

1 the rules with legislative changes, and to update rule language consistent with the department's
2 electronic application processing requirements. Nonsubstantive changes to standardize and modernize
3 rule language are also being implemented to improve the readability of these rules.

4 Amended §215.133

5 Nonsubstantive changes are necessary to modernize the language for improved readability in
6 §215.133(b), (c), and (k) by deleting the words or phrases "the provisions of," "herein," "of this section,"
7 "Office of the," and "thereon" and substituting words or phrases with the same meaning if required.
8 Current §215.133(k) is renumbered as §215.133(j).

9 In §215.133(b), an amendment is made to add a statutory reference to Transportation Code
10 §503.024 and to delete duplicative statutory text in the rule language. These amendments are necessary
11 to conform the rule with the current statute and avoid future statutory conflicts.

12 Amendments in §215.133(c) specify the requirements for new, renewal, and amendment dealer
13 GDN applications including the requirement to attach documents, pay required fees, and submit
14 applications electronically on a prescribed form in the department's designated licensing system. Fees,
15 including the authority to prorate fees, are prescribed by statute in Transportation Code §§503.007,
16 503.008, and 503.011, and in Occupations Code §2301.264. These amendments are necessary to
17 implement current dealer application requirements and clarify that a dealer renewing or amending a GDN
18 must review current GDN information, update information that has changed, and provide related
19 supporting information or documents for any change or new requirement. These amendments are also
20 necessary to clarify how information must be submitted in the department's electronic application
21 system. These amendments are necessary to implement the department's responsibilities under
22 Transportation Code §§ 503.029, 503.032, and 503.034 and Occupations Code §2301.257 and §2301.303.

1 Amendments in §215.133 (c)(1) subparagraphs (D), (E), (G) and (H) and in §215.133 (c)(2)(D)
2 require an applicant or license holder to provide information and an identity document for an employee
3 or other representative listed in the application. Occupations Code §2301.257 authorizes the department
4 to prescribe the application form and require any information necessary to determine the applicant's
5 qualifications to adequately serve the public. Occupations Code §2301.651(b) gives the board authority
6 to deny an application for an act or omission by an officer, director, partner, trustee, or other person
7 acting in a representative capacity that would be cause for denying a license. This information is necessary
8 as without this information the department could not carry out its statutory responsibility under
9 Occupations Code Chapter 2301 or Transportation Code Chapter 503 to investigate whether a
10 representative committed a disqualifying act or omission that would prevent the applicant from being
11 licensed as a GDN dealer.

12 In §215.133(c), the department is adopting three new requirements to deter fraud in the
13 application process and prevent fraud and public abuse if a dealer GDN is issued. The first amendment is
14 to require the applicant to list a manager or other bona fide employee in the application if the applicant
15 is owned by an out-of-state owner or an owner who will not be present during business hours at the
16 established and permanent place of business in Texas. This amendment is necessary so the department
17 can identify and appropriately investigate the background and criminal history record of the authorized
18 business representative who will be physically present at the business location in Texas. The second
19 amendment requires the applicant to designate an owner or representative listed in the application as
20 the applicant's temporary tag database account administrator and provide the individual's business email
21 address. This amendment is necessary to implement dealer responsibilities under §215.150 regarding a
22 dealer's authorization to issue a temporary tag, as well as dealer responsibilities under Transportation
23 Code §503.0631(a) and (e) to help ensure the buyer's temporary tag database is secure. The third

1 amendment requires applicants to provide information related to insolvency—including outstanding or
2 unpaid judgments and liens—so the department can evaluate financial trustworthiness and stability as
3 required under §215.89 concerning fitness for licensure.

4 In §215.133(c)(1)(B) the phrase “(if applicable)” is added to denote that an applicant must only
5 disclose a business website if one exists.

6 Additionally, in §215.133(c), an amendment allows the department to require any other
7 information or documents necessary to fulfill its statutory duties to review and investigate application
8 information under Occupations Code §2301.256; Transportation Code §§503.029, 503.034, and 503.038;
9 and §215.89. Lastly, an amendment deleting a reference to a concealed handgun license is required
10 because that form of identification no longer exists.

11 New §215.133(d) is required to implement the September 1, 2022, fingerprint requirement for
12 new applicants and existing dealers holding a GDN under §503.029(a)(6). The fingerprint requirement
13 affects the following GDN holders and applicants: franchised motor vehicle dealers, independent motor
14 vehicle dealers, wholesale motor vehicle dealers, motorcycle dealers, house trailer dealers, trailer or
15 semitrailer dealers, and independent mobility motor vehicle dealers. This fingerprint requirement is
16 necessary to reduce identity fraud in the application process and obtain more comprehensive criminal
17 history record for applicants and GDN holders.

18 Current §215.133(d) is renumbered as (e) and amendments substituting the term "applicant" for
19 the word "person" and are necessary to clarify that the applicant is responsible for including in the
20 application any assumed names to be used by the applicant. An applicant may be an individual or one of
21 several types of business structures or legal entities, and the amended language was necessary to ensure
22 that all applicant types are included.

1 Additionally, the department added assumed name requirements to mirror the requirements in
2 Occupations Code §2302.106 that apply to salvage vehicle dealers. This amendment makes the assumed
3 name requirements consistent for an independent motor vehicle dealer GDN holder acting as a salvage
4 vehicle dealer or rebuilder. Additionally, this amendment provides increased protection for Texas citizens
5 by applying this assumed name requirement to all GDN dealer categories. Under §2302.106, a license may
6 not be issued in a fictitious name that may be confused with or is similar to that of a governmental entity
7 or is otherwise deceptive or misleading to the public. This requirement is necessary to prevent consumer
8 fraud and abuse.

