling mediation or to
18 appear at mediation as required under Subchapter C of this chapter (relating to Contested Cases
19 Between Motor Vehicle License Holders or Applicants) or Subchapter G (relating to Lemon Law and
20 Warranty Performance Claims); or

1 (B) failure of a complaining party to dismiss a contested case that has been
2 resolved by the parties;

3 (6) by dismissal for want of jurisdiction;

4 (7) by summary judgment or summary disposition;

5 (8) by default judgment; or

6 (9) when a party waives opportunity for a contested case hearing.

7 (b) In accordance with Occupations Code, §2301.711, a hearings examiner is authorized to issue
8 a final order in a contested case brought under Occupations Code, §2301.204 or §§2301.601 - 2301.613.

9 (c) In a contested case in which the board has delegated final order authority under subsection
10 (a) of this section, a motion for rehearing shall be filed with and decided by the final order authority
11 delegate.

12
13 224.14 Extension of Time

14 (a) The final order authority may not extend the time for filing a document when a statute or
15 rule specifies the time period by which a document must be filed with the department.

16 (b) When an act is discretionary or allowed to be done at or within a specified time in
17 accordance with this chapter and Government Code, Chapter 2001, the final order authority, with good
18 cause shown, may:

19 (1) order the specific period extended if the extension is requested before the expiration
20 of the period previously specified; or

1 (2) permit the act to be done after the expiration of the specified period, provided good
2 cause is shown for the failure to act.

3
4 224.15 Final Decision and Order; Motion for Rehearing

5 (a) The provisions of Government Code, Chapter 2001, Subchapter F, govern the issuance of a
6 final order issued under this subchapter and a motion for rehearing filed in response to a final order.

7 (b) The hearings examiner has final order authority in a contested case filed under Occupations
8 Code, §2301.204 or Occupations Code Chapter 2301, Subchapter M.

9 (c) A department determination and action denying access to the temporary tag database
10 becomes final within 26 days of the date of the notice denying access to a database if the dealer or
11 converter:

12 (1) does not request a hearing for the denial of access, or

13 (2) enter into a settlement agreement with the department.

14 (d) Except as provided by subsection (b) of this section and §224.13 of this title (relating to
15 Delegation of Final Order Authority), the board has final order authority in a contested case filed under
16 Occupations Code, Chapters 2301 or 2302, or under Transportation Code, Chapters 503, 643, 645, 646,
17 648, and 1001—1005.

18 (e) Unless a timely motion for rehearing is filed with the appropriate authority as provided by
19 law, an order shall be deemed final and binding on all parties and all administrative remedies are
20 deemed to be exhausted as of the effective date of the final order.

1 (f) If a motion for rehearing is filed, the order shall be deemed final and binding in accordance
2 with the provisions of Government Code §2001.144.

3 (g) If a final and binding order includes an action on a license, the department may act on the
4 license on the date the order is deemed final and binding unless the action is stayed by a court order.

5
6 224.16 Judicial Review of Final Order

7 The provisions of Government Code, Chapter 2001, Subchapter G, govern the appeal of a final
8 order issued under this chapter.

9
10 224.17 Cost of Record on Final Appeal

11 (a) If a final decision in a contested case is appealed and the department is required to transmit
12 to the court the original or a certified copy of the administrative record, or any part thereof, the
13 appealing party shall pay the costs of preparation of the record unless waived in whole or in part by the
14 department.

15 (b) A charge imposed as provided by this section is a court cost and may be assessed by the
16 court in accordance with the TRCP.

17
18
19 **SUBCHAPTER B. CONTESTED CASES: MOTOR VEHICLE AND SALVAGE INDUSTRY ENFORCEMENT**
20

1 225.100 Purpose and Scope

2 Subchapter A, this subchapter, and Subchapters E and F describe the procedures by which
3 the department will adjudicate alleged violations of Occupations Code, Chapter 2301 and 2302,
4 and Transportation Code 503 brought by the department against a motor vehicle industry or
5 salvage dealer applicant, license holder, or person engaging in an activity or business that requires
6 a license under these statutes.

7
8 215.101 Cease and Desist Order

9 (a) Whenever it appears that a person is violating any provision of Occupations Code,
10 Chapter 2301, or a board rule or order, the department may enter an order requiring the person to
11 cease and desist from the violation.

12 (1) If it appears from specific facts shown by affidavit or by verified complaint that
13 one or more of the conditions in Occupations Code, §2301.802(b) will occur before notice can be
14 served and a hearing held, the department may issue the order without notice; otherwise, the
15 order must be issued after a hearing has been held at SOAH to determine the validity of the order
16 and to allow the person who requested the order to show good cause why the order should remain
17 in effect during the pendency of the contested case.

18 (2) Each cease and desist order issued without notice must include:

19 (A) the date and hour of issuance;

20 (B) a statement of which of the conditions in Occupations Code,
21 §2301.802(b) will occur before notice can be served and a hearing held; and

1 (C) a notice of hearing to determine the validity of the order and to allow
2 the person who requested the order to show good cause why the order should remain in effect
3 during the pendency of the contested case.

4 (3) Each cease and desist order shall:

5 (A) state the reasons for its issuance; and

6 (B) describe in reasonable detail the act or acts to be restrained.

7 (4) A cease and desist order shall not be issued unless the person requesting the
8 order presents a petition or complaint, verified by affidavit, containing a plain statement of the
9 grounds for seeking the cease and desist order.

10 (5) A cease and desist order issued without notice expires as provided in the order,
11 but shall not exceed 20 days.

12 (6) A cease and desist order may be extended for a period of time equal to the
13 period of time granted in the original order if, prior to the expiration of the previous order, good
14 cause is shown for the extension or the party against whom the order is directed consents to the
15 extension.

16 (7) A party may appeal to the board an ALJ's order granting or denying a motion for
17 a cease and desist order.

18 (10) An appeal of an order granting or denying a motion for a cease and desist
19 order must be made to the board before a person may seek judicial review of an order issued
20 under this section.

21 (11) Upon appeal to a district court of an order issued under this section, the order
22 may be stayed by the board upon a showing of good cause by a party.

1 (12) Prior to the commencement of a proceeding by SOAH, the director is
2 authorized to issue a cease and desist order under this section.

3 (b) The board or board delegate may issue a cease and desist order if the board reasonably
4 believes a person who is not licensed under Occupations Code Chapter 2302 is violating that
5 chapter or a rule or order adopted under that chapter.

6 (1) A cease and desist order may require a person to cease and desist from
7 committing a violation. The order must contain a notice that a request for hearing may be filed
8 under this section.

9 (2) A person to whom a cease and desist order is issued may file a written request
10 for a hearing before a SOAH ALJ. The order is final unless a request for hearing is timely filed. The
11 person must file the hearing request not later than the 10th day after the date of receipt of the
12 order.

13
14 215.102 Notice of Department Decision

15 (a) The department shall issue and mail a Notice of Department Decision to a license
16 applicant, license holder, or other person by certified mail, return receipt requested, to the last
17 known address and email address upon a determination under Occupations Code, Chapters 2301
18 and 2302 or Transportation Code, Chapter 503 that:

19 (1) an application for a license should be denied; or

20 (2) administrative sanctions should be imposed.

21 (b) The last known address of a license applicant, license holder, or other person is the last
22 mailing address provided to the department when the license applicant applies for its license,

1 when a license holder renews its license, or when the license holder notifies the department of a
2 change in the license holder's mailing address.

3 (c) The Notice of Department Decision shall include:

4 (1) a statement describing the department decision and the effective date;

5 (2) a description of each alleged violation;

6 (3) a description of each administrative sanction being proposed;

7 (4) a statement which sets out the legal basis for each administrative sanction;

8 (5) a statement informing the license applicant, license holder, or other person of
9 the right to request a hearing;

10 (6) the procedure to request a hearing, including the deadline for filing a request
11 with the department and the acceptable electronic methods to request a hearing; and

12 (7) notice to the license applicant, license holder, or other person that the
13 proposed decision and administrative sanctions in the Notice of Department Decision will become
14 final on the date specified if the license applicant, license holder, or other person fails to timely
15 request a hearing.

16 (d) The license applicant, license holder, or other person must submit, in writing, a request
17 for a hearing under this section. The department must receive a request for a hearing within 26
18 days of the date of the Notice of Department Decision.

19 (e) If the department receives a timely request for a hearing, the department will contact
20 the license holder and attempt to informally resolve the contested case. If the license holder and

1 the department cannot informally resolve the contested case, the department will refer the
2 contested case to SOAH to set a hearing date and give notice to the license applicant, license
3 holder, or other person of the date, time, and location of the hearing.

4 (f) If the license applicant, license holder, or other person does not make a timely request
5 for a hearing or enter into a settlement agreement within 26 days of the date of the Notice of
6 Department Decision, the allegations are deemed admitted on the 27th day and a final order
7 including sanctions may be issued by the final order authority.

8
9 224.103 Denial of Dealer or Converter Access to Temporary Tag System

10 (a) In this section "fraudulently obtained temporary tags from the temporary tag database"
11 means a dealer or converter account user misusing the temporary tag database authorized under
12 Transportation Code §503.0626 or §503.0631 to obtain:

13 (1) an excessive number of temporary tags relative to dealer sales;

14 (2) temporary tags for a vehicle or vehicles not in the dealer's or converter's inventory (a
15 vehicle is presumed not to be in the dealer's or converter's inventory if the vehicle is not listed in the
16 relevant monthly Vehicle Inventory Tax Statement);

17 (3) access to the temporary tag database for a fictitious user or person using a false
18 identity;

19 (4) temporary tags for a vehicle or vehicles when a dealer is no longer operating at a
20 licensed location; or

1 (5) temporary tags issued for a vehicle or vehicles not located at a licensed location or a
2 storage lot listed on the application.

