

EMERGENCY RULEMAKING

CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

SUBCHAPTER J. ADMINISTRATIVE SANCTIONS

43 TAC §215.505

5 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) adopts, on an emergency basis,
6 amendments to 43 TAC §215.505 concerning denial of access to the temporary tag system, effective April
7 14, 2022. The amendments to §215.505 are necessary to clarify the rule text. As authorized by
8 Government Code §2001.034, the department may adopt an emergency rule without prior notice or
9 hearing upon finding that an imminent peril to the public health, safety, or welfare requires adoption on
10 fewer than 30 days' notice. Emergency rules adopted under Government Code §2001.034 may not be
11 effective for longer than 120 days and may not be renewed for longer than 60 days.

BACKGROUND AND PURPOSE. The purpose of this emergency rulemaking is to correct a statutory citation regarding the department's temporary buyer's tag database under Transportation Code §503.0631, to add parentheses around text in §215.505(a)(2) that explains when a vehicle is presumed to not be in the dealer's or converter's inventory, and to change the word "and" to "or" in §215.505(a)(2) in the list of activities that constitute "fraudulently obtained temporary tags from the temporary tag database" under §215.505. Section 215.505 contains the process for denial of access to the temporary tag database under Transportation Code §503.0632(f) when the department determines that a dealer or converter is fraudulently obtaining temporary tags from the temporary tag database.

20 This emergency rulemaking is necessary because a subset of dealers will fraudulently obtain
21 temporary tags from the temporary tag database without clarification of the rule text. Fraudulently
22 obtained temporary tags pose an imminent peril to the public health, safety, and welfare because a subset
23 of dealers has fraudulently obtained and sold temporary tags to persons who engage in violent criminal

1 activity, including armed robbery, human trafficking, and assaults on law enforcement. Criminals use
2 fraudulently obtained temporary tags that are registered under fake names and addresses to make it
3 harder for law enforcement to trace the vehicles. Fraudulently obtained temporary tags also pose an
4 imminent peril to the public health, safety, and welfare because a subset of dealers has fraudulently
5 obtained and sold temporary tags to persons who operate uninsured and uninspected vehicles that are
6 hazards to Texas motorists and the environment. Fraudulently obtained temporary tags further pose an
7 imminent peril to the public health, safety, and welfare because criminals can attempt to sell stolen
8 vehicles or unsafe salvage vehicles to unsuspecting buyers by using temporary tags to make the vehicles
9 appear legitimate. Criminals have fraudulently obtained temporary tags from the department's system
10 and used the temporary tags in Texas, as well as other states, such as New York and Nevada. Criminals
11 will take advantage of any loopholes they see as available to them.

12 One amendment corrects the statutory citation regarding the department's buyer's temporary
13 tag database under Transportation Code §503.0631, which governs the buyer's temporary tag database.
14 Section 215.505 cites to Transportation Code §503.06321, which does not exist. Section 215.505 applies
15 to the dealer's and converter's temporary tag database under Transportation Code §503.0626, as well as
16 the buyer's temporary tag database under Transportation Code §503.0631. Another amendment adds
17 parentheses around text in §215.505(a)(2) that explains when a vehicle is presumed to not be in the
18 dealer's or converter's inventory. Another amendment to §215.505(a)(2) changes the word "and" to "or"
19 in the list of activities that constitute "fraudulently obtained temporary tags from the temporary tag
20 database." Together, these clarifying amendments will close any perceived loopholes that criminals might
21 otherwise try to exploit.

22 **STATUTORY AUTHORITY.** The emergency rulemaking is adopted under Government Code §2001.034,
23 and Transportation Code §§503.002, 503.0626, 503.0631, and 1002.001.

1 Government Code §2001.034 authorizes the adoption of emergency rules without prior notice
2 and hearing, if an agency finds that an imminent peril to the public health, safety, or welfare requires
3 adoption of a rule on fewer than 30 days' notice.

4 Transportation Code §503.002 authorizes the department to adopt rules to administer
5 Transportation Code Chapter 503.

6 Transportation Code §503.0626(d) authorizes the department to adopt rules and prescribe
7 procedures as necessary to implement §503.0626.

8 Transportation Code §503.0631(e) authorizes the department to adopt rules and prescribe
9 procedures as necessary to implement §503.0631.

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

12 CROSS REFERENCE TO STATUTE. Transportation Code §§503.0626, 503.0631, 503.0632, and 503.067.

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14 TEXT.

Subchapter J. Administrative Sanctions

43 TAC §215.505

17 §215.505. Denial of Dealer or Converter Access to Temporary Tag System.

18 (a) In this section "fraudulently obtained temporary tags from the temporary tag database "means
19 a dealer or converter account user misusing the temporary tag database authorized under Transportation
20 Code §503.0626 or §503.0631 [§503.06321] to obtain:

(1) an excessive number of temporary tags relative to dealer sales;

- 1 (2) temporary tags for a vehicle or vehicles not in the dealer's or converter's inventory (a
2 [a] vehicle is presumed not to be in the dealer's or converter's inventory if the vehicle is not listed in the
3 relevant monthly Vehicle Inventory Tax Statement); or [~~Statement; and~~]
4 (3) access to the temporary tag database for a fictitious user or person using a false
5 identity.
6 (b) The department shall deny a dealer or converter access to the temporary tag database
7 effective on the date the department sends notice electronically and by certified mail to the dealer or
8 converter that the department has determined, directly or through an account user, the dealer or
9 converter has fraudulently obtained temporary tags from the temporary tag database. A dealer or
10 converter may seek a negotiated resolution with the department by demonstrating corrective actions
11 taken or that the department's determination was incorrect.
12 (c) Notice shall be sent to the dealer's or converter's last known email and mailing address in the
13 department's records.
14 (d) A dealer or converter may request a hearing on the denial as provided by Subchapter O,
15 Chapter 2301, Occupations Code. The request must be submitted in writing and request a hearing under
16 this section. The department must receive a written request for a hearing within 26 days of the date of
17 the notice denying access to the database. The request for a hearing does not stay the denial of access
18 under subsection (b) of this section. A dealer may continue to seek a negotiated resolution with the
19 department after a request for hearing has been submitted under this subsection by demonstrating
20 corrective actions taken or that the department's determination was incorrect.
21 (e) The department may also issue a Notice of Department Decision stating administrative
22 violations as provided in §215.500 concurrently with the notice of denial of access under this section. A

1 Notice of Department Decision may include notice of any violation, including a violation listed under
2 subsection (a) of this section.

3 (f) A department determination and action denying access to the temporary tag database
4 becomes final if the dealer or converter does not request a hearing or enter into a settlement agreement
5 with the department within 26 days of the date of the notice denying access to a database.

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

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9 Issued at Austin, Texas, on April 14, 2022.

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11 /s/ Aline Aucoin
12 **Aline Aucoin, Acting General Counsel**
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