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1 **43 TAC §§215-21–215.63**

2 **SUBCHAPTER D. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS**

3 **43 TAC §215.112**

4 **SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS**

5 **43 TAC §215.146**

6 **SUBCHAPTER G. WARRANTY PERFORMANCE OBLIGATIONS**

7 **43 TAC §§215.201–215.210**

8 **SUBCHAPTER I. PRACTICE AND PROCEDURE FOR HEARINGS CONDUCTED BY THE STATE OFFICE OF**

9 **ADMINISTRATIVE HEARINGS.**

10 **43 TAC §§215.301–215.317**

11 **SUBCHAPTER J. ADMINISTRATIVE SANCTIONS**

12 **43 TAC §§215.501, 251.502, and 251.505**

13

14 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) adopts amendments to
15 Subchapter A, General Provisions, §215.1 and §215.2; repeal of Subchapter B, relating to Adjudicative
16 Practice and Procedure, §§215.21–215.24, 215.27, 215.29, 215.30, 215.32, 215.35–215.49, 215.55,
17 215.56, 215.58–215.63; amendments to Subchapter C, Licenses, Generally, §§215.82 - 215.85, 215.87,
18 and 215.89; in Subchapter D, Franchised Dealers, Manufacturers, Distributors, and Converters,
19 amendments to §§215.101, 215.103 - 215.106, 215.108 - 215.111, 215.113, and 215.115 - 215.217, repeal
20 of §215.112, and new §§215.102, 215.120, and 215.121; in Subchapter E, General Distinguishing Numbers,
21 amendments to §§215.131–133; 215.135, 215.137–215.141, 215.144, 215.145, 215.147–215.152,
22 215.154, 215.155, 215.160, and 215.161, repeal of §215.146, and new §215.134 and §215.143;
23 amendments to Subchapter F, Lessors and Lease Facilitators, §§215.171, 215.173 - 215.180; repeal of

1 Subchapter G, Warranty Performance Obligations, §§215.201–215.210; amendments to Subchapter H,
2 Advertising, §§215.242, 215.244, 215.249, 215.250, 215.257, 215.261, 215.264, 215.268, and 215.270;
3 repeal of Subchapter I, Practice and Procedure for Hearings Conducted by The State Office of
4 Administrative Hearings, §§215.301–215.303, 215.305–215.308, 215.310, 215.311, 215.314–215.317;
5 and in Subchapter J, Administrative Sanctions, amendments to §215.500, and repeal of §§215.501,
6 215.502, and 215.505.

7 The following amended sections are adopted without changes to the proposed text as published
8 in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8202) and will not be republished:
9 §§215.2, 215.83–215.85, 215.89, 215.101, 215.103, 215.108, 215.110, 215.115–215.117, 215.131,
10 215.132, 215.137, 215.139, 215.143, 215.149–215.152, 215.155, 215.161, 215.171, 215.173, 215.177,
11 215.179, 215.180, 215.242, 215.244, 215.257, 215.261, 215.264, 215.268, 215.270, and 215.500.

12 The following sections are adopted with changes at adoption to the proposed text as published in
13 the December 29, 2023, issue of the *Texas Register* (48 TexReg 8202) and will be republished: §§215.1,
14 215.82, 215.87, 215.102, 215.104, 215.105, 215.106, 215.109, 215.111, 215.113, 215.120, 215.121,
15 215.133, 215.134, 215.135, 215.138, 215.140, 215.141, 215.144, 215.145, 215.147, 215.148, 215.154
16 215.160, 215.174, 215.175, 215.176, 215.178, 215.179, 215.249, and 215.250.

17 The following sections are adopted with substantive changes to the proposed text: §§215.82,
18 215.87, 215.102, 215.105, 215.111, 215.120, 215.121, 215.140, 215.141, 215.144, 215.175, and 215.178.

19 Each substantive change is described in the Explanation of Adopted Amendments and Repeals below and
20 some of these changes are also referenced in the department’s response to comments.

21 The following sections are adopted with nonsubstantive changes to the proposed text: §§215.1,
22 215.82, 215.102, 215.104, 215.105, 215.106, 215.109, 215.111, 215.113, 215.120, 215.121, 215.133,
23 215.134, 215.135, 215.138, 215.140, 215.141, 215.144, 215.145, 215.147, 215.148, 215.154, 215.160,

1 215.174, 215.175, 215.176, 215.178, 215.179, 215.249, and 215.250. Each nonsubstantive change is
2 described in the Explanation of Adopted Amendments and Repeals below.

3

4 **EXPLANATION OF ADOPTED AMENDMENTS AND REPEALS**

5 Subchapter A. General Provisions

6 Adopted amendments to §215.1 and §215.2(a) delete a stray reference to Transportation Code,
7 Chapter 1000, which does not exist. Adopted amendments to §215.1 delete an incomplete list of license
8 types regulated by the department, delete the word “motor” from the phrase “motor vehicle,” and add
9 the word “industry” to more accurately reflect the scope of the department’s responsibility which
10 encompasses all vehicles including trailers and all license types under Occupations Code, Chapter 2301,
11 and Transportation Code, Chapter 503. An adopted amendment to §215.1 clarifies the scope of the rules
12 in Chapter 215, which is to describe licensing requirements and rules governing license holder operations.
13 The missing phrase “the vehicle industry” is added at adoption to the text of the last sentence in §215.1
14 because the proposed sentence was incomplete.

15 Adopted amendments to §215.2(b) delete definitions for terms used in contested cases because
16 rules using those terms are adopted for repeal in this chapter and are included in adopted new Chapter
17 224, (relating to Adjudicative Practice and Procedure), which is published for adoption in this issue of the
18 *Texas Register*. The deleted definitions include the terms ALJ, executive director, final order authority,
19 hearing officer, motion for rehearing authority, and SOAH. The remaining definitions are renumbered
20 accordingly. Adopted amendments in renumbered §215.2(b)(1) clarify that only a board member or a
21 person employed by the department may be authorized to serve as a board delegate as provided under
22 Occupations Code, §2301.154. An adopted amendment to renumbered §215.2(b)(2) adds a definition for
23 “day” and for standardization and consistency throughout the chapter. Adopted amendments to

1 §215.2(b)(3) substitute the term “division” for “department” to correctly refer to the responsible
2 organizational unit in the department and substitute the term “department staff” for “personnel” for
3 clarity and consistency. An adopted amendment to renumbered §215.2(b)(4) adds a reference to
4 Transportation Code, Chapter 503, which defines the types of general distinguishing numbers that the
5 department may issue. An adopted amendment to renumbered §215.2(b)(5) clarifies that any state
6 agency other than the department is included in the definition of a governmental agency. Adopted
7 §215.2(b)(6) adds a new definition for standard license plate. This definition is necessary to differentiate
8 a standard license plate issued to a dealer under Transportation Code, §503.061 from a personalized
9 prestige license plate issued to a dealer under Transportation Code, §503.0615, and recognizes that each
10 plate has a different statutorily prescribed term and cost and is obtained from the department through a
11 different process.

12

13 Subchapter B. (relating to Adjudicative Practice and Procedure)

14 The department adopts the repeals of all sections of Subchapter B, (relating to Adjudicative
15 Practice and Procedure), in this same issue of the *Texas Register* because the substance of each rule and
16 any amendments are incorporated into adopted new Chapter 224, (relating to Adjudicative Practice and
17 Procedure), which is also published for adoption in this issue of the *Texas Register*. The adopted repeals
18 include §§215.21–215.24, 215.27, 215.29, 215.30, 215.32, 215.35–215.49, 215.55, 215.56, and 215.58–
19 215.63.

20

21 Subchapter C. Licenses, Generally

22 This subchapter is adopted to be relettered as Subchapter B because the department is adopting
23 the repeal of former Subchapter B, (relating to Adjudicative Practice and Procedure).

1 The adopted amendment to the title of §215.82 replaces “Duplicate” from the proposed language
2 with “Replacement Standard” to clarify the section’s purpose. Adopted amendments delete §215.82(a)
3 and (b) and reletter the remaining subsections as necessary, because §215.82(a) and (b) refer to an archaic
4 process that the department no longer follows. A license holder may print a license copy on demand by
5 accessing the department’s electronic licensing system. Adopted amendments to §215.82(c) delete the
6 subsection designation and substitute “standard” for “metal” to identify the plate type to which the
7 replacement process applies. Adopted amendments to §215.82(c) clarify that the same process applies
8 for obtaining a replacement sticker, and that a request for a replacement standard license plate or sticker
9 must be submitted electronically in the department-designated licensing system. In §215.82(c)(3), the
10 department adopts a nonsubstantive change to the text at adoption to rephrase “system for licensing” to
11 “licensing system” for improved readability.

12 In the adopted amendments §215.82 and §215.134, the proposed text is changed at adoption to
13 move the license plate type descriptor “standard” before the term “license plate” for consistency.

14 Adopted amendments to §215.83(a)(1) and (d) modernize the rule by clarifying that an application
15 for a new license, a license amendment, or a license renewal must be filed electronically. An adopted
16 amendment to §215.83(a)(3) specifies which electronic payment forms are accepted. Paper checks are no
17 longer accepted because fee payment must be completed before an application may be submitted and
18 processed. An adopted amendment to §215.83(b) clarifies that an authorized representative who files an
19 application on behalf of an applicant or license holder may be required to provide written proof of
20 authority to act. An adopted amendment to §215.83(c) clarifies that a pending new license number will
21 not be released to a person who is not an applicant, license holder, or authorized representative unless
22 that person files a written request under Government Code, Chapter 552. Once a license is approved and
23 issued, the license number may be published on the department’s website or otherwise provided in

1 response to an inquiry consistent with Government Code, §552.11765 and other requirements in
2 Government Code, Chapter 552.

3 An adopted amendment to §215.83(d)(2) deletes an archaic reference to an envelope postmark
4 for a renewal application to comport with §215.133(c), which requires a license application be submitted
5 electronically in the department’s designated licensing system.

6 Adopted amendments to §215.83(e) delete redundant language and combine the language in
7 §215.83(e) and §215.83(f) for consistency and ease of understanding without changing the meaning.
8 Other adopted amendments reletter the remaining subsections and internal references accordingly.

9 Adopted amendments to relettered §215.83(i) add the phrase “military service members or” in
10 multiple places in subparagraphs (1), (2), and (3). These amendments implement Senate Bill (SB) 422, 88th
11 Legislature, Regular Session (2023), which added military service members who hold out-of-state licenses
12 as persons eligible for special business or occupational authorization or licensing consideration. An
13 adopted amendment to relettered §215.83(i) clarifies that the requirements and procedures authorized
14 under Texas law do not modify or alter rights under federal law.

15 In relettered §215.83(i)(1), adopted amendments delete two duplicative references to
16 Occupations Code, §55.0041. Also, in relettered §215.83(i)(1), an adopted amendment substitutes the
17 phrase “being stationed” for “residency” to clarify that eligibility for special licensing consideration for
18 both the military member and military spouse is based on the military member being stationed in Texas,
19 rather than on the spouse’s residency.

20 Additional adopted amendments to relettered §215.83(i)(3) are adopted to implement SB 422
21 which amended certain provisions of Occupations Code, Chapter 55. Adopted amendments change the
22 word “may” to “shall” and add the phrase “within 30 days” to set a deadline by which the department
23 must issue a license to a military service member or spouse. This adopted amendment implements

1 Occupations Code, §55.005(a), which requires a state agency to issue a license no later than the 30th day
2 after an application is filed and Occupations Code, §55.0041, which requires that the department confirm
3 within 30 days that the military service member or military spouse is authorized to engage in the licensed
4 business or occupation. Another adopted amendment to relettered §215.83(i)(3) adds the phrase
5 “modified or” to recognize that provisions of Occupations Code, Chapter 55 may require the department
6 to modify standard licensing processes when processing an application for a military service member or
7 military spouse and to clarify that the department’s licensing process for military service members and
8 military spouses will be in accordance with all Occupations Code, Chapter 55 requirements.

9 An adopted amendment to relettered §215.83(j) adds a reference to Government Code,
10 §2001.054 for ease of reference. An adopted amendment to relettered §215.83(k) increases the time
11 from 10 to 15 days in which a license holder may dispute whether a renewal application was timely
12 received by the department to provide a license holder.

13 Adopted amendments to relettered §215.83(n) substitute the term “standard” for “metal” to
14 more accurately describe the type of dealer’s license plate addressed in this subsection and add the
15 phrase “is canceled” to clarify that a standard dealer’s license plate expires on the date the dealer’s
16 General Distinguishing Number (GDN) is canceled under Transportation Code, §503.038.

17 An adopted amendment to §215.84(a) inserts an introductory paragraph with a statutory citation
18 to Occupations Code, §2301.002 to enable a person to more easily determine whether the section
19 applies and to clarify the basic statutory prohibition against brokering, and reletters the remaining
20 subparagraphs accordingly. Adopted amendments to relettered §215.84(b) add two clarifying phrases “in
21 the definition of broker” and “acting as a” for consistency with the statute and delete duplicate phrasing
22 to improve readability. Adopted amendments to relettered §215.84(c) add the term “franchised” in
23 §215.84(c)(3) to more accurately describe the type of dealer to which a buyer referral service, program,

1 or club may refer a potential new vehicle buyer. The adopted amendments to §215.84(c) also correct
2 punctuation in relettered §215.84(c), move a requirement from §215.84(d) regarding compliance with
3 advertising rules to relettered §215.84(c)(7) for completeness and ease of reference, and update a
4 reference to the relettered subchapter containing the advertising rules. Adopted amendments to
5 relettered §215.84(d) clarify that §215.84 does not apply to a person who is not a broker as defined in
6 Occupations Code, §2301.002, and delete a redundant phrase “or entity” as entities are included in the
7 definition of “person” in Occupations Code, §2301.002. An adopted amendment deletes current
8 §215.84(d) because the content of that subsection is incorporated into adopted relettered §215.84(c)(7).

9 Adopted amendments to §215.85(b) correct punctuation and move language from §215.85(c) to
10 §215.85(b)(7) for completeness and clarity without changing the meaning. An adopted amendment to
11 §215.85(c) deletes the redundant subsection moved to §215.85(b)(7). Adopted amendments to
12 §215.85(d) reletter the subsection to (c) and delete redundant terms “licensed” and “independent motor
13 vehicle” from this subsection.

14 Adopted amendments to §215.87 substitute the term “standard” for the phrase “metal dealer’s”
15 in the rule title and in §215.87(a)–(c) to more accurately describe the type of dealer’s license plate
16 addressed in this subsection. An adopted amendment to §215.87(a) adds a list of license types eligible to
17 request a standard license plate and is necessary for completeness and clarity. A proposed amendment
18 to §215.87(b) clarified that a standard license plate expires when the associated license is canceled, and
19 at adoption, the phrase “closed, or revoked” was added to clarify all the circumstances under which a
20 license plate issued by the department to a license holder expired. An adopted amendment to §215.87(c)
21 clarifies that a license holder may be required to pay tax when ordering a standard license plate as
22 required under Tax Code, §152.027. Another adopted amendment creates new §215.87(d), which

1 describes for clarity and ease of reference the process a dealer must use to apply for or renew a
2 personalized prestige license plate issued under Transportation Code, §503.0615.

3 Adopted amendments to §215.89(a) and (b) delete the redundant “or department” because the
4 word “board” is defined to include department staff to whom the board delegates a duty. An adopted
5 amendment to §215.89(a)(2) adds a reference for clarity and ease of reference to Transportation Code,
6 §503.034, which authorizes the department to deny a new or renewal application for a dealer general
7 distinguishing number or a wholesale motor vehicle auction general distinguishing number if the applicant
8 is guilty of conduct that would result in the cancellation of the general distinguishing number under
9 Transportation Code, §503.038. An adopted amendment to §215.89(b)(6) adds the phrase “or other legal
10 entity” for completeness because legal entities other than a corporation can fail to maintain authority to
11 conduct business in Texas. Adopted amendments to §215.89(b)(10) add “final” and substitute “after” for
12 “through” for clarity and consistency with department contested case procedures, and replace “citizens”
13 with “residents” for consistency with statute and the rest of the chapter.

14

15 Subchapter D. Franchised Dealers, Manufacturers, Distributors, and Converters

16 This subchapter is adopted to be relettered as Subchapter C because the department has adopted
17 the repeal of current Subchapter B in this issue of the *Texas Register*.

18 Adopted amendments to §215.101 delete an incorrect reference to a non-existent Transportation
19 Code, Chapter 1000 and add the license types to which this subchapter applies for clarity.

20 Adopted new §215.102 sets out in one rule for clarity and ease of reference the application
21 requirements for manufacturers, distributors, converters, and franchised dealers for new, renewal, and
22 amendment license applications, including the requirement to attach documents, pay statutorily required
23 fees, and submit applications electronically on a prescribed form in the department's designated licensing

1 system. Occupations Code, §2301.257 and §2301.258 authorize the department to prescribe the
2 application form and require any information necessary to determine the applicant's qualifications to
3 adequately serve the public. Occupations Code, §2301.651(b) gives the board authority to deny an
4 application for an act or omission by an officer, director, partner, trustee, or other person acting in a
5 representative capacity that would be cause for denying a license. Adopted new §215.102(a)–(d) includes
6 requirements that apply to all franchised dealers, manufacturers, distributors, and converters. Adopted
7 new §215.102(c) requires a license holder renewing or amending a license to review current license
8 information, update information that has changed, provide related supporting information or documents
9 for any change or new requirement, and allows the department to implement its responsibilities under
10 Occupations Code §§2301.251, 2301.252, 2301.256–2301.260, 2301.303, and 2301.304.

11 Adopted new §215.102(e)(1) describes the information that must be submitted in the application,
12 denoting any differences by license type. In adopted new §215.102(e)(1)(L)(ii), the adopted text differs
13 from the proposed text as an “and” was added at the end, and in §215.102(e)(1)(L)(iii), the adopted text
14 differs from the proposed text as an “and” was deleted and a period substituted for a semicolon. These
15 changes were necessary at adoption because the content of §215.102(e)(1)(L)(iv) “the terms of the
16 contract under which the distributor will act for the manufacturer,” was moved at adoption to
17 §215.102(e)(1)(N)(iv) for clarity. Adopted §215.102(e)(1)(L) describes the information that an applicant
18 must provide when applying for either a manufacturer’s or a distributor’s license. Not all manufacturers
19 have a distributor, so for added clarity the requirement to provide terms of a distributor’s contract is
20 moved at adoption to §215.102(e)(1)(N) which describes the additional information that an applicant
21 must provide when applying for a distributor’s license. In adopted new §215.102(e)(1)(N)(iv), the adopted
22 text differs from the proposed text as language in that provision duplicates the following language in
23 §215.102(e)(1)(L)(iii): “if a franchise agreement for each line-make being applied for exists which states

1 the obligations of a Texas franchised dealer to the applicant and the obligations of the applicant to the
2 Texas franchised dealer.” At adoption the department deleted the unnecessary duplicate language and
3 replaced this language with “the terms of the contract under which the distributor will act for the
4 manufacturer” for clarity. At adoption, the department changed the proposed text to replace “if” with
5 “whether” in §215.102(e)(1)(P)(iii) for consistency. In adopted new §215.102(e)(1)(P)(v), the adopted text
6 differs from the proposed text to correct a referenced section title, §215.133 to “GDN Application
7 Requirements for a Dealer or a Wholesale Motor Vehicle Auction.”

8 Adopted new §215.102(e)(2) describes the documents that must be attached to the application
9 and denotes differences by license type. The adopted information and attachment requirements vary for
10 each license type based on different statutory requirements and related consumer fraud or public safety
11 considerations resulting from the applicant’s operation, the applicant’s business model, including
12 distribution methods, and the specific new vehicle types manufactured, distributed, or offered for sale by
13 the applicant. At adoption, the department changed the proposed text of §215.102(e)(2)(C) to remove
14 the phrase “at least” because it is unnecessary. In adopted new §215.102(e)(2)(E)(i), the adopted text
15 differs from the proposed text in that “offers for sale or sales of motor vehicle in Texas” is changed to
16 “motor vehicle sales or offers to sell to Texas residents, “dealer” is changed to "dealer or person" or
17 “dealer's or person's,” and “product” is changed to “new motor vehicle” to add clarity and consistency.
18 This adopted amendment to §215.102(e)(2)(E)(i) incorporates best practice recommendations from the
19 American Association of Motor Vehicle Administrators (AAMVA) to prevent public harm that may result
20 from sales to Texas residents by out-of-state dealers authorized by a manufacturer or distributor to sell
21 new vehicles in Texas exclusively through an online sales model. In adopted new §215.102(e)(2)(G), the
22 department changed the text at adoption to narrow the specific information or pages from the
23 distribution agreement that the department requires an applicant for a distributor’s license to provide, to

1 avoid unnecessary disclosure of confidential business information. At adoption the department also
2 clarified that if a completed questionnaire was provided, a manufacturer’s authorized representative may
3 sign the questionnaire, however, the applicant or applicant’s authorized representative may not sign on
4 behalf of a manufacturer.

5 Adopted new §215.102(e)(3) describes the fees that must be paid when an applicant applies for
6 a license. Adopted new §215.102(f) prohibits a license applicant from using a name or assumed name that
7 could be confused with a governmental entity or could be deceptive or misleading to the public to prevent
8 consumer fraud and abuse. Adopted new §215.102(g) describes the process through which a
9 manufacturer or distributor may add a new line make to an existing license during the license period. The
10 department adopts nonsubstantive changes to the text at adoption throughout §215.102 to change
11 license type references to the singular possessive form “manufacturer’s,” “distributor’s,” “converter’s,”
12 and “franchised dealer’s” for consistency with Occupations Code, Chapter 2301 and in §215.120(f) to
13 change “must” to “shall” for consistency within the subsection.

14 In §§215.102, 215.104, 215.105, 215.109, 215.111, 215.113, and 215.121, the
15 department adopts a nonsubstantive change to the text at adoption to rephrase “system for licensing” to
16 “licensing system” to improve readability. In adopted amendments to §§215.102(b), 215.104(g), and
17 215.105(e), a change to the text at adoption substitutes “must” for “shall” for consistency with drafting
18 standards. In §215.104(c) and (d) a change to the text at adoption substitutes “must” for “is required to”
19 for consistency in terminology. In adopted amendments to §§215.105(b), 215.106(b), 215.113(c)–(e), and
20 215.120(h), a change in the text at adoption substitutes “shall” for “will” for consistency in terminology.
21 In §215.111(a) and §215.120(e), (f), and (i) adopted amendments substitute “shall” for “must” for
22 consistency in terminology.

1 Adopted amendments to §215.103(a) substitute “performs” for the phrase “will only perform”
2 and add the phrase “and not new motor vehicle sales” to clarify and emphasize that the franchised dealer
3 activity that may not be performed at a service-only facility is new motor vehicle sales. The phrase “and
4 nonwarranty” is deleted because the department does not license non-warranty repair services. Similarly,
5 the last sentence in §215.103(a) is deleted in the adopted amendments because Occupations Code,
6 Chapter 2301 does not require warranty repair services to be performed only at a licensed dealer location.
7 Offsite sales are limited in Occupations Code, §2301.362, but no statutory provision limits the location in
8 which warranty services may be provided. This change conforms the rule text with statutory language and
9 provides franchised dealers with the flexibility allowed by statute to perform warranty repairs using
10 mobile services managed out of a licensed location. Adopted amendments to §215.103(b) delete a
11 redundant word and change the term “line” to “line-make” for consistency. An adopted amendment to
12 §215.103(d) deletes the word “only” as this term is not required by statute and a franchised dealer may
13 prefer to have contracting flexibility to obtain more attractive commercial terms.

14 Adopted amendments to §215.104(a) and §215.104(b)(3) delete unnecessary words to improve
15 readability without changing the meaning. Adopted amendments throughout §215.104 update and
16 modernize the license amendment process by requiring a franchised dealer to submit an amendment
17 application electronically in the designated licensing system. An adopted amendment in §215.104(a)(1)
18 clarifies and modernizes the rule by requiring that amendment application attachments must be legible
19 and accurate electronic images. An adopted amendment in §215.104(a)(2) adds a reference to new
20 adopted Chapter 224, (relating to Adjudicative Practice and Procedure), which includes procedures
21 related to processing protests of a franchised dealer’s application and is published for adoption in this
22 issue of the *Texas Register*. An adopted amendment in §215.104(b)(3) modernizes and standardizes the
23 process through which a publicly held corporation informs the department of an ownership change by

1 requiring that corporation to file an amendment application electronically when a person or entity
2 acquires a 10% ownership share. An adopted amendment to §215.104(c)(5) deletes an archaic
3 requirement for a franchised dealer to notify the department if the dealer’s facsimile number has
4 changed, and to renumber accordingly. An adopted amendment to §215.104(d)(1) substitutes “oversees”
5 with “is in charge of” for consistency and clarity without changing the meaning of the provision. Adopted
6 amendments to §215.104(e) and §215.104(f) add “franchised” and delete the phrase “licensed new motor
7 vehicle” for consistency in describing a dealer under this subchapter and add the word “amendment” to
8 describe the type of application required to process the referenced change to the franchised dealer’s
9 license.

10 In an adopted amendment to §215.105(b), the department changed the text at adoption to
11 specify the forms of notice the department will use to notify a franchised dealer about an opportunity to
12 protest an application, including certified mail and email. Adopted amendments to §215.105(b) and
13 §215.105(c) add “franchised” and delete the phrase “licensed new motor vehicle” for consistency in
14 describing a dealer under this subchapter. An adopted amendment to §215.105(d) clarifies and
15 modernizes the process for a franchised dealer to file a protest by specifying that a franchised dealer with
16 standing to protest must file a timely protest “electronically in the department-designated licensing
17 system” and pay the required fee.

18 An adopted amendment to §215.106(a)(1) clarifies that a notice of protest must be received by
19 5:00 p.m. Central Time, which will be either Central Standard Time or Central Daylight Time as applicable,
20 and clarifies that a notice of protest must be filed within 15 days after the date in the department’s notice.
21 An adopted amendment to §215.106(a)(2) modernizes the protest process by requiring the notice of
22 protest to be filed in the department’s designated electronic system, and an adopted amendment to
23 §215.106(a)(3) clarifies that the fee must be paid at the time the application is submitted. An adopted

1 amendment to §215.106(b)(2) clarifies that the protest will be rejected if payment is not made or is later
2 dishonored.

3 Adopted amendments to §§215.108, 215.109, 215.110, and 215.113 add the word “franchised”
4 and delete the phrase “licensed new motor vehicle,” for consistency in describing a dealer under this
5 subchapter.

6 An adopted amendment to §215.109(4) requires a franchised dealer to submit a dealership
7 replacement application electronically in the designated department licensing system to modernize the
8 process.

9 Adopted amendments to §215.110(a) split the subsection into three separate subsections
10 lettered (a) through (c), modify internal references in relettered (b) and (c) from “subsection” to “section”
11 to reflect the new organization, and reletter current subsection (b) to subsection (d) accordingly to
12 improve readability. Adopted amendments in §215.110(a) remove unnecessary language and clarify that
13 the applicant must submit legible and accurate electronic images of the franchise agreement pages that
14 identify the parties, the parties’ signatures, each line-make listed in the application, and the address of
15 the franchised dealership’s physical location. An adopted amendment to relettered §215.110(b) clarifies
16 that an applicant may submit temporary evidence of franchise electronically. Adopted amendments to
17 relettered §215.110(c) clarify that an applicant is required to provide the designated franchise agreement
18 pages to the department before a license may be issued.

19 Adopted amendments to §215.111 organize the existing language into two subsections to
20 improve readability. An adopted amendment to new §215.111(a) clarifies that a manufacturer or
21 distributor must provide notice of termination or discontinuation as required under Occupations Code,
22 §2301.453 and removes language that duplicates the statute. Adopted amendments to new §215.111(b)
23 require a franchised dealer to file a written notice of protest electronically in the department’s designated

1 licensing system. The department changed the text of §215.111(b) at adoption to add a clarifying
2 reference to the minimum number of days that a manufacturer or distributor must provide a franchised
3 dealer to file a protest before terminating or discontinuing a franchise agreement. The amendments to
4 §215.111(b) modernize the process and conform the rule to the statute.

5 SB 604, 86th Legislature, Regular Session (2019) eliminated the department’s authority to
6 approve a vehicle show or exhibition under Occupations Code, §2301.358, effective September 1, 2019.
7 As a result, §215.112 is adopted for repeal in this issue of the *Texas Register* because §215.112(a)
8 expressly limits applicability of the rule to motor home shows requiring department approval.

9 An adopted amendment §215.113(a) replaces “new motor vehicle dealer” with “franchised
10 dealer” as the statutory term in Occupations Code, §2301.002 is “franchised dealer.” Adopted
11 amendments to §215.113(a), (d), and (e) require the notice of protest to be filed electronically in the
12 department’s designated licensing system to modernize the process. Adopted amendments to
13 §215.113(c) substitute the more general Occupations Code subchapter designation for the specific section
14 series reference so that any future statutory changes will not require a rule change, and add a reference
15 to the subchapter in adopted new Chapter 224, (relating to Adjudicative Practice and Procedure), which
16 applies to this subsection and is published for adoption in this issue of the *Texas Register*. Adopted
17 amendments to §215.113(f) add a reference to the subchapter in adopted new Chapter 224, (relating to
18 Adjudicative Practice and Procedure), which applies to this subsection and is published for adoption in
19 this issue of the *Texas Register*, delete archaic language as contested case hearing scheduling is
20 determined by the State Office of Administrative Hearings (SOAH) and its procedural rules, and substitute
21 the word “issued” for “rendered” for consistency.

