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ADOPTION OF

SUBCHAPTER A. CRIMINAL OFFENSE AND ACTION ON LICENSE

43 TAC §211.6

INTRODUCTION. The Texas Department of Motor Vehicles (department) adopts amendments to 43 Texas Administrative Code (TAC) §211.6 concerning fingerprint requirements for license applicants and holders. The department adopts §211.6 without changes to the proposed text as published in the September 1, 2023, issue of the *Texas Register* (48 TexReg 4801). The rule will not be republished.

REASONED JUSTIFICATION. The amendments to §211.6 are necessary to prevent application fraud in two important ways—by verifying identify and by allowing the department to obtain a complete and comprehensive criminal background check from both the Texas Department of Public Safety (DPS) and the Federal Bureau of Investigation (FBI) prior to issuing a license. The current rule references only General Distinguishing Numbers issued under Transportation Code Chapter 503, so this rule amends §211.6 to make it possible for the department to require fingerprinting for all license types in the future, if the department chooses to subsequently propose amendments to Chapter 215 or 221 of this title to add fingerprint requirements for a specific license type.

The amended title of §211.6 reflects that the fingerprint requirements of this section will apply to all license types designated in Chapters 215 and 221 of this title as requiring fingerprinting for licensure. This may include licenses other than general distinguishing numbers if the department amends Chapters 215 or 221 of this title in the future. This amendment is necessary to describe more accurately the department’s authority under Texas Government Code, §411.122 and §411.12511 to implement fingerprint requirements.

The amendments to subsections (a) and (b) delete references to a General Distinguishing Number under Transportation Code, Chapter 503. These amendments are necessary to reflect more accurately the

1 department's authority to implement fingerprint requirements for additional license types through
2 rulemaking.

3 The other amendments in subsection (a) specify that the rule will apply to license types
4 designated in Chapter 215 or Chapter 221 of this title as requiring fingerprints for licensure. These
5 amendments are necessary to reflect more accurately the department's authority to implement
6 fingerprint requirements for additional license types through rulemaking and clarify for ease of reference
7 which chapters may contain fingerprint requirements for specific license types.

8 The amendments to subsection (b) combine language currently in subsections (b) and (c) into
9 amended (b), make clarifying changes to remove unnecessary language, and identify the persons that may
10 be subject to a fingerprint requirement. These amendments are necessary to add clarity and for ease of
11 understanding.

12 The amendments to subsection (c) replace the existing language consolidated into subsection (b)
13 with new language clarifying that the department will review each license application, determine which
14 persons need to be fingerprinted, and notify the applicant or license holder. This amendment is necessary
15 to inform the public, including applicants and license holders, that the department must first review the
16 application and department licensing records to determine which persons are required to be
17 fingerprinted, before notifying the applicant regarding which individuals must submit fingerprints.

18 **SUMMARY OF COMMENTS.**

19 No comments on the proposed amendments were received.

20 **STATUTORY AUTHORITY.** The department adopts the amendments to §211.6 under Government Code,
21 §411.122(d), which authorizes department access to criminal history record information maintained by
22 DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record
23 information from DPS and the FBI for license applicants, license holders, and representatives whose act

1 or omission would be cause for denying, revoking, or suspending a general distinguishing number or
2 license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 or 2302;
3 Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale and lease
4 of motor vehicles and the authority to take any action that is necessary or convenient to exercise that
5 authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of
6 license holders, ensure that the distribution, sale and lease of motor vehicles is conducted as required by
7 statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses
8 in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations
9 Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which
10 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter
11 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives
12 the board authority to deny an application for a license, revoke or suspend a license, place on probation
13 a person whose license has been suspended, or reprimand a licensee if the applicant or license holder is
14 unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or
15 insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail
16 purchaser of a motor vehicle; Occupations Code, §2302.051, which authorizes the board to adopt rules as
17 necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which
18 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503; and
19 Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
20 appropriate to implement the powers and the duties of the department under the Transportation Code
21 and other laws of this state.

22 **CROSS REFERENCE TO STATUTE.** Government Code, Chapter 411; Occupations Code, Chapters 2301 and
23 2302; and Transportation Code, Chapters 503 and 1002.

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TEXT.

SUBCHAPTER A. CRIMINAL OFFENSE AND ACTION ON LICENSE

43 TAC § 211.6 Fingerprint Requirements for Designated License Types

(a) The requirements of this section apply to applicants for and holders of license types designated in Chapter 215 or Chapter 221 of this title as requiring fingerprints for licensure.

(b) Unless previously submitted for an active license issued by the department, the following persons may be required to submit a complete and acceptable set of fingerprints to the Texas Department of Public Safety and pay required fees for purposes of obtaining criminal history record information from the Texas Department of Public Safety and the Federal Bureau of Investigation:

(1) a person applying for a new license, license amendment due to change in ownership, or license renewal; and

(2) a person acting in a representative capacity for an applicant or license holder who is required to be listed on a licensing application, including an officer, director, member, manager, trustee, partner, principal, or manager of business affairs.

(c) After reviewing a licensure application and licensing records, the department will notify the applicant or license holder which persons in subsection (b) of this section are required to submit fingerprints to the Texas Department of Public Safety.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

1 Filed with the Office of the Secretary of State on October 13, 2023.

2 /s/ Laura Moriaty
3 Laura Moriaty, General Counsel
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