3 (b) The department shall deny a dealer or converter access to the temporary tag database
4 effective on the date the department sends notice electronically and by certified mail to the dealer or
5 converter that the department has determined, directly or through an account user, the dealer or
6 converter has fraudulently obtained temporary tags from the temporary tag database. A dealer or
7 converter may seek a negotiated resolution with the department by demonstrating corrective actions
8 taken or that the department's determination was incorrect.

9 (c) Notice shall be sent to the dealer's or converter's last known email and mailing address in the
10 department's records.

11 (d) A dealer or converter may request a hearing on the denial as provided by Subchapter O,
12 Chapter 2301, Occupations Code. The request must be submitted in writing and request a hearing under
13 this section. The department must receive a written request for a hearing within 26 days of the date of
14 the notice denying access to the database. The request for a hearing does not stay the denial of access
15 under subsection (b) of this section. A dealer may continue to seek a negotiated resolution with the
16 department after a request for hearing has been submitted under this subsection by demonstrating
17 corrective actions taken or that the department's determination was incorrect.

18 (e) The department may also issue a Notice of Department Decision stating administrative
19 violations as provided in §215.500 concurrently with the notice of denial of access under this section. A
20 Notice of Department Decision may include notice of any violation, including a violation listed under
21 subsection (a) of this section.

1 (f) A department determination and action denying access to the temporary tag database
2 becomes final if the dealer or converter does not request a hearing or enter into a settlement agreement
3 with the department within 26 days of the date of the notice denying access to a database.

4
5 224.104 Filing and Service of Documents

6 Each document required or permitted to be filed with the department under this subchapter
7 must be filed electronically as instructed by the department in a department-designated system or sent
8 to a department-designated email address.

9
10 §224.105 Referral to SOAH

11 (a) If the department receives a timely request for a hearing and the parties are unable to
12 informally resolve or dispose of the case, the department will refer the contested case to SOAH by filing
13 a Request to Docket form and related documents as required under SOAH rules.

14 (b) When SOAH accepts the department's Request to Docket, jurisdiction of the contested case
15 transfers to SOAH.

16
17 §224.106 Notice of Hearing

18 Once SOAH provides the department with the initial hearing date, time, and place, the
19 department will notify the parties. The contested case proceeds according to Subchapter E of this
20 chapter (relating to Contested Cases Referred to SOAH).

SUBCHAPTER C. CONTESTED CASES BETWEEN MOTOR VEHICLE LICENSE HOLDERS OR APPLICANTS

224.200 Purpose and Scope

Subchapter A, this subchapter, and Subchapters E and F describe the procedures by which the department will adjudicate a protest or complaint filed by a license holder against another license holder or applicant under Occupations Code, Chapter 2301, Subchapters H, I, or J.

224.201 Form of a Protest or Complaint

(a) Protest. A franchised dealer that wishes to protest an application shall give notice in accordance with Occupations Code, Chapter 2301.

(1) The notice of protest shall be in writing and shall be signed by an authorized officer or other official authorized to sign on behalf of the protesting dealer filing the notice.

(2) The notice of protest shall state the statutory basis upon which the protest is made and assert how the protesting dealer meets the standing requirements under §215.119 of this title (relating to Standing to Protest) to protest the application and include the notice of opportunity to protest sent to the dealer by the department.

(3) The notice of protest shall state that the protest is not made for purposes of delay or for any other purpose except for justifiable cause.

(4) If a protest is filed against an application for the establishment of a dealership or for addition of a line-make at an existing dealership, the notice of protest shall state under which provision of Occupations Code, Chapter 2301 the protest is made.

1 **(b) Complaint. If a license holder wishes to file a complaint against another license holder**
2 **under Occupations Code, Chapter 2301, Subchapters H, I, or J, the complaint must:**

3 **(1) be in writing and signed by an authorized officer or other official authorized to**
4 **sign on behalf of the complainant;**

5 **(2) state sufficient facts to enable the department and the party complained**
6 **against to know the nature of the complaint and the specific problems or circumstances forming**
7 **the basis of the claim for relief under the statute; and**

8 **(3) state the statutory provision under which the complaint is made.**

9
10 **224.202 Filing and Service of a Protest, Complaint, or Other Document**

11 **(a) A party must electronically file a complaint, protest, or other document required or**
12 **permitted to be filed with the department under this subchapter in the eLICENSING system, the**
13 **department-designated licensing system, and include a Certification of Responsibility, a form provided by**
14 **the department.**

15 **(b) Once a department or SOAH docket number has been assigned, a party must include all**
16 **assigned docket numbers on a pleading, motion, correspondence, or other document filed in the**
17 **contested case.**

18
19 **224.203 Review of a Protest or Complaint**

20 **Department staff will review a protest or complaint to determine whether a protest or complaint**
21 **meets minimum requirements under Texas law.**

1 (1) If department staff cannot determine whether a complaint meets minimum
2 requirements, department staff may contact the protestant or complainant for additional information.

3 (2) If department staff determines that a protest or complaint meets minimum
4 requirements, a protest or complaint will be processed in accordance with this subchapter.

5
6 224.204 Docketing and Notice of a Protest or Complaint

7 (a) If a complaint or protest meets minimum requirements department staff will docket the
8 contested case and assign a docket number.

9 (b) Department staff will notify the parties that a statutory stay under Occupations Code
10 §2301.803 is in effect and mediator options available under law.

11 (c) A party must select a mediator option and notify department staff within 15 days of receiving
12 the notice in subsection (b). Department staff will then contact the party within 15 days to discuss
13 mediation arrangements.

14
15 224.205 Mediation

16 (a) Except as provided by subsection (b), parties to a contested case filed under this subchapter
17 are required to participate in mediation, in accordance with this section, before the department will
18 refer a contested case to SOAH for a hearing.

19 (b) This section does not limit the parties' ability to settle a case without mediation.

1 (c) The department will provide mediation services by department staff qualified to serve as an
2 impartial third party in accordance with Civil Practice and Remedies Code, Chapter 154.

3 (d) The mediation process will conclude within 60 days of the date a contested case is assigned
4 to a department mediator unless the mediation deadline is extended. The department mediator may
5 extend the mediation deadline based on a written request by a party or at the mediator's discretion.

6 (e) If after 30 days, the parties will not agree on a date for mediation, the department mediator
7 may set a date for mediation by notifying the parties and providing notice of at least 15 days before the
8 date of mediation.

9 (f) A party may participate in scheduled mediation either in person or remotely using telephonic
10 or videoconferencing technology at the discretion of the department mediator.

11 (g) At any time before a contested case is referred for hearing at SOAH, the parties may file a
12 joint notice of intent to retain a private mediator. The notice must include:

13 (1) the name, address, email address, and telephone number of the private mediator
14 agreed upon by the parties;

15 (2) a statement that the parties have entered into an agreement with the private
16 mediator regarding the mediator's rate, method of compensation, and party responsibility for fee
17 payment;

18 (3) an affirmation that the private mediator qualifies for appointment as an impartial
19 third party in accordance with Civil Practice and Remedies Code, Chapter 154;

1 (4) a statement that the mediation will conclude within 60 days of the date of the
2 department's joint notice of retention unless the mediation deadline is extended at the department's
3 discretion; and

4 (5) a signature of each party or authorized representative.

5 (h) All communication and documents provided by a party in a mediation are confidential and
6 subject to the provisions of the Governmental Dispute Resolution Act, Government Code, §2009.054.

7 (i) Agreements reached by the parties in mediation shall be reduced to writing and signed by the
8 parties.

9 (j) Within 15 days of the conclusion of the mediation, a mediator shall provide to the
10 department and to the parties a written report stating:

11 (1) whether the parties attended the mediation;

12 (2) whether the matter settled in part or in whole;

13 (3) any unresolved issues; and

14 (4) any other stipulations or matters the parties agree to report.

15 (j) Upon receipt of the mediator's report required under this section, the department shall:

16 (1) enter an order disposing of resolved issues;

17 (2) refer unresolved issues for a hearing at SOAH and inform the assigned SOAH ALJ if a
18 party refused to participate or attend a mediation. If a party refuses to participate or attend a mediation,
19 an ALJ may recommend a sanction in the Proposal for Decision for consideration by the board.

20

1 §224.206 Referral to SOAH

2 (a)The department will refer unresolved issues in a protest or complaint to SOAH for a contested
3 case hearing by filing a Request to Docket form and related documents as required under SOAH rules.

4 (b) When SOAH accepts the department's Request to Docket, jurisdiction of the contested case
5 transfers to SOAH.

6
7 §224.207 Notice of Hearing

8 Once SOAH provides the department with the initial hearing date, time, and place, the
9 department will notify the parties and provide the parties with the contested case documents submitted
10 to SOAH. The contested case proceeds according to Subchapter E of this chapter (relating to Contested
11 Cases Referred to SOAH).

12
13
14 **SUBCHAPTER D. CONTESTED CASES: MOTOR CARRIER AND OVERSIZE OR OVERWEIGHT VEHICLE**
15 **OR LOAD**

16
17 224.300 Purpose and Scope

18 Subchapter A, this subchapter, and Subchapters E and F describe the procedures by which
19 the department will adjudicate alleged violations and claims under Transportation Code, Chapters
20 621-623, 642-646, and 648. These contested cases involve motor carriers, motor carrier leasing
21 businesses, motor transportation brokers, and household goods carriers. Contested cases involving

1 persons operating oversize or overweight vehicles or moving oversize or overweight loads on the
2 state highway system are also included.