22 An adopted amendment to the title of §215.115 adding the phrase “Vehicle Sales” describes the
23 scope of the section more accurately. Adopted amendments to §215.115(a), (b), (d) and (f) delete the

1 phrase “a representative of” as this phrase is unnecessary. Adopted amendments to §215.115(a), (b), and
2 (f) add language to allow a record to be submitted to the department electronically upon request to
3 modernize the process. Adopted amendments to §215.115(b) correct preposition use to improve
4 readability without changing the meaning.

5 An adopted amendment to the title of §215.116 adds the term “Franchised Dealership” to
6 describe the scope of this section more accurately. An adopted amendment to §215.116(a) adds the
7 descriptor “franchised” to the term dealer and deletes duplicate language without changing meaning.

8 Adopted amendments to §215.117 improve the readability of the section without changing the
9 meaning.

10 The title of adopted new §215.120 was changed at adoption to add “Standard” to the adopted
11 title as the title “Standard License Plates,” describes the content of this section more accurately. Adopted
12 new §215.120 creates a consolidated chapter for all the department’s requirements related to the use of
13 license plates by manufacturers, distributors, and converters for ease of reference and clarity. Adopted
14 new §215.120(a) specifies when a manufacturer, distributor, or converter may apply for a standard license
15 plate and adopted new §215.120(a) and (b) specify the type of vehicle and purposes for which a license
16 plate may be used. Adopted new §215.120(c) explains where the license plate is to be placed on the
17 license holder’s vehicle. Adopted new §215.120(d) contains the recordkeeping requirements for these
18 license plates. In adopted new §215.121(b)(10), the proposed text is changed at adoption to correct a
19 subchapter reference from “Subchapter H” to “Subchapter F.” The department changed the text of
20 adopted new §215.120(d)(3) at adoption to add a clarifying phrase “if one has been assigned” because
21 some vehicles that manufacturers register may not have an assigned Vehicle Identification Number (VIN)
22 such as a prototype or concept vehicle. In adopted new §215.120(d)(4), the department made a change
23 to the text at adoption to specify that the license plate record only needs to contain the identity of the

1 person in control of the standard license plate. Adopted new §215.120(e) and (f) describe what a
2 manufacturer, distributor or converter is required to do if a license plate is lost, stolen, or damaged.
3 Adopted new §215.120(g) requires license plate records be available for inspection or review if requested
4 by the department. Adopted new §215.120(h) specifies the criteria the department will use to evaluate a
5 license holder’s request for additional standard license plates. Adopted new §215.120(i) requires a
6 manufacturer, distributor, or converter to return department-issued license plates to the department
7 within 10 days of the associated license being closed, canceled, or revoked.

8 Adopted new §215.121 describes the powers of the board and department to sanction a
9 manufacturer, distributor, or converter. This adopted new section provides these license holders with
10 information about which violations may result in civil penalties or may affect licensing eligibility. Adopted
11 new §215.121(a) describes existing administrative sanctions that the board or department may take if a
12 manufacturer, distributor, or converter violates a law or rule enforced by the department. Adopted new
13 §215.121(b) describes which acts or omissions may result in a sanction. A change to the proposed text of
14 §215.121(b) at adoption removes the clause “a representative of” because it is unnecessary. A change to
15 the proposed text for §215.121(b)(2) at adoption replaces the word “timely” with the more specific phrase
16 “within 15 days” to specify the time period certain license holders have to provide records in response to
17 a request by the department. In adopted new §215.121(b)(10), the proposed text is changed at adoption
18 to correct a subchapter reference from “Subchapter H” to “Subchapter F,” the relettered subchapter
19 containing the advertising rules.

20

21 Subchapter E. General Distinguishing Numbers

22 This subchapter is adopted to be relettered as Subchapter D because the department has adopted
23 the repeal of current Subchapter B in this issue of the *Texas Register* and the subsequent subchapters are

1 adopted to be relettered accordingly. An adopted amendment to the title of this subchapter adds in-
2 transit licenses which are issued to drive-a-way operators under Transportation Code, §503.023.

3 Adopted amendments to §215.131 add a reference to Transportation Code, Chapters 1001–1005
4 and clarify that provisions in this subchapter apply to GDNs and drive-a-way operator in-transit licenses
5 issued by the department.

6 Adopted amendments to §215.132 delete an unused definition for charitable organization, delete
7 an unnecessary definition for license, and add a clarifying definition for municipality, which is defined by
8 reference to Local Government Code, Chapter 1. Adopted amendments also renumber the remaining
9 provisions accordingly.

10 An adopted amendment to §215.133 retitles the section to “GDN Application Requirements for a
11 Dealer or a Wholesale Motor Vehicle Auction” to accurately reflect the scope of the section.
12 Transportation Code, §503.022 requires a wholesale motor vehicle auction to hold a GDN for each
13 business location, and Transportation Code, §503.030 requires an applicant to submit information
14 required by the department in the application. A wholesale motor vehicle auction is not “a dealer” as
15 defined in Transportation Code, §503.001(4). To clarify the scope of this section, which is intended to
16 include all GDN application requirements, the phrase “or a Wholesale Motor Vehicle Auction” was added
17 to the title and the application requirements are expanded to include this GDN category. An adopted
18 amendment to §215.133(a) adds a reference to a wholesale motor vehicle auction to reflect the expanded
19 scope of the rule and deletes a redundant word. Adopted amendments to §215.133(c) add multiple
20 references to wholesale motor vehicle auction throughout to expand the requirements of the rule to
21 include wholesale motor vehicle auction GDN holders, add a clarifying reference to §215.83, and clarify
22 an existing requirement for a license holder to pay any outstanding civil penalties owed the department
23 under a final order before renewing a GDN. Adopted amendments to §215.133(c)(1) clarify existing

1 application requirements in §215.133(c)(1)(C); add new §215.133(c)(1)(D), which requires an applicant to
2 provide a contact name and contact details for a person who can provide business information about the
3 applicant so the department knows who to contact for related questions; reletter the remaining
4 subparagraphs; add in §215.133(c)(1)(I) the requirement for a telephone number for a dealer’s temporary
5 tag database account administrator; and correct in §215.133(c)(1)(O) the name of a form. Adopted
6 amendments to §215.133(c)(2) clarify §215.133(c)(2)(D) by adding “unexpired” and deleting “current” in
7 the related clauses and substituting the modern phrase “military identification card” for “armed forces
8 identification,” and add the word “business” in §215.133(c)(2)(G) to clarify the phrase “premises photos.”
9 Adopted amendments to §215.133(c)(3) delete a redundant phrase in §215.133(c)(3)(A), add a clarifying
10 reference in §215.133(c)(3)(B) to applicable taxes, and substitute “standard” for “metal” for a more
11 precise description of a dealer’s license plate. In §215.133(d), adopted amendments add a fingerprint
12 requirement for wholesale motor vehicle auction GDNs to allow the department to evaluate the criminal
13 histories of applicants to prevent and deter application fraud, and update the title of a referenced section.
14 Adopted amendments to §215.133(e) delete “dealer” to clarify that all GDN applicants and holders must
15 follow the assumed name requirements in that subsection and add the phrase “a name or” to denote that
16 an applicant cannot use a business name or an assumed name that is confusing, deceptive, or otherwise
17 misleading to the public. Adopted new §215.133(j) clarifies that a person holding an independent motor
18 vehicle GDN and performing salvage activities must apply for a National Motor Vehicle Title Information
19 System Identification number and provide that number to the department in the application so the
20 department can verify that the applicant meets federal registration requirements and is qualified to
21 perform salvage activities. The next subsection, adopted §215.133(k), is relettered accordingly.

22 In the adopted amendments to §§215.133, 215.134, 215.135, 215.141, and 215.145, the
23 department made a nonsubstantive change to the proposed text to rephrase “system for licensing” to

1 “licensing system” for consistency and to improve readability. In the adopted amendments to
2 §§215.133(c), 215.134(b), 215.138(a)(i), 215.140(a)(1)(A), 215.144(j)(3), and 215.160(d), the department
3 substitutes “must” in the proposed text for “shall” at adoption for consistency with drafting standards. In
4 adopted §215.133(c)(2)(D) and §215.134(e)(2)(C), the phrase “at least” is deleted at adoption as
5 unnecessary. In §215.135(b) and (c), a change to the text at adoption substitutes “is required to” with
6 “must” for consistency in terminology.

7 Transportation Code, §503.023 requires a drive-a-way operator who transports or drives a vehicle
8 in Texas to hold a drive-a-way in-transit license. Transportation Code §503.031 requires an applicant for
9 this license type to submit an application containing information required by the department. Adopted
10 new §215.134 is necessary to define application requirements for a drive-a-way operator in-transit
11 license. Adopted new §215.134(a) defines the requirement that a person have a drive-a-way operator
12 license to engage in the business in Texas. Adopted new §215.134(b) defines the application process and
13 requires an applicant to complete an application form prescribed by the department and submit the
14 application through the department’s designated electronic licensing system. Adopted new §215.134(c)
15 requires a license holder renewing or amending a license to verify current information and provide related
16 information and documents for any new requirements or changes to the license and pay required fees.
17 Adopted new §215.134(d) instructs new applicants how to register in the department-designated
18 licensing system. Adopted new §215.134(e)(1) describes the information that must be submitted in the
19 application for a drive-a-way operator in-transit license. Adopted new §215.134(e)(2) describes the
20 documents that must be attached to the application based on statutory requirements and related
21 consumer fraud or public safety considerations resulting from the license holder’s operation or business
22 model. Adopted new §215.134(e)(3) describes the fees that must be paid when an applicant applies for a
23 license. Adopted new §215.134(f) requires a license applicant to comply with fingerprint requirements to

1 allow the department to confirm an applicant’s identity and perform a more comprehensive review of the
2 applicant’s criminal record to deter and prevent application fraud. Adopted new §215.134(g) protects the
3 public by prohibiting an in-transit license holder from using a business name or assumed name that is
4 confusing, deceptive, or misleading. Adopted amendments to §215.135(a) and (b) substitute
5 “municipality” for “city” as municipality is a defined term in the Local Government Code, Chapter 1, and
6 is adopted as a defined term in §215.132. The department made a change to the proposed text at
7 adoption to replace “city” with “municipality” in the adopted amendments to §215.135(c) as well, to
8 create consistency. An adopted amendment to §215.135(a) updates a reference to align with the title of
9 §215.140. Adopted amendments to §215.135(b) and (c) correct punctuation. The adopted amendment to
10 §215.135(d) requires a GDN holder to notify the department of a new, closed or relocated business
11 location by filing an amendment electronically in the designated licensing system to modernize the
12 process.

13 Adopted amendments to §215.137(a) substitute “GDN” for “license” and delete “dealership” for
14 consistency in terminology. Adopted amendments to §215.137(c) rephrase a sentence for clarity and
15 consistency without changing the meaning.

16 Adopted amendments to the title of §215.138 and throughout the section delete “metal” or
17 “assigned metal dealer’s” to describe a dealer’s standard license plate for consistency in terminology. An
18 adopted amendment to §215.138(a) deletes a requirement to attach a plate to a license plate holder,
19 references §217.27, Vehicle Registration Insignia, for plate placement requirements, and is necessary for
20 consistency. Adopted amendments to §215.138(b) replace the phrase “so that the receipt can be
21 presented” with “to present” to add clarity without changing meaning. Adopted amendments combine
22 the definition of light truck in §215.138(e) and rule language in §215.138(f) into relettered §215.138(e) to
23 add clarity, and the remaining sections are relettered accordingly. Adopted amendments to relettered

1 §215.138(h) clarify that a dealer must keep records of all license plates issued by the department for
2 dealer use, including both standard and personalized prestige plates. Adopted amendments to relettered
3 §215.138(i) and (j) clarify the procedures for reporting a license plate that is lost, stolen, or damaged.
4 Adopted new §215.138(k) requires that a dealer’s license plate records be available for inspection or to
5 submit to the department electronically upon request to allow the department to investigate potential
6 misuse of license plates. Adopted new §215.138(l) requires a dealer to return to the department all plates,
7 stickers, and related receipts within 10 days, consistent with the requirements of Transportation Code,
8 §503.038. At adoption, the phrase “standard or personalized prestige” is placed after “dealer” and before
9 “license plate” throughout new adopted §215.138 to clarify that the requirements of this section apply to
10 all dealer license plate types. In adopted relettered §215.138(j), the text was reorganized at adoption to
11 add clarity and in §215.138(j)(2) “must” was deleted as this word is duplicative and unnecessary. In
12 adopted new §215.138(l), the text is changed at adoption to substitute the term “dealer” in place of
13 “license holder” and to replace “shall” with “must” for consistency of terminology.

14 Adopted amendments to the title of §215.139 and throughout the section and attached graphics
15 delete “metal” and add “standard” to describe a dealer plate more accurately and consistently. In
16 §215.139(d) and in §215.139(f)(2), adopted amendments remove passive verbs and thereby improve
17 readability without changing the meaning. In the attached graphic to §215.139(f)(1), adopted
18 amendments correct the number of plates that a dealer selling 50 to 99 vehicles during the previous 12
19 months is eligible to request and add a missing category for a dealer selling 100 to 200 vehicles during the
20 previous 12 months. These adopted amendments correct inadvertent errors made when the graphic was
21 last published. The adopted amendments delete §215.139(h) as an unnecessary disclaimer because other
22 adopted amendments to §215.87(d) and §215.138(h) explicitly address procedures relating to
23 personalized prestige dealer plates.

1 An adopted amendment to §215.140 adds a subsection letter (a) to distinguish premises
2 requirements for GDN dealers from premises requirements for wholesale motor vehicle auctions, which
3 are adopted in new subsection (b). Adopted amendments to §215.140(a)(1)(B) and §215.140(a)(2) clarify
4 that the dealer’s business hours must be posted in a manner and location that is accessible to the public
5 to meet the requirements of Transportation Code, §503.032. Adopted amendments to §215.140(a)(5)(F)
6 clarify that an established and permanent location must be capable of receiving U.S. mail and must have
7 an assigned emergency services property address to allow the department to verify the physical location
8 and municipality in which the business is located. An adopted amendment to §215.140(a)(5)(F) deletes
9 “metal” to describe the dealer’s license plate more consistently. An adopted amendment to
10 §215.140(a)(11)(B)(ii) clarifies that a display area must be reserved exclusively for the dealer’s inventory.
11 Adopted amendments to §215.140(a)(11)(B)(iv) and (vii) clarify that a barrier that cannot be readily
12 removed is one that cannot be easily moved by one person and typically weighs more than 50 pounds.
13 This weight guideline is consistent with Occupation Health and Safety Administration recommendations
14 for the maximum weight that one person may safely lift without assistance. Adopted amendments to
15 §215.140(a)(11)(C) replace “dealer” with “GDN holder.” Adopted amendments to §215.140(a)(11)(C)
16 include a change to the proposed text at adoption to replace the proposed requirement that a GDN holder
17 disclose all storage lots in the license application process with a more limited requirement that a GDN
18 holder disclose the location of a storage lot or location of a motor vehicle in inventory upon request by
19 the department, so the department can inspect the lot to ensure compliance with department rules and
20 investigate complaints. The adopted changes in §215.140(a)(11) prevent fraud and consumer abuse and
21 protect public health and safety. An adopted amendment to §215.140(a)(12) deletes an exclusion for
22 salvage pool operators because this exclusion is not consistent with public welfare as the public should
23 not be misled about the status or condition of a salvage vehicle. If a dealer is selling both motor vehicles

1 and salvage vehicles, each salvage vehicle must be clearly and conspicuously marked. An adopted
2 amendment to §215.140(a)(14) moves to the end of the paragraph the requirement to post a dealer's
3 GDN and bond notice in each location to improve clarity without changing the meaning.

4 Adopted new §215.140(b) adds premises requirements for wholesale motor vehicle auctions and
5 implements the requirements of Transportation Code, §503.032. The text of adopted new
6 §215.140(b)(6)(G) is changed at adoption to limit the requirement that a GDN holder disclose the address
7 or location of a storage lot to be only upon request of the department, rather than as part of the license
8 application. The text of adopted new §215.140(b)(7)(C)(ii) is changed at adoption to correct a reference
9 by replacing "dealer" with "wholesale motor vehicle auction."

10 Adopted amendments to §215.141(a) reorder language for consistency with §215.141(b) and add
11 a reference to a cease-and-desist order, which is an action the board is authorized to take under
12 Occupations Code, §2301.153 and §2301.802. Adopted amendments to §215.141(b)(1) add a reference
13 to the relevant statute and to the requirement to post a bond notice and delete an archaic reference to a
14 bond amount. Adopted new §215.141(b)(2) addresses the failure of a license holder to meet or maintain
15 the established and permanent place of business premises requirements as this failure is one of the most
16 common violations requiring a sanction under this subchapter, and the remaining paragraphs are
17 renumbered accordingly. Adopted amendments to renumbered §215.141(b)(4) clarify that a license
18 holder under this subchapter may be sanctioned for either failing to provide electronic records, or for
19 refusing or failing to comply with a department request to review electronic or physical records at the
20 licensed business location—the text is changed at adoption to add the phrase "electronic or physical" for
21 additional clarity. An adopted amendment to renumbered §215.141(b)(4)(A) corrects the title to a cross-
22 referenced section of rule. At adoption, text was added to renumbered §215.141(b)(4)(B) to delete an
23 unnecessary "and" because additional language is being adopted in this subparagraph. Adopted new

1 §215.141(b)(4)(D) adds the Certificate of Occupancy, Certificate of Compliance, business license or permit,
2 or other official documentation confirming compliance with county and municipal laws or ordinances for
3 a vehicle business at the licensed physical location as records the department may request to investigate
4 compliance with Transportation Code requirements for an established and permanent place of business.
5 Adopted amendments reletter the remaining subsections to accommodate adopted new
6 §215.141(b)(4)(D). An adopted amendment to relettered §215.141(b)(6) deletes a redundant reference
7 to §215.140 because a reference to that section is adopted in §215.141(b)(2) and removes subsection
8 delineations within §215.141(b)(6) because they are unnecessary. Adopted amendments to relettered
9 §215.141(b)(8) clarify that a license holder under this subchapter may be sanctioned if the license holder
10 fails to submit a license amendment in the designated department electronic licensing system to change
11 an address within 10 days of the change. The proposed text of §215.141(b)(8) is changed at adoption to
12 align with changes made at adoption to §215.140, removing all reference to the proposed requirement
13 for GDN applicants to disclose storage lots on the license application, which is removed from §215.140.
14 An adopted amendment to relettered §215.141(b)(9) clarifies that a license holder under this subchapter
15 may be sanctioned if a person fails to submit a license amendment in the designated department
16 electronic licensing system to notify the department of a change in name or change in management or
17 ownership within 10 days of the change. The adopted amendments to §215.141(b)(8) and (9) modernize
18 the process with references to the electronic licensing system. Adopted amendments to relettered
19 §215.141(b)(12) and (13) delete “metal” from the description of license plate consistent with statutory
20 language in Transportation Code, Chapter 503. An adopted amendment to relettered §215.141(b)(16)
21 deletes an incorrect reference to non-existent Transportation Code, Chapter 1000. An adopted
22 amendment to relettered §215.141(b)(17) adds a clarifying reference to §211.3, Criminal Offense
23 Guidelines. An adopted amendment to relettered §215.141(b)(20) clarifies that providing a false or forged

1 document to the department may result in a sanction. In an adopted amendment to §215.141(b)(21), the
2 text is changed at adoption to delete a stray reference to Transportation Code, Chapter 1000, which does
3 not exist. An adopted amendment to relettered §215.141(b)(22) clarifies that providing a false or forged
4 identity document, photograph, image, or document to the department is a material misrepresentation
5 and may result in a sanction. Adopted new §215.141(b)(25) clarifies that a license holder's failure to
6 comply with the requirements for dealer's issuance of temporary tags under §215.150 may result in a
7 sanction. Adopted amendments to relettered §215.141(b)(28) delete an archaic effective date and add
8 the title of a referenced statutory provision for clarity. The text of adopted relettered §215.141(b)(28) is
9 changed at adoption to correct punctuation by removing an errant period. Adopted new §215.141(b)(29)
10 adds failure to issue a refund as ordered by the board or department as an action that may result in a
11 sanction to ensure the board is able to enforce its refund orders. Adopted new §215.141(b)(30) adds
12 failure to acquire or maintain a certificate, business license, permit, or other documents confirming
13 compliance with county or municipal laws or ordinances for a vehicle business as an action that may result
14 in a sanction because a license holder must comply with county and local laws to have and maintain an
15 established and permanent place of business. An established and permanent place of business is a
16 requirement for GDN holders under Transportation Code §503.032 and wholesale motor vehicle auctions
17 under Transportation Code, §503.030.

18 Transportation Code, §503.035 requires the department to issue an in-transit license plate to a
19 drive-a-way operator holding an in-transit license. Adopted new §215.143 describes the process for a
20 drive-away operator to obtain an in-transit standard license plate and the requirements for using an in-
21 transit standard license plate. Adopted new §215.143(a) specifies when and how a drive-a-way operator
22 may apply for an in-transit standard license plate. Adopted new §215.143(b) describes when and where
23 the license plate is to be placed on a vehicle. Adopted new §215.143(c) describes the recordkeeping

1 requirements for in-transit standard license plates. Adopted §215.143(d) and (e) describe what a
2 drive-a-way operator is required to do if a standard in-transit license plate is lost, stolen, or damaged.
3 Adopted new §215.143(f) requires license plate records to be available for inspection or review if
4 requested by the department to allow the department to investigate potential fraud or complaints.
5 Adopted new §215.143(g) specifies the criteria the department will use to evaluate a request for
6 additional in-transit standard license plates to ensure that the plate allocation is sufficient to meet but
7 not exceed the licensee’s legitimate needs so as to not increase the opportunity for plate fraud. Adopted
8 new §215.143(h) requires a drive-a-way operator to return department-issued license plates to the
9 department within 10 days of the associated license being closed, canceled, or revoked to prevent
10 fraudulent use of in-transit standard license plates.

11 An adopted amendment to the title of §215.144 adds “Vehicle” to the title to describe the scope
12 more accurately as pertaining to vehicle records. Adopted amendments to §215.144(a) add a reference
13 to a wholesale motor vehicle auction and delete the redundant phrase “a representative of”—the text is
14 changed at adoption to include “of” in the deleted phrase and thereby correct an error in the proposed
15 text. An adopted amendment to §215.144(b) adds a reference to records that must be kept by an
16 independent mobility motor vehicle dealer for ease of reference, with a change in the text at adoption to
17 remove an unnecessary “the.” An adopted amendment to §215.144(c) deletes unnecessary punctuation.
18 Adopted amendments to §215.144(d) clarify language regarding department records requests and correct
19 a reference from “division” to “department” for consistency. Adopted amendments to §215.144(e)(7)
20 delete an archaic reference to the title of a tax receipt form and substitute the general phrase “county tax
21 assessor-collector receipt marked paid,” because the receipt form may vary by county. Adopted
22 amendments to §215.144(e)(8) improve sentence structure, clarify that records must be kept for both the
23 purchase and the sale of a vehicle, delete a reference to an archaic form, and add requirements to keep

1 a copy of the purchaser’s photo identification, the odometer disclosure statement signed by the buyer
2 unless the vehicle is exempt, and the rebuilt salvage disclosure, if applicable. A change to the proposed
3 text of §215.144(e)(8)(M) at adoption adds the phrase “unless the vehicle is exempt” to the adopted text
4 for clarity. These additional record requirements in §215.144(e)(8)(L)–(N) prevent consumer harm and
5 reduce potential for fraud. Adopted amendments to §215.144(e)(9) rephrase the existing requirement to
6 improve readability without changing the meaning. Adopted amendments to §215.144(f)(2) add a
7 reference to a statutory exemption and update the language consistent with current statutory
8 requirements because any willing county tax assessor-collector may process a title or registration request.
9 Adopted amendments to §215.144(f)(3) add clarity by changing the presumed reasonable time for a
10 dealer to apply for a title and registration from 20 working days to 30 days and add references to title
11 processing to clarify that the same presumed time limit applies to both titling and registration dealer
12 responsibilities. An adopted amendment to §215.144(g)(1) adds clarity by changing the presumed
13 reasonable time for a dealer to act for out-of-state sales from 20 working days to 30 days; the definition
14 of “days” under §215.2(b)(2) is adopted to be calendar days. Adopted amendments to §215.144(h) update
15 the language consistent with current statutory requirements because any willing county tax assessor-
16 collector may process a title or registration request. Adopted amendments to §215.144(j) delete the
17 unnecessary phrase “a representative of” to describe the department, simplify the language in
18 §215.144(j)(2) regarding the requirement that a wholesale motor vehicle auction must reply within 15
19 days of receiving a department records request regardless of the method in which the department makes
20 the request, and update a citation to the federal odometer disclosure requirements in §215.144(j)(3)(F).
21 An adopted amendment to §215.144(k) deletes the unnecessary phrase “a representative of” in
22 describing the department. Adopted amendments to §215.144(l) update the subsection title to refer to
23 the department’s electronic titling and registration system for clarity and delete unnecessary punctuation.

1 In the adopted amendments to §215.144(a), (b), (d), (h), (j), and (l), the text is changed at adoption to
2 substitute “shall” for “must” for consistency in terminology.

3 An adopted amendment to §215.145(a) deletes a duplicative word, and adopted amendments to
4 §215.145(b) modernize the provision by requiring a dealer to submit a license amendment electronically
5 in the department’s designated licensing system. Adopted amendments to §215.145(c)–(f) remove
6 redundant language or restate language to improve readability without changing the meaning. Another
7 adopted amendment to §215.145(f) modernizes the provision by adding a reference to filing a GDN
8 application electronically in the department’s designated licensing system. An adopted amendment to
9 §215.145(g) deletes unnecessary punctuation and corrects the title of a referenced statute.

10 The department adopts the repeal of the entirety of §215.146 in this issue of the *Texas Register*
11 because the rule language is incorporated into new adopted §215.120, relating to Standard License Plates.

12 Adopted amendments to §215.147(a) correct a reference to a driver license and delete an archaic
13 reference to a concealed handgun license. An adopted amendment to §215.147(b) substitutes “dealer’s”
14 for “license holder’s” for consistency in terminology without changing the meaning. An adopted
15 amendment to §215.147(c) adds “Vehicle” for consistency with an adopted title change to §215.144,
16 relating to Vehicle Records. A change to the text at adoption §215.147(c) substitutes “must” with “shall”
17 for consistency with drafting standards.

18 Adopted amendments to §215.148 add references to Transportation Code, Chapter 503 and adopted new
19 Chapter 224 of this title (relating to Adjudicative Practice and Procedure), which is published for adoption
20 in this issue of the *Texas Register*, update an adopted title change to §215.144, and remove redundant
21 and unnecessary words and punctuation. A change to the text at adoption §215.148(a) substitutes “shall”
22 for “must” and in §215.148(d) substitutes “must” for “shall” for consistency with drafting standards.

1 Adopted amendments to §215.149 change the title to “Sales of New Mobility Motor Vehicles” to
2 accurately reflect the section scope and add references to “new” mobility motor vehicles for clarity.

3 An adopted amendment to §215.150(a) adds “or lease” to clarify that a dealer may issue a
4 temporary tag for a leased vehicle. An adopted amendment to §215.150(b)(1) updates a reference to
5 adopted new Chapter 224 of this title (relating to Adjudicative Practice and Procedure), which is published
6 for adoption in this issue of the *Texas Register*. Adopted amendments to §215.150(c) change word order
7 to “buyer’s temporary tag” for consistency.

8 An adopted amendment to §215.151(a) adds “governmental agency” to the list of entities that
9 must display temporary tags on the rear of a vehicle in operation. As a result, the deletion of §215.151(b)
10 is adopted, and the remaining subsections are relettered accordingly. Adopted amendments to relettered
11 §215.151(c) delete duplicate language from a referenced statute and add a statutory reference for
12 allowed uses of a converter’s temporary tag for completeness and ease of reference.

13 Adopted amendments to §215.152(a) and (b) delete an unnecessary phrase as a governmental
14 agency is defined in §215.2 to include federal, state, and local agencies. Adopted amendments in
15 §215.152(f) increase the allotment of temporary tags for a franchised dealer from 600 to 1,000 based on
16 the department’s historical experience. Since the time that maximum tag limits were put in place, the
17 department has been monitoring temporary tag usage and processing requests for additional temporary
18 tags. The one dealer category that has consistently required more temporary tags to be allocated is a new
19 franchised dealer. Increasing the initial amount allocated to this dealer type will help ensure a new
20 franchised dealer has the requisite number of tags to support daily operations. Adopted amendments in
21 §215.152(i) clarify the process and procedure for requesting additional temporary tags and for appealing
22 a denial of a request, but do not change existing process or procedure. Another amendment to §215.152(l)
23 clarifies that temporary tag allotments do not carry over to subsequent years.