9 The text in current §215.133(d) and (e) is deleted because this requirement is incorporated into
10 amended §215.133(e).

11 In §215.133(f) the words "or authorized" and "only" are added to reinforce the existing statutory
12 requirement in Transportation Code §503.001(17) and §503.036(c) that wholesale motor vehicle dealers
13 may sell or exchange vehicles only with other licensed or authorized dealers. This change is necessary to
14 clarify that wholesale motor vehicle dealers may not sell vehicles to retail purchasers, and to inform and
15 protect retail buyers. The language in §215.133(f) stating that wholesale dealers may only buy vehicles
16 from other dealers is deleted as this limitation is not consistent with Transportation Code §503.001(17)
17 and §503.036(c).

18 An amendment to §215.133(g) is necessary to correct the statutory reference to the independent
19 mobility motor vehicle dealer definition in Occupations Code §2301.002.

20 An amendment to §215.133(h) clarifies that the department may require a site visit to the
21 established and permanent place of business in Texas as part of the application evaluation process for a
22 new, renewal, or new location application. Another amendment also allows the department to require a
23 notarized affidavit signed by the applicant confirming that all premises requirements are met and will be

1 maintained during the license period. These amendments are necessary to discharge the department's
2 responsibility to evaluate applications and investigate compliance under Occupations Code §2301.256
3 and Transportation Code §§503.029, 503.034, and 503.038.

4 The current §215.133(h) is deleted because the circumstances under which an application can be
5 denied are in §215.141 concerning sanctions, and do not need to be duplicated in this section.

6 The current §215.133(i) is deleted as proof of property ownership or proof of a written lease for
7 the term of the license is included in amendments to §215.133(c).

8 The current §215.133(j) is renumbered as §215.133(i), and the word "vehicle" was added for
9 consistency.

10 The current §215.133(k) is renumbered as §215.133(j) and is amended to add a provision
11 implementing House Bill 139, 87th Legislature Regular Session (2021), which amended Occupations Code
12 §55.004 to allow agencies to adopt rules ensuring that a military service member, military veteran, or
13 military spouse receives appropriate credit for training, education, and professional experience in a
14 licensed profession. Additionally, the phrase "dealer education and" was added to describe the training
15 referenced in this subsection to be consistent with the statutory term in Transportation Code §503.0296.

16 Amended §215.140

17 For clarity, the title of §215.140 is amended to add the phrase "Premises Requirements" at the
18 end of the title, because this phrase is commonly recognized and used by GDN holders and the
19 department to describe the requirements of this section.

20 Amendments to §215.140(1) and §215.140(2) clarify that a retail or wholesale motor vehicle
21 dealer's office may not be open solely by appointment. Other amendments add an owner and a voicemail
22 service as acceptable persons or methods of answering the telephone, and clarify that a caller must be
23 able to speak to a natural person or leave a message during the weekday hours of 8:00 a.m. to 5:00 p.m.

1 These amendments are necessary to deter fraud and prevent consumer abuse and provide more flexibility
2 to dealers.

3 Section 215.140(2) is amended to clarify that a bona fide employee may represent a wholesale
4 motor vehicle dealer at the dealer's office location during the wholesale motor vehicle dealer's posted
5 business hours consistent with the statutory language in Transportation Code §503.032(c)(2).

6 Section 215.140(3) and (4) clarify department criteria for determining whether an exterior
7 business sign is conspicuous, permanent, and permanently mounted for retail dealers and wholesale
8 motor vehicle dealers. The amendments also clarify that retail dealers and wholesale motor vehicle
9 dealers are responsible for ensuring that their business sign complies with municipal ordinances and that
10 the lease signage requirements are consistent with the signage requirements in §215.140. Additionally,
11 amendments clarify that retail and wholesale motor vehicle dealers may use a temporary sign or banner
12 if the dealer provides proof that a sign meeting the department's requirements has been ordered and
13 provides a written statement that the sign will be promptly and permanently mounted upon delivery.
14 These amendments are necessary clarifications that will allow GDN retail dealer applicants and license
15 holders to comply with Transportation Code §503.032.

16 Amended §215.140(4) includes new exterior and interior business sign requirements for
17 wholesale motor vehicle dealers. This sign requirement is necessary to eliminate confusion about whether
18 wholesale motor vehicle dealers may exchange or sell vehicles to retail purchasers and informs and
19 protects retail buyers from making unlawful purchases. The effective date for the sign requirement is
20 September 1, 2023, to provide additional time for affected GDN holders to comply. Amendments also
21 clarify department criteria for determining whether a wholesale motor vehicle dealer's interior business
22 sign is considered conspicuous, permanent, and permanently mounted. These amendments are necessary
23 and important clarifications that will allow wholesale dealer applicants and license holders to more easily

1 comply with statutory requirements to have an established and permanent place of business as required
2 by Transportation Code §503.032.

3 Amendments in §§215.140(4)(B)(i), 215.140(13)(A), and 215.140(13)(D) change the term
4 “landlord” to “property owner” for clarity, consistency, and modernization of the rule language.

5 In amendments to §215.140(5), the word "requirements" is substituted for "structure" in the first
6 sentence because the phrase "office requirements" more accurately describes the content of this
7 paragraph. In §215.140(5)(A), the definition of a building is expanded to require that a building must have
8 a permanent roof in addition to connecting exterior walls on all sides. Additional clarifying examples were
9 added to §215.140(5)(B) to describe typical documents that demonstrate compliance with municipal
10 ordinances and clarify that the dealer has a continuing responsibility to maintain compliance when a space
11 is remodeled or changes use. These amendments are necessary and important clarifications that will allow
12 GDN dealer applicants and license holders to more easily comply with statutory requirements to have an
13 established and permanent place of business as required by Transportation Code §503.032.