3
4 224.301 Definitions

5 (a) The definitions contained in the relevant Transportation Code chapter apply to this
6 chapter. In the event of a conflict with this chapter, the definitions contained in the Transportation
7 Code control.

8 (b) The following words and terms, when used in this chapter, will have the following
9 meanings, unless the context clearly indicates otherwise.

10 (1) Applicant--Any person, firm, or corporation requesting a permit.

11 (2) Director--The director of the Motor Carrier Division, Texas Department of Motor
12 Vehicles.

13 (3) Division--The Motor Carrier Division.

14 (4) Household goods--Personal property intended ultimately to be used in a
15 dwelling when the transportation of that property is arranged and paid for by the householder or
16 the householder's representative. The term does not include personal property to be used in a
17 dwelling when the property is transported from a manufacturing, retail, or similar company to a
18 dwelling if the transportation is arranged by a manufacturing, retail, or similar company.

19 (5) Household goods carrier--A motor carrier who transports household goods for
20 compensation or hire in furtherance of a commercial enterprise, regardless of the size of the
21 vehicle.

1 (6) Leasing business--A person that leases vehicles requiring registration under 43
2 TAC Chapter 218, Subchapter B to a motor carrier that must be registered.

3 (7) Motor Carrier or carrier--A person who controls, operates, or directs the
4 operation of one or more vehicles that transport persons or cargo over a public highway in this
5 state as defined by Transportation Code, §643.001.

6 (8) Motor carrier registration--The registration issued by the department to motor
7 carriers moving intrastate, under authority of Transportation Code, Chapter 643.

8 (9) Motor transportation broker--A person who sells, offers for sale, or negotiates
9 for the transportation of cargo by a motor carrier operated by another person or a person who
10 aids and abets another person in selling, offering for sale, or negotiating for the transportation of
11 cargo by a motor carrier operated by another person.

12 (10) Overdimension load--A vehicle, combination of vehicles, or vehicle and its load
13 that exceeds maximum legal width, height, length, overhang, or weight as set forth by
14 Transportation Code, Chapter 621, Subchapters B and C.

15 (11) Overhang--The portion of a load extending beyond the front or rear of a
16 vehicle or combination of vehicles.

17 (12) Overheight--A vehicle or load that exceeds the maximum height specified in
18 Transportation Code, §621.207.

19 (13) Overlength--A vehicle, combination of vehicles, or a vehicle or vehicle
20 combination and its load that exceed(s) the maximum length specified in Transportation Code,
21 §§621.203, 621.204, 621.205, and 621.206.

1 (14) Oversize load--A vehicle, combination of vehicles, or a vehicle or vehicle
2 combination and its load that exceed(s) maximum legal width, height, length, or overhang, as set
3 forth by Transportation Code, Chapter 621, Subchapter C.

4 (15) Overweight--A vehicle, combination of vehicles, or a vehicle or vehicle
5 combination and its load that exceed(s) the maximum weight specified in Transportation Code,
6 §621.101.

7 (16) Overwidth--A vehicle or load that exceeds the maximum width specified in
8 Transportation Code, §621.201.

9 (17) Permit--Authority for the movement of an oversize and/or overweight vehicle,
10 combination of vehicles, or a vehicle or vehicle combination and its load, issued by the department
11 under Transportation Code, Chapter 623.

12 (18) Public highway--Any publicly owned and maintained street, road, or highway in
13 this state.

14 (19) State highway--A highway or road under the jurisdiction of the Texas
15 Department of Transportation.

16 (20) State highway system--A network of roads and highways as defined by
17 Transportation Code, §221.001.

18 (21) Suspension--Temporary removal of privileges granted to a registrant by the
19 department or a registration state.

20 (22) Unified Carrier Registration System or UCR--A motor vehicle registration
21 system established under 49 U.S.C. §14504a or a successor federal registration program.

22
23 224.302 Administrative Proceedings

1 (a) If the department decides to take an enforcement action under §218.71 or §219.121 of this
2 title (relating to Administrative Penalties) or §218.72 or 219.122 of this title (relating to Administrative
3 Sanctions), the department shall give written notice to the person by first class mail to the last known
4 address as shown in department records or Federal Motor Carrier Safety Administration (FMCSA)
5 records.

6 (b) The notice required by subsection (a) of this section must include:

7 (1) a brief summary of the alleged violation or enforcement action being proposed;

8 (2) a statement describing each sanction, penalty, or enforcement action proposed;

9 (3) a statement informing the person of the right to request a hearing;

10 (4) a statement of the procedure a person must use to request a hearing, including the
11 deadline for filing a request with the department and the acceptable methods to request a hearing; and

12 (5) a statement that a proposed penalty, sanction, or enforcement action will become
13 final and take effect on a specific date if the person fails to request a hearing.

14 (c) A person must submit a written request for a hearing to the address provided in the notice
15 not later than the 26th day after the date the notice is signed by the department.

16 (d) If a person submits a timely written request for a hearing, the department will contact the
17 person and attempt to informally resolve the contested case. If the person and the department cannot
18 informally resolve the contested case, the department will refer the contested case to SOAH to set a
19 hearing date and give notice of the time and place of the hearing to the person.

20 (e) If the person does not make a timely request for a hearing or enter into a settlement
21 agreement within 26 days of the date of the Notice of Department Decision, the allegations are deemed

1 admitted on the 27th day and a final order including sanctions may be issued by the final order
2 authority.

3 (f) Except as provided by Transportation Code, Chapter 643 and this subchapter, any SOAH
4 proceeding is governed by Government Code, Chapter 2001 and 1 TAC Chapter 155, including the
5 authority of the department to informally dispose of the contested case by stipulation, agreed
6 settlement, consent order, or default.

7 (g) The department and the person may informally resolve the contested case by entering into a
8 settlement agreement or agreeing to stipulations at any time before the director issues a final order.
9 However, the person must pay any penalty in full prior to the execution of a settlement agreement.

11 224.303 Filing of Documents

12 Each document required or permitted to be filed with the department under this subchapter
13 must be filed as instructed by the department.

15 224.304 Registration Suspension Ordered Under Family Code

16 (a) On receipt of a final order issued under Family Code, §232.003, §232.008, or §232.009,
17 regarding child support enforcement, the department will suspend:

18 (1) a certificate of registration issued under Chapter 218, Subchapter B (relating to
19 Motor Carrier Registration); or

1 (2) the registration of an interstate motor carrier issued under §218.17 of this title
2 (relating to Unified Carrier Registration System).

3 (b) The department will charge an administrative fee of \$10 to a person whose registration is
4 suspended under this section.

5 (c) A suspension under this section does not require the department to give notice or otherwise
6 follow the administrative process provided under §224.301 of this title (relating to Administrative
7 Proceedings).

8 (d) A registration suspended under this section may only be reinstated on receipt of an order
9 issued under Family Code, §232.013.

10
11 224.305 Appeal of a Denial

12 (a) Pursuant to Transportation Code, §643.2526, an applicant may appeal the denial of an
13 application for registration, renewal of registration, or reinstatement of registration.

14 (b) The appeal will be governed by Chapter 224, Subchapter E of this title (relating to Contested
15 Cases Referred to SOAH).

16 (c) The applicant's appeal will be considered untimely if it is not filed with the department by the
17 26th day after the date of the department's denial of the application. The department will not consider
18 an untimely appeal.

19 (d) An application that is considered to be withdrawn under Transportation Code, §643.055 is
20 not a denial of an application for the purposes of an appeal under Transportation Code, §643.2526.

§224.306 Referral to SOAH

(a) If the department receives a timely request for a hearing and the parties are unable to informally resolve or dispose of the case, the department will refer the contested case to SOAH by filing a Request to Docket form and related documents as required under SOAH rules.

(b) When SOAH accepts the department's Request to Docket, jurisdiction of the contested case transfers to SOAH.

§224.307 Notice of Hearing

Once SOAH provides the department with the initial hearing date, time, and place, the department will notify the parties and provide the parties with the contested case documents submitted to SOAH. The contested case proceeds according to Subchapter E of this chapter (relating to Contested Cases Referred to SOAH).

SUBCHAPTER E. CONTESTED CASES REFERRED TO SOAH

224.400 Purpose and Scope

(a) This subchapter describes department practice and procedures for referring a contested case to SOAH for a hearing, including a contested case under Subchapter B (relating to Contested Cases: Motor Vehicle and Salvage Industry Enforcement), Subchapter C (relating to Contested

1 Cases Between Motor Vehicle License Holders or Applicants), and Subchapter D (Contested Cases:
2 Motor Carrier and Oversize or Overweight Vehicle or Load).

3 (b) When SOAH accepts a referral from the department, jurisdiction of the contested case
4 transfers to SOAH, and practice and procedure in contested cases heard by SOAH are addressed in:

5 (1) 1 TAC Chapter 155, and

6 (2) this subchapter, where not in conflict with SOAH rules.

7 (c) When SOAH disposes of a contested case, jurisdiction transfers from SOAH back to the
8 department. The department will issue a final order under §224.13 of this chapter (relating to
9 Delegation of Final Order Authority) or under Subchapter F (relating to Board Procedures in
10 Contested Cases).

11
12 224.401 Referral to SOAH

13 (a) The department shall refer contested cases to SOAH upon determination that a hearing is
14 appropriate under Occupations Code, Chapter 2301 or 2302, or Transportation Code, Chapter 503, 621-
15 623, 642-646, or 648, including contested cases relating to:

16 (1) an enforcement complaint on the department's own initiative;

17 (2) a notice of protest that has been timely filed in accordance with §215.106 of this title
18 (relating to Time for Filing Protest);

19 (3) a protest filed under Occupations Code, §2301.360 or a complaint or protest filed
20 under Occupations Code, Chapter 2301, Subchapters I or J;

21 (4) issuance of a cease and desist order, whether the order is issued with or without
22 prior notice at the time the order takes effect; or

1 (5) any other contested matter that meets the requirements for a hearing at SOAH.

