



1 licensure provides persons who are predisposed to commit assaultive or sexual crimes with greater  
2 opportunities to engage in such conduct. Fingerprint requirements will help the department better screen  
3 potential bad actors with criminal offense histories by verifying the identity of the applicant and producing  
4 a more accurate and comprehensive criminal history report based on data from both DPS and FBI  
5 databases. The FBI fingerprint-based criminal history record information includes crimes that are  
6 committed in other states, in addition to human and drug trafficking crimes, which are commonly  
7 prosecuted on a federal level. Fingerprinting will also help prevent license holders whose licenses have  
8 been revoked from re-applying using a false identity. Further, the FBI fingerprint-based criminal history  
9 background check enables the department to obtain the FBI and DPS “Rap Back” subscription services,  
10 which notify the department when a person’s criminal history record has changed. The department  
11 intends to use information from the FBI and DPS Rap Back services to determine if an associated license  
12 should be revoked or not renewed as authorized under applicable statutes and department rules.

13 The following paragraphs address the amendments in this proposal.

14 New §211.6(a) is added to state that the proposed fingerprint requirements apply to applicants  
15 for and holders of a GDN for all dealer types under Transportation Code §503.029(a)(6). These license  
16 holders and their representatives provide services that involve access to confidential information,  
17 conveyance, titling, and registration of private property. Further, license holders and their representatives  
18 obtain possession of monies belonging to or owed to private individuals, creditors, and governmental  
19 entities. Lastly, license holders and their representatives must comply with federal and state  
20 environmental and safety regulations. When the department adopted current Chapter 211, it determined  
21 which offenses directly relate to the duties and responsibilities of license holders and their  
22 representatives, either because the offense entails a violation of the public trust; issuance of a license  
23 would provide an opportunity to engage in further criminal activity of the same type; or the offense

1 demonstrates the person’s inability to act with honesty, trustworthiness, and integrity. Such offenses  
2 include crimes under the laws of another state and the United States. In proposing new §211.6, the  
3 department determined that requiring a biometric identifier to verify identity and obtain a comprehensive  
4 DPS and FBI criminal history record for applicants for and holders of licenses, along with their  
5 representatives, will prevent individuals with disqualifying criminal histories from being licensed or  
6 renewing their licenses, thus substantially decreasing fraud and providing enhanced protection for citizens  
7 of Texas.

8           New §211.6(b) requires all persons applying for a new license, license amendment due to  
9 change in ownership, or license renewal, to submit a complete and acceptable set of fingerprints to DPS  
10 and pay required fees for purposes of obtaining criminal history record information from DPS and the  
11 FBI.

12           New §211.6(c) requires that persons who are acting at the time of application, or will later act,  
13 in a representative capacity for an applicant or holder of a license, including the applicant's or holder's  
14 officers, directors, members, managers, trustees, partners, principals, or managers of business affairs,  
15 must also submit a complete and acceptable set of fingerprints and pay fees to DPS as described by new  
16 §211.6(b). New §211.6(c) is consistent with §211.2(a)(2) of this chapter because it lists the same  
17 representatives for an applicant or holder of a license.

18 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,  
19 has determined that for each year of the first five years the proposed new section is in effect, there will  
20 be no significant fiscal impact to the state or local governments as a result of the enforcement or  
21 administration of the proposal.

22           Monique Johnston, Director of the Motor Vehicle Division, has determined that there will be no  
23 measurable effect on local employment or the local economy as a result of the proposal.

1 **PUBLIC BENEFIT AND COST NOTE.** Ms. Johnston has also determined that, for each year of the first five  
2 years the proposed new section is in effect, there are several public benefits anticipated because the  
3 proposed new section will allow the department to verify the identity of license applicants, preventing  
4 fraudulent applications under false or stolen identities, while giving the department access to more  
5 accurate and comprehensive criminal history record information to use in evaluating fitness for licensure  
6 under its criminal offense guidelines in §211.3. This new section will benefit the public by preventing bad  
7 actors with a history of criminal offenses that directly relate to the duties and responsibilities of a license  
8 holder from obtaining licenses from the department and using those licenses to perpetrate fraudulent  
9 and criminal actions, or otherwise taking advantage of the position of trust created by the license.

10 Ms. Johnston anticipates that there will be no additional costs on regulated persons to comply  
11 with the fingerprint requirements under this proposal as the new section does not establish fees for  
12 fingerprinting or processing criminal background checks. Fees for fingerprinting and access to criminal  
13 history reports are established by DPS under the authority of Texas Government Code Chapter 411.

14 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** In the cost analysis in the  
15 Public Benefit and Cost Note section of this proposal, the department has determined that proposed new  
16 §211.6 will not result in additional costs for license holders, including any small businesses, micro-  
17 businesses, or rural communities. Therefore, the department is not required to prepare a regulatory  
18 flexibility analysis under Government Code §2006.002.

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

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

3 will not create or eliminate a government program;

4 will require the creation of at least one new employee position, and will not require the  
5 elimination of existing employee positions;

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

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

8 will expand existing regulations;

9 will not repeal existing regulations;

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

11 will not positively or adversely affect the Texas economy.

12 **REQUEST FOR PUBLIC COMMENT.**

13 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on May 22,  
14 2022. A request for a public hearing must be sent separately from your written comments. Send written  
15 comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas  
16 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the  
17 department will consider written comments and public testimony presented at the hearing.

18 **STATUTORY AUTHORITY.** The department proposes new §211.6 under Occupations Code §2301.155; and  
19 Transportation Code §503.002 and §1002.001.

20 Occupations Code §2301.155 authorizes the board to adopt rules as necessary or convenient to  
21 administer Occupations Code Chapter 2301 and to govern practice and procedure before the board.

22 Transportation Code §503.002 authorizes the board to adopt rules for the administration of  
23 Transportation Code Chapter 503.

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

3 **CROSS REFERENCE TO STATUTE.** Occupations Code §2301.651; Transportation Code §503.034 and  
4 §503.038; and Government Code §§411.084, 411.087 and 411.122.

5

6 **TEXT.**

7

**SUBCHAPTER A. CRIMINAL OFFENSE AND ACTION ON LICENSE**

8

**43 TAC §211.6**

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**§211.6 Fingerprint Requirements for General Distinguishing Numbers**

10 (a) The requirements of this section apply to applicants for and holders of a general  
11 distinguishing number under Transportation Code Chapter 503 for all dealer types under Transportation  
12 Code §503.029(a)(6).

13 (b) Unless previously submitted to the department by an applicant for an active license issued  
14 by the department under Transportation Code Chapter 503, a person applying for a new license, license  
15 amendment due to change in ownership, or license renewal, must submit a complete and acceptable set  
16 of fingerprints to the Texas Department of Public Safety and pay required fees for purposes of obtaining  
17 criminal history record information from the Texas Department of Public Safety and the Federal Bureau  
18 of Investigation.

19 (c) Persons acting in a representative capacity for an applicant or holder of a license who are  
20 required to be listed on a licensing application under §215.133(c) of this title (relating to General  
21 Distinguishing Number), including the applicant's or holder's officers, directors, members, managers,  
22 trustees, partners, principals, or managers of business affairs, must submit a complete and acceptable  
23 set of fingerprints and pay fees to the Texas Department of Public Safety under subsection (b) of this

1 section, unless the person has previously submitted fingerprints related to an active license issued by  
2 the department under Transportation Code Chapter 503.

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

6 Issued at Austin, Texas, on April 11, 2022.

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/s/ Aline Aucoin  
Aline Aucoin, Acting General Counsel