14 In §215.140(5)(C) the department is reinstating requirements that a dealer's office may not be
15 located in any room or building that is not open to the public. New §215.140(5)(D) reinstates a
16 requirement that the dealer's office may not be located in a restaurant, gas station, or convenience store,
17 unless the office has a separate entrance door that does not require a dealer's customer to pass through
18 the other unrelated business. These amendments are necessary to deter temporary tag fraud and criminal
19 activity as law enforcement has identified these types of locations as common locations used to commit
20 fraud and serious crimes by bad actor license holders. New §215.140(5)(E) states that a dealer's office
21 may not be virtual or be provided by a subscription for office space or office services and are required
22 because these types of office arrangements do not establish a permanent location as required by
23 Transportation Code §503.032. The amendments to §215.140(5)(C), (D), and (E) are necessary to prevent

1 fraud and consumer abuse, to protect public health and safety, and to implement the requirements of
2 Transportation Code §503.032.

3 Current §215.140(5)(D) is renumbered as §215.140(5)(F) and clarifies that the dealer's office must
4 be located in Texas and deletes a reference to the mailing of a license which is no longer department
5 practice, as license holders may print a license at any time from the department's licensing system with
6 no fee required. Amended language also corrects punctuation.

7 Current §215.140(5)(E) is renumbered as §215.140(5)(G). New §215.140(5)(H) reinstates the
8 requirement that a dealer's office have at least 100 square feet of interior floor space exclusive of
9 hallways, closets, or restrooms and have a minimum seven-foot-high ceiling. New §215.140(5)(H) also
10 adds a new requirement that a dealer's office space accommodate required office equipment and allow
11 a dealer's representative and at least one customer to safely access the office and privately conduct
12 business while seated. Transportation Code §503.032(a)(2)(A) says a location is considered to be an
13 established and permanent place of business if the applicant maintains on the location a permanent
14 furnished office that is equipped as required by the department for the sale of vehicles. A customer and
15 the dealer's representative need to be able to enter the office to privately conduct business, including the
16 possible discussion of financing. These amendments are necessary minimum requirements to prevent
17 fraud and consumer abuse and to protect public health and safety.

18 Amendments to §215.140(5), (7), (8), and (9) substitute the word "building" or "office building"
19 for "structure" or "business structure" and are required for consistency and clarity.

20 In §215.140(8) the words "motor vehicle" are inserted for consistency in denoting a wholesale
21 motor vehicle dealer.

22 In §215.140(10) the department adds a requirement that a dealer's office must have permanent
23 interior walls on all sides and be separate from any public area used by another business when the dealer's

1 business is housed with another business. These amendments are necessary to prevent fraud and
2 consumer abuse and to protect public health and safety. A customer and the dealer's representative need
3 to be able to enter the office to privately conduct business, including the possible discussion of financing.
4 An office is also necessary to safeguard temporary tags and related computer hardware.

5 The department amends the title of §215.140(11) to include the phrase "storage lot", as this
6 subparagraph includes the requirements for both a display area and a storage lot. Other amendments in
7 §215.140(11) clarify that the display area must be located at the retail dealer's physical business address
8 or contiguous to that address, and that the display area may not be in a storage lot. Other amendments
9 clarify that the display area may not be used for customer parking, employee parking, or general storage,
10 and reinstate a requirement that if the dealer's business location includes gasoline pumps or includes
11 another business that sells gasoline, the dealer's display area may not be part of the parking area for
12 gasoline customers and may not interfere with access to or egress from the gasoline pumps, fuel tanks,
13 or fire prevention equipment. A reference to a charging station is added to this requirement in recognition
14 of recent changes in motor vehicle technology. Reinstating the requirement that a dealer's display area
15 not interfere with access to gasoline pumps, fuel tanks, or fire prevention equipment and adding a
16 reference to a charging station is necessary to protect public health as approximately 4,000 fires per year
17 occur in or on gas station properties. These fires cause serious injuries including death and property
18 damage of more than thirty million dollars per year on average. Many of the amendments to
19 §215.140(11)(B) are necessary to protect prospective customers from danger as they approach and leave
20 the display area and as they focus on a display vehicle. Other changes clarify requirements for a shared
21 display area located inside a building and are required so the standards for outdoor and indoor display
22 areas are consistent and comply with the statutory requirement for each dealer to establish a display
23 area, an important part of establishing a permanent place of business. These changes include a

1 clarification in the existing requirement for a material object or barrier that cannot be readily removed to
2 be used to separate each dealer’s display area. The clarification states that a material object or barrier
3 must be in place on all sides except for the space necessary to allow for entry and exit of vehicle inventory.
4 In §215.140(11)(B), current provisions (v) and (vi) are renumbered (vi) and (vii) to accommodate a new
5 provision. New §215.140(11)(C) includes the existing requirements for a storage lot and clarifies that a
6 storage lot must be fenced or in an access-controlled location to be considered not accessible to the public
7 by the department. This amendment is required to clarify and help dealers comply with the current rule.
8 The amendments in §215.140(11) are also necessary to prevent fraud and consumer abuse and to protect
9 public health and safety. The requirement to disclose the physical location of a storage lot has been
10 deleted from this proposal to allow time the department to get additional input from law enforcement
11 and industry stakeholders, and in recognition of the system programming time required to implement an
12 efficient data submission, storage, and reporting solution.