1 An adopted amendment to §215.154(a) adds “or lease” to clarify that a dealer may issue a dealer’s
2 temporary tag for a vehicle the dealer is authorized to lease. An adopted amendment to §215.154(c)
3 deletes “metal” and adds “standard or personalized prestige” to accurately describe the license plate
4 types the dealer may use. In §215.154(d), changes to the text at adoption added punctuation to statutory
5 references for consistency. An adopted amendment to §215.154(d)(2)(B) adds a reference to §215.138(d)
6 for clarity and ease of reference. Adopted amendments to §215.154(e) and (g) delete these two
7 subsections as the language in these subsections duplicates §215.138, to which a reference is adopted in
8 §215.154(d)(2)(B), and the remaining subsections are relettered accordingly.

9 Adopted amendments to §215.155(a) clarify that a buyer’s temporary tag may only be displayed
10 on a vehicle from the selling dealer’s inventory, reorganize and combine the content in §215.155(a) and
11 (b) in a numbered list for clarity and readability, and add “or lease” to clarify that a dealer may issue a
12 dealer’s temporary tag for a vehicle the dealer is authorized to lease. Adopted new §215.155(b) clarifies
13 that in accordance with Texas Transportation Code, §503.063, a buyer’s temporary tag must be issued
14 and provided to a buyer of a vehicle that is to be titled but not registered and clarifies that the temporary
15 tag must not be displayed on the vehicle in these circumstances. This clarification facilitates title-only
16 vehicle sales for vehicles that will not be driven on Texas roads. An adopted amendment to §215.155(c)
17 deletes “metal” for consistency. Adopted amendments to §215.155(e) delete unnecessary punctuation
18 and phrasing without changing the meaning. Adopted amendments to §215.155(f) and adopted new
19 §215.155(g) reorganize and rephrase language in §215.155(f) to improve clarity and readability without
20 changing meaning.

21 The text of amended §215.160(a) and (b) changed at adoption, replacing redundant phrases “a
22 regular title” and “issued a title” with “been titled” for clarity and readability without changing the
23 meaning. The text of amended §215.160(a) changed at adoption to remove a redundant citation to

1 Transportation Code, §501.100. An adopted amendment to §215.160(b) increases the required font size
2 from 11-point to 14-point in the rebuilt vehicle acknowledgment or vehicle disclosure form to increase
3 visibility. An adopted amendment in §215.160(c) requires a separate signature on the acknowledgment
4 or disclosure form. Adopted amendments in §215.160(d) reorder language to improve clarity and update
5 a referenced section title; the department also changed the proposed text in §215.160(d) at adoption to
6 replace “shall” with “must” for consistency with drafting standards. The adopted amendments increasing
7 the required font size and requiring a signature protect consumers and prevent consumer harm.

8 Adopted amendments to §215.161 update the title to add “Provider” for clarity because the
9 requirements in this section relate to motor vehicle licensing education course providers. Adopted new
10 §215.161(f) clarifies that the department does not offer an approved licensing education course.

11

12 Subchapter F. Lessors and Lease Facilitators

13 This subchapter is adopted to be relettered as Subchapter E as the department adopts the repeal
14 of current Subchapter B in this issue of the *Texas Register* and the following subchapters are adopted to
15 be relettered accordingly.

16 Adopted amendments to §215.171 update statutory references including references to relevant
17 Transportation Code chapters.

18 Adopted amendments to §215.173(a) edit language and provide a statutory reference for clarity
19 and to improve readability.

20 In the adopted amendments to §§215.174(a), 215.178(a), (d), and 215.179(b), the department
21 changed the proposed text at adoption to substitute “shall” for “must” for consistency in terminology. In
22 the adopted amendments to §§215.174, 215.175, and 215.179, the department changed the proposed
23 text at adoption to replace “system for licensing” with “licensing system” to improve readability.

1 The adopted amendments to §215.174 modernize the provision by requiring use of the
2 department’s electronic licensing system. Adopted amendments to §215.174(a) add a reference to
3 §215.83 and clarify that applications, including supporting documentation and fees, are to be submitted
4 electronically in the designated department licensing system. Adopted new §215.174(b) requires a license
5 holder renewing or amending a license to verify current information and provide related information and
6 documents for any changes to the license and pay required fees. These adopted amendments modernize
7 the license renewal and amendment process. Adopted new §215.174(c) instructs a new applicant how to
8 register in the department-designated licensing system. Adopted new §215.174(d) describes the
9 information that must be submitted in the application, and the remaining subsections are relettered
10 accordingly. The department changed the proposed text of §215.174(d) at adoption to delete extraneous
11 brackets. Adopted amendments to relettered §215.174(e) specify the supporting documentation that an
12 applicant for a vehicle lessor’s license must provide so the department can investigate the applicant and
13 its business practices prior to issuing a new or renewal license. The adopted amendments to relettered
14 §215.174(e) clarify that a document submitted as part of a vehicle lessor’s license application must be a
15 legible and accurate electronic image, describe the business organization documents required, add
16 current identity document requirements, and require a vehicle lessor not located in Texas to provide a list
17 of vehicle lessor licenses in other states, if applicable, and any other information required to evaluate the
18 application under current law. In adopted §215.174(e)(2), the introductory phrase “at least” in this
19 paragraph is deleted at adoption as this phrase is unnecessary.

20 The department changed the proposed text at adoption in §215.174(e) and (f) to replace “must”
21 with “shall” for consistency with drafting standards. Adopted amendments to relettered §215.174(f)
22 specify the supporting documentation that an applicant for a vehicle lease facilitator’s license must
23 provide so the department can investigate the applicant and its business practices prior to issuing a new

1 or renewal license. The adopted amendments to relettered §215.174(f) clarify that a document submitted
2 as part of a vehicle lease facilitator’s license application must be a legible and accurate electronic image,
3 describe the business organization documents required, add current identity document requirements,
4 delete a requirement for a vehicle lease facilitator to update a vehicle lessor list, and require a vehicle
5 lease facilitator to provide any other information required to evaluate the application under current law.
6 Adopted new §215.174(g) protects the public by prohibiting a vehicle lessor or vehicle lease facilitator
7 from using a business name or assumed name that is confusing, deceptive, or misleading. Adopted new
8 §215.174(h) clarifies an existing requirement that during the license term, a vehicle lessor or vehicle lease
9 facilitator must update the list of authorized vehicle lease facilitators or vehicle lessors, as applicable, and
10 notify the department within 10 days of a change by electronically submitting a license amendment in the
11 designated licensing system.

12 Adopted amendments to §215.175(b)(5) and (6) clarify that a vehicle lessor or vehicle lease
13 facilitator must notify the department of a change in address, name, assumed name, or change in
14 management or ownership by electronically submitting a license amendment in the designated licensing
15 system. An adopted amendment to §215.175(b)(7) updates a statutory reference. An adopted
16 amendment to §215.175(b)(8) updates a subchapter designation to match the adopted relettering. The
17 department changed the proposed text at adoption in §215.175(b)(10) to correct a citation to the
18 department’s rule that sets guidelines for the department’s treatment of criminal offenses by license
19 holders. Adopted amendments to §215.175(b)(13) delete the term “willfully” to make any omission of
20 material information sanctionable conduct and clarify that a material misrepresentation includes
21 providing a false or forged identity document or a false or forged photograph, electronic image, or
22 document. Adopted amendments to §215.175(c) and (d) modernize the provision to clarify that the

1 vehicle lessor and the vehicle lease facilitator must notify the department by electronically submitting a
2 license amendment in the designated licensing system.

3 An adopted amendment to §215.176 adds “business” to the title of the section to describe the
4 section. An adopted amendment in §215.176(b) substitutes “municipality” for “city” for consistency with
5 the term defined in §215.132. In §215.176(b) a change to the text at adoption substitutes “must” for “is
6 required to” for consistency in terminology.

7 An adopted amendment to the title of §215.177 adds “Premises Requirements” to describe the
8 scope of the section. An adopted amendment to §215.177(a) removes unnecessary words to improve
9 readability. An adopted amendment to §215.177(a)(1)(A) sets minimum standards for a license holder’s
10 availability and responsiveness to the public and the department by adding a requirement that the
11 business telephone be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner,
12 answering service, voicemail service, or answering machine, and that a caller must be able to speak to a
13 natural person or leave a message during these hours. Adopted amendments to §215.177(a)(1)(B) clarify
14 that “chairs” is interpreted as two chairs and clarify that a vehicle lessor or vehicle facilitator’s office must
15 have internet access to ensure a license holder has the minimum level of facilities to adequately serve the
16 public. Adopted amendments to §215.177(a)(1)(C) further ensure that a vehicle lessor or vehicle
17 facilitator’s office meets minimum standards to serve the public by requiring the office to have a
18 permanent roof, requiring the office to be in a building open to the public, requiring the physical address
19 to have an assigned emergency services property address, and stating that the office may not be virtual
20 or provided by a subscription for office space or office services. Adopted amendments to
21 §215.177(a)(1)(E) and (F) remove unnecessary language without changing the meaning. Adopted
22 amendments to §215.177(a)(2) protect the public from being misled or confused by a license holder’s
23 signage by adding “business” to clarify that the requirements are for a business sign, requiring that the

1 business name used on the sign be substantially similar to the name of the licensed entity, and adding
2 criteria to determine whether the sign is conspicuous and permanent. Adopted amendments to
3 §215.177(a)(3) clarify premises lease requirements and modernize the language. The adopted
4 amendments in §215.177(a) are consistent with the minimum requirements for a retail dealer and deter
5 fraud and protect consumers. An adopted amendment deletes the requirements in §215.177(b) for
6 out-of-state vehicle lessors who do not deal directly with the public as these requirements are
7 unnecessary and unenforceable, and the remaining following subsections are relettered accordingly.

8 Adopted amendments to §215.178(a) clarify that the records kept by lessors and lease facilitators
9 include vehicle purchase, leasing, and sales records. The adopted amendments to §215.178(a) include a
10 change to the text at adoption to add the phrase “of leased vehicles” to align subsection (a) with
11 subsection (a)(1) by clarifying that sales records relate to vehicles sold at the end of a lease, and that a
12 lessor is required to keep records of leases as well as records of sales. The adopted amendments to
13 §215.178(a) also include a change to the text at adoption to replace “must” with “shall” for consistency
14 with drafting standards. Adopted amendments to §215.178(a)(1) add “complete” to describe records for
15 consistency, delete an archaic requirement to keep records for prior periods at a location in the same
16 county or within 25 miles of the license location, and simplify the language regarding the requirement
17 that a dealer must reply within 15 days of receiving a request for records from the department regardless
18 of the method in which the department makes the request. Adopted amendments to §215.178(b)
19 improve clarity and readability and revise the requirement for a vehicle lease facilitator to provide an
20 employee’s work address and not a home address. Adopted new §215.178(c) describes the vehicle lessor’s
21 recordkeeping requirements if a leased vehicle is later sold, and the subsequent subsections are relettered
22 accordingly. Adopted amendments to relettered §215.178(d) consist of minor edits throughout to fix
23 cross-references and improve clarity and readability, and do not change the meaning of the rule. Adopted

1 amendments to relettered §215.178(f) delete redundant language and clarify that a letter of
2 representation or appointment between a vehicle lessor and a vehicle lease facilitator must be executed
3 and maintained by each party. Adopted amendments to relettered §215.178(g) modernize the provision
4 by adding the option for a vehicle lessor or a vehicle lease facilitator to send records to the department
5 electronically, and make minor edits to improve readability.

6 Adopted amendments throughout §215.179 modernize the rule by specifying that a vehicle lessor
7 or vehicle facilitator must submit a notice of a change to a license electronically in the designated licensing
8 system, remove redundant or unnecessary language, and update the title of a referenced section of this
9 chapter.

10 An adopted amendment to §215.180 substitutes a subchapter designation for a list of sections so
11 that a future statutory change will not require a rule change.

12

13 Subchapter G. Warranty Performance Obligations

14 The department adopts the repeal of all sections of Subchapter G, Warranty Performance
15 Obligations, in this issue of the *Texas Register* because the substance of each rule and any adopted
16 amendments are incorporated into adopted new Chapter 224, (relating to Adjudicative Practice and
17 Procedure) which is also published for adoption in this issue of the *Texas Register*. The adopted repeal
18 includes §§215.201–215.210.

19

20 Subchapter H. Advertising

21 This subchapter is adopted to be relettered as Subchapter F because the department adopts the
22 repeal of current Subchapters B and G in this issue of the *Texas Register* and the remaining subchapters
23 are adopted to be relettered accordingly.

1 An adopted amendment to §215.242 substitutes “deemed” for “considered” for consistency.

2 Adopted amendments to §215.244(11) delete an unnecessary definition for a license holder. As a
3 result, adopted amendments to §215.244 renumber the remaining definitions and fix cross references
4 accordingly. An adopted amendment to renumbered §215.244(17) clarifies that the communication
5 referred to in the provision is a notice of opportunity to cure.

6 An adopted amendment to the title of §215.249 substitutes “or” for “/” for clarity and style
7 consistency. An adopted amendment to §215.249(c) deletes “the State of” for consistency.

8 In §215.249(a) and §215.250(a) changes to the text at adoption substitutes “must” for “shall” for
9 consistency in terminology.

10 Adopted amendments to §215.250(a) delete “new or used” as this phrase is unnecessary and add
11 a requirement for a dealer to disclose a market adjustment if one is added to the sales price so that the
12 public is aware of the pricing. Adopted amendments to §215.250(b)(3) add clarity that fees and charges
13 expressly allowed by law do not have to be included in a featured sales price.

14 An adopted amendment to §215.257 clarifies that the term “authorized dealer” or similar term
15 may not be used unless a dealer holds both a franchised dealer license and a franchised dealer GDN.

16 Adopted amendments to the title and text of §215.261 substitute “or” for “/” for clarity and style
17 consistency.

18 An adopted amendment to §215.264(c) substitutes “other disclosure or deal term” for the lengthy
19 list of disclosures and deal terms in this section for clarity and brevity. Adopted amendments to
20 §215.264(f) and (h) delete references to specific paragraphs as the paragraph references are unnecessary.

21 Adopted amendments to §215.268 delete unnecessary language and substitute terms for
22 consistency and clarity and do not change the meaning of the section.

1 Adopted amendments to §215.270(b) add clarity by identifying the referenced notice as an
2 opportunity to cure and update a reference to the adopted new §224.56, Notice of Department Decision,
3 which is adopted in this issue of the *Texas Register*.

4

5 Subchapter I. Practice and Procedure for Hearings Conducted by The State Office of Administrative
6 Hearings

7 All sections of Subchapter I, Practice and Procedure for Hearings Conducted by The State Office
8 of Administrative Hearings, are adopted for repeal in this issue of the *Texas Register* because the
9 substance of each rule and any adopted amendments are incorporated into adopted new Chapter 224,
10 (relating to Adjudicative Practice and Procedure) which is adopted in this issue of the *Texas Register*. The
11 adopted repeal includes §§215.301–215.303, 215.305–215.308, 215.310, 215.311, and 215.314–215.317.

12

13 Subchapter J. Administrative Sanctions

14 This subchapter is adopted to be relettered as Subchapter G because the department adopts the
15 repeal of current Subchapters B, G, and I in this issue of the *Texas Register* and the remaining subchapters
16 are adopted to be relettered accordingly.

17 Adopted amendments to §215.500 delete “and Procedures” from the title and delete all of
18 subsection (b) because the procedures from this section are adopted into new Chapter 224, (relating to
19 Adjudicative Practice and Procedure), which is published for adoption in this issue of the *Texas Register*.

20 Adopted amendments to §215.500(a) delete the (a) designation and correct a reference to a referenced
21 section.

1 The remaining sections of Subchapter J, §§215.501, 215.502, and §215.505, are adopted for
2 repeal in this issue of the *Texas Register* and are adopted for inclusion in new Chapter 224, (relating to
3 Adjudicative Practice and Procedure), which is published for adoption in this issue of the *Texas Register*.

4

5 **SUMMARY OF COMMENTS.**

6 The department received nine written comments on the proposal.

7 The department received written comments from six individuals, the Texas Automobile Dealers
8 Association (TADA), the Texas Independent Automobile Dealers Association (TIADA), and the Texas
9 Recreational Vehicle Association (TRVA).

10 **Comment:** TADA requested that the proposed amendments to §§215.102, 215.103, 215.171, and
11 215.173–215.180 be withdrawn from consideration due to pending litigation.

12 **Response:** The department disagrees. The department does not believe that withdrawing these rules is
13 necessary as these rules are not at issue in pending litigation, except as authority for regular ongoing
14 enforcement activities.

15 **Comment:** TADA stated that the word “authorized” is unclear in §215.102(e)(2)(E)(i).

16 **Response:** The department disagrees. The department believes that “authorized” is a term that a
17 manufacturer or distributor can reasonably interpret when applying for a license. The department
18 modified other language in the sentence for clarity and consistency in response to this comment.

19 **Comment:** An individual commenter requested the department change the proposed amendments to
20 §215.102 to clarify which specific terms in a distributor agreement must be disclosed to the department
21 under Occupations Code, §2301.260 because a distribution agreement may contain confidential or
22 proprietary information that is irrelevant to distributor licensing requirements.

1 **Response:** The department agrees. The department modified the proposed language in §215.102(e)(2)(g)
2 at adoption to address this concern by specifying the contract terms that an applicant for a distributor
3 license must provide the department.

4 **Comment:** Four individual commenters stated their full support for amendments to §215.103 and
5 expressed the view that a franchised dealership’s ability to offer mobile warranty repair services will
6 enable franchised dealers to provide a higher level of service to the public and improve customer
7 satisfaction.

8 **Response:** The department agrees.

9 **Comment:** An individual commenter requested that an electronic notice requirement be added to
10 §215.105 and §215.106.

11 **Response:** The department agrees. Electronic notice is an efficient and preferred notice method. The
12 department added language at adoption to §215.105 and §215.106 in response to this comment to
13 require electronic notice in addition to notice by certified mail, return receipt requested.

14 **Comment:** TADA requested clarifying language be added to §215.111 regarding the minimum number of
15 days that a manufacturer or distributor must provide a franchised dealer to file a protest before
16 terminating or discontinuing a franchise.

17 **Response:** The department agrees. The department added language in §215.111(b) at adoption to clarify
18 that the effective date of a franchise termination or discontinuance must not be less than 60 days after
19 the franchised dealer receives notice.

20 **Comment:** TADA and TRVA requested the department not repeal §215.112.

21 **Response:** The department disagrees. The department lost statutory authority for §215.112 on
22 September 1, 2019. This rule has been unenforceable for more than four years and must be repealed. The
23 statutory limitations on sales such as prohibitions on weekend sales (“blue law”) and off-site sales remain

1 in effect and enforceable on their own, without any need for the department to repeat them in rule. The
2 department remains committed to working with stakeholders to propose a new rule for board
3 consideration consistent with the department’s current statutory authority.

4 **Comment:** TIADA stated that the department should not require license applicants to provide additional
5 or specific forms of identification and recommended striking the words “at least” before the phrase “one
6 of the following” in §215.133(c)(2)(D).

7 **Response:** The department agrees. The department does not require a natural person to provide more
8 than one form of identification and a person may choose any form of identification from the list in
9 §215.133(c)(2)(D). Some applicants have chosen to upload more than one type of identification to
10 facilitate license processing due to concerns about scanned image quality. However, this situation has
11 become less prevalent, and the department agrees that “at least” is unnecessary language and has
12 deleted that phrase.

13 **Comment:** TIADA recommended simplifying the language in relettered §215.138(j).

14 **Response:** The department agrees. The department reorganized the language in relettered §215.138(j) at
15 adoption to improve clarity.

16 **Comment:** TADA and TIADA had concerns about the proposed new requirement in §215.140(a)(11)(C) for
17 a GDN applicant or holder to disclose the physical address of a storage lot.

18 **Response:** The department agrees. In response, the department changed the language of
19 §215.140(a)(11)(C) at adoption to make the requirement less burdensome by only requiring a GDN holder
20 or applicant to disclose the address of a storage lot or location of a vehicle in inventory upon department
21 request, rather than through the license application or license amendment process.

22 **Comment:** TIADA questioned whether the minimum premises standards for wholesale motor vehicle
23 auctions in §215.140(b)(6)(g) are appropriate.

1 **Response:** The department disagrees. The department proposed minimum standards based on the
2 wholesale nature of this GDN type and believes these provisions are necessary to implement
3 Transportation Code, §503.032. The department did not receive any comments from wholesale motor
4 vehicle auction GDN holders regarding these minimum standards.

5 **Comment:** TIADA pointed out incorrect usage of the term “dealer” in §215.140(b)(6)(g).

6 **Response:** The department agrees. The department changed the language of §215.140(b)(6)(g) at
7 adoption to replace “dealer” with “wholesale motor vehicle auction.”

8 **Comment:** TIADA suggested adding “if applicable” to the odometer disclosure recordkeeping requirement
9 in §215.144(e)(8)(M).

10 **Response:** The department agrees. The department changed the language of §215.144(e)(8)(M) at
11 adoption to add a clarifying phrase.

12 **Comment:** TADA requested that license holders be allowed adequate time to reprint forms or reprogram
13 systems to meet new font and format requirements in §215.160(b) and (c) to minimize financial impact
14 to affected license holders.

15 **Response:** The department agrees. The department notes that it, too, must reprogram department
16 systems to implement some of the adopted amendments. Accordingly, the department is recommending
17 a future effective date of June 1, 2024, to the Board for all amendments.

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1 **SUBCHAPTER A. GENERAL PROVISIONS**

2 **43 TAC §215.1 and §215.2**

3 **STATUTORY AUTHORITY.** The department adopts amendments to Chapter 215 under Occupations Code,
4 §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor
5 vehicles and the authority to take any action that is necessary or convenient to exercise that authority;
6 Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license
7 holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by
8 statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses
9 in connection with the distribution and sale of motor vehicles, and to enforce and administer
10 Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155,
11 which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code,
12 Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651,
13 which gives the board authority to deny an application for a license, revoke or suspend a license, place
14 on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material
15 misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor
16 vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a
17 motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history
18 record information maintained by DPS; Government Code, §411.12511, which authorizes the
19 department to obtain criminal history record information from DPS and the FBI for license applicants,
20 license holders, and representatives whose act or omission would be cause for denying, revoking, or
21 suspending a general distinguishing number or license issued under Transportation Code, Chapter 503,
22 or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the
23 board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code,

1 §503.002, which authorizes the board to adopt rules for the administration of Transportation Code,
2 Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain
3 contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring
4 that an applicant for an original or renewal general distinguishing number who adopts to be an
5 independent motor vehicle dealer complete web-based education and training developed or approved
6 by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe
7 the form of the notice of a surety bond and the procedure by which a claimant may recover against the
8 surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the
9 issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which
10 require the board to adopt rules necessary to implement and manage the department's temporary tag
11 databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are
12 necessary and appropriate to implement the powers and the duties of the department, as well as the
13 statutes referenced throughout this preamble.

14 The department also adopts amendments under the authority of Transportation Code,
15 §501.0041 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition
16 to the statutory authority referenced throughout this preamble.

17 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
18 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
19 rules to administer Transportation Code, Chapter 502.

20 Occupations Code, §55.002 requires a state agency that issues a license to adopt rules to exempt
21 an individual license holder from incurring any increased fee or other penalty for failing to renew the
22 license in a timely manner if the individual establishes that failure to timely renew the license is because
23 the individual was serving as a military service member. Occupations Code, §55.004 requires a state

1 agency that issues a license to adopt rules for the issuance of the license to an applicant who is a military
2 service member, military veteran, or military spouse and holds a current license issued by another
3 jurisdiction with substantially equivalent requirements or held a Texas license within the prior five years.
4 Occupations Code, §55.0041 requires a state agency that issues a license to adopt rules to recognize
5 equivalent out-of-state licenses for a military service member, military veteran, or military spouse within
6 30 days of application and issue a license or authorization. Occupations Code, §55.005 requires a state
7 agency that issues a license to process an application and issue a license within 30 days for a military
8 service member, military veteran, or military spouse.

9 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the
10 nature and requirements of all available formal and informal procedures. Government Code, §2001.039
11 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing
12 the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal,
13 revocation, suspension, annulment, or withdrawal of a license.

14 **CROSS REFERENCE TO STATUTE.** These adopted revisions implement Government Code, Chapters 411
15 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503,
16 1001–1003, and 1005.

17 Text.

18 §215.1. Purpose and Scope.

19 Occupations Code, Chapter 2301 and Transportation Code, Chapters 503 and 1001 –1005
20 require the Texas Department of Motor Vehicles to license and regulate the vehicle industry to ensure a
21 sound system of distributing and selling vehicles; provide for compliance with manufacturers'
22 warranties; and to prevent fraud, unfair practices, discrimination, impositions, and other abuses of the

1 people of this state in connection with the distribution and sale of vehicles. This chapter describes
2 licensing requirements and the rules governing the vehicle industry.

3

4 §215.2. Definitions; Conformity with Statutory Requirements.

5 (a) The definitions contained in Occupations Code, Chapter 2301 and Transportation Code,
6 Chapters 503 and 1001–1005 govern this chapter. In the event of a conflict, the definition or procedure
7 referenced in Occupations Code, Chapter 2301 controls.

8 (b) The following words and terms, when used in this chapter, shall have the following
9 meanings, unless the context clearly indicates otherwise.

10 (1) Board--The Board of the Texas Department of Motor Vehicles, including department
11 staff to whom the board delegates a duty.

12 (2) Day--The word "day" refers to a calendar day.

13 (3) Director--The director of the division that regulates the distribution and sale of
14 motor vehicles, including any department staff to whom the director delegates a duty assigned under
15 this chapter.

16 (4) GDN--General distinguishing number, a license issued under Transportation Code,
17 Chapter 503.

18 (5) Governmental agency--A state agency other than the department, all local
19 governmental agencies, and all agencies of the United States government, whether executive,
20 legislative, or judicial.

21 (6) Standard license plate--A motor vehicle license plate issued by the department to a
22 license holder for use by the license holder that is not a personalized prestige dealer's license plate
23 issued under Transportation Code §503.0615.

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SUBCHAPTER B. (RELATING TO ADJUDICATIVE PRACTICE AND PROCEDURE)

43 TAC §§215.21–215.63

STATUTORY AUTHORITY. The department adopts repeals to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as

1 necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which
2 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503;
3 Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases;
4 Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of
5 dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the
6 board to adopt rules necessary to implement and manage the department's temporary tag databases;
7 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
8 appropriate to implement the powers and the duties of the department, as well as the statutes referenced
9 throughout this preamble.

10 The department also adopts repeals under the authority of Transportation Code, §501.0041 and
11 §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory
12 authority referenced throughout this preamble.

13 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
14 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
15 rules to administer Transportation Code, Chapter 502.

16 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
17 and requirements of all available formal and informal procedures. Government Code, §2001.039 requires
18 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
19 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
20 suspension, annulment, or withdrawal of a license.

21 **CROSS REFERENCE TO STATUTE.** These repeals implement Government Code, Chapters 411 and 2001;
22 Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003,
23 and 1005.

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2	Text.	
3	§215.21	Purpose and Scope
4	§215.22	Prohibited Communications
5	§215.23	Appearances
6	§215.24	Petitions
7	§215.27	Complaints
8	§215.29	Computing Time
9	§215.30	Filing of Documents
10	§215.32	Extension of Time
11	§215.34	Notice of Hearing in Contested Cases
12	§215.35	Reply
13	§215.36	Hearings To Be Public
14	§215.37	Recording and Transcriptions of Hearing Cost
15	§215.38	Consolidation of Proceedings
16	§215.39	Waiver of Hearing
17	§215.40	Continuance of Hearing
18	§215.41	Presiding Officials
19	§215.42	Conduct of Hearing
20	§215.43	Conduct and Decorum
21	§215.44	Evidence
22	§215.45	Stipulation of Evidence
23	§215.46	Objections and Exceptions

- 1 §215.47 Motions
- 2 §215.48 Briefs
- 3 §215.49 Service of Pleading, Petitions, Briefs, and Other Documents
- 4 §215.55 Final Decision
- 5 §215.56 Submission of Amicus Briefs
- 6 §215.58 Delegation of Final Order Authority
- 7 §215.59 Request for Oral Presentation
- 8 §215.60 Written Materials and Evidence
- 9 §215.61 Limiting Oral Presentation and Discussion to Evidence in the Administrative Record
- 10 §215.62 Order of Presentations to the Board for Review of a Contested Case
- 11 §215.63 Board Conduct and Discussion When Reviewing a Contested Case

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SUBCHAPTER C. LICENSES, GENERALLY

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43 TAC §§215.82–215.89

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STATUTORY AUTHORITY. The department adopts amendments to Chapter 215 under Occupations Code,

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§2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles

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and the authority to take any action that is necessary or convenient to exercise that authority;

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Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license

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holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute

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and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in

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connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations

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Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which

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authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter

1 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives
2 the board authority to deny an application for a license, revoke or suspend a license, place on probation,
3 or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation,
4 violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds
5 a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government
6 Code, §411.122(d), which authorizes department access to criminal history record information
7 maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal
8 history record information from DPS and the FBI for license applicants, license holders, and
9 representatives whose act or omission would be cause for denying, revoking, or suspending a general
10 distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code,
11 Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as
12 necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which
13 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503;
14 Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases;
15 Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for
16 an original or renewal general distinguishing number who adopts to be an independent motor vehicle
17 dealer complete web-based education and training developed or approved by the department;
18 Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice
19 of a surety bond and the procedure by which a claimant may recover against the surety bond;
20 Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of
21 dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the
22 board to adopt rules necessary to implement and manage the department's temporary tag databases;
23 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and

1 appropriate to implement the powers and the duties of the department, as well as the statutes referenced
2 throughout this preamble.