2 (b) The department will follow SOAH procedures to file a Request to Docket Case and related
3 documents and request a setting of a hearing.

4 (c) SOAH will provide the agency with the date, time, and place of the hearing.

5
6 224.402 Notice of Hearing

7 (a) In a contested case, each party is entitled to a hearing, in accordance with Government Code,
8 §2001.051.

9 (b) The requirements for a notice of hearing in a contested case are provided by Government
10 Code, §2001.052; Occupations Code, §2301.705; 1 TAC §155.401; and Transportation Code, Chapter 643,
11 as applicable.

12 (c) For service of parties outside of the United States, in addition to service under Occupations
13 Code, §2301.265, the department may serve a notice of hearing by any method allowed under TRCP or
14 that provides for confirmation of delivery to the party.

15 (d) The last known address of a license applicant, license holder, or other person is the last
16 mailing address in department records or Federal Motor Carrier Safety Administration (FMCSA) records.

17 (e) A notice of hearing issued by the department in a contested case shall comply with the
18 requirements of Government Code, §2001.052(a).

19 (f) The department will serve a notice of hearing upon a license holder by first class mail to the
20 last known address of the license holder or authorized representative, in accordance with Occupations
21 Code, §2301.705.

1 (g) The department may serve a notice of hearing upon a person who is not a license holder by
2 first class mail to the person's last known address as shown in department records or Federal Motor
3 Carrier Safety Administration (FMCSA) records.

4 (h) A notice of hearing in a contested case may be amended in accordance with Government
5 Code, §2001.052(b).

6
7 224.403 Reply to Notice of Hearing and Default Proceedings

8 (a) A party may file a written reply or pleading to respond to all allegations. The written
9 reply or responsive pleading must be filed with SOAH in accordance with 1 TAC §155.101 and must
10 identify the SOAH and department docket numbers as reflected on the notice of hearing.

11 (b) Any party filing a reply or responsive pleading shall serve a copy of the reply or
12 responsive pleading on each party or party's representative in compliance with 1 TAC §155.105.

13 (c) A party may file an amended or supplemental reply or responsive pleading in
14 accordance with 1 TAC §155.301.

15 (d) If a party properly noticed under this chapter does not appear at the hearing, a party
16 may request that the ALJ dismiss the contested case from the SOAH docket. If the contested case is
17 dismissed from the SOAH docket, the case may be presented to the final order authority for
18 disposition pursuant to 1 TAC §155.501 and §224.13 of this title (relating to Delegation of Final
19 Order Authority).

20
21
22 224.404 Amicus Briefs

1 (a) Any interested person may submit an amicus brief for consideration by the ALJ in a
2 contested case by the deadline for exceptions under 1 TAC §155.507. A party may submit one
3 written response to the amicus brief no later than the deadline for replies to exceptions under 1
4 TAC §155.507.

5 (b) An amicus brief and response to amicus brief must be submitted to the ALJ and be
6 served on all parties.

7 (c) The ALJ may amend the Proposal for Decision in response to any amicus brief or
8 response to an amicus brief.

9
10 224.405 Cease and Desist Orders

11 (a) An ALJ shall hold a hearing to determine whether an interlocutory cease and desist
12 order should remain in effect during the pendency of the proceeding.

13 (b) The person against whom a cease and desist order was issued without notice may
14 request that SOAH set an expedited hearing.

15 (c) After the hearing, the ALJ shall prepare a written order, including a justification
16 explaining why the cease and desist order should or should not remain in place during the
17 pendency of the contested case.

18 (d) A party may appeal to the board an order granting or denying a motion for a cease and
19 desist order.

20
21 224.406 Statutory Stay

1 (a) A person affected by a statutory stay imposed by Occupations Code, Chapter 2301 may
2 request a hearing before a SOAH ALJ to modify, vacate, or clarify the extent and application of the
3 statutory stay.

4 (b) After a hearing on a motion to modify, vacate, or clarify a statutory stay, the ALJ shall
5 prepare a written order, including a justification explaining why the statutory stay should or should
6 not be modified, vacated, or clarified.

7 (c) A person affected by a statutory stay imposed by Occupations Code, Chapter 2301 may
8 initiate a proceeding before the board to modify, vacate, or clarify the extent and application of
9 the statutory stay.

10
11 224.407 Issuance of a Proposal for Decision

12 (a) After a hearing on the merits the ALJ shall submit a Proposal for Decision in a contested
13 case to the department and all parties.

14 (b) The parties may submit to the ALJ exceptions to the Proposal for Decision and replies to
15 exceptions to the Proposal for Decision as allowed under 1 TAC §155.507.

16 (c) The ALJ will review all exceptions and replies and notify the department and parties
17 whether the judge recommends any changes to the Proposal for Decision.

18 (d) The parties are not entitled to file exceptions or briefs in response to an amended
19 Proposal for Decision but may raise an issue before the board or board delegate as permitted at
20 the time of oral presentation if the issue is based on information entered into the record.

21
22
23 224.408 Transfer of Jurisdiction for Final Decision

1 (a) If a contested case includes a hearing on the merits, SOAH's jurisdiction transfers to the
2 board when the ALJ confirms that the Proposal for Decision is final.

3 (b) Once the ALJ confirms that the Proposal for Decision is final and the administrative
4 record is closed, no new testimony, witnesses, or information may be considered by the final order
5 authority.

6 (c) After SOAH transfers the administrative record to the department, the board or board
7 delegate with final order authority will consider the contested case under the provisions of
8 Subchapter F (relating to Board Procedures in Contested Cases).

11 **SUBCHAPTER F. BOARD PROCEDURES FOR CONTESTED CASES**

13 **224.500 Purpose and Scope**

14 (a) This subchapter describes board procedures for reviewing and issuing a Final Order in a
15 contested case in which a SOAH ALJ has submitted a final Proposal for Decision for consideration
16 by the board or board delegate.

18 **215.501 Contested Case Review**

19 (a) After SOAH submits a final Proposal for Decision and transfers the administrative record
20 to the department, the board has jurisdiction to enter a final order and will review the contested
21 case during the public session of a regularly scheduled board meeting, in accordance with the APA.

22 (b) For a contested case in which the board has delegated final order authority to the
23 Director of the Motor Carrier Division, a special public meeting may be scheduled.

1
2 215.502 Request for Oral Presentation

3 (a) At least 30 days prior to the date of a proposed board meeting during which the board may
4 review a contested case, department staff shall notify the parties regarding the opportunity to attend
5 and provide an oral presentation concerning a proposal for decision before the board. The department
6 will deliver notice electronically in accordance with §224.6 of this title (relating to Filing and Service of
7 Documents), to the last known email address provided by the party to the department.

8 (b) If a party seeks to provide an oral presentation at the board meeting, it must submit a written
9 request for an oral presentation to the department's contact listed in the notice provided under
10 subsection (a) of this section and copy all other parties in accordance with §224.6 of this title (relating to
11 Filing and Service of Documents) at least 14 days prior to the date of the board meeting at which the
12 party's contested case will be considered.

13 (c) If there is more than one other party who was not adversely affected by the proposal for
14 decision, such parties may agree on the order of their presentations in lieu of the order prescribed under
15 §215.62(c) of this title (relating to Order of Presentations to the Board for Review of a Contested Case). If
16 the parties who were not adversely affected by the proposal for decision do not timely provide the
17 department and the other parties with notice under subsection (b) of this section regarding their agreed
18 order of presentation, their order of presentation will be determined under §215.62(c) of this title.

19 (d) If a party timely submits a written request for an oral presentation, that party may make an
20 oral presentation at the board meeting. If a party fails to timely submit a written request for an oral
21 presentation, that party shall not make an oral presentation at the board meeting.
22

1 224.503 Written Materials and Evidence

2 (a) If a party seeks to provide written materials, including to the board, it must provide the
3 written materials to the department and all other parties in accordance with §224.6 of this title (relating
4 to Filing and Service of Documents) at least 21 days prior to the date of the board meeting. If a party fails
5 to timely provide written materials to the department or any other party, the department shall not
6 provide the written materials to the board and the party shall not provide the written materials to the
7 board at the board meeting.

8 (b) For the purposes of this section, written materials are defined as language or images that are
9 contained in the SOAH administrative record that are recorded in paper form. The language or images in
10 the written materials must be taken without changes from the administrative record. Proposed final
11 orders are not prohibited from being included in a party's written materials. Written materials shall be
12 limited to evidence contained in the SOAH administrative record and consistent with the scope of the
13 board's authority to take action under Government Code §2001.058(e) and Occupations Code, Chapter
14 2301. However, any party may argue that the board should remand the case to SOAH.

15 (c) All information in the written materials shall include a cite to the SOAH administrative record
16 on all points to specifically identify where the information is located.

17 (d) Written materials shall be 8.5 inches by 11 inches and single-sided. Written materials must be
18 double-spaced and at least 12-point type if in text form. Written materials are limited to 15 pages per
19 party. If a party provides the department with written materials that contain more pages than the
20 maximum allowed, the department shall not provide the written materials to the board and the party
21 shall not provide the written materials to the board at the board meeting.

1 (e) Photos or other images or diagrams from the administrative record may be included in
2 written materials if a cite is provided to the page in the record.