13 Amendments to §215.140(12) are required to conform the language to be consistent with current
14 §215.133(j) which is renumbered as §215.133(i). This amendment further is required to implement House
15 Bill 1667, 86th Legislature, Regular Session (2019), which added Occupations Code §2302.009 and
16 amended §2302.101 to provide that a person holding an independent motor vehicle GDN is exempt from
17 the requirement that the person also hold a salvage vehicle dealer license to act as a salvage vehicle dealer
18 or rebuilder. The amendment retains the requirement that a salvage motor vehicle offered for sale be
19 conspicuously marked to inform a potential buyer that the vehicle is a salvage motor vehicle to protect
20 the public.

21 Amendments to §215.140(13) clarify that the dealer is responsible for verifying that the physical
22 address on the application is the correct physical address for the property if only a legal description is
23 provided in the lease. Additionally, a new provision is added relating to subleases in which the property

1 owner is not the dealer's lessor. In this circumstance, the dealer must also obtain a signed and notarized
2 statement from the property owner which includes the property owner's full name, email address, mailing
3 address, and phone number, and a statement from the property owner confirming that the dealer is
4 authorized by the property owner to sublease the location and may operate a vehicle sales business from
5 the business location. These amendments are necessary to prevent fraud in the application process, to
6 prevent consumer abuse, and to protect public health and safety. This provision also protects GDN dealer
7 applicants. The department has received applications from GDN dealers with a signed sublease who are
8 unable to establish a permanent location and qualify for a GDN because the property owner hasn't
9 authorized a sublease or a vehicle dealer to operate on the property. Transportation Code §503.029(a)(3)
10 requires an applicant for a GDN to submit an application that demonstrates the applicant meets the
11 requirements under Transportation Code §503.032, which requires the applicant to demonstrate that the
12 location for which the applicant requests the GDN is an established and permanent place of business.

13 Amendments to §215.140(14) implement House Bill 3533, 87th Legislature, Regular Session
14 (2021), which amended Transportation Code §503.033 to require certain dealers to post a bond notice at
15 the business location. An amendment sets out the information that must be included in the bond notice
16 and is required to implement Transportation Code §503.033.

17 Amended language also includes substituting the term "GDN" for "license" or "general
18 distinguishing number" for consistency in §215.133 and §215.140. The term "GDN" is defined in §215.2
19 as a General Distinguishing Number.

20 In amending these rules, the department prioritized the public benefits associated with reducing
21 fraud and related crime and improving public health and safety, while carefully considering potential costs
22 to GDN dealers consistent with board and department responsibilities in Occupations Code Chapter 2301,
23 Subchapter D.

1 **SUMMARY OF COMMENTS.**

2 The department received three written comments. Two commenters, the Texas Automobile
3 Dealers Association and an individual commenter, either supported the rule amendments as proposed or
4 requested one or more changes in the rule amendments. One commenter, the Texas Independent
5 Automobile Dealers Association, requested the rules be withdrawn or alternatively requested changes to
6 the rules.

7 **Comment:**

8 A commenter stated that requesting an on-site manager or dealer's information seems
9 appropriate considering the rampant dealer consolidations and number of publicly owned dealers in
10 Texas.

11 **Agency Response:**

12 The department appreciates the commenter's support for this rule amendment.
13

14 **Comment:**

15 A commenter stated that it is inappropriate to inquire about insolvency and suggested instead
16 that the department require a bond based on a dealership's number of years in business and annual sales
17 volume of new and used vehicles.

18 **Agency Response.**

19 The department considered this suggestion and believes requiring a bond of every dealer would
20 be a more burdensome solution for dealers, as insolvency affects a small percentage of dealer applicants
21 and license holders. When insolvency does occur, however, substantial harm to the public may result.
22 Requiring applicants to disclose outstanding liens and judgments provides the department with

1 information that will allow the department to review the financial obligations of applicants and license
2 holders as part of the licensing process consistent with the department’s obligation under §215.89(b)(5).

3

4 **Comment:**

5 A commenter stated that amendments for additional information should be listed in their
6 potential entirety and provided in advance to dealers, and that broad language is inappropriate and
7 unnecessary.

8 **Agency Response.**

9 The department disagrees with this comment as the information required of new applicants is
10 provided in the rule and a license amendment is only necessary when the information contained in the
11 new or most recent application changes. Further, the information that the department may request is
12 expressly limited to the information that is required to evaluate the application under current law and
13 rules.

14

15 **Comment:**

16 A commenter stated that the department should visit every potential dealer site prior to
17 approving a new application, and that a site visit is not necessary for an existing dealer who is expanding
18 to a new location.

19 **Agency Response.**

20 The department agrees that a site visit is a very important part of the licensing process and is a
21 powerful way to reduce fraud. In Fiscal Year 2022, the department completed 604 site visits to GDN dealer
22 applicants more than doubling the number of site visits from the prior fiscal year. The results of these site

1 visits informed these rule amendments. The adopted rule language will allow the department to increase
2 the number of site visits as staff and department funding permits.

3

4 **Comment:**

5 A commenter agreed with the rule amendments to the dealer office minimum requirements
6 including office access.

7 **Agency Response.**

8 The department appreciates the support.

9

10 **Comment:**

11 A commenter requested that the department allow more than one contact's name, email address,
12 and telephone number on an application to allow for changes in staff.

13 **Agency Response.**

14 The department agrees that the ability to add more than one license contact would be helpful for
15 many license holders. The department will request a system enhancement to allow this capability in the
16 future and will notify license holders when this capability becomes available.

17

18 **Comment:**

19 Two commenters suggest that the proposed rule be amended to not require information in the
20 GDN application that is now obtained through the fingerprint requirement.

21 **Agency Response.**

22 The department must continue to ask for individual identity and criminal history information to
23 complete other requirements of the background check process and to verify the applicant's veracity and

1 corresponding eligibility for a dealer GDN under Transportation Code §503.034 and §503.038 and
2 Occupations Code §2301.651. The department requires an applicant or license holder to provide criminal
3 history information only and does not generally require court documents which the department
4 recognizes can be burdensome.

