

1 **PROPOSAL OF**

2 **CHAPTER 208 EMPLOYMENT PRACTICES**

3 **SUBCHAPTER C. FAMILY LEAVE POOL**

4 **43 TAC §208.13**

5 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) proposes new section 43 TAC
6 §208.13 concerning a family leave pool. The new sections are necessary to implement House Bill 2063,
7 87th Legislature, Regular Session (2021).

8 **EXPLANATION.** House Bill 2063 amended Government Code Chapter 661 by adding new Subchapter A-1,
9 requiring all state agencies to create and administer an employee family leave pool. Under House Bill
10 2063, all state agencies must adopt rules and prescribe procedures relating to the operation of the agency
11 family leave pool. The purpose of the family leave pool is to provide eligible state employees more
12 flexibility in bonding with and caring for children during a child's first year following birth, adoption, or
13 foster placement and for caring for a seriously ill family member or the employee. The pool must allow
14 employees to voluntarily transfer sick or vacation leave earned by the employee to the pool while also
15 allowing employees to apply for leave time under the pool.

16 The following paragraphs address the amendments in this proposal.

17 New §208.13 describes the purpose of the family leave pool.

18 New section §208.13(a) designates the Human Resources Director as the administrator of the
19 family leave pool for the department.

20 New section §208.13(b) states that the pool administrator, with the advice and consent of the
21 executive director, will establish operating procedures for the family leave pool which are consistent with
22 Government Code, Chapter 661, Subchapter A-1 (relating to State Employee Family Leave Pool).

1 New Section §208.13(c) states that the procedures adopted related to the operation of the family
2 medical leave pool will be published in the department’s Human Resources Manual.

3 New Section §208.13(d) requires all donations to the family leave pool be voluntary.

4 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
5 has determined that for each year of the first five years the new sections are in effect, there will be no
6 significant fiscal impact to the state or local governments as a result of the enforcement or administration
7 of the proposal. There will be no significant costs to the department and the proposed amendments will
8 have no significant impact on revenue collections.

9 Matthew Levitt, Director of the Human Resources Division, has determined that there will be no
10 measurable effect on local employment or the local economy as a result of the proposal as the proposal
11 relates to internal operations only.

12 **PUBLIC BENEFIT AND COST NOTE.** Mr. Levitt has also determined that, for each year of the first five years
13 the proposed rules are in effect, the public benefits include providing eligible employees more flexibility
14 in bonding and caring for children during a child's first year following birth, adoption, or foster placement,
15 and caring for a seriously ill family member or the employee, including pandemic-related illnesses or
16 complications caused by a pandemic. Mr. Levitt anticipates that the proposal will create no additional
17 costs for the public.

18 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** The cost analysis in the
19 Public Benefit and Cost Note section of this proposal has determined that proposed §208.13 will not result
20 in additional costs for the public, including any small businesses, micro-businesses, or rural communities.
21 Therefore, the department is not required to prepare a regulatory flexibility analysis under Government
22 Code §2006.002(2).

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

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

7 will not create or eliminate a government program;

8 will not require the creation of new employee positions or the elimination of existing employee
9 positions;

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

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

12 will create new regulation establishing the process for determining the maximum number of
13 temporary tags that may be allocated to dealers and converters and the procedures for requesting
14 additional tags;

15 will not expand existing regulations;

16 will not repeal existing regulations;

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

18 will not positively or adversely affect the Texas economy.

19 **REQUEST FOR PUBLIC COMMENT.**

20 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on January 17,
21 2022. A request for a public hearing must be sent separately from your written comments. Send written
22 comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas

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

3 **STATUTORY AUTHORITY.** The department proposes amendments to §§208.13 under Transportation
4 §1002.001.

5 Transportation Code §1002.001 authorizes the board to adopt rules that are necessary
6 and appropriate to implement the powers and the duties of the department. Government Code
7 §661.022(c) authorizes the department to adopt rules related to the operation of the department's family
8 medical leave pool.

9 **CROSS REFERENCE TO STATUTE.** Government Code §661.021-661.028.

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11 **TEXT.**

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Subchapter C. FAMILY LEAVE POOL

13

43 TAC §208.13

14 §208.13. Family Leave Pool.

15 A family leave pool is established to provide eligible employees more flexibility in bonding and caring for
16 children during a child's first year following birth, adoption, or foster placement, or caring for a seriously
17 ill family member or the employee, including pandemic-related illnesses or complications caused by a
18 pandemic.

19 (a) The director of human resources is designated as the pool administrator.

20 (b) The pool administrator, with the advice and consent of the executive director, will establish
21 operating procedures consistent with the Government Code, Chapter 661, Subchapter A-1 (relating to
22 State Employee Family Leave Pool).

1 (c) The prescribed procedures relating to the operation of the family leave pool will be
2 published in the agency's Human Resources Manual.

3 (d) Donations to the pool are strictly voluntary.

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

7 Issued at Austin, Texas, on December 17, 2021.

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/s/ Tracey Beaver
Tracey Beaver, General Counsel

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