3
4 224.504 Limiting Oral Presentation and Discussion to Evidence in the Administrative Record

5 (a) The parties to a contested case under review by the board shall limit their oral presentation
6 and discussion to evidence in the SOAH administrative record, and their oral presentation and discussion
7 shall be consistent with the scope of the board's authority to take action under Government Code
8 §2001.058(e) and Occupations Code, Chapter 2301 or 2302, and Transportation Code 503. However, any
9 party may argue that the board should remand the case to SOAH.

10 (b) Each party is responsible for objecting when another party attempts to make arguments or
11 engage in discussion regarding evidence that is not contained in the SOAH administrative record.

12
13 224.505 Presentations to the Board for Review of a Contested Case

14 (a) Department staff will present the procedural history and summary of the contested case.

15 (b) The party that is adversely affected has the opportunity to make its oral presentation first.
16 However, the board chairman is authorized to determine the order of each party's oral presentation in
17 the event of the following:

18 (1) it is not clear which party is adversely affected;

19 (2) it appears as though more than one party is adversely affected; or

1 (3) different parties are adversely affected by different portions of the contested case
2 under review.

3 (c) The other party or parties who were not adversely affected then have an opportunity to make
4 their oral presentation. If there is more than one other party, each party will have an opportunity to
5 respond in alphabetical order based on the name of the party in the pleadings in the SOAH
6 administrative record, except as stated otherwise in §224.502(c) of this title (relating to Request for Oral
7 Presentation).

8 (d) A party must timely comply with the requirements of §224.502 of this title before the party is
9 authorized to provide an oral presentation to the board.

10 (e) The parties to a contested case being reviewed by the board shall be allowed an opportunity
11 to provide an oral presentation to the board, subject to the following limitations and conditions.

12 (1) Each party shall be allowed a maximum of 15 minutes for their oral presentation.

13 (2) No party is allowed to provide a rebuttal or a closing statement.

14 (3) Any party that is intervening in support of another party shall share that party's time;
15 however, this provision is limited to intervenors of record from the State Office of Administrative
16 Hearings' proceeding.

17 (4) Time spent by a party responding to any board questions is not counted against their
18 time.

19 (5) The parties to a contested case under review by the board shall limit their oral
20 presentation and discussion to evidence in the State Office of Administrative Hearings' administrative
21 record.

1 (6) During an oral presentation, a party to the contested case before the board may
2 orally claim that a presenting party talked about evidence that is not contained in the State Office of
3 Administrative Hearings' administrative record; time spent discussing such claims is not counted against
4 the objecting party's time.

5 (7) A party must timely comply with the requirements of §224.503 of this title (relating
6 to Request for Oral Presentation) before a party is authorized to provide an oral presentation to the
7 board.

8
9 224.506 Board Conduct and Discussion When Reviewing a Contested Case

10 (a) The board shall conduct its review of a contested case in compliance with Government Code
11 Chapter 2001 and Occupations Code, Chapter 2301 and Chapter 2302, including the limitations on
12 changing a finding of fact or conclusion of law made by the administrative law judge at SOAH, and the
13 prohibition on considering evidence outside of the SOAH administrative record.

14 (b) Board members may question any party or the department on any matter that is relevant to
15 the proposal for decision; however, any questions shall be consistent with the scope of the board's
16 authority to take action under Government Code §2001.058(e) and Occupations Code, Chapter 2301 and
17 2302; any questions must be limited to evidence contained in the SOAH administrative record; and the
18 communication must comply with §224.3 of this title (relating to Prohibited Communication). In
19 addition, board members are authorized to ask questions regarding a request to remand the case to
20 SOAH, including a remand to SOAH for further consideration of the evidence.

21 (c) Board members may use their industry expertise to help them understand the case and make
22 effective decisions, consistent with the scope of the board's authority to take action under Government

1 Code §2001.058(e) and Occupations Code, Chapter 2301 and 2302. However, board members are not
2 advocates for a particular industry. Board members are public servants who take an oath to preserve,
3 protect, and defend the Constitution and laws of the United States and Texas.

4
5 224.507 Final Orders

6 (a) A decision or order in a contested case reviewed by the board or board delegate shall be in
7 writing and shall be signed by the board chair or board delegate, as applicable.

8 (b) The department will email a copy of the final order to the parties.

9 (c) The provisions of Government Code, Chapter 2001, Subchapter F govern:

10 (1) the issuance of a final order issued under this subchapter; and

11 (2) motions for rehearing filed in response to a final order.

12 (d) A decision or order in a contested case is final in accordance with Texas Government Code
13 §2001.144.

14
15
16 **SUBCHAPTER G. LEMON LAW AND WARRANTY PERFORMANCE CLAIMS**

17
18 224.600 Purpose, Scope, and Definitions

1 (a) Subchapter A and this subchapter apply to contested cases filed under Occupations
2 Code, §2301.204 or Subchapter M, to the extent they do not conflict with state law, rule, or court
3 order.

4 (b) The following words and terms, when used in this subchapter, shall have the following
5 meanings, unless the context clearly indicates otherwise.

6 (1) Comparable Motor Vehicle--A new motor vehicle, with comparable mileage,
7 from the same manufacturer, converter, or distributor's product line and the same model year or
8 newer as the motor vehicle to be replaced or as reasonably equivalent to the motor vehicle to be
9 replaced.

10 (2) Lemon Law--Refers to Occupations Code, Chapter 2301, Subchapter M
11 (§§2301.601-2301.613).

12 (3) Warranty Performance--Refers to Occupations Code, §2301.204.

13
14 224.601 Appearance – OK as is in Subchapter A or are there differences for OAH?

15
16 224.602 Filing a Complaint

17 (a) A complaint alleging a violation of Occupations Code, §2301.204 or Subchapter M, shall be in
18 writing, addressed to the department, and signed by the complainant.

19 (b) A person may use a complaint form supplied by the department. Department staff will
20 provide information concerning the complaint procedure and a complaint form to any person requesting
21 assistance.

1 (c) A person may submit a complaint in letter or other written format, or on a complaint form
2 provided by the department.

3 (1) A complaints shall state sufficient facts to enable the department and the party
4 complained against to know the nature of the complaint and the specific problems or circumstances
5 forming the basis of the claim for relief under the lemon law or warranty performance statute.

6 (2) A complaint shall, at a minimum, provide the following information:

7 (A) the name, address, and telephone number of the motor vehicle owner;

8 (B) the identification of the motor vehicle, including the make, model, year, and
9 manufacturer's VIN;

10 (C) the type of warranty coverage;

11 (D) the name and address of the dealer or other person from whom the motor
12 vehicle was purchased or leased, including the name and address of the vehicle lessor, if applicable;

13 (E) the date of delivery of the motor vehicle to the original owner and in the
14 case of a demonstrator, the date the motor vehicle was placed into demonstrator service;

15 (F) the motor vehicle mileage at the time when:

16 (i) the motor vehicle was purchased or leased;

17 (ii) problems with the motor vehicle were first reported; and

18 (iii) the complaint was filed;

19 (G) the name of the dealer or the name of the manufacturer's, converter's, or
20 distributor's agent to whom the problems were first reported;

1 (H) identification of the motor vehicle's existing problems and a brief description
2 of the history of problems and repairs on the motor vehicle, including:

3 (i) the date and mileage of each repair; and

4 (ii) a copy of each repair order where possible;

5 (I) the date the motor vehicle manufacturer, converter, or distributor received
6 written notification of the complaint;

7 (J) the date and results of the motor vehicle inspection, if the motor vehicle was
8 inspected by the manufacturer, converter, or distributor; and

9 (K) any other information the complainant deems relevant to the complaint.

10 (d) A person may file a complaint with the department by:

11 (1) by mail to the address of the department [add specific address]; or

12 (2) by email to a department-designated email address [add specific address].

13 (e) If requested by the department, complaints shall be made under oath. Before initiating an
14 investigation or other proceeding to determine the merits of the complaint, the department may require
15 the complainant to provide additional information necessary to evaluate the merits of the complaint.

16 (f) The following provisions apply to lemon law complaints.

17 (1) The filing fee required under the lemon law should be remitted with the complaint by
18 [add forms of payment accepted by the department]. The filing fee is nonrefundable, but a complainant
19 that prevails in a case is entitled to reimbursement of the filing fee from the nonprevailing party. Failure

1 to remit the filing fee with the complaint will delay commencement of the 150-day period referenced in
2 paragraph (3) of this subsection and may result in dismissal of the complaint.

3 (2) A lemon law proceeding commences on the date the filing fee is received by the
4 department or its authorized agent[need?].

5 (3) If the hearings examiner has not issued an order within 150 days after the
6 commencement of the lemon law proceeding in accordance with paragraph (2) of this subsection,
7 department staff shall notify the parties by mail that the complainant may file a civil action in state
8 district court to seek relief under the lemon law. The notice will inform the complainant of the
9 complainant's right to continue the lemon law complaint through the department. The 150-day period
10 shall be extended upon request of the complainant or if a delay in the proceedings is caused by the
11 complainant.

12 (g) The following provisions apply to warranty performance complaints (repair-only relief).

13 (1) A filing fee is not required for a complaint that is subject to a warranty performance
14 claim.

15 (2) A complaint may be filed with the department in accordance with this section if the
16 defect in the motor vehicle subject to the warranty performance complaint was reported to the
17 manufacturer, converter, distributor, or to an authorized agent prior to the expiration of the warranty
18 period.

19 (3) If the defect is not resolved pursuant to §224.127 of this title (relating to Mediation;
20 Settlement), a hearing will be scheduled and conducted in accordance with Government Code, Chapter
21 2001, subject to Occupations Code, Chapter 2301, Subchapter O and this subchapter.

1 (5) The final order authority will issue an order on the warranty performance complaint.

2 A party who disagrees with the order may oppose the order in accordance with §224.142 of this title
3 (relating to Contested Cases: Final Orders).