5

6 **Comment:**

7 Two commenters requested clarification on the storage lot requirements. The first commenter
8 requested clarification regarding when a storage lot is established and when it is temporary as additional
9 storage may be needed for only a short period of time and thus no license amendment is necessary. The
10 second commenter stated that proposed rule requirements to include storage lots on a dealer license
11 needs additional stakeholder input as a storage lot is undefined and recommends striking §215.140(11)(C)
12 in its entirety until there is more clarity.

13 **Agency Response.**

14 The proposed rule requiring disclosure of the physical address of a storage lot not located at the
15 licensed location is being deleted from this proposal to allow additional input from all stakeholders and
16 to allow time for the system programming necessary to collect, store, and report storage lot location
17 information.

18

19 **Comment:**

20 A commenter stated that while a vehicle inventory owner has a desire to safeguard vehicles when
21 stored at an offsite lot, a fenced area may not always be available if the lot is temporary storage or if the
22 lot owner refuses to fence the area.

23 **Agency Response.**

1 The department agrees that safeguarding inventory is important for GDN dealers given the
2 prevalence of vehicle and catalytical converter theft. The existing rule allowed a storage lot only if the lot
3 has no public access. The proposed rule clarifies that a fenced storage lot complies with this rule
4 requirement. While a fence is a common and cost-effective method of limiting public access, it is a
5 clarifying example and not the sole way a GDN dealer may prevent public access under the rule.

6

7 **Comment:**

8 A commenter requested that the department withdraw the rules because the rules are too
9 burdensome and delay licensing.

10 **Agency Response.**

11 The department does not agree with this comment. The pre-licensing changes that have already
12 been implemented are successfully identifying fraudulent applications. Implementing these rules also
13 provide additional necessary protections and important public welfare and safety benefits as described in
14 the preamble. In September 2021, the Motor Vehicle Division (MVD) approved 841 non-franchise GDN
15 new dealer applications in an average of 16 days per application. Most changes in requirements were
16 implemented in September 2021 and affected applications submitted after that date. In December 2021,
17 the average processing time for 885 non-franchise GDN new dealer applications was 20 days. So, the
18 impact of the initial process changes was not more than 4 days for new non-franchise GDN dealer
19 applications. In September 2022, the average processing time for the same group of applications was 29
20 days. From September 2021 to September 2022 the average processing time for renewal applications
21 increased from 5 to 8 days. These increases of 9 days and 3 days in average processing time were largely
22 due to multiple licensing staff vacancies. The department anticipates that these staff vacancies and the
23 new fingerprint requirement will extend processing times beyond 29 days for new and renewal

1 applications for the remainder of 2022. However, four new licensing staff members will start in December
2 and begin training on the processing of GDN dealer applications. These new staff members will
3 significantly reduce processing times in 2023.

4 These average processing time frames while extended continue to be reasonable and reflect the
5 department’s commitment to customer service, reducing fraud, and licensing only applicants that meet
6 all statutory and rule requirements. The department believes this tradeoff is warranted and best serves
7 the public interest.

8

9 **Comment:**

10 A commenter stated that the proposed rules should recognize that micro-businesses do not
11 always have a website, and recommended adding “(if applicable)” after the words “website address” in
12 §215.133(c)(1)(B).

13 **Agency Response.**

14 The department agrees that adding “if applicable” could be a helpful clarification for applicants
15 that do not have a website and has implemented this recommendation in the adopted rule.

16

17 **Comment:**

18 A commenter stated that the proposed rule fails to account for dealers with multiple websites
19 and is unclear if a dealer must provide its main website only or all websites. The commenter recommends
20 adding the word “primary” immediately before the word “website”.

21 **Agency Response.**

22 The department declines to make this change as any website on which a license holder advertises
23 vehicles must comply with department advertising rules and should be disclosed to the department.

1

2 **Comment:**

3 A commenter stated that the proposed rule should not require a social security number as a
4 condition to be a licensed dealer. Foreign business owners may obtain an Employer Identification Number
5 or an Individual Taxpayer Identification Number without obtaining a social security number. The
6 commenter recommends adding the words “(if applicable)” after the words “social security number” to
7 §215.133(c)(1)(D) and (E).

8 **Agency Response.**

9 The department declines to make this change as a non-U.S. citizen owner is required to provide
10 an Employer Identification Number as specified in §215.133(c)(1)(F) and has amended text to include
11 resident and non-resident aliens in that subparagraph.

12

13 **Comment:**

14 A commenter noted that proposed rule related to a bona fide employee states a GDN applicant
15 must provide “the name, social security number, date of birth, and identity document information for at
16 least one manager...”. Dealers looking to expand into Texas have already found this rule burdensome
17 because TxDMV is asking for proof of residency. Therefore, the commenter is requesting that a bona fide
18 employee not be required to produce proof of residency and that a dealer is only required to meet this
19 requirement as written.

20 **Agency Response.**

21 The department declines to make this change as the department can handle temporary manager
22 assignments under this rule. For example, a new applicant can submit written confirmation that a
23 manager has temporarily been assigned to a Texas location and provide an affidavit confirming that the

1 applicant will have a bona fide employee onsite once the manager’s temporary assignment is complete.
2 A new GDN dealer is required to have a permanent and established place of business to be eligible for a
3 dealer GDN under Transportation Code §503.032. This statutory requirement includes having an owner
4 or bona fide employee at the location during “reasonable and lawful” business hours.