3 The department also adopts amendments under the authority of Transportation Code, §501.0041
4 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the
5 statutory authority referenced throughout this preamble.

6 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
7 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
8 rules to administer Transportation Code, Chapter 502.

9 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
10 and requirements of all available formal and informal procedures. Government Code, §2001.039 requires
11 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
12 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
13 suspension, annulment, or withdrawal of a license.

14 **CROSS REFERENCE TO STATUTE.** These adopted revisions implement Government Code, Chapters 411
15 and 2001; Occupations Code, Chapters Occupations Code, Chapters 53, 55, 2301, and 2302; and
16 Transportation Code, Chapters 501–503, 1001–1003, and 1005.

17
18 Text.

19 §215.82. Replacement Standard License Plates and Stickers.

20 A license holder may receive a replacement dealer's, converter's, drive-a-way in-transit, or
21 manufacturer's standard license plate or assigned sticker, as applicable, at no charge if the license
22 holder:

23 (1) did not receive the applicable standard license plate or sticker;

1 (2) makes the request within 45 days of the date the applicable standard license plate or
2 sticker was mailed to the license holder; and

3 (3) submits a request electronically in the licensing system designated by the department.
4

5 §215.83. License Applications, Amendments, or Renewals.

6 (a) An application for a new license, license amendment, or license renewal filed with the
7 department must be:

8 (1) filed electronically in the department-designated licensing system on a form
9 approved by the department;

10 (2) completed by the applicant, license holder, or authorized representative who is
11 an employee, a licensed attorney, or a certified public accountant;

12 (3) accompanied by the required fee, paid by credit card or by electronic funds
13 transfer, drawn from an account held by the applicant or license holder, or drawn from a trust
14 account of the applicant's attorney or certified public accountant; and

15 (4) accompanied by proof of a surety bond, if required.

16 (b) An authorized representative of the applicant or license holder who files an application
17 with the department on behalf of an applicant or license holder may be required to provide
18 written proof of authority to act on behalf of the applicant or license holder.

19 (c) The department will not provide information regarding the status of an application,
20 application deficiencies, or pending new license numbers to a person other than a person listed in
21 subsection (a)(2) of this section, unless that person files a written request under Government
22 Code, Chapter 552.

1 (d) Prior to the expiration of a license, a license holder or authorized representative must
2 electronically file with the department a sufficient license renewal application. Failure to receive
3 notice of license expiration from the department does not relieve the license holder from the
4 responsibility to timely file a sufficient license renewal application. A license renewal application is
5 timely filed if the department receives a sufficient license renewal application on or before the
6 date the license expires.

7 (e) An application for a new license, license amendment, or license renewal filed with the
8 department must be sufficient. An application is sufficient if the application:

- 9 (1) includes all information and documentation required by the department; and
10 (2) is filed in accordance with subsection (a) of this section.

11 (f) If an applicant, license holder, or authorized representative does not provide the
12 information or documentation required by the department, the department will issue a written
13 notice of deficiency. The information or documentation requested in the written notice of
14 deficiency must be received by the department within 20 calendar days of the date of the notice of
15 deficiency, unless the department issues a written extension of time. If an applicant, license
16 holder, or authorized representative fails to respond or fully comply with all deficiencies listed in
17 the written notice of deficiency within the time prescribed by this subsection, the application will
18 be deemed withdrawn and will be administratively closed.

19 (g) The department will evaluate a sufficient application for a new license, license
20 amendment, or license renewal in accordance with applicable rules and statutes to determine
21 whether to approve or deny the application. If the department determines that there are grounds
22 for denial of the application, the department may pursue denial of the application in accordance
23 with Subchapter G of this chapter (relating to Administrative Sanctions).

1 (h) The department will process an application for a new license, license amendment, or
2 license renewal filed by a military service member, military spouse, or military veteran in
3 accordance with Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient
4 application for a license renewal because that license holder was on active duty is exempt from
5 any increased fee or penalty imposed by the department for failing to renew the license in a timely
6 manner.

7 (i) A military service member or military spouse may engage in a business or occupation for
8 which a department issued license is required if the military service member or military spouse
9 meets the requirements of Occupations Code, §55.0041 and this section. This section establishes
10 requirements and procedures authorized or required by Occupations Code, Chapter 55, and does
11 not modify or alter rights that may be provided under federal law.

12 (1) A military service member or military spouse must submit to the
13 department:

14 (A) notice of the military service member or military spouse's intent
15 to engage in a business or occupation in Texas for which a department issued license is required;

16 (B) proof of the military service member or military spouse's being
17 stationed in Texas and a copy of the military service member or military spouse's military
18 identification card; and

19 (C) documentation demonstrating that the military service member or
20 military spouse is licensed and in good standing in another jurisdiction for the relevant business or
21 occupation.

22 (2) Upon receipt of the notice and documentation required by paragraphs
23 (1)(B) and (1)(C) of this subsection, the department shall:

1 (A) confirm with the other licensing jurisdiction that the military
2 service member or military spouse is currently licensed and in good standing for the relevant
3 business or occupation; and

4 (B) conduct a comparison of the other jurisdiction's license
5 requirements, statutes, and rules with the department's licensing requirements to determine if the
6 requirements are substantially equivalent.

7 (3) If the department confirms that a military service member or military
8 spouse is currently licensed in good standing in another jurisdiction with substantially equivalent
9 licensing requirements, the department shall issue a license to the military service member or
10 military spouse for the relevant business or occupation within 30 days. The license is subject to
11 requirements in Chapter 215 of this title and Occupations Code, Chapter 2301 in the same manner
12 as a license issued under the standard application process, unless modified or exempted under
13 Occupations Code, Chapter 55.

14 (j) A license holder who timely files a sufficient license renewal application in accordance
15 with subsection (d) of this section may continue to operate under the expired license until the
16 license renewal application is determined in accordance with Government Code §2001.054.

17 (k) A license holder who fails to timely file a sufficient license renewal application in
18 accordance with subsection (d) of this section is not authorized to continue licensed activities after
19 the date the license expires. A license holder may dispute a decision that a license renewal
20 application was not timely or sufficient by submitting evidence to the department demonstrating
21 that the license renewal application was timely and sufficient. Such evidence must be received by
22 the department within 15 days of the date the department issues notice that a timely or sufficient
23 license renewal application was not received by the department.

1 (l) The department shall accept a late license renewal application up to 90 days after the
2 date the license expires. In accordance with subsection (k) of this section, the license holder is not
3 authorized to continue licensed activities after the date the license expires until the department
4 approves the late license renewal application. If the department grants a license renewal under
5 this section, the licensing period begins on the date the department issues the renewed license.
6 The license holder may resume licensed activities upon receipt of the department's written
7 verification or upon receipt of the renewed license.

8 (m) If the department has not received a late license renewal application within 90 days
9 after the date the license expires, the department will close the license. A person must apply for
10 and receive a new license before that person is authorized to resume activities requiring a license.

11 (n) A dealer's standard license plate issued in accordance with Transportation Code,
12 Chapter 503, Subchapter C expires on the date the associated license expires, is canceled, or when
13 a license renewal application is determined, whichever is later.

14
15 §215.84. Brokering, New Motor Vehicles.

16 (a) Unless excluded from the definition of "Broker" in Occupations Code, §2301.002, a
17 person may not act, offer to act, or claim to be a broker.

18 (b) For purposes of this chapter, the phrase "arranges or offers to arrange a transaction,"
19 as used in the definition of broker in Occupations Code, §2301.002, includes the practice of
20 arranging or offering to arrange a transaction involving the sale of a new motor vehicle for a fee,
21 commission, or other valuable consideration. Advertising is not acting as a broker, provided the
22 person's business primarily is broadcasting, printing, publishing, or advertising for others in their
23 own names.

1 (c) A buyer referral service, program, plan, club, or any other entity that accepts a fee for
2 arranging a transaction involving the sale of a new motor vehicle is a broker. The payment of a fee
3 to such entity is aiding and abetting brokering. However, a referral service, program, plan, club, or
4 other entity that forwards a referral to a franchised dealership may lawfully operate in a manner
5 that includes all of the following conditions:

6 (1) There is no exclusive market area offered to a dealer by the program. All dealers
7 are allowed to participate in the program on equal terms.

8 (2) Participation by a dealer in the program is not restricted by conditions, such as
9 limiting the number of line-makes or discrimination by size of dealership or location. The total
10 number of participants in the program may be restricted if the program is offered to all dealers at
11 the same time, with no regard to the line-make.

12 (3) All participants pay the same fee for participation in the program. The program
13 fee shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by
14 the franchised dealer.

15 (4) A person is not to be charged a fee on a per referral fee basis or any other basis
16 that could be considered a transaction-related fee.

17 (5) The program does not set or suggest to the dealer any price of a motor vehicle
18 or a trade-in.

19 (6) The program does not advertise or promote its plan in a manner that implies
20 that the buyer, as a customer of that program, receives a special discounted price that cannot be
21 obtained unless the customer is referred through that program.

22 (7) A program must comply with Subchapter F of this chapter (related to
23 Advertising).

1 (d) This section does not apply to a person who is not a broker as defined in Occupations
2 Code, §2301.002.

3
4 §215.85. Brokering, Used Motor Vehicles.

5 (a) Transportation Code, §503.021 prohibits a person from engaging in business as a dealer,
6 directly or indirectly, including by consignment without a GDN. Except as provided by this section,
7 "directly or indirectly" includes the practice of arranging or offering to arrange a transaction
8 involving the sale of a used motor vehicle for a fee, commission, or other valuable consideration. A
9 person who is a bona fide employee of a dealer holding a GDN and acts for the dealer is not a
10 broker for the purposes of this section.

11 (b) A buyer referral service, program, plan, club, or any other entity that accepts a fee for
12 arranging a transaction involving the sale of a used motor vehicle is required to meet the
13 requirements for and obtain a GDN, unless the referral service, program, plan, or club is operated
14 in the following manner:

15 (1) There is no exclusive market area offered to a dealer by the program. All dealers
16 are allowed to participate in the program on equal terms.

17 (2) Participation by a dealer in the program is not restricted by conditions, such as
18 limiting the number of line-makes or discrimination by size of dealer or location. The total number
19 of participants in the program may be restricted if the program is offered to all dealers at the same
20 time, with no regard to the line-make.

21 (3) All participants pay the same fee for participation in the program. The program
22 fee shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by
23 the dealer.

1 (4) A person is not to be charged a fee on a per referral fee basis or any other basis
2 that could be considered a transaction-related fee.

3 (5) The program does not set or suggest to the dealer any price of a motor vehicle
4 or a trade-in.

5 (6) The program does not advertise or promote its plan in a manner that implies
6 that the buyer, as a customer of that program, receives a special discounted price that cannot be
7 obtained unless the customer is referred through that program.

8 (7) A program complies with Subchapter F of this chapter (relating to Advertising).

9 (c) A dealer holding a GDN pursuant to Transportation Code, §503.029(a)(6)(B), may pay a
10 referral fee in cash or value to an individual who has purchased a vehicle from the dealer within
11 the four-year period preceding the referral. The fee may be paid contingent upon either the new
12 referred individual:

13 (1) purchasing a vehicle from the dealer; or

14 (2) the referral of a new potential purchaser.

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16 §215.87. License and Standard License Plate Terms and Fees.

17 (a) Except as provided by other law, the term of a license or standard license plate issued
18 by the department to a dealer, converter, drive-a-way operator, distributor, or manufacturer
19 under Occupations Code, Chapter 2301 or Transportation Code, Chapter 503 is two years.

20 (b) A standard license plate issued by the department expires on the date the associated
21 license expires or is canceled, closed, or revoked.

1 (c) The fee for a license or standard license plate is computed by multiplying the applicable
2 annual fee by the number of years of the license term. The entire fee including any tax owed under
3 Tax Code §152.027 is due at the time of application for the license or license renewal.

4 (d) A dealer may apply for a personalized prestige plate issued under Transportation Code
5 §503.0615 by completing a department form, providing a copy of a department-issued license, and
6 submitting payment to a county tax assessor-collector. A personalized prestige plate may be
7 renewed in an electronic system designated by the department.

8
9 §215.89. Fitness.

10 (a) In determining a person's fitness for a license issued or to be issued by the department
11 under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, the board will
12 consider:

13 (1) the requirements of Occupations Code, Chapter 53;

14 (2) the provisions of Occupations Code, §2301.651 and Transportation Code
15 §503.034;

16 (3) any specific statutory licensing criteria or requirements;

17 (4) mitigating factors; and

18 (5) other evidence of a person's fitness, as allowed by law, including the standards
19 identified in subsection (b) of this section.

20 (b) The board may determine that a person is unfit to perform the duties and discharge the
21 responsibilities of a license holder and may, following notice and an opportunity for hearing, deny
22 a person's license application or revoke or suspend a license if the person:

23 (1) fails to meet or maintain the qualifications and requirements of licensure;

1 (2) is convicted, or considered convicted under Occupations Code §53.021(d), by
2 any local, state, federal, or foreign authority of an offense that directly relates to the duties or
3 responsibilities of the licensed occupation as described in §211.3 of this title (relating to Criminal
4 Offense Guidelines) or is convicted, or considered convicted under Occupations Code §53.021(d),
5 of an offense that is independently disqualifying under Occupations Code §53.021;

6 (3) omits information or provides false, misleading, or incomplete information on
7 an initial application, renewal application, or application attachment, for a license or other
8 authorization issued by the department or by any local, state, or federal regulatory authority;

9 (4) is found to have violated an administrative or regulatory requirement based on
10 action taken on a license, permit, or other authorization, including disciplinary action, revocation,
11 suspension, denial, corrective action, cease and desist order, or assessment of a civil penalty,
12 administrative fine, fee, or similar assessment, by the board, department, or any local, state, or
13 federal regulatory authority;

14 (5) is insolvent or fails to obtain or maintain financial resources sufficient to meet
15 the financial obligations of the license holder;

16 (6) is a corporation or other legal entity that fails to maintain its charter, certificate,
17 registration, or other authority to conduct business in Texas;

18 (7) is assessed a civil penalty, administrative fine, fee, or similar assessment, by the
19 board, department, or a local, state, or federal regulatory authority, for violation of a requirement
20 governing or impacting the distribution or sale of a vehicle or a motor vehicle, or the acquisition,
21 sale, repair, rebuild, reconstruction, or other dealing of a salvage motor vehicle or nonrepairable
22 motor vehicle, and fails to comply with the terms of a final order or fails to pay the penalty
23 pursuant to the terms of a final order;

1 (8) was or is a person described in §211.2 of this title (relating to Application of
2 Subchapter) whose actions or omissions could be considered unfit, who is ineligible for licensure,
3 or whose current or previous license, permit, or other authorization issued by any local, state, or
4 federal regulatory authority has been subject to disciplinary action including suspension,
5 revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty,
6 administrative fine, fee, or similar assessment;

7 (9) has an ownership, organizational, managerial, or other business arrangement,
8 that would allow a person the power to direct or cause the direction of the management, policies,
9 and activities, of an applicant or license holder, whether directly or indirectly, when the person
10 could be considered unfit, ineligible for licensure, or whose current or previous license, permit, or
11 other authorization issued by any local, state, or federal regulatory authority, has been subject to
12 disciplinary action, including suspension, revocation, denial, corrective action, cease and desist
13 order, or assessment of a civil penalty, administrative fine, fee, or similar assessment, by the
14 board, department, or any local, state, or federal regulatory authority;

15 (10) is found in a final order issued after a contested case hearing to be unfit or
16 acting in a manner detrimental to the system of distribution or sale of motor vehicles in Texas, the
17 economy of the state, the public interest, or the welfare of Texas residents.

18

19 **SUBCHAPTER D. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS**

20 **43 TAC §§215.101–215.112, 215.115–215.217, and 215.120–215.121**

21 **STATUTORY AUTHORITY.** The department adopts amendments to Chapter 215 under Occupations Code,
22 §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles
23 and the authority to take any action that is necessary or convenient to exercise that authority;

1 Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license
2 holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute
3 and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in
4 connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations
5 Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which
6 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter
7 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives
8 the board authority to deny an application for a license, revoke or suspend a license, place on probation,
9 or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation,
10 violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds
11 a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government
12 Code, §411.122(d), which authorizes department access to criminal history record information
13 maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal
14 history record information from DPS and the FBI for license applicants, license holders, and
15 representatives whose act or omission would be cause for denying, revoking, or suspending a general
16 distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code,
17 Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as
18 necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which
19 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503;
20 Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases;
21 Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of
22 dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the
23 board to adopt rules necessary to implement and manage the department's temporary tag databases;

1 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
2 appropriate to implement the powers and the duties of the department, as well as the statutes referenced
3 throughout this preamble.

4 The department also adopts amendments under the authority of Transportation Code, §501.0041
5 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the
6 statutory authority referenced throughout this preamble.

7 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
8 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
9 rules to administer Transportation Code, Chapter 502.

10 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
11 and requirements of all available formal and informal procedures. Government Code, §2001.039 requires
12 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
13 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
14 suspension, annulment, or withdrawal of a license.

15 **CROSS REFERENCE TO STATUTE.** These adopted revisions implement Government Code, Chapters 411
16 and 2001; Occupations Code, Chapters Occupations Code, Chapters 53, 55, 2301, and 2302; and
17 Transportation Code, Chapters 501–503, 1001–1003, and 1005.

18
19 Text.

20 §215.101. Purpose and Scope.

21 This subchapter implements Occupations Code, Chapter 2301 and Transportation Code,
22 Chapters 503 and 1001 – 1005, and applies to franchised dealers, manufacturers, distributors, and
23 converters.

1

2 §215.102. Application Requirements.

3 (a) No person may engage in business, serve in the capacity of, or act as a manufacturer,
4 distributor, converter, or franchised dealer in Texas unless that person holds a license.

5 (b) A license application must be on a form prescribed by the department and properly
6 completed by the applicant. A license application must include all required information, supporting
7 documents, and fees and must be submitted to the department electronically in the licensing
8 system designated by the department.

9 (c) A license holder renewing or amending its license must verify current license
10 information, provide related information and documents for any new license requirements or
11 changes to the license, and pay required fees including any outstanding civil penalties owed the
12 department under a final order.

13 (d) An applicant for a new license must register for an account in the department-designated
14 licensing system by selecting the licensing system icon on the dealer page of the department website. An
15 applicant must designate the account administrator and provide the name and email address for that
16 person, and provide the business telephone number, name, business type, and social security number or
17 employer identification number, as applicable. The applicant's licensing account administrator must be
18 an owner, officer, manager, or bona fide employee.

19 (e) Once registered, an applicant may apply for a new license and must provide the
20 following:

21 (1) Required information:

22 (A) type of license requested;

1 (B) business information, including the name, physical and mailing
2 addresses, telephone number, Secretary of State file number (as applicable), and website address
3 as applicable;

4 (C) contact name, email address, and telephone number of the person
5 submitting the application;

6 (D) contact name, email address, and telephone number of a person who
7 can provide information about business operations and the motor vehicle products or services
8 offered;

9 (E) the name, social security number, date of birth, identity document
10 information, and ownership percentage for each owner, partner, member, beneficiary, or principal
11 if the applicant is not a publicly traded company;

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

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

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

20 (I) military service status;

21 (J) licensing history required to evaluate fitness for licensure under §215.89
22 of this title (relating to Fitness);

23 (K) if applying for a manufacturer's, distributor's, or converter's license:

1 (i) financial resources, business integrity and experience, facilities
2 and personnel for serving franchised dealers;

3 (ii) a description of the business model or business process and
4 product and services used or offered sufficient to allow the department to determine if the license
5 type applied for is appropriate under Texas law; and

6 (iii) number of standard license plates requested.

7 (L) if applying for a manufacturer's or distributor's license:

8 (i) if the applicant or any entity controlled by the applicant owns an
9 interest in a Texas motor vehicle dealer or dealership, controls a Texas dealer or dealership, or acts
10 in the capacity of a Texas dealer;

11 (ii) a statement regarding the manufacturer's compliance with
12 Occupations Code Chapter 2301, Subchapter I and §§2301.451-2301.476; and

13 (iii) if a franchise agreement for each line-make being applied for
14 exists which states the obligations of a Texas franchised dealer to the applicant and the obligations
15 of the applicant to the Texas franchised dealer.

16 (M) if applying for a manufacturer's license, the line-make information
17 including the world manufacturer identifier assigned by the National Highway Traffic Safety
18 Administration, line-make name, and vehicle type;

19 (N) if applying for a distributor's license:

20 (i) the manufacturer for whom the distributor will act;

21 (ii) whether the manufacturer is licensed in Texas;

22 (iii) the person in this state who is responsible for compliance with
23 the warranty covering the motor vehicles to be sold; and

1 (iv) the terms of the contract under which the distributor will act for
2 the manufacturer.

3 (O) if applying for a converter's license:

4 (i) a name and description for each conversion package; and

5 (ii) the manufacturer or distributor and line-make of the underlying
6 new motor vehicle chassis to be converted.

7 (P) if applying for a franchised dealer's license:

8 (i) reason for the new application;

9 (ii) dealership location on a system-generated map;

10 (iii) whether the dealership is under construction and expected
11 completion date;

12 (iv) information about the performance of sales or warranty services
13 at the location; and

14 (v) information necessary to obtain a franchised dealer GDN under
15 §215.133 of this title (relating to GDN Application Requirements for a Dealer or a Wholesale Motor
16 Vehicle Auction).

17 (Q) signed Certificate of Responsibility, which is a form provided by the
18 department; and

19 (R) any other information required by the department to evaluate the
20 application under current law and board rules.

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

22 (A) the certificate of filing, certificate of incorporation, or certificate of
23 registration on file with the Secretary of State, as applicable;

1 (B) each assumed name certificate on file with the Secretary of State or
2 county clerk;

3 (C) one of the following unexpired identity documents for each natural
4 person listed in the application:

5 (i) driver license;

6 (ii) Texas Identification Card issued by the Texas Department of
7 Public Safety under Transportation Code, Chapter 521, Subchapter E;

8 (iii) license to carry a handgun issued by the Texas Department of
9 Public Safety under Government Code, Chapter 411, Subchapter H;

10 (iv) passport; or

11 (v) United States armed forces identification.

12 (D) if applying for a manufacturer's, distributor's, or converter's license, a
13 written description of the business model or business process and brochures, photos, or other
14 documents describing products and services sufficient to allow the department to identify a motor
15 vehicle product type and the appropriate license required under Texas law;

16 (E) if applying for a manufacturer's or distributor's license:

17 (i) a list of each franchised dealer in Texas including the dealer's
18 name and physical address, or if motor vehicle sales or offers to sell to Texas residents will solely
19 be over the internet, a list of each out-of-state dealer or person authorized by the manufacturer or
20 distributor to sell a new motor vehicle online to a Texas resident including the dealer's or person's
21 name, physical address, and license number issued by the state in which the dealer or person is
22 located; and

1 (ii) a list of motor vehicle product line-makes manufactured or
2 distributed for sale.

3 (F) if applying for a manufacturer's license:

4 (i) a list of authorized distributors or representatives; and

5 (ii) a franchised dealer's preparation and delivery obligations before
6 delivery of a new vehicle to a retail purchaser and the schedule of compensation to be paid to the
7 franchised dealer;

8 (G) if applying for a distributor's license, either:

9 (i) pages of the executed distributor agreement containing at
10 minimum the following:

11 (I) the legal business name of each party;

12 (II) authorized signature of each party;

13 (III) distribution territory;

14 (IV) distribution agreement effective date and end date,

15 or written confirmation from the distributor and manufacturer that the distribution agreement is
16 expected to be in effect for the entire license period;

17 (V) physical location, mailing address, and email address of
18 each party;

19 (VI) distributor responsibilities under the agreement related
20 to warranty matters under Occupations Code, Chapter 2301, and franchised dealer matters under
21 Occupations Code, Chapter 2301, Subchapter H, Dealers, Subchapter I, Warranties:

22 Reimbursement of Dealer, Subchapter J, Manufacturers, Distributors, and Representative, and
23 Subchapter K, Mediation Between Dealer and Manufacturer or Distributor;

1 (VII) party or person responsible for providing warranty
2 services; and

3 (VIII) motor vehicle line-makes and vehicle types included in
4 the agreement; or

5 (ii) a completed department-provided questionnaire containing the
6 information required in clause (i) signed by the applicant and the manufacturer as true and
7 complete. An authorized representative for the manufacturer may sign the questionnaire,
8 however, the applicant or applicant's representative may not sign the questionnaire on behalf of a
9 manufacturer.

10 (H) if applying for a franchised dealer's license, pages of the executed
11 franchise agreement containing at minimum the following:

12 (i) the legal business name of each party;

13 (ii) authorized signature of each party;

14 (iii) authorized dealership location;

15 (iv) list of motor vehicle line-makes and vehicle types to be sold or
16 serviced; and

17 (v) a department Evidence of Relocation form signed by the
18 manufacturer or distributor, if applicable; and

19 (I) any other documents required by the department to evaluate the
20 application under current law and board rules.

21 (3) Required fees:

22 (A) the license fee as prescribed by law; and

23 (B) the fee as prescribed by law for each plate requested by the applicant.

1 (f) An applicant operating under a name other than the applicant shall use the name under
2 which the applicant is authorized to do business, as filed with the Secretary of State or county
3 clerk, and the assumed name of such legal entity shall be recorded by the applicant on the
4 application using the letters "DBA." The applicant may not use a name or assumed name that may
5 be confused with or is similar to that of a governmental entity or that is otherwise deceptive or
6 misleading to the public.

7 (g) A manufacturer or distributor may add a new line-make to an existing license during the
8 license period by submitting a license amendment application and providing brochures, photos, or
9 other documents describing the new line-make sufficient to allow the department to identify the
10 line-make and vehicle product type. A license amendment to add a line-make to a manufacturer's
11 or distributor's license must be approved by the department before the new line-make may be
12 added to a franchised dealer's license.

13
14 §215.103. Service-only Facility.

15 (a) A service-only facility is a location occupied and operated by a franchised dealer that is
16 a completely separate, noncontiguous site, from the franchised dealer's new motor vehicle sales
17 and service or sales only location, where the franchised dealer performs warranty repair services
18 and not new motor vehicle sales.

19 (b) A franchised dealer must obtain a license to operate a service-only facility. A dealer may
20 not obtain a service-only facility license to service a line-make of new motor vehicles, unless that
21 dealer is franchised and licensed to sell that line-make.

22 (c) A service-only facility is a dealership subject to protest under Occupations Code,
23 Chapter 2301.

1 (d) Upon the manufacturer's or distributor's prior written approval, which cannot be
2 unreasonably withheld, a franchised dealer of the manufacturer or distributor may contract with
3 another person as a subcontractor to perform warranty repair services that the dealer is
4 authorized to perform under a franchise agreement with a manufacturer or distributor. Payment
5 shall be made by the franchised dealer to the subcontractor and not by the manufacturer or
6 distributor to the subcontractor.

7 (e) A person with whom a franchised dealer contracts to perform warranty repair services
8 is not eligible to obtain a service-only facility license and may not advertise the performance of
9 warranty repair services in any manner to the public.

10

11 §215.104. Changes to Franchised Dealer's License.

12 (a) In accordance with Occupations Code, §2301.356, a franchised dealer must file an
13 application to amend the franchised dealer's license to request an additional line-make at the
14 dealer's currently licensed showroom. The amendment application must be filed electronically in
15 the licensing system designated by the department.

16 (1) In accordance with §215.110 of this title (relating to Evidence of Franchise), the
17 franchised dealer must attach to the amendment application a legible and accurate electronic
18 image of:

19 (A) the executed franchise agreement;

20 (B) the required excerpt from the executed franchise agreement; or

21 (C) an evidence of franchise form completed by the manufacturer,

22 distributor, or representative.

1 (2) The amendment application for an additional franchise at the showroom is
2 considered an original application and is subject to protest, in accordance with Occupations Code,
3 Chapter 2301, this chapter, and Chapter 224 of this title (relating to (relating to Adjudicative
4 Practice and Procedure)).

5 (b) A franchised dealer may propose to sell or assign to another any interest in the licensed
6 entity, whether a corporation or otherwise, provided the physical location of the licensed entity
7 remains the same.

8 (1) The franchised dealer shall notify the department in writing within 10 days of
9 the sale or assignment of interest by filing an application to amend the franchised dealer's license
10 electronically in the licensing system designated by the department.

11 (2) If the sale or assignment of any portion of the business results in a change of
12 business entity, then the purchasing entity or assignee must apply for and obtain a new license in
13 the name of the new business entity.

14 (3) A publicly-held corporation must file an amendment application if one person or
15 entity acquires 10% or greater interest in the licensed entity.

16 (c) A franchised dealer must file an amendment application electronically in the licensing
17 system designated by the department within 10 days of a license change, including:

18 (1) deletion of a line-make from the dealer's license;

19 (2) a change of assumed name on file with the Office of the Secretary of State or
20 county clerk;

21 (3) a change of mailing address;

22 (4) a change of telephone number; or

23 (5) a change of email address.