4
5 224.603 Review of Complaints

6 Department staff will promptly review a complaint to determine if the complaint meets the
7 minimum requirements of a lemon law or a warranty performance complaint.

8 (1) If department staff cannot determine whether a complaint meets the minimum
9 lemon law or warranty performance requirements, the complainant will be contacted for additional
10 information.

11 (2) If department staff determines that the complaint meets the minimum lemon law or
12 warranty performance requirements, the complaint will be processed in accordance with this
13 subchapter.

14
15
16 224.604 Notification to Manufacturer, Convertor, or Distributor

17 (a) Upon receipt of a complaint for lemon law or warranty performance relief, the department
18 will:

19 (1) notify the appropriate manufacturer, converter, or distributor of the complaint and
20 request a response; and

1 (2) provide a copy of the complaint to the selling dealer and any other dealer involved
2 with the complaint and may request a response.

3 (b) Upon request by the department, the manufacturer shall provide a copy of the warranty for
4 the motor vehicle subject to the lemon law or warranty performance complaint.

5
6
7 224.605 Mediation; Settlement

8 (a) Department staff will attempt to settle or resolve a lemon law or warranty performance
9 complaint through nonbinding mediation before a hearing on the complaint is scheduled.

10 (b) The parties are required to participate in the nonbinding mediation process in good faith.

11 (c) In a case filed under Occupations Code, §2301.204 or §§2301.601 - 2301.613, the mediator
12 shall qualify for appointment as an impartial third party in accordance with Civil Practice and Remedies
13 Code, Chapter 154.

14 (d) To maintain confidentiality of mediation communications, a mediator assigned to a lemon
15 law or warranty performance complaint is ineligible to serve as the hearings examiner for that
16 complaint. [if OAH hearings examiners also mediators?]

17
18 224.606 Notice of Hearing in Contested Cases

19 (a) In a contested case, each party is entitled to a hearing, in accordance with Government Code,
20 §2001.051.

1 **(b) A notice of hearing in a contested case shall comply with the requirements of Government**
2 **Code, §2001.052(a) and shall be served upon the parties in person or by certified mail, return receipt**
3 **requested to the last known address of the parties or their authorized representatives, in accordance**
4 **with Occupations Code, §2301.705.**

5 **(c) The last known address of a party is the last mailing address provided to the department.**

6 **(d) A notice of hearing in a contested case may be amended in accordance with Government**
7 **Code, §2001.052(b).**

8
9 **224.607 Reply** **[is this needed? If so, any changes?]**

10 **(a) Within 20 days after service of a notice of hearing in a contested case or within 10 days after**
11 **service of an amended notice of hearing, a party may file a reply.**

12 **(b) A reply shall include the docket number of the contested case and shall be filed by the party**
13 **or party's authorized representative. The original reply shall be filed with the department and a copy**
14 **shall be served on any other parties to the contested case.**

15 **(c) A party may file an amended reply prior to the contested case hearing. In any contested case**
16 **when the notice of hearing has been amended at the contested case hearing, a party, at the discretion of**
17 **the hearings examiner, shall have an opportunity to file an amended reply.**

18 **(d) Upon the motion of a party, with good cause shown, the department may extend the time to**
19 **file a reply.**

20 **(e) All allegations shall be deemed admitted by any party not appearing at the contested case**
21 **hearing on the merits.**

1
2 224.608 Motions

3 (a) Unless made during a contested case hearing, each motion in a contested case shall be in
4 writing and shall state:

5 (1) the relief sought; and

6 (2) the specific reasons and grounds.

7 (b) If the motion is based upon matters which do not appear of record, the motion must be
8 supported by affidavit.

9 (c) Any motion not made during a contested case hearing shall be filed with the hearings
10 examiner and a copy shall be served on all parties or their authorized representatives.

11
12 224.609 Briefs [need?]

13 The hearings examiner may direct that the parties file briefs in a pending contested case.

14
15 224.610 Service of a Brief or Other Document

16 (a) A copy of each document filed in any contested case shall be served upon all parties or their
17 authorized representatives and upon the department by sending a copy properly addressed to each
18 party by:

19 (1) first-class mail [add specific address];

1 (2) email [add email address].

2 (b) A copy of each document may be filed with the department by electronic document transfer
3 at a destination designated by the department [add details].

4 (c) A certificate of service shall accompany each document.

5
6 224.611 Submission of an Amicus Brief

7 (a) Any interested person may submit an amicus brief for consideration in a contested case and
8 should file the brief no later than the deadline for filing exceptions.

9 (b) A party may submit one written response to the amicus brief no later than the deadline for
10 filing replies to exceptions.

11 (c) Any amicus brief, or response to that brief, not filed within the deadlines prescribed by
12 subsection (b) of this section will not be considered, unless good cause is shown why the deadline
13 should be waived or extended.

14
15 224.612 Presiding Official

16 (a) Hearings examiner. A hearings examiner will preside over a hearing for a lemon law or
17 warranty performance complaint.

18 (b) Powers and duties. A hearings examiner shall conduct fair hearings and shall take all
19 necessary action to administer the disposition of contested cases. A hearings examiner's powers include,
20 but are not limited to the authority to:

1 (1) administer oaths;

2 (2) examine witnesses;

3 (3) rule upon the admissibility of evidence;

4 (4) rule upon motions; and

5 (5) regulate the course of the contested case hearing and the conduct of the parties and
6 their authorized representatives.

7 (c) Recusal.

8 (1) If a hearings examiner determines that the hearings examiner should be recused
9 from a particular contested case hearing, the hearings examiner shall withdraw from the contested case
10 by giving notice on the record and by notifying the chief hearings examiner.

11 (2) A party may file a motion to recuse the hearings examiner. The motion to recuse shall
12 be supported by an affidavit setting forth the alleged grounds for disqualification. A copy of the motion
13 shall be served on the hearings examiner who shall have 10 days to reply, and a copy shall be served on
14 all parties or their authorized representatives.

15 (3) If the hearings examiner contests the alleged grounds for disqualification, the chief
16 hearings examiner shall promptly determine the validity of the grounds alleged and render a decision.

17 (d) Substitution of hearings examiner. If the hearings examiner is disqualified, dies, becomes
18 disabled, or withdraws during any contested case proceeding, the chief hearings examiner may appoint
19 another hearings examiner to preside over the remainder of the contested case proceeding.

20

1 224.613 Hearing Continuance

2 (a) After a contested case has been called on the date assigned for hearing pursuant to notice, a
3 continuance of the contested case hearing will be granted by the hearings examiner only upon a showing
4 of good cause.

5 (b) A motion for continuance of a contested case hearing shall be filed and served on all parties
6 at least five days before the hearing date, except when good cause is shown to consider a motion for
7 continuance filed after the deadline.

8 (c) A motion is not granted until it has been ruled on by the hearings examiner, even if the
9 motion is uncontested or agreed.

10
11 224.614 Conduct of Hearing

12 Each party in a contested case shall have the right to notice, cross examination, presentation of
13 evidence, objection, motion, argument, and all other rights essential to a fair contested case hearing.
14 Except as provided by this chapter or in the notice of hearing, the TCRP, as applied to non-jury civil cases,
15 shall be applicable to hearings in contested cases, as far as reasonably practical.

16
17 224.615 Hearings

18 Lemon law or warranty performance complaints that satisfy the jurisdictional requirements of
19 the Occupations Code will be set for hearing by the department. The department will notify all parties of
20 the date, time, and place of the hearing by certified mail. Additional information contained in the notice

1 of hearing shall be consistent with §224.606 of this title (relating to Notice of Hearing in Contested
2 Cases). Depositions, interrogatories, and requests for admission shall not be permitted.

3 (1) When possible, hearings will be held in the city in which the complainant resides.

4 (2) Hearings will be scheduled at the earliest date possible, provided that a 10-day notice
5 or other notice required by law is given to all parties.

6 (3) Hearings will be conducted expeditiously by a hearings examiner in accordance with
7 Government Code, Chapter 2001, subject to Occupations Code, Chapter 2301, Subchapter O; and with
8 the provisions of this chapter (relating to Adjudicative Practice and Procedure) and this subchapter.

9 (4) If a party fails to appear for the hearing, relief may be granted to the party that
10 appears.

11 (5) Absent a showing of good cause, a complaint may be dismissed if the complainant
12 repeatedly fails to respond or communicate with the Office of Administrative Hearings.

13 (6) The complainant shall have the burden of proof by a preponderance of the evidence.

14 (7) Hearings will be conducted informally. The parties have the right to be represented
15 by attorneys at a hearing, although attorneys are not required. Any party who intends to be represented
16 at a hearing by an attorney or an authorized representative must notify the hearings examiner, the
17 department, and any other party in writing at least five business days prior to the hearing. Failure to
18 provide notice will result in postponement of the hearing if requested by any other party.

19 (8) Subject to a hearings examiner ruling, a party may present that party's case in full,
20 including testimony from witnesses and documentary evidence such as repair orders, warranty
21 documents, and the motor vehicle sales contract.

1 (9) By agreement of the parties and with the written approval of the hearings examiner,
2 the hearing may be conducted by written submission only or by telephone or videoconference. Upon
3 notice to the parties, hearings and prehearing conferences may be conducted by telephone or
4 videoconference, even in the absence of a motion.

5 (10) Except for a hearing conducted by written submission, each party may be
6 questioned by the other party at the discretion of the hearings examiner.

7 (11) Except for a hearing conducted by written submission or by telephone or
8 videoconference, the complainant must bring the motor vehicle in question to the hearing so that the
9 motor vehicle may be inspected, and test driven, unless otherwise ordered by the hearings examiner
10 upon a showing of good cause by the complainant.