5

6 **Comment:**

7 A commenter states that the proposed rule should limit inquiries about adverse credit history to
8 only relevant credit history based on the statute of limitations on debt actions and the initial 10-year
9 period in which a lien is collectible. The commenter recommends amending §215.133(c)(1)(M) to read as
10 follows “any outstanding or unpaid debts for the past four years, and liens or judgments in past 10 years,
11 unless the debt was discharged under 11 U.S.C. §§101 et seq. or pending resolution under a case filed
12 under the Bankruptcy Act”.

13 **Agency Response.**

14 The department declines to make this change as these limitations may not apply to an individual
15 applicant, for example, in Texas a judgment may be renewed or revived after 10 years, and other states
16 may have differing requirements.

17

18 **Comment:**

19 A commenter states that the Certificate of Responsibility is already incorporated into the
20 application questions and recommends deleting §215.133(c)(1)(N) in its entirety.

21 **Agency Response.**

22 The department declines to delete the Certificate of Responsibility form as this form documents
23 the applicant’s commitment to continue to follow department statutes and rules throughout the GDN

1 dealer license period. This form is only required if the electronic attestation fails because the form of
2 identification entered by the applicant cannot be verified.

3

4 **Comment:**

5 A commenter states that the proposed rule should only require one form of identification and
6 fingerprinting to verify the identity of a dealer and recommends amending §215.133(c)(2)(D) by striking
7 the words “at least”.

8 **Agency Response.**

9 The department declines to make this change as occasionally a natural person is required to
10 provide more than one identity document when the first document provided is not adequate to confirm
11 the person’s identity.

12

13 **Comment:**

14 A commenter states that the proposed rule should not require dealers to provide both premises
15 photos and a notarized affidavit and recommends striking either “premises photos and” or “and a
16 notarized affidavit” from §215.133(c)(2)(G).

17 **Agency Response.**

18 The department declines to make this change as the premises photos and the notarized affidavit
19 serve two different purposes. The photos are used to verify that the applicant has met the premises
20 requirements for having an established and permanent place of business. The notarized affidavit confirms
21 the applicant’s understanding of the premises requirements – including the applicant’s obligation to
22 maintain an established and permanent place of business during the license period. The statements in the

1 notarized affidavit have been incorporated into the new and amendment GDN applications to make it
2 easier for new applicants going forward.

3

4 **Comment:**

5 A commenter states that the proposed rules are ambiguous as to whether dealers can be open
6 by appointment only and recommended modifying the proposed language of §215.140(2) to add, “Hours
7 open by appointment only do not count towards meeting this requirement.”

8 **Agency Response.**

9 The department appreciates this comment and substitutes the word “solely” for the word “only”
10 in the adopted rule to clarify that a dealer may not be open solely by appointment.

11

12 **Comment:**

13 A commenter states that permanent interior walls on all sides should not be required when a
14 dealer’s office is located in a public area used by another business and that a cubicle is sufficient. The
15 commenter recommends striking §215.140(10)(C) in its entirety.

16 **Agency Response.**

17 The department declines to make this change. A cubicle does not provide the privacy and security
18 necessary for customer’s personal and financial data or to secure temporary tag equipment and supplies
19 when a dealer is located in a public area shared by another business.

20

21 **Comment:**

22 A commenter states that the display area barrier requirements should be updated, and
23 recommends amending §215.140(11)(B)(iv) to read as, “the dealer’s inventory must be separated from

1 the business’s display or parking area by a barrier on all sides that do not have a curb except for a side to
2 enter and exit the inventory.”

3 **Agency Response.**

4 The department agrees that space for a dealer to enter and exit inventory on one side of the
5 dealer’s display area is a helpful clarification and has added wording in §215.140(11)(B)(iv) and (vii) to add
6 this clarification. The department added the clarification: “A material object or barrier must be in place
7 on all sides except for the space necessary to allow for entry and exit of vehicle inventory.” A material
8 object could include a curb or building wall for example.

9

10 **Comment:**

11 A commenter states that the proposed rule on the inside display area barrier requirements should
12 allow barriers that are easily removed as safety concern differences do not require a permanent barrier
13 for indoor display areas. The commenter suggest that a rope line is appropriate to distinguish to the public
14 those cars offered by a dealer from vehicles offered by another dealer. The commenter recommends
15 striking the words “by a material object or barrier that cannot be readily removed” and replacing it with
16 “by a barrier.”

17 **Agency Response.**

18 The department declines to make this change as the rule requirement to have a material object
19 or barrier that cannot readily be removed is based on each dealer’s statutory requirement to have display
20 space for at least five vehicles as part of an established and permanent place of business. Allowing barriers
21 that can be readily removed would not be consistent with the statutory requirement and invites confusion
22 and potential for consumer fraud in spaces shared by multiple dealers.

23

1 **Comment:**

2 A commenter states that the proposed language in §215.140(13)(A), and §215.140(13)(D) should
3 be amended to avoid confusion based on §215.140(13)(E) and recommends amending §215.140(13)(A)
4 to read as follows “the name of the lessor of the premises and the name of the dealer as the tenant or
5 lessee of the premises;” and amending §215.140(13)(D) to read as “the signature of the lessor and the
6 signature of the dealer as the tenant or lessee.”

7 **Agency Response.**

8 The department disagrees with this comment. The primary purpose of requiring the property
9 owner to be a party to the lease or to provide a notarized affidavit is to ensure the lease has not been
10 fraudulently executed without the property owner’s knowledge or consent and that the applicant intends
11 to operate a bona fide vehicle business at that location. Establishing a permanent place of business for
12 the term of the license is a statutory requirement.

