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PROPOSAL OF
SUBCHAPTER E. ADVISORY COMMITTEES
43 TAC §§206.92, 206.93, AND 206.98

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes to amend 43 Texas Administrative Code (TAC) §206.92 and §206.93. The department also proposes new 43 TAC §206.98. New §206.98 is necessary to implement Transportation Code, §643.155, which requires the department to appoint an advisory committee to make recommendations to the department to modernize and streamline certain rules regarding the protection of consumers of motor carriers transporting household goods. The amendments update §206.92 to address the addition of §206.98. Additionally, the amendments to §206.93 remove language that is already in statute, make the language consistent with the statute and other rules in Subchapter E of this chapter, and correct grammatical errors.

EXPLANATION.

Proposed new §206.98 would create the Household Goods Rules Advisory Committee (HGRAC) as a stand-alone advisory committee pursuant to Transportation Code, §643.155, which requires the department to appoint a rules advisory committee consisting of representatives of motor carriers transporting household goods, the public, and the department.

The department previously had a stand-alone HGRAC, which met multiple times in 2015 and 2016 and provided the board of the Texas Department of Motor Vehicles (board) with recommendations regarding rules that the board adopted under Transportation Code, §643.153(a) and (b). The department may need advice and recommendations from the HGRAC when the department performs the rule review of Chapter 218 of this title pursuant to Government Code, §2001.039.

1 The department merged the functions of the prior HGRAC into the current Customer Service and
2 Protection Advisory Committee (CSPAC) under §206.97. However, Transportation Code, §643.155
3 requires that the rules advisory committee pertaining to motor carriers transporting household goods
4 include department representatives. In contrast, Transportation Code, §1001.031 does not require
5 department representatives to serve on the advisory committee that considers other consumer
6 protection and customer service issues. Therefore, dividing the advisory committees so that the
7 committee on which department employees serve considers only rules involving motor carriers
8 transporting household goods would allow the most efficient use of department employees' time. For
9 these reasons, proposed new §206.98 would create HGRAC as a stand-alone advisory committee with the
10 limited scope authorized by Transportation Code, §643.155, and would set in rule its purpose, tasks,
11 reporting requirements and expiration, in accordance with Government Code, Chapter 2110.

12 The proposed amendment to §206.92 would expand the definition of "advisory committee" by
13 adding Transportation Code, §643.155 as a statute under which an advisory committee may be created.
14 Transportation Code, §643.155 is the statute that requires the department to have an advisory committee
15 for rules involving motor carriers transporting household goods. This would clarify the basis for the
16 creation of HGRAC.

17 Proposed amendments to §206.93(a) and (b) would allow the advisory committees to report to
18 the department by providing recommendations either to the board or to the executive director. This
19 would create more flexibility in how the committees report and would make the language consistent with
20 the definition of "advisory committee" in §206.92(1) and with Transportation Code, §1001.031(a).

21 Another proposed amendment to §206.93(a) would clarify that the department or board can
22 request the advice and recommendations of the advisory committees on any issue. This would guarantee
23 as much flexibility as possible in the issues presented to the advisory committees.

1 Proposed amendments to §206.93(d) would remove the requirement that advisory committee
2 members have an interest or expertise in the subject area of the advisory committee. This language is
3 redundant with the statutory language that is already contained in Transportation Code, §1001.031 and
4 is therefore unnecessary.

5 A proposed amendment to §206.93(i) would remove an unnecessary hyphen to clarify and correct
6 a grammatical error.

7 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
8 has determined that for each year of the first five years the new section and amendments will be in effect,
9 there will be no fiscal impact to state or local governments as a result of the enforcement or
10 administration of the proposal. Jimmy Archer, Director of the Motor Carrier Division and Corrie
11 Thompson, Director of the Enforcement Division, have determined that there will be no measurable effect
12 on local employment or the local economy as a result of the proposal.

13 **PUBLIC BENEFIT AND COST NOTE.** Mr. Archer and Ms. Thompson have also determined that, for each
14 year of the first five years the new and amended sections are in effect, there are several public benefits
15 anticipated because of increased opportunities for stakeholders and the public to provide input into
16 rulemaking and policy development by the department on the issue of motor carriers transporting
17 household goods.

18 Anticipated Costs to Comply with the Proposal. Mr. Archer and Ms. Thompson anticipate that
19 there will be no costs to comply with the new section and amendments because the new section and
20 amendments do not establish any additional requirements on regulated persons. Advisory committee
21 members serve on a voluntary basis.

22 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
23 Code, §2006.002, the department has determined that the proposed new section and amendments will

1 not have an adverse economic effect on small businesses, micro-businesses, and rural communities
2 because the new section and amendments do not add new requirements on, or directly affect, small
3 businesses, micro-businesses, or rural communities. The proposed new section and amendments do not
4 require small businesses, micro-businesses, or rural communities to comply. Therefore, the department
5 is not required to prepare a regulatory flexibility analysis under Government Code, §2006.002.

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

10 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
11 first five years the proposed new section and amendments are in effect, no government program would
12 be created or eliminated. Implementation of the proposed new section and amendments would not
13 require the creation of new employee positions or elimination of existing employee positions.
14 Implementation would not require an increase or decrease in future legislative appropriations to the
15 department or an increase or decrease of fees paid to the department. The proposed amendments create
16 a new regulation in proposed new §206.98, which creates the HGRAC. The proposed amendments do not
17 expand, limit, or repeal an existing regulation. Lastly, the proposed new section and amendments do not
18 affect the number of individuals subject to the applicability of the rules and will not affect this state's
19 economy.

20 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written
21 comments by 5:00 p.m. CDT on October 1, 2023. A request for a public hearing must be sent separately
22 from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov*
23 or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue,

1 Austin, Texas 78731. If a hearing is held, the department will consider written comments and public
2 testimony presented at the hearing.