1 (d) A franchised dealer must file a business entity amendment application electronically in
2 the licensing system designated by the department within 10 days of an entity change, including:

3 (1) a change in management, dealer principal, or change of other person who
4 oversees a franchised dealer's business activities, including a managing partner, officer, director of
5 a corporation, or similar person; or

6 (2) a change of legal entity name on file with the Office of the Secretary of State.

7 (e) If a franchised dealer changes or converts from one type of business entity to another
8 type of business entity without changing ownership of the dealership, the submission of a
9 franchise agreement in the name of the new entity is not required in conjunction with an
10 amendment application. The franchise agreement on file with the department prior to the change
11 or conversion of the dealer's business entity type applies to the successor entity until the parties
12 agree to replace the franchise agreement. This subsection does not apply to a sole proprietorship
13 or general partnership.

14 (f) If a franchised dealer adopts a plan of conversion under a state or federal law that
15 allows one legal entity to be converted into another legal entity, only an amendment application is
16 necessary to be filed with the department. The franchise agreement on file with the department
17 continues to apply to the converted entity. If a license holder becomes another legal entity by any
18 means other than by conversion, a new application is required, subject to subsection (e) of this
19 section.

20 (g) In addition to obtaining permission from the manufacturer or distributor, a franchised
21 dealer must obtain department approval prior to opening a supplemental location or relocating an
22 existing location by filing an amendment application electronically in the licensing system

1 designated by the department. A franchised dealer must notify the department electronically in
2 the licensing system designated by the department when closing an existing location.

3

4 §215.105. Notification of License Application; Protest Requirements.

5 (a) The provisions of this section are not applicable to an application filed with the department
6 for a franchised dealer's license as a result of the purchase or transfer of an existing entity holding a
7 current franchised dealer's license that does not involve a physical relocation of the purchased or
8 transferred line-makes.

9 (b) Upon receipt of an application for a franchised dealer's license, including an application filed
10 with the department by reason of the relocation of an existing dealership, the department shall give
11 notice of the filing of the application to each franchised dealer that may have standing to protest the
12 application. The department shall send notice electronically and by certified mail, return receipt
13 requested, to the email address and mailing address in the franchised dealer's license record.

14 (c) If it appears to the department that there are no franchised dealers with standing to protest,
15 then no notice shall be given.

16 (d) A person holding a franchised dealer's license for the sale of the same line-make of a new
17 motor vehicle as proposed for sale in the subject application and that has standing to protest the
18 application may file with the department a notice of protest opposing the granting of a license by timely
19 filing a protest electronically in the licensing system designated by the department and paying the
20 required fee.

21 (e) A franchised dealer that wishes to protest the application shall give notice in accordance with
22 Occupations Code, Chapter 2301.

1 (1) The notice of protest must be in writing and shall be signed by an authorized officer
2 or other official authorized to sign on behalf of the protesting dealer filing the notice.

3 (2) The notice of protest must state the statutory basis upon which the protest is made
4 and assert how the protesting dealer meets the standing requirements under §215.119 of this title
5 (relating to Standing to Protest) to protest the application.

6 (3) The notice of protest must state that the protest is not made for purposes of delay or
7 for any other purpose except for justifiable cause.

8 (4) If a protest is filed against an application for the establishment of a dealership or for
9 addition of a line-make at an existing dealership, the notice of protest must state under which provision
10 of Occupations Code, Chapter 2301 the protest is made.

11

12 §215.106. Time for Filing Protest.

13 (a) A notice of protest must be:

14 (1) received by the department not later than 5:00 p.m. Central Time (CST or CDT, as
15 applicable) on the 15th day after the department issued the notice as evidenced by the date in the
16 notice;

17 (2) filed in the department's designated electronic filing system; and

18 (3) submitted with the filing fee paid.

19 (b) The department shall reject a notice of protest if:

1 (1) the complete notice of protest is not filed within 15 days from the date of mailing of
2 the department's notification to the license holder of the filing of the application; or

3 (2) the required filing fee is not paid when the protest is submitted in the department's
4 designated electronic filing system or is later dishonored.

5

6 §215.108. Addition or Relocation of Line-make.

7 An application to amend an existing franchised dealer's license for the addition of another line-
8 make at the existing dealership or for the relocation of a line-make to the existing dealership shall be
9 deemed an "application to establish a dealership" insofar as the line-make to be added is concerned, and
10 shall be subject to the provisions of §215.105 of this title (relating to Notification of License Application;
11 Protest Requirements) and §215.106 of this title (relating to Time for Filing Protest).

12

13 §215.109. Replacement Dealership.

14 An application for a franchised dealer's license for a dealership intended as a replacement for a
15 previously existing dealership shall be deemed an application for a "replacement dealership" required to
16 be established in accordance with Occupations Code, §2301.453 and shall not be subject to protest
17 under the provisions of §215.105 of this title (relating to Notification of License Application; Protest
18 Requirements), provided that:

19 (1) the application states that the applicant is intended as a replacement dealership and
20 identifies the prior dealership to be replaced;

1 (2) the manufacturer or distributor of the line-make gives notice to the department and
2 to other dealers franchised for the same line-make that meet the provisions of Occupations Code,
3 §2301.652(b) and (c);

4 (3) the notice under paragraph (2) of this subsection is given within 60 days following
5 the closing of the prior dealership;

6 (4) the application is filed electronically in the licensing system designated by the
7 department not later than one year following the closing of the prior dealership; and

8 (5) the location of the applicant's proposed dealership is not more than two miles from
9 the location of the prior dealership.

10

11 §215.110. Evidence of Franchise.

12 (a) Upon application for a franchised dealer's license or an amendment of an existing franchised
13 dealer's license to add a line-make, the applicant must submit a legible and accurate electronic image of
14 the franchise agreement pages that reflect:

15 (1) the parties,

16 (2) the authorized signatures of the parties,

17 (3) each line-make listed in the application, and

18 (4) the address of the franchised dealership's physical location.

1 (b) To meet this requirement temporarily for the purpose of application processing, a form
2 prescribed by the department and completed by the manufacturer or distributor may be electronically
3 submitted with the application in lieu of the information described in this section.

4 (c) The applicant must submit the required agreement pages described in this section
5 immediately upon the applicant's receipt of the franchise agreement as the department will not issue a
6 license without verifying that the franchise agreement has been executed.

7 (d) Upon application to relocate a franchised dealership, the franchised dealer applicant must
8 submit a form prescribed by the department and completed by the manufacturer or distributor that
9 identifies the license holder and the new franchised dealership location.

10

11 §215.111. Notice of Termination or Discontinuance of Franchise and Time for Filing Protest.

12 (a) A manufacturer or distributor shall give notice of termination or discontinuance of a dealer's
13 franchise to a franchised dealer and the department in accordance with Occupations Code, §2301.453.

14 (b) A dealer must file a written notice of protest of the franchise termination or discontinuance
15 pursuant to Occupations Code, §2301.453 electronically in the licensing system designated by the
16 department, prior to the effective date of the franchise termination or discontinuance stated in the
17 notice from the manufacturer or distributor, which must not be less than 60 days after the franchised
18 dealer receives the notice of termination or discontinuance.

19

20 §215.113. Manufacturer Ownership of Franchised Dealer; Good Cause Extension; Dealer Development.

1 (a) In the absence of a showing of good cause, an application for a franchised dealer's license of
2 which a manufacturer or distributor owns any interest in or has control of the dealership entity must be
3 submitted to the department electronically in the licensing system designated by the department no
4 later than 30 days before:

5 (1) the opening of the dealership;

6 (2) close of the buy-sell agreement; or

7 (3) the expiration of the current license.

8 (b) If a manufacturer or distributor applies for a franchised dealer's license of which the
9 manufacturer or distributor holds an ownership interest in or has control of the dealership entity in
10 accordance with Occupations Code, §2301.476(d) - (f), the license application must contain a sworn
11 statement from the manufacturer or distributor that the dealership was purchased from a franchised
12 dealer and is for sale at a reasonable price and under reasonable terms and conditions, and that the
13 manufacturer or distributor intends to sell the dealership to a person not controlled or owned by the
14 manufacturer or distributor within 12 months of acquiring the dealership, except as provided by
15 subsection (h) of this section.

16 (c) A request for an extension of the initial 12-month period for manufacturer or distributor
17 ownership or control of a franchised dealership, in accordance with Occupations Code, §2301.476(e),
18 must be submitted to the department in accordance with subsection (a) of this section along with a
19 sufficient application to renew the new motor vehicle dealer's license. The request must contain a
20 detailed explanation, including appropriate documentary support, to show the manufacturer's or
21 distributor's good cause for failure to sell the dealership within the initial 12-month period. The director
22 shall evaluate the request and determine whether the license should be renewed for a period not to

1 exceed 12 months or deny the renewal application. If the renewal application is denied, the
2 manufacturer or distributor may request a hearing on the denial in accordance with Occupations Code,
3 Chapter 2301, Subchapter O and the matter will be referred to SOAH for a hearing under Chapter 224,
4 Subchapter C of this title (relating to Motor Vehicle, Salvage Vehicle, and Trailer Industry License
5 Enforcement).

6 (d) Requests for extensions after the first extension is granted, as provided by Occupations Code,
7 §2301.476(e), must be submitted at least 120 days before the expiration of the current license
8 electronically in the licensing system designated by the department. Upon receipt of a subsequent
9 request, the department shall initiate a hearing in accordance with Occupations Code, Chapter 2301,
10 Subchapter O, at which the manufacturer or distributor will be required to show good cause for the
11 failure to sell the dealership. The manufacturer or distributor has the burden of proof and the burden of
12 going forward on the sole issue of good cause for the failure to sell the dealership.

13 (e) The department shall give notice of the hearing described in subsection (d) of this section to
14 all other franchised dealers holding franchises for the sale and service or service only of the same line-
15 make of new motor vehicles that are located in the same county in which the dealership owned or
16 controlled by the manufacturer or distributor is located or in an area within 15 miles of the dealership
17 owned or controlled by the manufacturer or distributor. Such dealers, if any, will be allowed to intervene
18 and protest the granting of the subsequent extension. Notices of intervention by dealers afforded a right
19 to protest under Occupations Code, §2301.476(e) must be filed with the department electronically in
20 the licensing system designated by the department within 15 days of the date of mailing of the notice
21 of hearing, and a copy must be provided to the manufacturer or distributor. The department shall reject
22 a notice of intervention if the notice is not filed at least 30 days before:

23 (1) the opening of the dealership;

1 (2) close of the buy-sell agreement; or

2 (3) the expiration of the current license.

3 (f) A hearing under subsection (d) of this section will be referred to SOAH for a hearing under
4 Chapter 224, Subchapter C of this title (relating to Contested Cases Between Motor Vehicle Industry
5 License Holders or Applicants). The franchised dealer's license that is the subject of the hearing will
6 continue in effect until a final decision on the request for a subsequent extension is issued by the board.

7 (g) The procedures described in subsections (d) - (f) of this section will be followed for all
8 extensions requested by the manufacturer or distributor after the initial extension.

9 (h) An application for a new motor vehicle dealer's license of which a manufacturer or
10 distributor owns any interest in the dealership entity in accordance with Occupations Code,
11 §2301.476(g) must contain sufficient documentation to show that the applicant meets the requirements
12 of Occupations Code, §2301.476(g).

13

14 §215.115. Manufacturer, Distributor, and Converter Vehicle Sales Records.

15 (a) A manufacturer or distributor must maintain, for a minimum period of 48 months, a record of
16 each vehicle sold to any person in this state. The manufacturer or distributor shall make the record
17 available during business hours for inspection and copying by the department or be available to submit
18 electronically to the department upon request.

19 (b) A converter must maintain, for a minimum period of 48 months, a record of each vehicle
20 converted for a person in this state, including a Texas franchised dealer. The converter shall make the

1 record available during business hours for inspection and copying by the department or be available to
2 submit electronically to the department upon request.

3 (c) A manufacturer, distributor, or converter is required to maintain at its licensed location a
4 record reflecting each purchase, sale, or conversion for a minimum period of 24 months. Records for
5 prior time periods may be kept off-site.

6 (d) Within 15 days of receipt of a request sent by mail or electronic document transfer from the
7 department, a manufacturer, distributor, or converter must submit a copy of specified records to the
8 address listed in the request.

9 (e) Records required to be maintained and made available to the department must include the
10 following:

11 (1) the date of sale or conversion of the motor vehicle;

12 (2) the VIN;

13 (3) the name and address of the person purchasing the motor vehicle;

14 (4) a copy of or a record with the information contained in the manufacturer's certificate
15 of origin or title;

16 (5) information regarding the prior status of the motor vehicle such as the Reacquired
17 Vehicle Disclosure Statement;

18 (6) the repair history of any motor vehicle subject to a warranty complaint;

19 (7) technical service bulletin or equivalent advisory; and

20 (8) any audit of a franchised dealership.

1 (f) Any record required by the department may be maintained in an electronic format, if the
2 electronic record can be printed at the licensed location upon request by the department or be available
3 to submit electronically to the department upon request.

4

5 §215.116. Franchised Dealership Lease or Sublease Listing.

6 A franchised dealer that lists its dealership for lease or sublease to mitigate damages in
7 accordance with Occupations Code, §2301.4651(e) is required to list:

8 (1) the entire real property if the termination or discontinuance effectively terminates all
9 line-makes and all franchises for the entire dealership; or

10 (2) only that portion of the real property associated with the terminated line-make or
11 franchise, if the termination or discontinuance does not affect all line-makes and all franchises of the
12 dealership.

13

14 §215.117. Market Value Property Appraisal.

15 (a) An appraiser performing a market value property appraisal in accordance with Occupations
16 Code, §2301.482(c) must be a Texas certified real estate appraiser.

17 (b) Necessary real estate and necessary construction are each determined by the applicable
18 property use agreement.

19 (c) The market value of property in accordance with Occupations Code, §2301.482(c), is the
20 average of the market value property appraisals of the three certified real estate appraisers.

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§215.120 Standard License Plates.

(a) A manufacturer, distributor, or converter may apply for a manufacturer or converter standard license plate for use on a new unregistered vehicle of the same vehicle type assembled or modified in accordance with Transportation Code §503.064 or §503.0618, as applicable:

(1) when applying for a new or renewal license, or

(2) by submitting a standard license plate request application electronically in the system designated by the department.

(b) A manufacturer may use a manufacturer’s standard license plate to test a prototype motor vehicle on a public street or highway including a commercial motor vehicle prototype designed to carry a load. A manufacturer’s standard license plate may not be used on a commercial motor vehicle prototype or new commercial motor vehicle to carry a load for which the manufacturer or other person receives compensation.

(c) A manufacturer, distributor, or converter shall attach a standard license plate to the rear of a vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(d) A manufacturer, distributor, or converter shall maintain a record of each standard license plate issued to the manufacturer, distributor, or converter by the department. The license plate record must contain:

(1) the license plate number;

(2) the year and make of the vehicle to which the license plate is affixed;

1 (3) the VIN of the vehicle, if one has been assigned; and

2 (4) the name of the person in control of the license plate.

3 (e) If a manufacturer, distributor, or converter cannot account for a standard license plate or a
4 standard license plate is damaged, the manufacturer, distributor, or converter shall:

5 (1) document the license plate as "void" in the license plate record in subsection (d); and

6 (2) within three days of discovering that the license plate is missing or damaged, report
7 the license plate as lost, stolen, or damaged electronically in the system designated by the department;

8 and

9 (3) if found after reported missing, cease use of the license plate.

10 (f) A standard license plate is no longer valid for use after the manufacturer, distributor, or
11 converter reports to the department that the license plate is lost, stolen, or damaged. A manufacturer,
12 distributor, or converter must render a void license plate unusable by permanently marking the front of
13 the plate with the word "VOID" or a large "X" and once marked, shall destroy or recycle the license plate,
14 or return the license plate to the department within 10 days.

15 (g) The license holder's license plate record must be available for inspection and copying by the
16 department during normal business hours or be available to submit electronically to the department
17 upon request.

18 (h) In evaluating requests for additional standard license plates, the department shall consider
19 the business justification provided by a license holder including the following:

20 (1) the number of vehicles assembled or modified;

- 1 (2) the highest number of motor vehicles in inventory in the prior 12 months;
- 2 (3) the size and type of business;
- 3 (4) how the license holder typically uses standard licenses plates;
- 4 (5) the license holder’s record of tracking and reporting missing or damaged license
- 5 plates to the department; and
- 6 (6) any other factor the Department in its discretion deems necessary to support the
- 7 number of license plates requested.

8 (i) a license holder shall return a department-issued license plate to the department within 10

9 days of the license holder closing the associated license or the associated license being revoked,

10 canceled, or closed by the department.

11

12 §215.121. Sanctions.

13 (a) The board or department may take the following actions against a license applicant, a license

14 holder, or a person engaged in business for which a license is required:

- 15 (1) deny an application;
- 16 (2) revoke a license;
- 17 (3) suspend a license;
- 18 (4) assess a civil penalty;
- 19 (5) issue a cease and desist order; or

1 (6) take other authorized action.

2 (b) The board or department may take action described in subsection (a) of this section if a
3 license applicant, a license holder, or a person engaged in business for which a license is required:

4 (1) fails to maintain records required under this chapter;

5 (2) refuses or fails within 15 days to comply with a request for records made by a
6 representative of the department;

7 (3) sells or offers to sell a motor vehicle to a retail purchaser other than through a
8 licensed or authorized dealer;

9 (4) fails to submit a license amendment application in the electronic licensing system
10 designated by the department to notify the department of a change of the license holder's physical
11 address, mailing address, telephone number, or email address within 10 days of the change;

12 (5) fails to timely submit a license amendment application in the electronic licensing
13 system designated by the department to notify the department of a license holder's business or
14 assumed name change, deletion of a line-make, or management or ownership change;

15 (6) fails to notify the department or pay or reimburse a franchised dealer as required by
16 law;

17 (7) misuses or fails to display a license plate as required by law;

18 (8) is a manufacturer or distributor and fails to provide a manufacturer's certificate for a
19 new vehicle;

1 (9) fails to remain regularly and actively engaged in the business of manufacturing,
2 assembling, or modifying a new motor vehicle of the type and line make for which a license has been
3 issued by the department;

4 (10) violates a provision of Occupations Code, Chapter 2301; Transportation Code
5 Chapters 501–503 or 1001–1005; a board order or rule; or a regulation of the department relating to the
6 manufacture, assembly, sale, lease, distribution, financing, or insuring of vehicles, including advertising
7 rules under Subchapter F of this chapter (relating to Advertising);

8 (11) is convicted of an offense that directly relates to the duties or responsibilities of the
9 occupation in accordance with §211.3 of this title (relating to Criminal Offense Guidelines);

10 (12) is determined by the board or department, in accordance with §215.89 of this title
11 (relating to Fitness), to be unfit to hold a license;

12 (13) omits information or makes a material misrepresentation in any application or other
13 documentation filed with the department including providing a false or forged identity document or a
14 false or forged photograph, electronic image, or other document;

15 (14) fails to remit payment as ordered for a civil penalty assessed by the board or
16 department;

17 (15) violates any state or federal law or regulation relating to the manufacture,
18 distribution, modification, or sale of a motor vehicle;

19 (16) fails to issue a refund as ordered by the board or department; or

20 (17) fails to participate in statutorily required mediation without good cause.

21

1 **STATUTORY AUTHORITY.** The department adopts a repeal to Chapter 215 under Occupations Code,
2 §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor
3 vehicles and the authority to take any action that is necessary or convenient to exercise that authority;
4 Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license
5 holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by
6 statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses
7 in connection with the distribution and sale of motor vehicles, and to enforce and administer
8 Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155,
9 which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code,
10 Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651,
11 which gives the board authority to deny an application for a license, revoke or suspend a license, place
12 on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material
13 misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor
14 vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a
15 motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history
16 record information maintained by DPS; Government Code, §411.12511, which authorizes the
17 department to obtain criminal history record information from DPS and the FBI for license applicants,
18 license holders, and representatives whose act or omission would be cause for denying, revoking, or
19 suspending a general distinguishing number or license issued under Transportation Code, Chapter 503,
20 or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the
21 board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code,
22 §503.002, which authorizes the board to adopt rules for the administration of Transportation Code,
23 Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain

1 contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the
2 issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which
3 require the board to adopt rules necessary to implement and manage the department's temporary tag
4 databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are
5 necessary and appropriate to implement the powers and the duties of the department, as well as the
6 statutes referenced throughout this preamble.

7 The department also adopts repeals under the authority of Transportation Code, §501.0041 and
8 §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the
9 statutory authority referenced throughout this preamble.

10 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
11 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
12 rules to administer Transportation Code, Chapter 502.

13 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the
14 nature and requirements of all available formal and informal procedures. Government Code, §2001.039
15 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing
16 the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal,
17 revocation, suspension, annulment, or withdrawal of a license.

18 **CROSS REFERENCE TO STATUTE.** This repeal implements Government Code, Chapters 411 and 2001;
19 Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003,
20 and 1005.

21
22 Text.

23 §215.112. Motor Home Show Limitations and Restrictions.

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SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

43 TAC §§215.131–215.146, 215.152, 215.154–215.155, and 215.160–161

STATUTORY AUTHORITY. The department adopts amendments and repeals to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as

1 necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which
2 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503;
3 Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases;
4 Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for
5 an original or renewal general distinguishing number who adopts to be an independent motor vehicle
6 dealer complete web-based education and training developed or approved by the department;
7 Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice
8 of a surety bond and the procedure by which a claimant may recover against the surety bond;
9 Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of
10 dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the
11 board to adopt rules necessary to implement and manage the department's temporary tag databases;
12 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
13 appropriate to implement the powers and the duties of the department, as well as the statutes referenced
14 throughout this preamble.

15 The department also adopts amendments under the authority of Transportation Code, §501.0041
16 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the
17 statutory authority referenced throughout this preamble.

18 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
19 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
20 rules to administer Transportation Code, Chapter 502.

21 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
22 and requirements of all available formal and informal procedures. Government Code, §2001.039 requires
23 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.

1 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
2 suspension, annulment, or withdrawal of a license.

3 **CROSS REFERENCE TO STATUTE.** These adopted revisions implement Government Code, Chapters 411
4 and 2001; Occupations Code, Chapters Occupations Code, Chapters 53, 55, 2301, and 2302; and
5 Transportation Code, Chapters 501–503, 1001–1003, and 1005.

6
7 Text.

8 §215.131. Purpose and Scope.

9 This subchapter implements Transportation Code, Chapters 503 and 1001–1005, and
10 Occupations Code, Chapter 2301, and applies to general distinguishing numbers and drive-a-way
11 operator in-transit licenses issued by the department.

12
13 §215.132. Definitions.

14 The following words and terms, when used in this subchapter, shall have the following
15 meanings, unless the context clearly indicates otherwise.

16 (1) Barrier--A material object or set of objects that separates or demarcates.

17 (2) Consignment sale--The owner-authorized sale of a motor vehicle by a person
18 other than the owner.

19 (3) House trailer--A nonmotorized vehicle designed for human habitation and for
20 carrying persons and property on its own structure and for being drawn by a motor vehicle. A
21 house trailer does not include manufactured housing. A towable recreational vehicle, as defined by
22 Occupations Code, §2301.002, is included in the terms "house trailer" or "travel trailer."

23 (4) Municipality--As defined according to the Local Government Code, Chapter 1.

1 (5) Person--Has the meaning assigned by Occupations Code, §2301.002.

2 (6) Sale--With regard to a specific vehicle, the transfer of possession of that vehicle
3 to a purchaser for consideration.

4 (7) Temporary tag--A buyer's temporary tag, converter's temporary tag, or dealer's
5 temporary tag as described under Transportation Code, Chapter 503.

6 (8) Towable recreational vehicle--Has the same meaning as "house trailer" defined
7 by this section.

8 (9) Travel Trailer--Has the same meaning as "house trailer" defined by this section.

9 (10) Vehicle--Has the meaning assigned by Transportation Code, §503.001.

10 (11) VIN--Vehicle identification number.

11

12 §215.133. GDN Application Requirements for a Dealer or a Wholesale Motor Vehicle Auction.

13 (a) No person may engage in business as a dealer or as a wholesale motor vehicle auction
14 unless that person has a valid GDN assigned by the department for each location from which the
15 person engages in business. A dealer must also hold a GDN for a consignment location, unless the
16 consignment location is a wholesale motor vehicle auction.

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

19 (c) A GDN dealer or wholesale motor vehicle auction application must be on a form
20 prescribed by the department and properly completed by the applicant as required under §215.83
21 of this title (relating to License Applications, Amendments, or Renewals). A GDN dealer or
22 wholesale motor vehicle auction application must include all required information, required
23 supporting documents, and required fees and must be submitted to the department electronically

1 in the licensing system designated by the department. A GDN dealer or wholesale motor vehicle
2 auction GDN holder renewing or amending its GDN must verify current license information,
3 provide related information and documents for any new requirements or changes to the GDN, and
4 pay required fees including any outstanding civil penalties owed the department under a final
5 order. An applicant for a new dealer or wholesale motor vehicle auction GDN must provide the
6 following:

7 (1) Required information:

8 (A) type of GDN requested;

9 (B) business information, including the name, physical and mailing
10 addresses, telephone number, Secretary of State file number (as applicable), and website address,
11 as applicable;

12 (C) contact name, email address, and telephone number of the person
13 submitting the application;

14 (D) contact name, email address, and telephone number of a person who
15 can provide information about business operations and the motor vehicle products or services
16 offered;

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

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

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

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

7 (I) if a dealer, the name, telephone number, and business email address of
8 the temporary tag database account administrator designated by the applicant who must be an
9 owner or representative listed in the application;

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

13 (K) military service status;

14 (L) licensing history required to evaluate fitness for licensure under §215.89
15 of this title (relating to Fitness);

16 (M) information about the business location and business premises,
17 including whether the applicant will operate as a salvage vehicle dealer at the location;

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

21 (O) signed Certification of Responsibility, which is a form provided by the
22 department; and

1 (P) any other information required by the department to evaluate the
2 application under current law and board rules.

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

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

6 (B) the certificate of filing, certificate of incorporation, or certificate of
7 registration on file with the Secretary of State, as applicable;

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

10 (D) at least one of the following unexpired identity documents for each
11 natural person listed in the application:

12 (i) driver license;

13 (ii) Texas Identification Card issued by the Texas Department of
14 Public Safety under Transportation Code, Chapter 521, Subchapter E;

15 (iii) license to carry a handgun issued by the Texas Department of
16 Public Safety under Government Code, Chapter 411, Subchapter H;

17 (iv) passport; or

18 (v) United States military identification card.

19 (E) a certificate of occupancy, certificate of compliance, or other official
20 documentation confirming the business location complies with municipal ordinances, including
21 zoning, occupancy, or other requirements for a vehicle business;

22 (F) documents proving business premises ownership, or lease or sublease
23 agreement for the license period;

1 (G) business premises photos and a notarized affidavit certifying that all
2 premises requirements in §215.140 of this title (relating to Established and Permanent Place of
3 Business Premises Requirements) are met and will be maintained during the license period;

4 (H) evidence of franchise if applying for a franchised motor vehicle dealer
5 GDN;

6 (I) proof of completion of the dealer education and training required under
7 Transportation Code §503.0296, if applicable; and

8 (J) any other documents required by the department to evaluate the
9 application under current law and board rules.

10 (3) Required fees:

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

12 (B) the fee, including applicable taxes, for each standard dealer plate
13 requested by the applicant as prescribed by law.

14 (d) An applicant for a dealer or wholesale auction GDN must also comply with fingerprint
15 requirements in §211.6 of this title (relating to Fingerprint Requirements for Designated License
16 Types), as applicable.

17 (e) An applicant for a GDN operating under a name other than the applicant's business
18 name shall use the assumed name under which the applicant is authorized to do business, as filed
19 with the Secretary of State or county clerk, and the assumed name of such legal entity shall be
20 recorded by the applicant on the application using the letters "DBA." The applicant may not use a
21 name or assumed name that may be confused with or is similar to that of a governmental entity or
22 that is otherwise deceptive or misleading to the public.

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

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

7 (h) In evaluating a new or renewal GDN application or an application for a new GDN
8 location, the department may require a site visit to determine if the business location meets the
9 requirements in §215.140. The department will require the applicant or GDN holder to provide a
10 notarized affidavit confirming that all premises requirements are met and will be maintained
11 during the license period.

12 (i) A person holding an independent motor vehicle GDN does not have to hold a salvage
13 vehicle dealer's license to:

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

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

17 (j) A person holding an independent motor vehicle GDN and performing salvage activities
18 under subsection (i) must apply for a National Motor Vehicle Title Information System (NMVTIS)
19 identification number and provide the number to the department in the GDN application.

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

22 (1) once a person has completed the required dealer education and training, the
23 person will not have to retake the dealer education and training for subsequent GDN renewals, but

1 may be required to provide proof of dealer education and training completion as part of the GDN
2 renewal process;

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

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

8

9 §215.134. Requirements for a Drive-a-way Operator In-Transit License.

10 (a) No drive-a-way operator may engage in business in Texas unless that person has a
11 currently valid drive-a-way operator in-transit license issued by the department.

12 (b) A drive-a-way operator in-transit application must be on a form prescribed by the
13 department and properly completed by the applicant as required under §215.83 of this title
14 (relating to License Applications, Amendments, or Renewals). A drive-a-way operator in-transit
15 application must include all required information, required supporting documents, and required
16 fees, and must be submitted to the department electronically in the licensing system designated
17 by the department.