13

14 **Comment:**

15 A commenter recommends eliminating a new provision relating to subleases in which the
16 property owner is not the dealer's lessor and is therefore required to obtain authorization from the
17 property owner. The commenter stated that this requirement has been implemented and should not have
18 been without notice and a comment period, and further states that he knows of dealers for whom TxDMV
19 made exceptions such as a Fortune 1000 dealer group that took over the lease of a failed dealership. The
20 commenter recommends amending §215.140(13)(E) to state (E) if the lease agreement is a sublease in
21 which the property owner is not the lessor, the dealer must obtain: (i) a signed notarized statement from
22 the property owner including the following information: . . . or (ii) a copy of the lessor’s lease showing the
23 landlord may reassign their lease or sublease.”

1 **Agency Response.**

2 The department has been given statutory authority to review applications and investigate
3 applications for evidence of misrepresentation or fraud, and the circumstances described by the
4 commenter demonstrate that the department is actively doing so. The department declines to make any
5 changes to the text of this rule as the current rule language is necessary to prevent fraud and protects the
6 applicant if the property owner is unwilling or unable to allow a vehicle business at the location.

7 **STATUTORY AUTHORITY** The department adopts amendments to §215.133 and §215.140 under the
8 following provisions of Occupations Code Chapters 2301 and 2302, and Transportation Code Chapters 503
9 and 1002.

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

12 --Occupations Code §2302.051 authorizes the board to adopt rules as necessary to administer
13 Occupations Code Chapter 2302.

14 --Transportation Code §503.002 authorizes the board to adopt rules that are necessary to
15 administer Transportation Code Chapter 503.

16 --Transportation Code §503.0631 authorizes the department to adopt rules and prescribe procedures as
17 necessary to implement §503.0631 regarding the buyer's temporary tag database.

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

20 **CROSS REFERENCE TO STATUTE.** Occupations Code §§55.004, 2301.001, 2301.002, 2301.151, 2301.152,
21 2301.153, 2301.255, 2301.256, 2301.264, 2302.009, 2302.101, 2302.106; and Transportation Code
22 §§503.001, 503.006, 503.007, 503.008, 503.011, 503.024, 503.027, 503.029, 503.0296, 503.032,
23 503.033, 503.034, 503.036, and 503.038.

1 **TEXT.**

2 **Subchapter E. General Distinguishing Numbers**

3 **43 TAC §215.133**

4 §215.133. General Distinguishing Number.

5 (a) No person may engage in business as a dealer unless that person has a currently valid GDN
6 assigned by the department for each location from which the person engages in business. A dealer must
7 also hold a GDN for a consignment location, unless the consignment location is a wholesale motor vehicle
8 auction.

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

11 (c) A GDN dealer application shall be on a form prescribed by the department and properly
12 completed by the applicant. A GDN dealer application shall include all required information, required
13 supporting documents, and required fees and shall be submitted to the department electronically in a
14 system designated by the department for licensing. A GDN dealer renewing or amending its GDN must
15 verify current license information, provide related information and documents for any new requirements
16 or changes to the GDN, and pay required fees. An applicant for a new dealer GDN must provide the
17 following:

18 (1) Required information:

19 (A) type of GDN requested;

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

1 (C) application contact name, email address, and telephone number;

2 (D) the name, social security number, date of birth, identity document
3 information, and ownership percentage for each owner, partner, member, or principal if the applicant is
4 not a publicly traded company;

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

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

10 (G) the name, social security number, date of birth, and identity document
11 information of at least one manager or other bona fide employee who will be present at the established
12 and permanent place of business if the owner is out of state or will not be present during business hours
13 at the established and permanent place of business in Texas;

14 (H) the name and business email address of the temporary tag database account
15 administrator designated by the applicant who must be an owner or representative listed in the
16 application;

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

20 (J) military service status;

1 (K) licensing history required to evaluate fitness for licensure under §215.89 of
2 this title (relating to Fitness);

3 (L) information about the business location and business premises, including
4 whether the applicant will operate as a salvage vehicle dealer at the location;

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

8 (N) signed Certificate of Responsibility, which is a form provided by the
9 department; and

10 (O) any other information required by the department to evaluate the application
11 under current law and board rules.

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

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

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

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

19 (D) at least one of the following identity documents for each natural person listed
20 in the application:

- 1 (i) current driver license;
- 2 (ii) current Texas Identification Card issued by the Texas Department of
3 Public Safety under Transportation Code, Chapter 521, Subchapter E;
- 4 (iii) current license to carry a handgun issued by the Texas Department of
5 Public Safety under Government Code, Chapter 411, Subchapter H;
- 6 (iv) current passport; or
- 7 (v) current United States armed forces identification.
- 8 (E) a certificate of occupancy, certificate of compliance, or other official
9 documentation confirming the business location complies with municipal ordinances, including zoning,
10 occupancy, or other requirements for a vehicle business;
- 11 (F) documents proving business premises ownership, or lease or sublease
12 agreement for the license period;
- 13 (G) premises photos and a notarized affidavit certifying that all premises
14 requirements in §215.140 of this title (relating to Established and Permanent Place of Business Premises
15 Requirements) are met and will be maintained during the license period;
- 16 (H) evidence of franchise if applying for a franchised motor vehicle dealer GDN;
- 17 (I) proof of completion of the dealer education and training required under
18 Transportation Code §503.0296, if applicable; and
- 19 (J) any other documents required by the department to evaluate the application
20 under current law and board rules.

1 (3) Required fees:

2 (A) the fee for the GDN for each type of license requested as prescribed by law;

3 and

4 (B) the fee for each metal dealer plate requested by the applicant as prescribed
5 by law.

6 (d) An applicant for a GDN must also comply with fingerprint requirements in §211.6 of this title
7 (relating to Fingerprint Requirements for General Distinguishing Numbers), if applicable.

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

13 (f) A wholesale motor vehicle dealer GDN holder may sell or exchange vehicles with licensed or
14 authorized dealers only. A wholesale motor vehicle dealer GDN holder may not sell or exchange vehicles
15 at retail.