3 **STATUTORY AUTHORITY.** The department proposes amendments to §206.92 and §206.93 and proposes
4 new §206.98 under Transportation Code, §643.155, which authorizes the department to adopt rules to
5 create a rules advisory committee consisting of representatives of motor carriers transporting household
6 goods using small, medium, and large equipment, the public, and the department; Transportation Code,
7 §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement
8 the powers and the duties of the department; Government Code, §2110.005, which requires state
9 agencies establishing advisory committees to make rules stating the purpose and tasks of the committee
10 and describing the manner in which the committee will report to the agency; and Government Code,
11 §2110.008, which allows state agencies establishing advisory committees make rules designating the date
12 an advisory committee will be abolished.

13 **CROSS REFERENCE TO STATUTE.** Transportation Code Chapters 643 and 1001; Government Code Chapter
14 2110.

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16 **TEXT.**

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SUBCHAPTER E. ADVISORY COMMITTEES

18

43 TAC §§206.92, 206.93, AND 206.98

19 §206.92. Definitions

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The following words and terms, when used in this subchapter, shall have the following

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meanings, unless the context clearly indicates otherwise.

1 (1) Advisory Committee--Any committee created by the board to make
2 recommendations to the board or the executive director pursuant to Transportation Code, §1001.031
3 and §643.155.

4 (2) Board--The board of the Texas Department of Motor Vehicles.

5 (3) Department--The Texas Department of Motor Vehicles.

6 (4) Division director--The chief administrative officer in charge of a division of the
7 department.

8 (5) Executive director--The chief executive officer of the Texas Department of Motor
9 Vehicles.

10 (6) Member--An appointed member of an advisory committee created under this
11 subchapter.

12 (7) Presiding officer--The presiding officer of an advisory committee elected by the
13 membership of the advisory committee created under this subchapter.

14

15 §206.93. Advisory Committee Operations and Procedures

16 (a) Role of advisory committee. The role of an advisory committee under this subchapter is to
17 provide advice and recommendations to the board or the executive director. Advisory committees shall
18 meet and carry out their functions upon a request from the department or board for advice and
19 recommendations on any issues. [~~an issue(s).~~]

20 (b) Appointment of advisory committee. The board shall appoint members to an advisory
21 committee by selecting potential members from a list provided to the board by the executive director.
22 Each advisory committee shall elect from its members a presiding officer, who shall report the advisory
23 committee's recommendations to the board or the executive director. The executive director may

1 designate a division or divisions of the department to participate with, or to provide subject-matter
2 expertise, guidance, or administrative support to the advisory committee as necessary.

3 (c) Member qualifications. Members shall have knowledge about and interests in, and represent
4 a broad range of viewpoints about, the work of the committee or applicable division(s). Board members
5 shall not serve as advisory committee members.

6 (d) Composition of advisory committees. In making appointments to the advisory committees,
7 the board shall, to the extent practical, ensure representation of members from diverse geographical
8 regions of the state ~~[who have an interest or expertise in the subject area of the particular advisory~~
9 ~~committee].~~

10 (e) Committee size and quorum requirements. An advisory committee shall be composed of a
11 reasonable number of members not to exceed 24 as determined by the board. A simple majority of
12 advisory committee members will constitute a quorum. An advisory committee may only deliberate on
13 issues within the jurisdiction of the department or any public business when a quorum is present.

14 (f) Terms of service. Advisory committee members will serve terms of four years. A member will
15 serve on the committee until the member resigns, is dismissed or replaced by the board, or the
16 member's term expires.

17 (g) Member training requirements. Each member of an advisory committee must receive
18 training regarding the Open Meetings Act, Government Code, Chapter 551; and the Public Information
19 Act, Government Code, Chapter 552.

20 (h) Compliance with Open Meetings Act. The advisory committee shall comply with the Open
21 Meetings Act, Government Code, Chapter 551.

22 (i) Public input and participation. The advisory committee shall accept public comments made in
23 person ~~[in-person]~~ at advisory committee meetings or submitted in writing. Public comments made in

1 writing should be submitted to the advisory committee five business days in advance of the advisory
2 committee meeting with sufficient copies for all members.

3 (j) Reporting recommendations. Recommendations of the advisory committee shall be reported
4 to the board at a board meeting prior to board action on issues related to the recommendations. The
5 recommendations shall be in writing and include any necessary supporting materials. The presiding
6 officer of the advisory committee or the presiding officer's designee may appear before the board to
7 present the committee's advice and recommendations. This subsection does not limit the ability of the
8 advisory committee to provide advice and recommendations to the executive director as necessary.

9 (k) Board use of advisory committee recommendations. In developing department policies, the
10 board shall consider the written recommendations and reports submitted by advisory committees.

11 (l) Reimbursement. The department may, if authorized by law and the executive director,
12 reimburse advisory committee members for reasonable and necessary travel expenses.

13 (m) Expiration dates for advisory committees. Unless a different expiration date is established
14 by the board for the advisory committee, each advisory committee is abolished on the fourth
15 anniversary of its creation by the board.

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17 §206.98. Household Goods Rules Advisory Committee (HGRAC)

18 (a) The HGRAC is created to make recommendations, as requested by the department or board,
19 to modernize and streamline the rules adopted under Transportation Code §643.153(a) and (b).

20 (b) The HGRAC shall comply with the requirements of §206.93 of this title (relating to Advisory
21 Committee Operations and Procedures).

22 (c) The HGRAC shall expire on July 7, 2027.

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

3 Filed with the Office of the Secretary of State on August 17, 2023.

4 /s/ Laura Moriaty
5 Laura Moriaty, General Counsel
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