18 (c) A drive-a-way operator in-transit license holder renewing or amending its license must
19 verify current license information, provide related information and documents for any new
20 requirements or changes to the license, and pay required fees.

21 (d) An applicant for a new license must register for an account in the department-designated
22 licensing system by selecting the licensing system icon on the dealer page of the department website. An
23 applicant must designate the account administrator and provide the name and email address for that

1 person, and provide the business telephone number, name, business type, and social security number or
2 employer identification number, as applicable. The applicant's licensing account administrator must be
3 an owner, officer, manager, or bona fide employee.

4 (e) Once registered, an applicant may apply for a new license and must provide the
5 following:

6 (1) Required information:

7 (A) type of license requested;

8 (B) business information, including the name, physical and mailing
9 addresses, telephone number, Secretary of State file number (as applicable), and website address,
10 as applicable;

11 (C) contact name, email address, and telephone number of the person
12 submitting the application;

13 (D) contact name, email address, and telephone number of a person who
14 can provide information about business operations and the motor vehicle services offered;

15 (E) the name, social security number, date of birth, identity document
16 information, and ownership percentage for each owner, partner, member, beneficiary, or principal
17 if the applicant is not a publicly traded company;

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

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

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

4 (I) military service status;

5 (J) licensing history required to evaluate fitness for licensure under §215.89
6 of this title (relating to Fitness);

7 (K) signed Certification of Responsibility, which is a form provided by the
8 department; and

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

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

12 (A) the certificate of filing, certificate of incorporation, or certificate of
13 registration on file with the Secretary of State, as applicable;

14 (B) each assumed name certificate on file with the Secretary of State or
15 county clerk;

16 (C) one of the following unexpired identity documents for each natural
17 person listed in the application:

18 (i) driver license;

19 (ii) Texas Identification Card issued by the Texas Department of
20 Public Safety under Transportation Code, Chapter 521, Subchapter E;

21 (iii) license to carry a handgun issued by the Texas Department of
22 Public Safety under Government Code, Chapter 411, Subchapter H;

23 (iv) passport; or

1 (v) United States military identification card;

2 (D) a list of manufacturers, distributors, dealers, or auctions for which the
3 applicant provides drive-a-way services;

4 (E) a description of the business model or business process, transportation
5 methods, compensation agreements, products, and services used or offered sufficient to allow
6 department to determine if the license type applied for is appropriate under Texas law; and

7 (F) any other documents required by the department to evaluate the
8 application under current law and board rules.

9 (3) Required fees:

10 (A) the license fee as prescribed by law; and

11 (B) the fee, including any taxes, for each drive-a-way in-transit standard
12 license plate requested by the applicant as prescribed by law.

13 (f) An applicant for a drive-a-way operator in-transit license must also comply with
14 fingerprint requirements in §211.6 of this title (relating to Fingerprint Requirements for
15 Designated License Types).

16 (g) An applicant operating under a name other than the applicant's business name shall use
17 the name under which the applicant is authorized to do business, as filed with the Secretary of
18 State or county clerk, and the assumed name of such legal entity shall be recorded by the applicant
19 on the application using the letters "DBA." The applicant may not use a name or assumed name
20 that may be confused with or is similar to that of a governmental entity or that is otherwise
21 deceptive or misleading to the public.

22

23 §215.135. More than One Location.

1 (a) A dealer that holds a GDN for a particular type of vehicle may operate from more than one
2 location within the limits of a municipality, provided each location is operated by the same legal entity
3 and meets the requirements of §215.140 of this title (relating to Established and Permanent Place of
4 Business Premises Requirements).

5 (b) Additional locations not located within the limits of the same municipality of the initial
6 dealership must:

7 (1) obtain a new GDN; and

8 (2) provide a new surety bond reflecting the additional location unless the licensed
9 location is exempt by statute from the surety requirement.

10 (c) A dealer that relocates from a point outside the limits of a municipality or relocates to a point
11 not within the limits of the same municipality of the initial location must:

12 (1) obtain a new GDN; and

13 (2) provide a new surety bond reflecting the new address unless the licensed location is
14 exempt by statute from the surety requirement.

15 (d) A dealer shall notify the department in writing within 10 days of opening, closing, or
16 relocating a licensed location by filing an amendment application electronically in the licensing system
17 designated by the department. Each location must meet and maintain the requirements of §215.140.

18 (e) A dealer may not commence business at any location until the department issues a license
19 specific to that location.

20

1 §215.137. Surety Bond.

2 (a) The surety bond required by Transportation Code, §503.033 shall be in the legal business
3 name in which the dealer's GDN will be issued and shall contain the complete physical address of each
4 location licensed under the GDN that the surety bond is intended to cover.

5 (b) A surety bond executed by an agent representing a bonding company or surety must be
6 supported by an original power of attorney from the bonding company or surety.

7 (c) The identity of the obligee on a surety bond or a rider to a surety bond must be approved by
8 the department. An obligee may be identified as:

9 (1) a person who obtains a court judgment assessing damages and attorney's fees for an
10 act or omission on which the bond is conditioned; or

11 (2) unknown.

12 (d) A bonding company that pays any claim against a surety bond shall immediately report the
13 payment to the department.

14 (e) A bonding company shall give written notice to the department 30 days prior to canceling any
15 surety bond.

16 (f) The surety bond required by this section does not apply to a:

17 (1) franchised motor vehicle dealer licensed by the department;

18 (2) franchised motorcycle dealer licensed by the department;

19 (3) franchised house trailer or travel trailer dealer licensed by the department; or

20 (4) trailer or semitrailer dealer licensed by the department.

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§215.138. Use of Dealer’s License Plates.

(a) A dealer’s standard or personalized prestige license plate must be attached to the rear of a vehicle in accordance with §217.27 of this title (relating to Vehicle Registration Insignia).

(b) A copy of the receipt for a dealer's standard or personalized prestige license plate issued by the department should be carried in the vehicle to present to law enforcement personnel upon request.

(c) A dealer's standard or personalized prestige license plate may not be displayed on:

(1) a laden commercial vehicle being operated or moved on the public streets or highways; or

(2) the dealer's service or work vehicle, except as provided by Transportation Code, §503.068(b-1).

(d) For purposes of this section, a dealer's service or work vehicle includes:

(1) a vehicle used for towing or transporting another vehicle;

(2) a vehicle, including a light truck, used in connection with the operation of the dealer's shops or parts department;

(3) a courtesy car on which a courtesy car sign is displayed;

(4) a rental or lease vehicle; and

(5) a boat trailer owned by a dealer or manufacturer that is used to transport more than one boat.

1 (e) For purposes of this section, a light truck as defined by Transportation Code, §541.201, is not
2 considered a laden commercial vehicle when it is:

3 (1) mounted with a camper unit; or

4 (2) towing a trailer for recreational purposes.

5 (f) A dealer's standard or personalized prestige license plate may be displayed only on the type
6 of vehicle for which the GDN is issued and for which a dealer is licensed to sell. A nonfranchised dealer
7 may not display a dealer's standard or personalized prestige license plate on a new motor vehicle.

8 (g) A dealer's standard or personalized prestige license plate may be displayed only on a vehicle
9 that has a valid inspection in accordance with Transportation Code, Chapter 548.

10 (h) A dealer shall maintain a record of each dealer's standard or personalized prestige license
11 plate issued by the department to that dealer. The license plate record must contain:

12 (1) the license plate number;

13 (2) the year and make of the vehicle to which the dealer's license plate is affixed;

14 (3) the VIN of the vehicle; and

15 (4) the name of the person in control of the vehicle.

16 (i) If a dealer cannot account for a dealer's standard or personalized prestige license plate that
17 the department issued to that dealer, the dealer shall:

18 (1) document the dealer's license plate as "void" in the dealer's license plate record;

1 (2) within three days of discovering that the dealer's license plate is missing or damaged,
2 report the dealer's license plate as lost, stolen, or damaged in the electronic system designated by the
3 department; and

4 (3) if found, cease use of the dealer's license plate.

5 (j) A dealer's standard or personalized prestige license plate is no longer valid for use after the
6 dealer reports to the department that the dealer's license plate is lost, stolen, or damaged. A dealer
7 shall:

8 (1) render a void plate unusable by permanently marking the front of the plate with the
9 word "VOID" or a large "X"; and

10 (2) destroy or recycle the license plate or return the license plate to the department
11 within 10 days.

12 (k) A dealer's license plate record must be available for inspection and copying by the
13 department during normal business hours or be available to submit electronically to the department
14 upon request.

15 (l) A dealer shall return a department-issued license plate, sticker, or receipt to the department
16 within 10 days of the dealer closing the associated license or the department revoking or canceling the
17 license.

18

19 §215.139. Dealer's Standard License Plate Allocation.

1 (a) The number of dealer's standard license plates a dealer may order for business use is based
2 on the type of license for which the dealer applied and the number of vehicles the dealer sold during the
3 previous year.

4 (b) A new license applicant is allotted a predetermined number of dealer's standard license
5 plates for the duration of the dealer's first license term.

6 (c) Unless otherwise qualified under this section, the maximum number of dealer's standard
7 license plates the department will issue to a new license applicant during the applicant's first license
8 term is indicated in the following table.

9 Attached Graphic

10 (d) A dealer applying for a license is not subject to the initial allotment limits described in this
11 section and may rely on that dealer's existing allocation of dealer's standard license plates if that dealer
12 is:

13 (1) a franchised dealership subject to a buy-sell agreement, regardless of a change in the
14 entity or ownership;

15 (2) any type of dealer that is relocating and has been licensed by the department for a
16 period of one year or longer; or

17 (3) any type of dealer that is changing its business entity type and has been licensed by
18 the department for a period of one year or longer.

19 (e) The maximum number of dealer's standard license plates the department will issue to a
20 vehicle dealer per license term is indicated in the following table.

21 Attached Graphic

1 (f) A dealer may obtain more than the maximum number of dealer's standard license plates
2 provided by this section by submitting to the department proof of sales for the previous 12-month
3 period that justifies additional allocation.

4 (1) The number of additional dealer's standard license plates the department will issue
5 to a dealer that demonstrates a need through proof of sales is indicated in the following table.

6 Attached Graphic

7 (2) For purposes of this section, proof of sales for the previous 12-month period may
8 consist of a copy of the most recent vehicle inventory tax declaration or monthly statements filed with
9 the taxing authority in the county of the dealer's licensed location. Each copy must be stamped as
10 received by the taxing authority. The department will consider a franchised dealer's license renewal
11 application that indicates sales of more than 200 units to be proof of sales of more than 200 units and no
12 additional proof is required.

13 (3) The department may not issue more than two dealer's standard license plates to a
14 wholesale motor vehicle dealer. For purposes of this section, a wholesale motor vehicle dealer's proof of
15 sales may be demonstrated to the department by submitting:

16 (A) evidence of the wholesale motor vehicle dealer's sales for the previous 12-
17 month period, if the wholesale motor vehicle dealer has been licensed during those 12 months; or

18 (B) other documentation approved by the department demonstrating the
19 wholesale motor vehicle dealer's transactions.

20 (g) The director may waive the dealer's standard license plate issuance restrictions if the waiver
21 is essential for the continuation of the business. The director will determine the number of dealer's

1 standard license plates the department will issue based on the dealer's past sales, dealer's inventory,
2 and any other factor the director determines pertinent.

3 (1) A request for a waiver must be submitted to the director in writing and specifically
4 state why the additional plate is necessary for the continuation of the applicant's business.

5 (2) A request for a waiver must be accompanied by proof of the dealer's sales for the
6 previous 12-month period, if applicable.

7 (3) A wholesale motor vehicle dealer may not apply for a waiver of the dealer's standard
8 license plate issuance restrictions.

9 (4) A waiver granted by the director under this section for a specific number of dealer's
10 standard license plates is valid for four years.

11

12 §215.140. Established and Permanent Place of Business Premises Requirements.

13 (a) A dealer must meet the following requirements at each licensed location and maintain the
14 requirements during the term of the license. If multiple dealers are licensed at a location, each dealer
15 must maintain the following requirements during the entire term of the license.

16 (1) Business hours for retail dealers.

17 (A) A retail dealer's office must be open at least four days per week for at least
18 four consecutive hours per day and may not be open solely by appointment.

19 (B) The retail dealer's business hours for each day of the week must be posted at
20 the main entrance of the retail dealer's office in a manner and location that is accessible to the public.

1 The owner or a bona fide employee of the retail dealer shall be at the retail dealer's licensed location
2 during the posted business hours for the purposes of buying, selling, exchanging, or leasing vehicles. If
3 the owner or a bona fide employee is not available to conduct business during the retail dealer's posted
4 business hours due to special circumstances or emergencies, a separate sign must be posted indicating
5 the date and time the retail dealer will resume operations. Regardless of the retail dealer's business
6 hours, the retail dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona
7 fide employee, owner, answering service, voicemail service, or answering machine. A caller must be able
8 to speak to a natural person or leave a message during these hours.

9 (2) Business hours for wholesale motor vehicle dealers. A dealer that holds only a
10 wholesale motor vehicle dealer's GDN must post its business hours at the main entrance of the
11 wholesale motor vehicle dealer's office in a manner and location that is accessible to the public. A
12 wholesale motor vehicle dealer or bona fide employee shall be at the wholesale motor vehicle dealer's
13 licensed location at least two weekdays per week for at least two consecutive hours per day. A wholesale
14 motor vehicle dealer may not be open solely by appointment. Regardless of the wholesale motor vehicle
15 dealer's business hours, the wholesale motor vehicle dealer's telephone must be answered from 8:00
16 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service, voicemail service, or
17 answering machine. A caller must be able to speak to a natural person or leave a message during these
18 hours.

19 (3) Business sign requirements for retail dealers.

20 (A) A retail dealer must display a conspicuous, permanent sign with letters at
21 least six inches in height showing the retail dealer's business name or assumed name substantially
22 similar to the name reflected on the retail dealer's GDN under which the retail dealer conducts business.
23 A business sign is considered conspicuous if it is easily visible to the public within 100 feet of the main

1 entrance of the business office. A business sign is considered permanent only if it is made of durable,
2 weather-resistant material.

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

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

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

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

14 (A) Exterior Sign

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

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

8 (B) Interior Sign

9 (i) If the wholesale motor vehicle dealer's office is located in an office
10 building with one or more other businesses and an outside sign is not permitted by the property owner,
11 a conspicuous permanent business sign permanently mounted on or beside the main door to the
12 wholesale motor vehicle dealer's office with letters at least two inches in height is acceptable. Effective
13 September 1, 2023, the sign must also include the statement that "Purchasers must be Licensed Dealers"
14 in letters at least one inch in height.

15 (ii) An interior business sign is considered conspicuous if it is easily
16 visible to the public within 10 feet of the main entrance of the wholesale motor vehicle dealer's office.
17 An interior sign is considered permanent if made from durable material and has lettering that cannot be
18 changed. An interior sign is considered permanently mounted if bolted or otherwise permanently affixed
19 to the main door or nearby wall. A wholesale motor vehicle dealer may use a temporary interior sign or
20 banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of
21 this paragraph has been ordered and provides a written statement that the sign will be promptly and
22 permanently mounted upon delivery.

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

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

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

7 (B) A dealer's office must comply with all applicable municipal ordinances,
8 including municipal zoning ordinances. The dealer is responsible for obtaining a certificate of occupancy,
9 certificate of compliance, or other required document issued by a municipal government to show
10 compliance, including a new certificate or document when the building is altered or remodeled, or when
11 the building use changes.

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

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

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

1 (F) The physical address of the dealer's office must be in Texas and recognized by
2 the U.S. Postal Service, be capable of receiving U.S. mail, and have an assigned emergency services
3 property address. The department will not mail a dealer's license plate to an out-of-state address.

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

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

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

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

10 (iii) accommodate required office equipment; and

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

13 (6) Required office equipment for a retail dealer and a wholesale motor vehicle dealer.

14 At a minimum, a dealer's office must be equipped with:

15 (A) a desk;

16 (B) two chairs;

17 (C) internet access; and

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

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

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

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

10 (10) Dealer housed with other business.

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

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

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

1 (11) Display area and storage lot requirements.

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

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

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

10 (ii) The display area must be of sufficient size to display at least five
11 vehicles of the type for which the GDN is issued. The display area must be reserved exclusively for the
12 retail dealer's inventory and may not be used for customer parking, employee parking, general storage,
13 or shared or intermingled with another business or a public parking area, a driveway to the office, or
14 another dealer's display area.

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

19 (iv) If a retail dealer shares a display or parking area with another
20 business, including another dealer, the dealer's vehicle inventory must be separated from the other
21 business's display or parking area by a material object or barrier that cannot be readily removed. A
22 barrier that cannot be readily removed is one that cannot be easily moved by one person and typically

1 weighs more than 50 pounds. A material object or barrier must be in place on all sides except for the
2 space necessary to allow for entry and exit of vehicle inventory.

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

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

9 (vii) The display area may be located inside a building; however, if
10 multiple dealers are displaying vehicles inside a building, each dealer's display area must be separated by
11 a material object or barrier that cannot be readily removed. A barrier that cannot be readily removed is
12 one that cannot be easily moved by one person and typically weighs more than 50 pounds. A material
13 object or barrier must be in place on all sides except for the space necessary to allow for entry and exit
14 of vehicle inventory.

15 (C) A GDN holder may maintain a storage lot only if the storage lot is not accessible to
16 the public and no sales activity occurs at the storage lot. A sign stating the license holder's name, contact
17 information, and the fact the property is a storage lot is permissible. A storage lot must be fenced or in
18 an access-controlled location to be considered not accessible to the public. A GDN holder or applicant
19 must disclose the address of a storage lot or the location of a vehicle in inventory upon request by the
20 department.

1 (12) Dealers authorized to sell salvage motor vehicles. If an independent motor vehicle
2 dealer offers a salvage motor vehicle for sale on the dealer's premises, the vehicle must be clearly and
3 conspicuously marked with a sign informing a potential buyer that the vehicle is a salvage motor vehicle.

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

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

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

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

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

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

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

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

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

12 (b) Wholesale motor vehicle auction premises requirements. A wholesale motor vehicle auction
13 must comply with the following premises requirements:

14 (1) a wholesale motor vehicle auction GDN holder must hold a motor vehicle auction on
15 a regular periodic basis at the licensed location, and an owner or bona fide employee must be available
16 at the business location during each auction and during posted business hours. If the owner or a bona
17 fide employee is not available to conduct business during the posted business hours due to special
18 circumstances or emergencies, a separate sign must be posted indicating the date and time operations
19 will resume.

20 (2) the business telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a
21 bona fide employee, owner, answering service, voicemail service, or answering machine. A caller must
22 be able to speak to a natural person or leave a message during these hours.

1 (3) a wholesale motor vehicle auction GDN holder must display a business sign that
2 meets the following requirements:

3 (A) The sign must be a conspicuous, permanent sign with letters at least six
4 inches in height showing the business name or assumed name substantially similar to the name reflected
5 on the GDN under which the GDN holder conducts business. A business sign is considered conspicuous
6 if it is easily visible to the public within 100 feet of the main entrance of the business office. A business
7 sign is considered permanent only if it is made of durable, weather-resistant material.

8 (B) The sign must be permanently mounted at the physical address listed on the
9 application for the wholesale motor vehicle auction GDN. A business sign is considered permanently
10 mounted if bolted to an exterior building wall or bolted or welded to a dedicated sign pole or sign
11 support permanently installed in the ground.

12 (C) An applicant may use a temporary sign or banner if the applicant can show
13 proof that a sign that meets the requirements of this paragraph has been ordered and provides a written
14 statement that the sign will be promptly and permanently mounted upon delivery.

15 (D) An applicant or holder is responsible for ensuring that the business sign
16 complies with municipal ordinances, and that any lease signage requirements are consistent with the
17 signage requirements in this paragraph.

18 (4) The business office of a wholesale motor vehicle auction GDN applicant and holder
19 must meet the following requirements:

20 (A) The office must be located in a building with a permanent roof and
21 connecting exterior walls on all sides.

1 (B) The office must comply with all applicable municipal ordinances, including
2 municipal zoning ordinances. The wholesale motor vehicle auction is responsible for obtaining a
3 certificate of occupancy, certificate of compliance, or other required document issued by a municipal
4 government to show compliance, including a new certificate or document when the building is altered or
5 remodeled, or when the building use changes.

6 (C) The office may not be located in a residence, apartment, hotel, motel,
7 rooming house, or any room or building not open to the public.

8 (D) The office may not be located in a restaurant, gas station, or convenience
9 store, unless the office has a separate entrance door that does not require a customer to pass through
10 the other business.

11 (E) The office may not be virtual or provided by a subscription for office space or
12 office services. Access to office space or office services is not considered an established and permanent
13 location.

14 (F) The physical address of the office must be in Texas and recognized by the U.S.
15 Postal Service, capable of receiving U.S. mail, and have an assigned emergency services property
16 address.

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

19 (5) A wholesale motor vehicle auction GDN applicant and holder must have the following
20 office equipment:

21 (A) a desk;

- 1 (B) a chair;
- 2 (C) internet access; and
- 3 (D) a working telephone number listed in the business name or assumed name
- 4 under which business is conducted.

5 (6) A wholesale motor vehicle auction must meet the following display area and storage

6 lot requirements:

7 (A) The area designated as display space for inventory must be located at the

8 physical business address or contiguous to the physical address. The display area may not be in a storage

9 lot.

10 (B) The display area must be of sufficient size to display at least five vehicles.

11 Those spaces must be reserved exclusively for inventory and may not be used for customer parking,

12 employee parking, general storage, or shared or intermingled with another business or a public parking

13 area, or a driveway to the office.

14 (C) The display area may not be on a public easement, right-of-way, or driveway

15 unless the governing body having jurisdiction of the easement, right-of-way, or driveway expressly

16 consents in writing to use as a display area. If the easement, right-of-way, or driveway is a part of the

17 state highway system, use as a display area may only be authorized by a lease agreement.

18 (D) If the business location includes gasoline pumps or a charging station or

19 includes another business that sells gasoline or has a charging station, the display area may not be part

20 of the parking area for fuel or charging station customers and may not interfere with access to or from

21 the gasoline pumps, fuel tanks, charging station, or fire prevention equipment.

1 (E) The display area must be adequately illuminated if open at night so that a
2 vehicle for sale can be properly inspected by a potential buyer.

3 (F) The display area may be located inside a building.

4 (G) A wholesale motor vehicle auction may maintain a storage lot only if the
5 storage lot is not accessible to the public and no sales activity occurs at the storage lot. A sign stating the
6 business name, contact information, and the fact the property is a storage lot is permissible. A storage
7 lot must be fenced or in an access-controlled location to be considered not accessible to the public. A
8 GDN holder or applicant must disclose the address of a storage lot or the location of a vehicle in
9 inventory upon request by the department.

10 (7) A wholesale motor vehicle auction must meet the following lease requirements if the
11 business premises, including any display area, is not owned by the wholesale motor vehicle auction:

12 (A) the applicant or holder must maintain a lease that is continuous during the
13 period of time for which the GDN will be issued;

14 (B) The lease agreement must be on a properly executed form containing at a
15 minimum:

16 (i) the name of the property owner as the lessor of the premises and the
17 name of the GDN applicant or holder as the tenant or lessee of the premises;

18 (ii) the period of time for which the lease is valid;

19 (iii) the street address or legal description of the property, provided that
20 if only a legal description of the property is included, a wholesale motor vehicle auction must attach a
21 statement verifying that the property description in the lease agreement is the physical street address

1 identified on the application as the physical address for the established and permanent place of
2 business;

3 (iv) the signature of the property owner as the lessor and the signature
4 of the applicant or holder as the tenant or lessee; and

5 (C) if the lease agreement is a sublease in which the property owner is not the
6 lessor, the wholesale motor vehicle auction must also obtain a signed and notarized statement from the
7 property owner including the following information:

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

10 (ii) property owner's statement confirming that the wholesale motor
11 vehicle auction is authorized to sublease the location and may operate a wholesale motor vehicle
12 auction business from the location.

13

14 §215.141. Sanctions.

15 (a) The board or department may take the following actions against a license applicant, a license
16 holder, or a person engaged in business for which a license is required:

17 (1) deny an application;

18 (2) revoke a license;

19 (3) suspend a license;

20 (4) assess a civil penalty;

1 (5) issue a cease and desist order; or

2 (6) or take other authorized action.

3 (b) The board or department may take action described in subsection (a) of this section if a
4 license applicant, a license holder, or a person engaged in business for which a license is required:

5 (1) fails to maintain a good and sufficient bond or post the required bond notice if
6 required under Transportation Code §503.033 (relating to Security Requirement);

7 (2) fails to meet or maintain the requirements of §215.140 (relating to Established and
8 Permanent Place of Business Premises Requirements);

9 (3) fails to maintain records required under this chapter;

10 (4) refuses or fails to comply with a request by the department for electronic records or
11 to examine and copy electronic or physical records during the license holder's business hours at the
12 licensed business location:

13 (A) sales records required to be maintained by §215.144 of this title (relating to
14 Vehicle Records);

15 (B) ownership papers for a vehicle owned by that dealer or under that dealer's
16 control;

17 (C) evidence of ownership or a current lease agreement for the property on
18 which the business is located; or

1 (D) the Certificate of Occupancy, Certificate of Compliance, business license or
2 permit, or other official documentation confirming compliance with county and municipal laws or
3 ordinances for a vehicle business at the licensed physical location.

4 (5) refuses or fails to timely comply with a request for records made by a representative
5 of the department;

6 (6) holds a wholesale motor vehicle dealer's license and
7 sells or offers to sell a motor vehicle to a person other than a licensed or authorized dealer;

8 (7) sells or offers to sell a type of vehicle that the person is not licensed to sell;

9 (8) fails to submit a license amendment application in the electronic licensing system
10 designated by the department to notify the department of a change of the license holder's physical
11 address, mailing address, telephone number, or email address within 10 days of the change;

12 (9) fails to submit a license amendment application in the electronic licensing system
13 designated by the department to notify the department of a license holder's name change, or
14 management or ownership change within 10 days of the change;

15 (10) except as provided by law, issues more than one buyer's temporary tag for the
16 purpose of extending the purchaser's operating privileges for more than 60 days;

17 (11) fails to remove a license plate or registration insignia from a vehicle that is displayed
18 for sale;

19 (12) misuses a dealer's license plate or a temporary tag;

20 (13) fails to display a dealer's license plate or temporary tag, as required by law;

1 (14) holds open a title or fails to take assignment of a certificate of title, manufacturer's
2 certificate, or other basic evidence of ownership for a vehicle acquired by the dealer, or fails to assign
3 the certificate of title, manufacturer's certificate, or other basic evidence of ownership for a vehicle sold;

4 (15) fails to remain regularly and actively engaged in the business of buying, selling, or
5 exchanging vehicles of the type for which the GDN is issued by the department;

6 (16) violates a provision of Occupations Code, Chapter 2301; Transportation Code
7 Chapters 503 and 1001–1005; a board order or rule; or a regulation of the department relating to the
8 sale, lease, distribution, financing, or insuring of vehicles, including advertising rules under Subchapter F
9 of this chapter (relating to Advertising);

10 (17) is convicted of an offense that directly relates to the duties or responsibilities of the
11 occupation in accordance with §211.3 of this title (relating to Criminal Offense Guidelines);

12 (18) is determined by the board or department, in accordance with §215.89 of this title
13 (relating to Fitness), to be unfit to hold a license;

14 (19) has not assigned at least five vehicles in the prior 12 months, provided the dealer
15 has been licensed more than 12 months;

16 (20) files or provides a false or forged:

17 (A) title document, including an affidavit making application for a certified copy
18 of a title; or

19 (B) tax document, including a sales tax statement or affidavit;

1 (21) uses or allows use of that dealer's license or location for the purpose of avoiding a
2 provision of Occupations Code, Chapter 2301; Transportation Code, Chapters 503 and 1001 - 1005; or
3 other laws;

4 (22) omits information or makes a material misrepresentation in any application or other
5 documentation filed with the department including providing a false or forged identity document or a
6 false or forged photograph, electronic image, or other document;

7 (23) fails to remit payment as ordered for a civil penalty assessed by the board or
8 department;

9 (24) sells a new motor vehicle without a franchised dealer's license issued by the
10 department;

11 (25) fails to comply with a dealer responsibility under §215.150 of this title (relating to
12 Authorization to Issue Temporary Tags);

13 (26) utilizes a temporary tag that fails to meet the requirements of §215.153 of this title
14 (relating to Specifications for All Temporary Tags);

15 (27) violates any state or federal law or regulation relating to the sale of a motor vehicle;

16 (28) knowingly fails to disclose that a motor vehicle has been repaired, rebuilt, or
17 reconstructed and issued a title under Transportation Code, §501.100 (relating to Application for Regular
18 Certificate of Title for Salvage Vehicle);

19 (29) fails to issue a refund as ordered by the board or department; or

20 (30) fails to acquire or maintain a required certificate of occupancy, certificate of
21 compliance, business license or permit, or other official documentation for the licensed location

1 confirming compliance with county or municipal laws or ordinances or other local requirements for a
2 vehicle business.

3

4 §215.143. Drive-a-way Operator In-Transit License Plates.