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

19 (h) In evaluating a new or renewal dealer GDN application or an application for a new GDN
20 location, the department may require a site visit to determine if the business location meets the
21 requirements in §215.140. The department will require the applicant or GDN holder to provide a notarized

1 affidavit confirming that all premises requirements are met and will be maintained during the license
2 period.

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

5 (1) act as a salvage vehicle dealer or rebuilder; or

6 (2) store or display a motor vehicle as an agent or escrow agent of an insurance company.

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

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

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

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

17

1 dealer's office. A wholesale motor vehicle dealer or bona fide employee shall be at the wholesale motor
2 vehicle dealer's licensed location at least two weekdays per week for at least two consecutive hours per
3 day. A wholesale motor vehicle dealer may not be open solely by appointment. Regardless of the
4 wholesale motor vehicle dealer's business hours, the wholesale motor vehicle dealer's telephone must be
5 answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service,
6 voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a
7 message during these hours.

8 (3) Business sign requirements for retail dealers.

9 (A) A retail dealer must display a conspicuous, permanent sign with letters at least six
10 inches in height showing the retail dealer's business name or assumed name substantially similar to the
11 name reflected on the retail dealer's GDN under which the retail dealer conducts business. A business sign
12 is considered conspicuous if it is easily visible to the public within 100 feet of the main entrance of the
13 business office. A business sign is considered permanent only if it is made of durable, weather-resistant
14 material.

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

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

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

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

5 (A) Exterior Sign

6 (i) A wholesale motor vehicle dealer must display a conspicuous,
7 permanent sign with letters at least six inches in height showing the wholesale motor vehicle dealer's
8 business name or assumed name substantially similar to the name reflected on the wholesale motor
9 vehicle dealer's GDN under which the wholesale motor vehicle dealer conducts business. Effective
10 September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers"
11 in letters at least three inches in height. A business sign is considered conspicuous if it is easily visible to
12 the public within 100 feet of the main entrance of the business office. A business sign is considered
13 permanent only if it is made of durable, weather-resistant material.

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

21 (B) Interior Sign

1 (i) If the wholesale motor vehicle dealer's office is located in an office
2 building with one or more other businesses and an outside sign is not permitted by the property owner,
3 a conspicuous permanent business sign permanently mounted on or beside the main door to the
4 wholesale motor vehicle dealer's office with letters at least two inches in height is acceptable. Effective
5 September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers"
6 in letters at least one inch in height. An interior business sign is considered conspicuous if it is easily visible
7 to the public within 10 feet of the main entrance of the wholesale motor vehicle dealer's office. An interior
8 sign is considered permanent if made from durable material and has lettering that cannot be changed. An
9 interior sign is considered permanently mounted if bolted or otherwise permanently affixed to the main
10 door or nearby wall. A wholesale motor vehicle dealer may use a temporary interior sign or banner if the
11 wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph
12 has been ordered and provides a written statement that the sign will be promptly and permanently
13 mounted upon delivery.

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

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

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

20 (B) A dealer's office must comply with all applicable municipal ordinances, including
21 municipal zoning ordinances. The dealer is responsible for obtaining a certificate of occupancy, certificate
22 of compliance, or other required document issued by a municipal government to show compliance,

1 including a new certificate or document when the building is altered or remodeled, or when the building
2 use changes.

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

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

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

11 (F) The physical address of the dealer's office must be in Texas and recognized by the U.S.
12 Postal Service or capable of receiving U.S. mail. The department will not mail a metal dealer's license plate
13 to an out-of-state address.

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

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

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

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

20 (iii) accommodate required office equipment; and

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

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

5 (A) a desk;

6 (B) two chairs;

7 (C) internet access; and

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

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

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

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

19 (10) Dealer housed with other business.

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

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

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

12 (11) Display area and storage lot requirements.

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

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

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

19 (ii) The display area must be of sufficient size to display at least five vehicles of
20 the type for which the GDN is issued. Those spaces must be reserved exclusively for the retail dealer's
21 inventory and may not be used for customer parking, employee parking, general storage, or shared or

1 intermingled with another business or a public parking area, a driveway to the office, or another dealer's
2 display area.

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

7 (iv) If a retail dealer shares a display or parking area with another business,
8 including another dealer, the dealer's vehicle inventory must be separated from the other business's
9 display or parking area by a material object or barrier that cannot be readily removed. A material object
10 or barrier must be in place on all sides except for the space necessary to allow for entry and exit of vehicle
11 inventory.

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

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

18 (vii) The display area may be located inside a building; however, if multiple
19 dealers are displaying vehicles inside a building, each dealer's display area must be separated by a material
20 object or barrier that cannot be readily removed. A material object or barrier must be in place on all sides
21 except for the space necessary to allow for entry and exit of vehicle inventory.

1 (C) A GDN dealer may maintain a storage lot only if the storage lot is not accessible to the
2 public and no sales activity occurs at the storage lot. A sign stating the dealer's name, contact information,
3 and the fact the property is a storage lot is permissible. A storage lot must be fenced or in an access-
4 controlled location to be considered not accessible to the public.

5 (12) Dealers authorized to sell salvage motor vehicles. If an independent motor vehicle dealer
6 offers a salvage motor vehicle for sale on the dealer's premises, the vehicle must be clearly and
7 conspicuously marked with a sign informing a potential buyer that the vehicle is a salvage motor vehicle.
8 This requirement does not apply to a licensed salvage pool operator.

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

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

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

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

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

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

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

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

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

17

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

20 Filed with the Office of the Secretary of State on December 8, 2022.

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/s/ Elizabeth Brown Fore

Elizabeth Brown Fore, General Counsel