11 (12) The department may have the motor vehicle in question inspected by an expert
12 prior to the hearing, if the department determines that an expert opinion may assist in arriving at a
13 decision. An inspection under this section shall be made only upon prior notice to all parties, who shall
14 have the right to be present at such inspection. A copy of any findings or report from such inspection will
15 be provided to all parties before, or at, the hearing.

16 (13) Except for hearings conducted by written submission, all hearings will be recorded
17 by the hearings examiner. A copy of the recording will be provided to any party upon request and upon
18 payment for the cost of the copy, as provided by law or board rules.

19
20 224.616 Evidence

1 (a) General. The TRE shall apply in all contested cases, in accordance with Government Code,
2 Chapter 2001.

3 (b) Documents in department files. The hearings examiner may take official notice of documents
4 or information in the department's files, in accordance with Government Code, Chapter 2001.

5 (c) Exhibits. Exhibits shall be limited to facts with respect to the relevant and material issues
6 involved in a particular contested case. Documentary exhibits shall not unduly encumber the record.
7 Where practical, the sheets of each exhibit shall not be more than 8-1/2 inches by 11 inches in size and
8 shall be numbered and labeled. The original and one copy of each exhibit offered shall be tendered to
9 the reporter or hearings examiner for identification, and a copy shall be furnished to each party. In the
10 event an offered exhibit has been excluded after objection and the party offering the exhibit withdraws
11 the offer, the hearings examiner shall return the exhibit. If the excluded exhibit is not withdrawn, it shall
12 be given an exhibit number for identification and be included in the record only for the purpose of
13 preserving the exception together with the hearings examiner's ruling.

14 (d) Evidence may be stipulated by agreement of all parties.

15
16 224.617 Objections and Exceptions

17 A party is not required to make a formal exception to a ruling of the hearings examiner.

18
19 224.618 Final Order Authority

20 The hearings examiner has final order authority in a contested case filed under Occupations
21 Code, §2301.204 or Subchapter M.

224.619 Delegation of Final Order Authority

(a) In accordance with Occupations Code, §2301.154(c) and §2301.711, the hearings examiner is authorized to issue, where there has not been a decision on the merits, a final order in a contested case, including, but not limited to a contested case resolved:

(1) by settlement;

(2) by agreed order;

(3) by withdrawal of the complaint;

(4) by dismissal for want of prosecution;

(5) by dismissal for want of jurisdiction;

(6) by summary judgment or summary disposition;

(7) by a default judgment; or

(8) when a party waives the opportunity for a contested case hearing.

224.620 Lemon Law Relief Decisions

(a) Unless otherwise indicated, this section applies to decisions that relate to lemon law complaints. Decisions shall give effect to the presumptions provided in Occupations Code, §2301.605, where applicable.

1 (1) If it is found that the manufacturer, distributor, or converter is not able to conform
2 the motor vehicle to an applicable express warranty by repairing or correcting a defect in the
3 complainant's motor vehicle, creating a serious safety hazard or substantially impairing the use or
4 market value of the motor vehicle after a reasonable number of attempts, and that the affirmative
5 defenses provided under Occupations Code, §2301.606 are not applicable, the final order authority shall
6 issue a final order to the manufacturer, distributor, or converter to:

7 (A) replace the motor vehicle with a comparable motor vehicle, less a
8 reasonable allowance for the owner's use of the vehicle; or

9 (B) accept the return of the motor vehicle from the owner and refund the full
10 purchase price of the motor vehicle to the owner, less a reasonable allowance for the owner's use of the
11 motor vehicle.

12 (2) In any decision in favor of the complainant, the final order authority will, to the
13 extent possible, accommodate the complainant's request with respect to replacement or repurchase of
14 the motor vehicle.

15 (b) This subsection applies only to the repurchase of motor vehicles.

16 (1) When a refund of the purchase price of a motor vehicle is ordered, the purchase
17 price shall be the total purchase price of the motor vehicle, excluding the amount of any interest, finance
18 charge, or insurance premiums. The award to the motor vehicle owner shall include reimbursement of
19 the amount of the lemon law complaint filing fee paid by, or on behalf of, the motor vehicle owner. The
20 refund shall be made payable to the motor vehicle owner and to any lienholder, respective to their
21 ownership interest.

1 (2) There is a rebuttable presumption that a motor vehicle has a useful life of 120,000
2 miles. Except in cases where the preponderance of the evidence shows that the motor vehicle has a
3 longer or shorter expected useful life than 120,000 miles, the reasonable allowance for the owner's use
4 of the motor vehicle shall be that amount obtained by adding subparagraphs (A) and (B) of this
5 paragraph.

6 (A) The product obtained by multiplying the purchase price, as defined in
7 paragraph (1) of this subsection, of the motor vehicle by a fraction having as its denominator 120,000
8 and having as its numerator the number of miles that the motor vehicle traveled from the time of
9 delivery to the owner to the first report of the defect or condition forming the basis of the repurchase
10 order; and

11 (B) 50% of the product obtained by multiplying the purchase price by a fraction
12 having as its denominator 120,000 and having as its numerator the number of miles that the motor
13 vehicle traveled after the first report of the defect or condition forming the basis of the repurchase
14 order. The number of miles during the period covered in this paragraph shall be determined from the
15 date of the first report of the defect or condition forming the basis of the repurchase order through the
16 date of the hearing.

17 (3) There is a rebuttable presumption that the useful life of a towable recreational
18 vehicle is 3,650 days or 10 years. Except in cases where a preponderance of the evidence shows that the
19 vehicle has a longer or shorter expected useful life than 3,650 days or 10 years, the reasonable
20 allowance for the owner's use of the towable recreational vehicle shall be that amount obtained by
21 adding subparagraphs (A) and (B) of this paragraph.

1 (A) The product obtained by multiplying the purchase price, as defined in
2 paragraph (1) of this subsection, of the towable recreational vehicle by a fraction having as its
3 denominator 3,650 days or 10 years, except the denominator shall be 1,825 days or five years, if the
4 towable recreational vehicle is occupied on a full time basis, and having as its numerator the number of
5 days from the time of delivery to the owner to the first report of the defect or condition forming the
6 basis of the repurchase order.

7 (B) 50% of the product obtained by multiplying the purchase price by a fraction
8 having as its denominator 3,650 days or 10 years, except the denominator shall be 1,825 days or five
9 years, if the towable recreational vehicle is occupied on a full-time basis and having as its numerator the
10 number of days of ownership after the first report of the defect or condition forming the basis of the
11 repurchase order. The number of days during the period covered in this paragraph shall be determined
12 from the date of the first report of the defect or condition forming the basis of the repurchase order
13 through the date of the hearing.

14 (C) Any day or part of a day that the vehicle is out of service for repair will be
15 deducted from the numerator in determining the reasonable allowance for use of a towable recreational
16 vehicle in this paragraph.

17 (c) This subsection applies only to leased motor vehicle relief.

18 (1) Except in cases involving unusual and extenuating circumstances supported by a
19 preponderance of the evidence, when a refund of the purchase price of a leased motor vehicle is
20 ordered, the purchase price shall be allocated and paid to the lessee and the vehicle lessor, respectively,
21 in accordance with subparagraphs (A) and (B) of this paragraph.

22 (A) The lessee shall receive the total of:

1 (i) all lease payments previously paid by the lessee to the vehicle lessor
2 under the terms of the lease; and

3 (ii) all sums previously paid by the lessee to the vehicle lessor in
4 connection with entering into the lease agreement, including, but not limited to any capitalized cost
5 reduction, down payment, trade-in, or similar cost, plus sales tax, license, registration fees, and other
6 documentary fees, if applicable.

7 (B) The vehicle lessor shall receive the total of:

8 (i) the actual price paid by the vehicle lessor for the motor vehicle,
9 including tax, title, license, and documentary fees, if paid by the vehicle lessor and evidenced in a bill of
10 sale, bank draft demand, tax collector's receipt, or similar instrument; and

11 (ii) an additional 5.0% of the purchase price plus any amount or fee paid
12 by vehicle lessor to secure the lease or interest in the lease.

13 (C) A credit reflecting all of the payments made by the lessee shall be deducted
14 from the actual purchase price that the manufacturer, converter, or distributor is required to pay the
15 vehicle lessor, as specified in subparagraph (B)(i) and (ii) of this paragraph.

16 (2) When the final order authority orders a manufacturer, converter, or distributor to
17 refund the purchase price in a leased vehicle transaction, the motor vehicle shall be returned to the
18 manufacturer, converter, or distributor with clear title upon payment of the sums indicated in paragraph
19 (1)(A) and (B) of this subsection. The vehicle lessor shall transfer title of the motor vehicle to the
20 manufacturer, converter, or distributor, as necessary to effectuate the lessee's rights. The lease shall be
21 terminated without penalty to the lessee.

1 (3) Refunds shall be made to the lessee, vehicle lessor, and to any lienholder, respective
2 to their ownership interest. The refund to the lessee under paragraph (1)(A) of this subsection shall be
3 reduced by a reasonable allowance for the lessee's use of the motor vehicle. A reasonable allowance for
4 use shall be computed in accordance with subsection (b)(2) or (3) of this section, using the amount in
5 paragraph (1)(B)(i) of this subsection as the applicable purchase price.

6 (d) This subsection applies only to replacement of motor vehicles.

7 (1) Upon issuance of an order from the final order authority to a manufacturer,
8 converter, or distributor to replace a motor vehicle, the manufacturer, converter, or distributor shall:

9 (A) promptly authorize the exchange of the complainant's motor vehicle with
10 the complainant's choice of any comparable motor vehicle; and

11 (B) instruct the dealer to contract the sale of the selected comparable motor
12 vehicle with the complainant under the following terms.