5 (a) A drive-a-way operator may apply for a drive-a-way in-transit standard license plate:

6 (1) when applying for a new or renewal in-transit license, or

7 (2) by submitting a plate request application electronically in the system designated by
8 the department.

9 (b) A drive-a-way operator must display an in-transit license plate in the rear of each transported
10 motor vehicle from the vehicle's point of origin to its point of destination in Texas in accordance with
11 §217.27 of this title (relating to Vehicle Registration Insignia).

12 (c) A drive-a-way operator shall maintain a record of each license plate issued to the operator by
13 the department. The record of each license plate issued must contain:

14 (1) the license plate number;

15 (2) the year and make of the vehicle to which the license plate is affixed;

16 (3) the VIN of the vehicle; and

17 (4) the name of the person in control of the vehicle.

18 (d) If a drive-a-way operator cannot account for a license plate or a license plate is damaged, the
19 operator must:

20 (1) document the license plate as "void" in the operator's plate record;

1 (2) within three days of discovering that the license plate is missing or damaged, report
2 the license plate as lost, stolen, or damaged in the electronic system designated by the department; and

3 (3) if found once reported, cease use of the license plate.

4 (e) A license plate is no longer valid for use after the drive-a-way operator reports to the
5 department that the plate is lost, stolen, or damaged. A drive-a-way operator must render a void plate
6 unusable by permanently marking the front of the plate with the word “VOID” or a large “X” and once
7 marked, may destroy or recycle the license plate, or return the license plate to the department for
8 recycling within 10 days.

9 (f) The drive-a-way operator’s license plate record must be available for inspection and copying
10 by the department during normal business hours or be available to submit electronically to the
11 department upon request.

12 (g) In evaluating requests for additional license plates, the department will consider the business
13 justification provided by a drive-a-way operator including the following:

14 (1) the number of vehicles currently being transported to a location in Texas;

15 (2) the highest number of motor vehicles transported in the prior 12 months;

16 (3) the size and type of business; and

17 (4) the operator’s record of tracking and reporting missing or damaged plates to the
18 department.

19 (h) If a drive-a-way operator closes the associated license or the associated license is revoked or
20 canceled by the department, the operator must return a license plate to the department within 10 days.

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§215.144. Vehicle Records.

(a) Purchases and sales records. A dealer and wholesale motor vehicle auction shall maintain a complete record of all vehicle purchases and sales for a minimum period of 48 months and make the record available for inspection and copying by the department during business hours.

(b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer shall keep a complete written record of each vehicle purchase, vehicle sale, and any adaptive work performed on each vehicle for a minimum period of 36 months after the date the adaptive work is performed on the vehicle. An independent mobility motor vehicle dealer shall also retain and produce for inspection all records relating to license requirements under Occupations Code, §2301.002(17-b) and all information and records required under Transportation Code §503.0295.

(c) Location of records. A dealer's record reflecting purchases and sales for the preceding 13 months must be maintained at the dealer's licensed location. Original titles are not required to be kept at the licensed location but must be made available to the agency upon reasonable request. A dealer's record for prior time periods may be kept off-site.

(d) Request for records. Within 15 days of receiving a request from a representative of the department, a dealer shall deliver a copy of the specified records to the address listed in the request. If a dealer has a concern about the origin of a records request, the dealer may verify that request with the department prior to submitting its records.

(e) Content of records. A dealer's complete record for each vehicle purchase or vehicle sale must contain:

- 1 (1) the date of the purchase;
- 2 (2) the date of the sale;
- 3 (3) the VIN;
- 4 (4) the name and address of the person selling the vehicle to the dealer;
- 5 (5) the name and address of the person purchasing the vehicle from the dealer;
- 6 (6) the name and address of the consignor if the vehicle is offered for sale by
- 7 consignment;
- 8 (7) except for a purchase or sale where the Tax Code does not require payment of motor
- 9 vehicle sales tax, a county tax assessor-collector receipt marked paid;
- 10 (8) a copy of all documents, forms, and agreements applicable to a particular sale,
- 11 including a copy of:
 - 12 (A) the title application;
 - 13 (B) the work-up sheet;
 - 14 (C) the front and back of the manufacturer's certificate of origin or
 - 15 manufacturer's statement of origin, unless the dealer obtains the title through the electronic title
 - 16 system;
 - 17 (D) the front and back of the title for the purchase and the sale, unless the
 - 18 dealer enters or obtains the title through the electronic title system;
 - 19 (E) the factory invoice, if applicable;
 - 20 (F) the sales contract;

- 1 (G) the retail installment agreement;
- 2 (H) the buyer's order;
- 3 (I) the bill of sale;
- 4 (J) any waiver;
- 5 (K) any other agreement between the seller and purchaser;
- 6 (L) the purchaser's photo identification;
- 7 (M) the odometer disclosure statement signed by the buyer, unless the vehicle is
- 8 exempt; and
- 9 (N) the rebuilt salvage disclosure, if applicable.
- 10 (9) the original manufacturer's certificate of origin, original manufacturer's statement of
- 11 origin, or original title for a new motor vehicle offered for sale by a dealer which must be properly
- 12 stamped if the title transaction is entered into the electronic titling system by the dealer;
- 13 (10) the dealer's monthly Motor Vehicle Seller Financed Sales Returns, if any; and
- 14 (11) if the vehicle sold is a motor home or a towable recreational vehicle subject to
- 15 inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at
- 16 the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.
- 17 (f) Title assignments.
- 18 (1) For each vehicle a dealer acquires or offers for sale, the dealer must properly take
- 19 assignment in the dealer's name of any:
- 20 (A) title;

1 (B) manufacturer's statement of origin;

2 (C) manufacturer's certificate of origin; or

3 (D) other evidence of ownership.

4 (2) Unless not required by Transportation Code, §501.0234(b), a dealer must apply in the
5 name of the purchaser of a vehicle for the title and registration, as applicable, of the vehicle with a
6 county tax assessor-collector.

7 (3) To comply with Transportation Code, §501.0234(f), a registration is considered filed
8 within a reasonable time if the registration is filed within:

9 (A) 30 days of the date of sale of the vehicle for a vehicle titled or registered in
10 Texas; or

11 (B) 45 days of the date of sale of the vehicle for a dealer-financed transaction
12 involving a vehicle that is titled or registered in Texas.

13 (4) The dealer is required to provide to the purchaser the receipt for the title and
14 registration application.

15 (5) The dealer is required to maintain a copy of the receipt for the title and registration
16 application in the dealer's sales file.

17 (g) Out-of-state sales. For a sale involving a vehicle to be transferred out of state, the dealer
18 must:

19 (1) within 30 days of the date of sale, either file the application for certificate of title on
20 behalf of the purchaser or deliver the properly assigned evidence of ownership to the purchaser; and

1 (2) maintain in the dealer's record at the dealer's licensed location a photocopy of the
2 completed sales tax exemption form for out of state sales approved by the Texas Comptroller of Public
3 Accounts.

4 (h) Consignment sales. A dealer offering a vehicle for sale by consignment must have a written
5 consignment agreement or a power of attorney for the vehicle, and shall, after the sale of the vehicle,
6 take assignment of the vehicle in the dealer's name and, pursuant to subsection (f), apply in the name of
7 the purchaser for transfer of title and registration, if the vehicle is to be registered, with a county tax
8 assessor-collector. The dealer must, for a minimum of 48 months, maintain a record of each vehicle
9 offered for sale by consignment, including the VIN and the name of the owner of the vehicle offered for
10 sale by consignment.

11 (i) Public motor vehicle auctions.

12 (1) A GDN holder that acts as a public motor vehicle auction must comply with
13 subsection (h) of this section.

14 (2) A public motor vehicle auction:

15 (A) is not required to take assignment of title of a vehicle it offers for sale;

16 (B) must take assignment of title of a vehicle from a consignor prior to making
17 application for title on behalf of the buyer; and

18 (C) must make application for title on behalf of the purchaser and remit motor
19 vehicle sales tax within 20 working days of the sale of the vehicle.

20 (3) A GDN holder may not sell another GDN holder's vehicle at a public motor vehicle
21 auction.

1 (j) Wholesale motor vehicle auction records. A wholesale motor vehicle auction license holder
2 shall maintain, for a minimum of 48 months, a complete record of each vehicle purchase and sale
3 occurring through the wholesale motor vehicle auction. The wholesale motor vehicle auction license
4 holder shall make the record available for inspection and copying by the department during business
5 hours.

6 (1) A wholesale motor vehicle auction license holder shall maintain at the licensed
7 location a record reflecting each purchase and sale for at least the preceding 24 months. Records for
8 prior time periods may be kept off-site.

9 (2) Within 15 days of receiving a department request, a wholesale motor vehicle auction
10 license holder shall deliver a copy of the specified records to the address listed in the request.

11 (3) A wholesale motor vehicle auction license holder's complete record of each vehicle
12 purchase and sale must, at a minimum, contain:

13 (A) the date of sale;

14 (B) the VIN;

15 (C) the name and address of the person selling the vehicle;

16 (D) the name and address of the person purchasing the vehicle;

17 (E) the dealer's license number of both the selling dealer and the purchasing
18 dealer, unless either is exempt from holding a license;

19 (F) all information necessary to comply with the federal odometer disclosure
20 requirements in 49 CFR Part 580;

1 (G) auction access documents, including the written authorization and
2 revocation of authorization for an agent or employee, in accordance with §215.148 of this title (relating
3 to Dealer Agents);

4 (H) invoices, bills of sale, checks, drafts, or other documents that identify the
5 vehicle, the parties, or the purchase price;

6 (I) any information regarding the prior status of the vehicle such as the
7 Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and

8 (J) a copy of any written authorization allowing an agent of a dealer to enter the
9 auction.

10 (k) Electronic records. A license holder may maintain a record in an electronic format if the
11 license holder can print the record at the licensed location upon request by the department, except as
12 provided by subsection (l) of this section.

13 (l) Use of department electronic titling and registration systems. A license holder utilizing the
14 department's web-based title application known as webDEALER, as defined in §217.71 of this title
15 (relating to Automated and Web-Based Vehicle Registration and Title Systems), shall comply with
16 §217.74 of this title (relating to Access to and Use of webDEALER). Original hard copy titles are not
17 required to be kept at the licensed location but must be made available to the department upon request.

18
19 §215.145. Change of Dealer's Status.

20 (a) A dealer's name change requires a new bond or a rider to the existing bond reflecting the
21 new name, unless the dealer is not otherwise required to purchase a bond.

1 (b) A dealer shall notify the department in writing within 10 days of a change of ownership by
2 submitting a license amendment application in the department-designated electronic licensing system. A
3 licensed dealer that proposes to sell or assign to another any interest in the licensed entity, whether a
4 corporation or otherwise, and provided the physical location of the licensed entity remains the same,
5 shall notify the department in writing within 10 days of the change by filing an application to amend the
6 license in the department-designated electronic licensing system. If the sale or assignment of any
7 portion of the business results in a change of entity, then the new entity must apply for and obtain a new
8 license. A publicly held corporation only needs to inform the department of a change in ownership if one
9 person or entity acquires a 10% or greater interest in the licensed entity.

10 (c) Upon the death of a dealer operating as a sole proprietor, either the surviving spouse of the
11 deceased dealer or other individual deemed qualified by the department shall submit to the department
12 a bond rider adding the name of the surviving spouse or other qualifying person to the bond for the
13 remainder of the bond and license term. The surviving spouse or other qualifying person may continue
14 operating under the current dealer license until the end of the license term.

15 (d) For purposes of subsection (c) of this section, the sole proprietor's surviving spouse may
16 change the ownership of the dealership at the time the license is renewed without applying for a new
17 GDN. At the time the renewal application is filed, the sole proprietor's surviving spouse must submit to
18 the department:

- 19 (1) an application to amend the business entity;
- 20 (2) a copy of the sole proprietor's certificate of death, naming the surviving spouse;
- 21 (3) the required ownership information; and
- 22 (4) if applicable, a bond in the name of the surviving spouse.

1 (e) For purposes of subsection (c) of this section, a qualifying person who is not the surviving
2 spouse may operate the sole proprietorship business during the term of the license. The qualifying
3 person must file with the department:

4 (1) an application to amend the business entity, identifying the qualifying person as the
5 manager;

6 (2) an ownership information form, indicating that the qualifying person has no
7 ownership interest in the business; and

8 (3) a bond rider adding the qualified person's name to the existing bond.

9 (f) For purposes of subsection (c) of this section, a qualifying person who is not the surviving
10 spouse must file with the department an application for a new GDN on or before the expiration of the
11 license term in the department-designated electronic licensing system.

12 (g) A determination made under this section does not impact a decision made by the board
13 under Occupations Code, §2301.462 (relating to Succession Following Death of Franchised Dealer).

14

15 §215.147. Export Sales.

16 (a) Before selling a motor vehicle for export from the United States to another country, a dealer
17 must obtain a legible photocopy of the buyer's government-issued photo identification document. The
18 photo identification document must be issued by the jurisdiction where the buyer resides and be:

19 (1) a passport;

20 (2) a driver license;

1 (3) a license to carry a handgun issued by the Texas Department of Public Safety under
2 Government Code, Chapter 411, Subchapter H;

3 (4) a national identification certificate or identity document; or

4 (5) other identification document containing the:

5 (A) name of the issuing jurisdiction;

6 (B) buyer's full name;

7 (C) buyer's foreign address;

8 (D) buyer's date of birth;

9 (E) buyer's photograph; and

10 (F) buyer's signature.

11 (b) A dealer that sells a vehicle for export from the United States shall place a stamp on the title
12 that includes the words "For Export Only" and includes the dealer's GDN. The stamp must be legible, in
13 black ink, at least two inches wide, and placed on the:

14 (1) back of the title in all unused dealer reassignment spaces; and

15 (2) front of the title in a manner that does not obscure any names, dates, mileage
16 statements, or other information printed on the title.

17 (c) In addition to the records required to be maintained by §215.144 of this title (relating to
18 Vehicle Records), a dealer shall maintain, for each motor vehicle sold for export, a sales file record. The
19 sales file record shall be made available for inspection and copying upon request by the department. The
20 sales file record of each vehicle sold for export must contain:

1 (1) a completed copy of the Texas Motor Vehicle Sales Tax Exemption Certificate for
2 Vehicles Taken Out of State, indicating that the vehicle has been purchased for export to a foreign
3 country;

4 (2) a copy of the front and back of the title of the vehicle, showing the "For Export Only"
5 stamp and the GDN of the dealer; and

6 (3) if applicable, an Export-only Sales Record Form, listing each motor vehicle sold for
7 export only.

8 (d) A dealer, at the time of sale of a vehicle for export, shall:

9 (1) enter the information required by Transportation Code, §503.061 in the temporary
10 tag database;

11 (2) designate the sale as "For Export Only"; and

12 (3) issue a buyer's temporary tag, in accordance with Transportation Code, §503.063.

13

14 §215.148. Dealer Agents.

15 (a) A dealer shall provide written authorization to each person with whom the dealer's agent or
16 employee will conduct business on behalf of the dealer, including to a person that:

17 (1) buys and sells motor vehicles for resale; or

18 (2) operates a licensed auction.

1 (b) If a dealer's agent or employee that conducts business on behalf of the dealer commits an
2 act or omission that would be cause for denial, revocation, or suspension of a license in accordance with
3 Occupations Code, Chapter 2301 or Transportation Code, Chapter 503, the board may:

4 (1) deny an application for a license; or

5 (2) revoke or suspend a license.

6 (c) The board may take action described in subsection (b) of this section after notice and an
7 opportunity for hearing, in accordance with Occupations Code, Chapter 2301 and Chapter 224 of this
8 title (relating to (relating to Adjudicative Practice and Procedure)).

9 (d) A dealer's authorization to an agent or employee must:

10 (1) be in writing;

11 (2) be signed by the dealer principal or person in charge of daily activities of the
12 dealership;

13 (3) include the agent's or employee's name, current mailing address, and telephone
14 number;

15 (4) include the dealer's business name, address, and dealer license number or numbers;

16 (5) expressly authorize buying or selling by the specified agent or employee;

17 (6) state that the dealer is liable for any act or omission regarding a duty or obligation of
18 the dealer that is caused by that agent or employee, including any financial considerations to be paid for
19 the vehicle;

1 (7) state that the dealer's authorization remains in effect until the recipient of the
2 written authorization is notified in writing of the revocation of the authority; and

3 (8) be maintained as a required dealer's record and made available upon request by a
4 representative of the department, in accordance with the requirements of §215.144 of this title (relating
5 to Vehicle Records).

6 (e) A license holder, including a wholesale motor vehicle auction that buys and sells vehicles on a
7 wholesale basis, including by sealed bid, is required to verify the authority of any person claiming to be
8 an agent or employee of a licensed dealer who purports to be buying or selling a motor vehicle:

9 (1) on behalf of a licensed dealer; or

10 (2) under the written authority of a licensed dealer.

11 (f) A title to a vehicle bought by an agent or employee of a dealer shall be:

12 (1) reassigned to the dealer by the seller or by the auction; and

13 (2) shall not be delivered to the agent or employee but delivered only to the dealer or
14 the dealer's financial institution.

15 (g) Notwithstanding the prohibitions in this section, an authorized agent or employee may sign a
16 required odometer statement.

17 (h) In a wholesale transaction for the purchase of a motor vehicle, the seller may accept as
18 consideration only:

19 (1) a check or a draft drawn on the purchasing dealer's account;

20 (2) a cashier's check in the name of the purchasing dealer; or

1 (3) a wire transfer from the purchasing dealer's bank account.

2

3 §215.149. Sales of New Mobility Motor Vehicles.

4 In accordance with Occupations Code, §2301.361, a transaction occurs through or by a
5 franchised dealer of the motor vehicle's chassis line-make if the franchised dealer applies for title and
6 registration of a new mobility motor vehicle in the name of the purchaser. An independent mobility
7 motor vehicle dealer may prepare the documentation necessary for a franchised dealer to comply with
8 the requirements of Transportation Code, §501.0234 in connection with the sale of a new mobility
9 motor vehicle.

10

11 §215.150. Authorization to Issue Temporary Tags.

12 (a) A dealer that holds a GDN may issue a dealer's temporary tag, buyer's temporary tag, or a
13 preprinted Internet-down temporary tag for authorized purposes only for each type of vehicle the dealer
14 is licensed to sell or lease. A converter that holds a converter's license under Occupations Code, Chapter
15 2301 may issue a converter's temporary tag for authorized purposes only.

16 (b) A license holder may issue an applicable dealer's temporary tag, buyer's temporary tag, or
17 converter's temporary tag until:

18 (1) the department denies access to the temporary tag database under Transportation
19 Code §503.0632(f) and §224.58 of this title (relating to Denial of Dealer or Converter Access to
20 Temporary Tag System);

1 (2) the license holder issues the maximum number of temporary tags authorized under
2 Transportation Code §503.0632(a)-(d); or

3 (3) the license is canceled, revoked, or suspended.

4 (c) A federal, state, or local governmental agency that is exempt under Section 503.024 from the
5 requirement to obtain a dealer general distinguishing number may issue one buyer's temporary tag, or
6 one preprinted Internet-down temporary tag, in accordance with Transportation Code §503.063. A
7 governmental agency that issues a buyer's temporary tag, or preprinted Internet-down temporary tag,
8 under this subsection:

9 (1) is subject to the provisions of Transportation Code §503.0631 and §503.067
10 applicable to a dealer; and

11 (2) is not required to charge the registration fee under Transportation Code §503.063(g).

12 (d) A dealer or converter is responsible for all use of and access to the applicable temporary tag
13 database under the dealer's or converter's account, including access by any user or unauthorized person.
14 Dealer and converter duties include monitoring temporary tag usage, managing account access, and
15 taking timely and appropriate actions to maintain system security, including:

16 (1) establishing and following reasonable password policies, including preventing the
17 sharing of passwords;

18 (2) limiting authorized users to owners and bona fide employees with a business need to
19 access the database;

20 (3) removing users who no longer have a legitimate business need to access the system;

1 (4) securing printed tags and destroying expired tags, by means such as storing printed
2 tags in locked areas and shredding or defacing expired tags; and

3 (5) securing equipment used to access the temporary tag database and print temporary
4 tags.

5

6 §215.151. Temporary Tags, General Use Requirements, and Prohibitions.

7 (a) A dealer, governmental agency, or converter shall secure a temporary tag to a vehicle in the
8 license plate display area located at the rear of the vehicle, so that the entire temporary tag is visible and
9 legible at all times, including when the vehicle is being operated.

10 (b) All printed information on a temporary tag must be visible and may not be covered or
11 obstructed by any plate holder or other device or material.

12 (c) A motor vehicle that is being transported in accordance with Transportation Code,
13 §503.068(d) or §503.0625, must have a dealer's temporary tag, a converter's temporary tag, or a buyer's
14 temporary tag, whichever is applicable, affixed to the motor vehicle being transported.

15

16 §215.152. Obtaining Numbers for Issuance of Temporary Tags.

17 (a) A dealer, a governmental agency, or a converter is required to have internet access to
18 connect to the temporary tag databases maintained by the department.

1 (b) Except as provided by §215.157 of this title (relating to Advance Numbers, Preprinted
2 Internet-down Temporary Tags), before a temporary tag may be issued and displayed on a vehicle, a
3 dealer, governmental agency, or converter must:

4 (1) enter in the temporary tag database true and accurate information about the vehicle,
5 dealer, converter, or buyer, as appropriate; and

6 (2) obtain a specific number for the temporary tag.

7 (c) The department will inform each dealer annually of the maximum number of buyer's
8 temporary tags the dealer is authorized to issue during the calendar year under Transportation Code
9 §503.0632. The number of buyer's temporary tags allocated to each dealer by the department will be
10 determined based on the following formula:

11 (1) Sales data determined from the department's systems from the previous three fiscal
12 years. A dealer's base number will contain the sum of:

13 (A) the greater number of:

14 (i) in-state buyer's temporary tags issued in one fiscal year during the
15 previous three fiscal years; or

16 (ii) title transactions processed through the Registration and Title System
17 in one fiscal year during the previous three fiscal years; but

18 (iii) the amount will be limited to an amount that is not more than two
19 times the number of title transactions identified in subparagraph (ii) of this paragraph; and

20 (B) the addition of the greatest number of out-of-state buyer's temporary tags
21 issued in one fiscal year during the previous three fiscal years;

1 (2) the total value of paragraph (1) of this subsection will be increased by a multiplier
2 based on the dealer's time in operation giving a 10 percent increase in tags for each year the dealer has
3 been in operation up to 10 years;

4 (3) the total value of paragraph (2) of this subsection will be increased by a multiplier
5 that is the greater of:

6 (A) the dealer's actual growth rate percentage identified from the preceding two
7 fiscal years, calculated by the growth of the number of title transactions processed through the
8 Registration and Title System plus the growth of the number of out-of-state buyer's temporary tags
9 issued, except that it may not exceed 200 percent; or

10 (B) the statewide actual growth rate percentage identified from the preceding
11 two fiscal years, calculated by the growth of the number of title transactions processed through the
12 Registration and Title System plus the growth of the number of out-of-state buyer's temporary tags
13 issued, not less than zero, to determine the buyer's temporary tag allotment; and

14 (4) the department may increase the determined allotment of buyer's temporary tags
15 for dealers in the state, in a geographic or population area, or in a county, based on:

16 (A) changes in the market;

17 (B) temporary conditions that may affect sales; and

18 (C) any other information the department considers relevant.

19 (d) The department will inform each dealer annually of the maximum number of agent
20 temporary tags and vehicle specific temporary tags the dealer is authorized to issue during the calendar
21 year under Transportation Code §503.0632. The number of agent temporary tags and vehicle specific

1 temporary tags allocated to each dealer by the department, for each tag type, will be determined based
2 on the following formula:

3 (1) dealer temporary tag data for agent temporary tags and vehicle specific temporary
4 tags determined from the department's systems from the previous three fiscal years. A dealer's base
5 number will contain the maximum number of dealer temporary tags issued during the previous three
6 fiscal years;

7 (2) the total value of paragraph (1) of this subsection will be increased by a multiplier
8 based on the dealer's time in operation giving a 10 percent increase in tags for each year the dealer has
9 been in operation up to 10 years; and

10 (3) the total value of paragraph (2) of this subsection will be increased by a multiplier
11 that is the greater of:

12 (A) the dealer's actual growth rate percentage identified from the preceding two
13 fiscal years, calculated by the growth of the number of dealer's temporary tags issued, except that it may
14 not exceed 200 percent; or

15 (B) the statewide actual growth rate percentage identified from the preceding
16 two fiscal years, calculated by the growth of the number of dealer's temporary tags issued, not less than
17 zero, to determine the dealer's temporary tag allotment; and

18 (4) the department may increase a dealer's allotment of agent temporary tags and
19 vehicle specific temporary tags for dealers in the state, in a geographic or population area, or in a county,
20 based on:

21 (A) changes in the market;

1 (B) temporary conditions that may affect sales; and

2 (C) any other information the department considers relevant.

3 (e) The department will inform each converter annually of the maximum number of temporary
4 tags the converter is authorized to issue during the calendar year under Transportation Code §503.0632.

5 The number of temporary tags allocated to each converter by the department will be determined based
6 on the following formula:

7 (1) converter temporary tag data determined from the department's systems from the
8 previous three fiscal years. A converter's base number will contain the maximum number of converter
9 temporary tags issued during the previous three fiscal years;

10 (2) the total value of paragraph (1) of this subsection will be increased by a multiplier
11 based on the converter's time in operation giving a 10 percent increase in tags for each year the dealer
12 has been in operation up to 10 years; and

13 (3) the total value of paragraph (2) of this subsection will be increased by a multiplier
14 that is the greater of:

15 (A) the converter's actual growth rate percentage identified from the preceding
16 two fiscal years, calculated by the growth of the number of converter's temporary tags issued, except
17 that it may not exceed 200 percent; or

18 (B) the statewide actual growth rate percentage identified from the preceding
19 two fiscal years, calculated by the growth of the number of converter's temporary tags issued, not less
20 than zero, to determine the converter's temporary tag allotment;

1 (4) the department may increase a converter's allotment of converter temporary tags for
2 converters in the state, in a geographic or population area, or in a county, based on:

3 (A) changes in the market;

4 (B) temporary conditions that may affect sales; and

5 (C) any other information the department considers relevant.

6 (f) A dealer or converter that is licensed after the commencement of a calendar year shall be
7 authorized to issue the number of temporary tags allotted in this subsection prorated on all or part of
8 the remaining months until the commencement of the calendar year after the dealer's or converter's
9 initial license expires. The initial allocations shall be as determined by the department in granting the
10 license, but not more than:

11 (1) 1,000 temporary tags for a franchised dealer per each tag type, buyer's temporary
12 tags, agent temporary tags, and vehicle specific tags, unless:

13 (A) the dealer provides credible information indicating that a greater number of
14 tags is warranted based on anticipated sales, and growth, to include new and used vehicle sales,
15 including information from the manufacturer or distributor, or as otherwise provided in this section; and

16 (B) if more than 1,000 temporary tags are determined to be needed based on
17 anticipated sales and growth, the total number of temporary tags needed, including the 1,000, will be
18 doubled;

19 (2) 300 temporary tags for a nonfranchised dealer per each tag type, buyer's temporary
20 tags, agent temporary tags, and vehicle specific tags, unless the dealer provides credible information

1 indicating that a greater number of tags is warranted based on anticipated sales as otherwise provided in
2 this section; and

3 (3) A converter will be allocated 600 temporary tags, unless the converter provides
4 credible information indicating that a greater number of tags is warranted based on anticipated sales,
5 including information from the manufacturer or distributor, or as otherwise provided in this section.

6 (g) An existing dealer or converter that is:

7 (1) moving its operations from one location to a different location will continue with its
8 allotment of temporary tags and not be allocated temporary tags under subsection (f) of this section;

9 (2) opening an additional location will receive a maximum allotment of temporary tags
10 based on the greater of the allotment provided to existing locations, including franchised dealers
11 opening additional locations for different line makes, or the amount under subsection (f) of this section;

12 (3) purchased as a buy-sell ownership agreement will receive the maximum allotment of
13 temporary tags provided to the location being purchased and not be allocated temporary tags under
14 subsection (f) of this section; and

15 (4) inherited by will or laws of descent will receive the maximum allotment of temporary
16 tags provided to the location being inherited and not be allocated temporary tags under subsection (f) of
17 this section.

18 (h) A new dealer or converter may also provide credible information supporting a request for
19 additional temporary tags to the amount allocated under subsection (f) of this section based on:

20 (1) franchised dealer, manufacturer, or distributor sales expectations;

1 (2) a change in license required by death or retirement, except as provided in subsection
2 (g) of this section;

3 (3) prior year's sales by a dealership moving into the state; or

4 (4) other similar change of location or ownership that indicates some continuity in
5 existing operations.

6 (i) After using 50 percent of the allotted maximum number of temporary tags, a dealer or
7 converter may request an increase in the number of temporary tags by submitting a request in the
8 department's eLICENSING system.

9 (1) The dealer or converter must provide information demonstrating the need for
10 additional temporary tags results from business operations, including anticipated needs, as required by
11 §503.0632(c). Information may include documentation of sales and tax reports filed as required by law,
12 information of anticipated need, or other information of the factors listed in §503.0632(b).