13 (i) The sales price of the comparable motor vehicle shall be the vehicle's
14 Manufacturer's Suggested Retail Price (MSRP/DSRP, as applicable);

15 (ii) The trade-in value of the complainant's motor vehicle shall be the
16 MSRP/DRSP, as applicable, at the time of the original transaction, less a reasonable allowance for the
17 complainant's use of the complainant's motor vehicle.

18 (iii) The use allowance for replacement relief shall be calculated in
19 accordance with subsection (b)(2) and (3) of this section.

20 (2) Upon any replacement of a complainant's motor vehicle, the complainant shall be
21 responsible for payment or financing of the usage allowance of the complainant's vehicle, any

1 outstanding liens on the complainant's vehicle, and applicable taxes and fees associated with the new
2 sale, excluding documentary fees.

3 (A) If the comparable motor vehicle has a higher MSRP/DSRP, as applicable, than
4 the complainant's vehicle, the complainant shall be responsible at the time of sale to pay or finance the
5 difference in the two vehicles' MSRPs/DSRPs, as applicable, to the manufacturer, converter or distributor.

6 (B) If the comparable motor vehicle has a lower MSRP/DSRP, as applicable, than
7 the complainant's vehicle, the complainant will be credited the difference in the MSRP/DSRP, as
8 applicable, between the two motor vehicles. The difference credited shall not exceed the amount of the
9 calculated usage allowance for the complainant's vehicle.

10 (3) The complainant is responsible for obtaining financing, if necessary, to complete the
11 transaction.

12 (4) The replacement transaction, as described in paragraphs (2) and (3) of this
13 subsection, shall be completed as specified in the final order. If the replacement transaction cannot be
14 completed within the ordered time period, the manufacturer shall repurchase the complainant's motor
15 vehicle in accordance with the repurchase provisions of this section. If repurchase relief occurs, a party
16 may request calculation of the repurchase price by the final order authority.

17 (e) If the final order authority finds that a complainant's motor vehicle does not qualify for
18 replacement or repurchase, an order may be entered in any proceeding, where appropriate, requiring
19 repair work to be performed or other action taken to obtain compliance with the manufacturer's,
20 converter's, or distributor's warranty obligations.

21 (f) If the motor vehicle is substantially damaged or if there is an adverse change in the motor
22 vehicle's condition beyond ordinary wear and tear, from the date of the hearing to the date of

1 repurchase, and the parties are unable to agree on an amount allowed for such damage or condition,
2 either party may request reconsideration by the final order authority of the repurchase price contained
3 in the final order.

4 (g) In any award in favor of a complainant, the final order authority may require the dealer
5 involved to reimburse the complainant, manufacturer, converter, or distributor for the cost of any items
6 or options added to the motor vehicle if one or more of those items or options contributed to the defect
7 that is the basis for the order, repurchase, or replacement. This subsection shall not be interpreted to
8 require a manufacturer, converter, or distributor to repurchase a motor vehicle due to a defect or
9 condition that was solely caused by a dealer add-on item or option.

10
11 224.621 Incidental Expenses

12 (a) When a refund of the purchase price or replacement of a motor vehicle is ordered, the
13 complainant shall be reimbursed for certain incidental expenses incurred by the complainant from loss
14 of use of the motor vehicle because of the defect or nonconformity which is the basis of the complaint.
15 The expenses must be reasonable and verifiable. Reimbursable incidental expenses include, but are not
16 limited to the following costs:

17 (1) alternate transportation;

18 (2) towing;

19 (3) telephone calls or mail charges directly attributable to contacting the manufacturer,
20 distributor, converter, or dealer regarding the motor vehicle;

1 (4) meals and lodging necessitated by the motor vehicle's failure during out-of-town
2 trips;

3 (5) loss or damage to personal property;

4 (6) attorney fees if the complainant retains counsel after notification that the
5 respondent is represented by counsel; and

6 (7) items or accessories added to the motor vehicle at or after purchase, less a
7 reasonable allowance for use.

8 (b) Incidental expenses shall be included in the final repurchase price required to be paid by a
9 manufacturer, converter, or distributor to a prevailing complainant or in the case of a motor vehicle
10 replacement, shall be tendered to the complainant at the time of replacement.

11 (c) When awarding reimbursement for the cost of items or accessories presented under
12 subsection (a)(7) of this section, the hearings examiner shall consider the permanent nature,
13 functionality, and value added by the items or accessories and whether the items or accessories are
14 original equipment manufacturer (OEM) parts or non-OEM parts.

15
16 224.622 Final Orders

17 (a) A motion for rehearing of a final order issued by a hearings examiner for a complaint filed
18 under Occupations Code §2301.204 or Occupations Code, Chapter 2301, Subchapter M, shall proceed in
19 accordance with Occupations Code, §2301.713.

20 (b) A hearings examiner shall prepare a final order as soon as possible, but not later than 60 days
21 after the hearing is closed, or as otherwise provided by law. The final order shall include the hearings

1 examiner's findings of fact and conclusions of law. The final order shall be sent by the department to all
2 parties by certified mail.

3 (c) A party who disagrees with the final order may file a motion for rehearing in accordance with
4 Government Code, Chapter 2001, subject to Occupations Code, Chapter 2301, Subchapter O. A motion
5 for rehearing of a final order must:

6 (1) be filed with the chief hearings examiner;

7 (2) include the specific reasons, exceptions, or grounds asserted by a party as the basis
8 of the request for a rehearing; and

9 (3) recite, if applicable, the specific findings of fact, conclusions of law, or any other
10 portions of the final order to which the party objects.

11 (d) Replies to a motion for rehearing must be filed with the chief hearings examiner in
12 accordance with Government Code, Chapter 2001, subject to Occupations Code, Chapter 2301,
13 Subchapter O.

14 (e) If the chief hearings examiner or the chief hearings examiner's designee grants a motion for
15 rehearing, the parties will be notified by mail and a rehearing will be scheduled promptly. After
16 rehearing, a final order shall be issued with any additional findings of fact or conclusions of law, if
17 necessary to support the final order. A hearings examiner may issue an order granting the relief
18 requested in a motion for rehearing or requested in a reply to a motion for rehearing without the need
19 for a rehearing. If a motion for rehearing and the relief requested is denied, the chief hearings examiner
20 or designee will issue an order.

1 (f) A party who has exhausted all administrative remedies and who is aggrieved by a final order
2 in a contested case from which appeal may be taken is entitled to judicial review pursuant to
3 Government Code, Chapter 2001, subject to Occupations Code, Chapter 2301, Subchapter P, under the
4 substantial evidence rule. A copy of the petition for judicial review must be served on the final order
5 authority and any other parties of record. After service of the petition and within the time permitted for
6 filing an answer, the final order authority shall transmit to the reviewing court the original or a certified
7 copy of the entire record of the proceeding. If the court orders that new evidence be presented to the
8 final order authority, the final order authority may modify the findings and decision or order by reason
9 of the new evidence and shall transmit the additional record to the court.

10
11 224.623 Compliance with Order Granting Relief

12 (a) Compliance with an order issued by the final order authority will be monitored by the
13 department.

14 (b) A complainant is not bound by a final decision and order.

15 (c) If a complainant does not accept the final decision, the proceeding before the final order
16 authority will be deemed concluded and the complaint file closed.

17 (d) If the complainant accepts the final decision, then the manufacturer, converter, or distributor,
18 and the dealer to the extent of the dealer's responsibility, if any, shall immediately take such action as is
19 necessary to implement the final decision and order.

1 (e) If a manufacturer, converter, or distributor replaces or repurchases a motor vehicle pursuant
2 to an order issued by the final order authority, then the manufacturer, converter, or distributor shall,
3 prior to the resale of such motor vehicle, retitle the vehicle in Texas and shall:

4 (1) issue a disclosure statement on a form provided by or approved by the department; and

5 (2) affix a department-approved disclosure label in a conspicuous location in or on the motor
6 vehicle.

7 (f) The disclosure statement and disclosure label required under subsection (e) of this section
8 shall accompany the motor vehicle through the first retail purchase. No person or entity holding a license
9 or GDN issued by the department under Occupations Code, Chapter 2301 or Transportation Code,
10 Chapter 503 shall remove or cause the removal of the disclosure label until delivery of the motor vehicle
11 to the first retail purchaser.

12 (g) A manufacturer, converter, or distributor shall provide to the department the name, address,
13 and telephone number of the transferee to whom the manufacturer, distributor, or converter transfers
14 the motor vehicle on the disclosure statement within 60 days of each transfer. The selling dealer shall
15 return the completed disclosure statement to the department within 60 days of the retail sale of a
16 reacquired motor vehicle.

17 (h) The manufacturer, converter, or distributor must repair the defect or condition in the motor
18 vehicle that resulted in the vehicle being reacquired and issue a basic warranty excluding non-original
19 equipment manufacturer items or accessories, for a minimum of 12 months or 12,000 miles, whichever
20 comes first. The warranty shall be provided to the first retail purchaser of the motor vehicle.

21 (i) In the event this section conflicts with the terms contained in a cease and desist order, the
22 terms of the cease and desist order shall prevail.

1 (j) The failure of any manufacturer, converter, distributor, or dealer to comply with a final order
2 issued by the final order authority within the time period prescribed in the order may subject the
3 manufacturer, converter, distributor, or dealer to formal action by the department, including the
4 assessment of civil penalties of up to \$10,000 per day per violation or other sanctions prescribed by
5 Occupations Code, Chapter 2301, for the failure to comply with an order issued by the final order
6 authority.

7

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