13 (2) The department shall consider the information presented and may consider
14 information not presented that may weigh for or against granting the request that the department in its
15 sole discretion determines to be relevant in making its determination. Other relevant information may
16 include information of the factors listed in §503.0632(b), the timing of the request, and the applicant's
17 temporary tag activity.

18 (3) The department may allocate a lesser or greater number of additional temporary
19 tags than the amount requested. Allocation of a lesser or greater number of additional temporary tags is
20 not a denial of the request. Allocation of additional temporary tags under this paragraph does not limit
21 the dealer's or converter's ability to submit additional requests for more temporary tags.

1 (4) If a request is denied, the denial will be sent to the dealer or converter by email to
2 the requestor's email address.

3 (A) A dealer or converter may appeal the denial to the Motor Vehicle Division
4 Director.

5 (B) The appeal must be requested through the eLICENSING system within 15 days
6 of the date the department emailed the denial to the dealer or converter.

7 (C) The appeal may discuss information provided in the request but may not
8 include additional information.

9 (D) The Motor Vehicle Division Director will review the submission and any
10 additional statements concerning the information submitted in the original request and render an
11 opinion within 15 days of receiving the appeal. The Motor Vehicle Division Director may decide to deny
12 the request and issue no additional tags or award an amount of additional temporary tags that is lesser,
13 equal to, or greater than the request.

14 (E) The requesting dealer or converter will be notified as follows:

15 (i) If the Motor Vehicle Division Director decides to deny the appeal, the
16 department will contact the license holder by email regarding the decision and options to submit a new
17 request with additional relevant credible supporting documentation or to pursue a claim in district court;
18 or

19 (ii) If the Motor Vehicle Division Director awards an amount of
20 additional temporary tags that is lesser, equal to, or greater than the request, the additional temporary
21 tags will be added to the dealer's or converter's account and the license holder will be contacted by

1 email regarding the decision, informed that the request has not been denied, and options to submit a
2 new request.

3 (5) The Motor Vehicle Division Director's decision on appeal is final.

4 (6) Once a denial is final, a dealer or converter may only submit a subsequent request for
5 additional temporary tags during that calendar year if the dealer or converter is able to provide
6 additional information not considered in a prior request.

7 (j) A change in the allotment under subsection (i) of this section does not create a dealer or
8 converter base for subsequent year calculations.

9 (k) The department may at any time initiate an enforcement action against a dealer or converter
10 if temporary tag usage suggests that misuse or fraud has occurred as described in Transportation Code
11 §§503.038, 503.0632(f), or 503.067.

12 (l) Unused temporary tag allotments from a calendar year do not roll over to subsequent years.

13

14 §215.154. Dealer's Temporary Tags.

15 (a) A dealer's temporary tag may be displayed only on the type of vehicle for which the GDN is
16 issued and for which the dealer is licensed by the department to sell or lease.

17 (b) A wholesale motor vehicle auction license holder that also holds a dealer GDN may display a
18 dealer's temporary tag on a vehicle that is being transported to or from the licensed auction location.

1 (c) When an unregistered vehicle is sold to another dealer, the selling dealer shall remove the
2 selling dealer's temporary tag. The purchasing dealer may display its dealer's temporary tag or its
3 dealer's standard or personalized prestige license plate on the vehicle.

4 (d) A dealer's temporary tag:

5 (1) may be displayed on a vehicle only as authorized in Transportation Code, §503.062;

6 and

7 (2) may not be displayed on:

8 (A) a laden commercial vehicle being operated or moved on the public streets or
9 highways;

10 (B) on the dealer's service or work vehicles as described in §215.138(d) of this
11 chapter (relating to Use of Dealer's License Plates);

12 (C) a golf cart as defined under Transportation Code, Chapter 551; or

13 (D) an off-highway vehicle as defined under Transportation Code, Chapter 551A.

14 (e) For purposes of subsection (d) of this section, a vehicle bearing a dealer's temporary tag is
15 not considered a laden commercial vehicle when the vehicle is:

16 (1) towing another vehicle bearing the same dealer's temporary tags; and

17 (2) both vehicles are being conveyed from the dealer's place of business to a licensed
18 wholesale motor vehicle auction or from a licensed wholesale motor vehicle auction to the dealer's
19 place of business.

1 (f) A dealer's temporary tag may not be used to operate a vehicle for the personal use of a
2 dealer or a dealer's employee.

3 (g) A dealer's temporary tag must show its expiration date, which must not exceed 60 days after
4 the date the temporary tag was issued.

5 (h) A dealer's temporary tag may be issued by a dealer to a specific motor vehicle in the dealer's
6 inventory or to a dealer's agent who is authorized to operate a motor vehicle owned by the dealer.

7 (i) A dealer that issues a dealer's temporary tag to a specific vehicle must ensure that the
8 following information is placed on the temporary tag:

9 (1) the vehicle-specific number from the temporary tag database;

10 (2) the year and make of the vehicle;

11 (3) the VIN of the vehicle;

12 (4) the month, day, and year of the temporary tag's expiration; and

13 (5) the name of the dealer.

14 (j) A dealer that issues a dealer's temporary tag to an agent must ensure that the following
15 information is placed on the temporary tag:

16 (1) the specific number from the temporary tag database;

17 (2) the month, day, and year of the temporary tag's expiration; and

18 (3) the name of the dealer.

19

1 §215.155. Buyer's Temporary Tags.

2 (a) A buyer's temporary tag may be displayed only on a vehicle:

3 (1) from the selling dealer's inventory; and

4 (2) that can be legally operated on the public streets and highways; and

5 (3) for which a sale or lease has been consummated; and

6 (4) that has a valid inspection in accordance with Transportation Code Chapter 548,

7 unless:

8 (A) an inspection is not required under Transportation Code §503.063(i) or (j); or

9 (B) the vehicle is exempt from inspection under Chapter 548.

10 (b) A buyer's temporary tag must be issued and provided to the buyer of a vehicle that is to be
11 titled but not registered but the temporary tag must not be displayed on the vehicle.

12 (c) For a wholesale transaction, the purchasing dealer places on the motor vehicle its own:

13 (1) dealer's temporary tag; or

14 (2) dealer's license plate.

15 (d) A buyer's temporary tag is valid until the earlier of:

16 (1) the date on which the vehicle is registered; or

17 (2) the 60th day after the date of purchase.

18 (e) The dealer or governmental agency, must ensure that the following information is placed on
19 a buyer's temporary tag:

- 1 (1) the vehicle-specific number obtained from the temporary tag database;
- 2 (2) the year and make of the vehicle;
- 3 (3) the VIN of the vehicle;
- 4 (4) the month, day, and year of the expiration of the buyer's temporary tag; and
- 5 (5) the name of the dealer or governmental agency.

6 (f) A dealer shall charge a buyer a fee of \$5 for the buyer's temporary tag or Internet-down
7 buyer's temporary tag issued, unless the vehicle is exempt from payment of registration fees under
8 Transportation Code, §502.453 or §502.456. A dealer shall remit the fee to the county with the title
9 transfer application for deposit to the credit of the Texas Department of Motor Vehicles fund. If the
10 vehicle is sold by a dealer to an out-of-state resident:

- 11 (1) the dealer shall remit the entire fee to the department for deposit to the credit of the
12 Texas Department of Motor Vehicles fund if payment is made through the department's electronic title
13 system; or
- 14 (2) the dealer shall remit the fee to the county for deposit to the credit of the Texas
15 Department of Motor Vehicles fund.

16 (g) A governmental agency may charge a buyer a fee of \$5 for the buyer's temporary tag or
17 Internet-down buyer's temporary tag issued, unless the vehicle is exempt from payment of registration
18 fees under Transportation Code, §502.453 or §502.456. If collected by a governmental agency, the fee
19 must be sent to the county for deposit to the credit of the Texas Department of Motor Vehicles fund.

20

1 §215.160. Duty to Identify Motor Vehicles Offered for Sale as Rebuilt.

2 (a) For each motor vehicle a dealer displays or offers for retail sale and which the dealer knows
3 has been a salvage motor vehicle as defined by Transportation Code, §501.091(15) and has subsequently
4 been titled under Transportation Code, §501.100, a dealer shall disclose in writing that the motor vehicle
5 has been repaired, rebuilt, or reconstructed. The written disclosure must:

6 (1) be visible from outside of the motor vehicle; and

7 (2) contain lettering that is reasonable in size, stating as follows: *"This motor vehicle has
8 been repaired, rebuilt or, reconstructed after formerly being titled as a salvage motor vehicle."*

9 (b) Upon the sale of a motor vehicle which has been a salvage motor vehicle as defined by
10 Transportation Code, §501.091(15) and subsequently titled under Transportation Code, §501.100, a
11 dealer shall obtain the purchaser's signature on the vehicle disclosure form or on an acknowledgement
12 written in fourteen point or larger font that states as follows: *"I, (name of purchaser), acknowledge that
13 at the time of purchase, I am aware that this vehicle has been repaired, rebuilt, or reconstructed and was
14 formerly titled as a salvage motor vehicle."*

15 (c) The purchaser's acknowledgement as required in subsection (b) of this section may be
16 incorporated in a Buyer's Order, a Purchase Order, or other disclosure document. This
17 disclosure requires a separate signature.

18 (d) An original signed acknowledgement or vehicle disclosure form required by subsection (b) of
19 this section must be given to the purchaser and a copy of the signed acknowledgement or vehicle
20 disclosure form shall be retained by the dealer in the records of motor vehicles sales required by
21 §215.144 of this title (relating to Vehicle Records). If the acknowledgement is incorporated in a Buyer's

1 Order, a Purchase Order, or other disclosure document, a copy of that document must be given to the
2 purchaser and a copy retained in the dealer's records in accordance with §215.144.

3 (e) This section does not apply to a wholesale motor vehicle auction.

4

5 §215.161. Licensing Education Course Provider Requirements.

6 (a) A motor vehicle dealer licensing education course provider must be a Texas institution of
7 higher education, as defined by Education Code, §61.003, or a motor vehicle trade association domiciled
8 in this state.

9 (b) The licensing education course must be approved by the department and must include
10 information on the laws and rules applicable to motor vehicle dealers and the consequences of violating
11 those laws and rules.

12 (c) The licensing education course must consist of at least 6 hours of online instruction for new
13 applicants and 3 hours of online instruction for renewal applicants.

14 (d) The cost for the licensing education course must not exceed \$150 per person. A trade
15 association course provider may not charge a different rate to a nonmember.

16 (e) The course provider must issue a certificate of completion to each person who successfully
17 completes the licensing education course.

18 (f) The dealer training provided by the department is not an approved licensing education course
19 under this section.

20

1 **STATUTORY AUTHORITY.** The department adopts a repeal to Chapter 215 under Occupations Code,
2 §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor
3 vehicles and the authority to take any action that is necessary or convenient to exercise that authority;
4 Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license
5 holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by
6 statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses
7 in connection with the distribution and sale of motor vehicles, and to enforce and administer
8 Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155,
9 which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code,
10 Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651,
11 which gives the board authority to deny an application for a license, revoke or suspend a license, place
12 on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material
13 misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor
14 vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a
15 motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history
16 record information maintained by DPS; Government Code, §411.12511, which authorizes the
17 department to obtain criminal history record information from DPS and the FBI for license applicants,
18 license holders, and representatives whose act or omission would be cause for denying, revoking, or
19 suspending a general distinguishing number or license issued under Transportation Code, Chapter 503,
20 or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the
21 board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code,
22 §503.002, which authorizes the board to adopt rules for the administration of Transportation Code,
23 Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain

1 contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the
2 issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which
3 require the board to adopt rules necessary to implement and manage the department's temporary tag
4 databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are
5 necessary and appropriate to implement the powers and the duties of the department, as well as the
6 statutes referenced throughout this preamble.

7 The department also adopts repeals under the authority of Transportation Code, §501.0041 and
8 §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the
9 statutory authority referenced throughout this preamble.

10 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
11 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
12 rules to administer Transportation Code, Chapter 502.

13 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the
14 nature and requirements of all available formal and informal procedures. Government Code, §2001.039
15 requires state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing
16 the rule. Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal,
17 revocation, suspension, annulment, or withdrawal of a license.

18 **CROSS REFERENCE TO STATUTE.** This repeal implements Government Code, Chapters 411 and 2001;
19 Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003,
20 and 1005.

21
22 Text.

23 §215.146. Metal Converter's License Plates.

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SUBCHAPTER F. LESSORS AND LEASE FACILITATORS

43 TAC §§215.171–215.180

STATUTORY AUTHORITY. The department adopts amendments to Chapter 215 under Occupations Code, §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history record information maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal history record information from DPS and the FBI for license applicants, license holders, and representatives whose act or omission would be cause for denying, revoking, or suspending a general distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as

1 necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which
2 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503;
3 Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases;
4 Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of
5 dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the
6 board to adopt rules necessary to implement and manage the department's temporary tag databases;
7 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
8 appropriate to implement the powers and the duties of the department, as well as the statutes referenced
9 throughout this preamble.

10 The department also adopts amendments under the authority of Transportation Code, §501.0041
11 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the
12 statutory authority referenced throughout this preamble.

13 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
14 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
15 rules to administer Transportation Code, Chapter 502.

16 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
17 and requirements of all available formal and informal procedures. Government Code, §2001.039 requires
18 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
19 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
20 suspension, annulment, or withdrawal of a license.

21 **CROSS REFERENCE TO STATUTE.** These adopted revisions implement Government Code, Chapters 411
22 and 2001; Occupations Code, Chapters Occupations Code, Chapters 53, 55, 2301, and 2302; and
23 Transportation Code, Chapters 501–503, 1001–1003, and 1005.

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Text.

SUBCHAPTER E. LESSORS AND LEASE FACILITATORS

§215.171. Purpose and Scope.

This subchapter implements Occupations Code, Chapter 2301 specifically, §§2301.251, 2301.253, 2301.254, 2301.261, 2301.262, 2301.357, and Subchapter L. Vehicle Lessors and Vehicle Lease Facilitators, and Transportation Code Chapters 1001 - 1005.

§215.173. License.

(a) No person may engage in business as a vehicle lessor or a vehicle lease facilitator unless that person holds a valid license issued by the department or is exempt from obtaining such a license under Occupations Code §2301.254.

(b) Any person who facilitates vehicle leases on behalf of a vehicle lease facilitator must:

(1) be on the vehicle lease facilitator's payroll and receive compensation from which social security, federal unemployment tax, and all other appropriate taxes are withheld from the representative's paycheck and paid to the proper taxing authority; and

(2) have work details such as when, where, and how the final results are achieved, directed, and controlled by the vehicle lease facilitator.

§215.174. Application for a License.

(a) An applicant for a vehicle lessor's or vehicle lease facilitator's license shall submit a sufficient application to the department as required under §215.83 of this title (relating to License Applications, Amendments, or Renewals). To be sufficient, the application must be on a form

1 prescribed by the department, accompanied by all required supporting documentation, and
2 required fees, and submitted to the department electronically in the licensing system designated
3 by the department.

4 (b) A license holder renewing or amending a license must verify current license
5 information, provide related information and documents for any new requirements or changes to
6 the license, and pay required fees.

7 (c) An applicant for a new license must register for an account in the department-designated
8 licensing system by selecting the licensing system icon on the dealer page of the department website. An
9 applicant must designate the account administrator and provide the name and email address for that
10 person, and provide the business telephone number, name, business type, and social security number or
11 employer identification number, as applicable. The applicant's licensing account administrator must be
12 an owner, officer, manager, or bona fide employee.

13 (d) Once registered, an applicant may apply for a new license and must provide the
14 following:

15 (1) type of license requested;

16 (2) business information, including the name, physical and mailing addresses,
17 telephone number, Secretary of State file number, as applicable, and website address, as
18 applicable;

19 (3) contact name, email address, and telephone number of the person submitting
20 the application;

21 (4) contact name, email address, and telephone number of a person who can
22 provide information about business operations and the motor vehicle services offered;

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

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

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

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

12 (9) military service status;

13 (10) licensing history required to evaluate fitness for licensure under §215.89 of
14 this title (relating to Fitness);

15 (11) signed Certification of Responsibility, which is a form provided by the
16 department; and

17 (12) any other information required by the department to evaluate the application
18 under current law and board rules.

19 (e) The supporting documentation for a vehicle lessor's license application must include a
20 legible and accurate electronic image of each applicable required document:

21 (1) Certificate of incorporation, registration, or formation filed with the Texas
22 Secretary of State;

1 (2) one of the following current identity documents for each natural person listed in
2 the application:

3 (A) driver license;

4 (B) Texas Identification Card issued by the Texas Department of Public
5 Safety under Transportation Code Chapter 521, Subchapter E;

6 (C) license to carry a handgun issued by the Texas Department of Public
7 Safety under Government Code Chapter 411, Subchapter H;

8 (D) passport; or

9 (E) United States military identification card;

10 (3) a copy of each assumed name certificate on file with the appropriate recording
11 entity, such as the Office of the Secretary of State or the county clerk;

12 (4) a sample copy of the vehicle lease agreement between the vehicle lessor and a
13 lessee;

14 (5) a sample copy of the required fee disclosure statement regarding fees paid by
15 the vehicle lessor to a vehicle lease facilitator for the facilitation of a vehicle lease or a statement
16 that no such fees were or will be paid;

17 (6) a list including the business name(s), DBA(s), and addresses of lease facilitators
18 with whom the applicant conducts or intends to conduct business;

19 (7) a list of other satellite offices that conduct business in the State of Texas that
20 includes the address, phone number, and name of the contact person for each location;

21 (8) if a vehicle lessor does not deal directly with the public to execute vehicle leases
22 and has a licensed location in another state, a vehicle lessor must provide the jurisdiction name,

1 licensed business address, and license number for each location that leases a motor vehicle to a
2 Texas resident; and

3 (9) any other information required by the department to evaluate the application
4 under current law and board rules.

5 (f) The supporting documentation for a vehicle lease facilitator's license application must
6 include a legible and accurate electronic image of each applicable required document:

7 (1) Certificate of incorporation, registration, or formation filed with the Texas
8 Secretary of State;

9 (2) one of the following unexpired identity documents for each natural person
10 listed in the application:

11 (A) driver license;

12 (B) Texas Identification Card issued by the Texas Department of Public
13 Safety under Transportation Code Chapter 521, Subchapter E;

14 (C) license to carry a handgun issued by the Texas Department of Public
15 Safety under Government Code Chapter 411, Subchapter H;

16 (D) passport; or

17 (E) United States military identification card;

18 (3) a copy of each assumed name certificate on file with the appropriate recording
19 entity, such as the Office of the Secretary of State or the county clerk;

20 (4) a sample copy of the vehicle lease agreement between each of the lessors the
21 lease facilitator represents, and the lessee;

1 (5) a sample copy of the required fee disclosure statement regarding fees paid by a
2 vehicle lessor to the vehicle lease facilitator for the facilitation of a vehicle lease or a statement
3 that no such fees were or will be paid;

4 (6) a list of all vehicle lessors, including names and addresses, for whom any vehicle
5 lease facilitator solicits or procures a lessee;

6 (7) a copy of the representation agreement between the vehicle lease facilitators
7 and each lessor; and

8 (8) any other information required by the department to evaluate the application
9 under current law and board rules.

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

16 (h) During the term of a license, a vehicle lessor must add, delete, or update the previously
17 submitted list of lease facilitators and a lease facilitator must add, delete, or update the previously
18 submitted list of new vehicle lessors within 10 days by electronically submitting a license
19 amendment in the licensing system designated by the department.

20
21 §215.175. Sanctions.

22 (a) The board or department may:

23 (1) deny a vehicle lessor or vehicle lease facilitator application;

1 (2) revoke or suspend a vehicle lessor or vehicle lease facilitator license; or
2 (3) assess a civil penalty or take other action on a vehicle lessor or vehicle lease
3 facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or
4 vehicle lease facilitator license is required.

5 (b) The board or department may take action described in subsection (a) of this section if a
6 vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in
7 business for which a vehicle lessor or vehicle lease facilitator license is required:

8 (1) fails to maintain an established and permanent place of business required by
9 §215.177 of this title (relating to Established and Permanent Place of Business);

10 (2) fails to maintain records required under this subchapter;

11 (3) refuses or fails to comply with a request by a representative of the department
12 to examine during the vehicle lessor's or vehicle lease facilitator's posted business hours at the
13 vehicle lessor's or vehicle lease facilitator's licensed location:

14 (A) a vehicle leasing record required to be maintained by §215.178 of this
15 title (relating to Records Required for Vehicle Lessors and Vehicle Lease Facilitators);

16 (B) ownership papers for a vehicle owned, leased, or under that vehicle
17 lessor's or vehicle lease facilitator's control; or

18 (C) evidence of ownership or a current premises lease agreement for the
19 property upon which the business is located;

20 (4) refuses or fails to timely comply with a request for records made by a
21 representative of the department;

1 (5) fails to notify the department in writing by electronically submitting a license
2 amendment in the licensing system designated by the department within 10 days of a change of
3 the vehicle lessor or vehicle lease facilitator license holder's:

4 (A) mailing address;

5 (B) physical address;

6 (C) telephone number; or

7 (D) email address;

8 (6) fails to notify the department in writing by electronically submitting a license
9 amendment in the licensing system designated by the department within 10 days of a change of
10 the vehicle lessor or vehicle lease facilitator license holder's name, assumed name, management,
11 or ownership;

12 (7) fails to comply with the fee restrictions or other requirements under
13 Occupations Code, §2301.357 or Chapter 2301, Subchapter L. Vehicle Lessors and Vehicle Lease
14 Facilitators;

15 (8) fails to maintain advertisement records or otherwise fails to comply with the
16 advertising requirements of:

17 (A) §215.178; or

18 (B) Subchapter F of this chapter (relating to Advertising);

19 (9) violates any law relating to the sale, lease, distribution, financing, or insuring of
20 motor vehicles;

21 (10) is convicted of an offense that, in accordance with Occupations Code, Chapter
22 53 and with §211.3 of this title (relating to Criminal Offense Guidelines), directly relates to the
23 duties or responsibilities of the licensed occupation;

1 (11) is determined by the board or department, in accordance with §215.89 of this
2 title (relating to Fitness), to be unfit to hold a vehicle lessor or vehicle lease facilitator license;

3 (12) uses or allows use of a vehicle lessor or vehicle lease facilitator license in
4 violation of any law or for the purpose of avoiding any provision of Occupations Code, Chapter
5 2301; or

6 (13) omits material information or makes a material misrepresentation in any
7 application or other documentation filed with the department including providing a false or forged
8 identity document or a false or forged photograph, electronic image, or other document.

9 (c) The board or department may take action on a vehicle lessor's license or assess civil
10 penalties for the vehicle lessor's failure to notify the department in writing by electronically
11 submitting a license amendment in the licensing system designated by the department within 10
12 days of any change, addition, or deletion to the list of vehicle lease facilitators with whom the
13 vehicle lessor conducts business, including any change to a vehicle lease facilitator's mailing
14 address, physical address, telephone number, or email address.

15 (d) The board or department may take action on a vehicle lease facilitator's license or
16 assess civil penalties for the failure to notify the department in writing within 10 days by
17 electronically submitting a license amendment in the licensing system designated by the
18 department of any change, addition, or deletion to the list of vehicle lessors for whom the vehicle
19 lease facilitator conducts business, including any change to a vehicle lessor's mailing address,
20 physical address, telephone number, or email address.

21 (e) The board or department may take action on a vehicle lessor's or vehicle lease
22 facilitator's license if the vehicle lessor or vehicle lease facilitator accepts a fee from a dealer,

1 directly or indirectly, for referring a customer who purchases or considers purchasing a motor
2 vehicle.

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4 §215.176. More Than One Business Location.

5 (a) A vehicle lease facilitator must be licensed separately for each business location.

6 (b) A vehicle lessor or vehicle lease facilitator that relocates from a point outside the limits
7 of a municipality or relocates to a point not within the limits of the same municipality of the initial
8 business location must obtain a new license.

9 (c) A vehicle lessor is required to obtain a license for the vehicle lessor's primary location. A
10 vehicle lessor must provide the address, telephone number, and the name of a contact person for
11 all other satellite offices that conduct business in the state of Texas.

12

13 §215.177. Established and Permanent Place of Business Premises Requirements.

14 (a) A vehicle lessor or vehicle lease facilitator operating within Texas must meet the
15 following requirements at each location where vehicles are leased or offered for lease.

16 (1) Physical location requirements.

17 (A) A vehicle lessor or vehicle lease facilitator operating within Texas must
18 be open to the public. The vehicle lessor's or vehicle lease facilitator's business hours for each day
19 of the week must be posted at the main entrance of the office. The business telephone must be
20 answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, owner, answering service,
21 voicemail service, or answering machine. A caller must be able to speak to a natural person or leave a
22 message during these hours. The owner or an employee of the vehicle lessor or vehicle lease
23 facilitator must be at the location during the posted business hours for the purpose of leasing

1 vehicles. In the event the owner or an employee is not available to conduct business during the
2 posted business hours, a separate sign must be posted indicating the date and time such owner or
3 employee will resume vehicle leasing operations.

4 (B) A vehicle lessor's or vehicle leasing facilitator's office structure must be
5 of sufficient size to accommodate the following required equipment:

6 (i) a desk and two chairs from which the vehicle lessor or vehicle
7 lease facilitator transacts business;

8 (ii) a working telephone number listed in the business name or
9 assumed name under which the vehicle lessor or vehicle lease facilitator conducts business; and

10 (iii) internet access.

11 (C) A vehicle lessor or vehicle lease facilitator that files an application for a
12 new license or a vehicle lessor that files an application for a satellite location must comply with the
13 following requirements:

14 (i) The office must be located in a building with a permanent roof and
15 connecting exterior walls on all sides.

16 (ii) The office must comply with all applicable local zoning
17 ordinances and deed restrictions.

18 (iii) The office may not be located within a residence, apartment,
19 hotel, motel, or rooming house or building not open to the public.

20 (iv) The physical address of the office must be recognized by the U.S.
21 Postal Service, capable of receiving U.S. mail, and have an assigned emergency services property
22 address.

1 (v) The office may not be virtual or provided by a subscription for
2 office space or office services. Access to office space or office services is not considered an
3 established and permanent location.

4 (D) A portable-type office structure may qualify as an office only if the
5 structure meets the requirements of this section and is not a readily moveable trailer or other
6 vehicle.

7 (E) One or more licensed vehicle lessors or vehicle lease facilitators, or a
8 combination of one or more licensed vehicle lessors and vehicle lease facilitators may occupy the
9 same business structure and conduct vehicle leasing operations in accordance with the license
10 held by the vehicle lessor or licensed vehicle lease facilitator. Each vehicle lessor or vehicle lease
11 facilitator must have:

12 (i) a separate desk from which that vehicle lessor or vehicle lease
13 facilitator transacts business;

14 (ii) a separate working telephone number listed in the vehicle lessor
15 or vehicle lease facilitator's business name or assumed name;

16 (iii) a separate right of occupancy that meets the requirements of
17 this section; and

18 (iv) a vehicle lessor or vehicle lease facilitator license issued by the
19 department in the name of the vehicle lessor or vehicle lease facilitator.

20 (F) A vehicle lease facilitator's established and permanent place of business
21 must be physically located within Texas.

22 (2) Business Sign requirements. A vehicle lessor or vehicle lease facilitator shall
23 display a conspicuous and permanent business sign at the licensed location showing the name

1 under which the vehicle lessor or vehicle lease facilitator conducts business. Outdoor business
2 signs must contain letters that are at least six inches in height. The business name or assumed
3 name on the sign must be substantially similar to the name reflected on the license issued by the
4 department. A business sign is considered conspicuous if it is easily visible to the public within 100 feet
5 of the main entrance of the business office. A business sign is considered permanent only if it is made of
6 durable, weather-resistant material.

7 (3) Premises lease requirements. If the premises from which a licensed vehicle
8 lessor or vehicle lease facilitator conducts business is not owned by the license holder, the license
9 holder must maintain for the licensed location a valid premises lease that is continuous during the
10 period of time for which the vehicle lessor's or vehicle lease facilitator's license will be issued. The
11 premises lease agreement must be on a properly executed form containing at a minimum:

12 (A) the name of the property owner of the premises and the name of the
13 vehicle lease facilitator as the tenant or lessee of the premises;

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

18 (C) the signature of the property owner as the lessor and the signature of the
19 applicant or holder as the tenant or lessee;

20 (D) the period of time for which the premises lease is valid; and

21 (E) if the lease agreement is a sublease in which the property owner is not the
22 lessor, the applicant or holder must also obtain a signed and notarized statement from the property
23 owner including the following information:

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

3 (ii) property owner's statement confirming that the license holder is
4 authorized to sublease the location and may operate a motor vehicle leasing business from the location.

5 (b) A vehicle lessor or vehicle lease facilitator shall be independent of financial institutions
6 and dealerships in location and in business activities, unless that vehicle lessor or vehicle lease
7 facilitator is an:

8 (1) employee or legal subsidiary of the financial institution or dealership; or

9 (2) entity wholly owned by the financial institution or dealership.

10 (c) For purposes of this section, an employee is a person who meets the requirements of
11 §215.173(b) of this title (relating to License).

12

13 §215.178. Records Required for Vehicle Lessors and Vehicle Lease Facilitators.

14 (a) Vehicle purchase, leasing, and sales records. A vehicle lessor or vehicle lease facilitator
15 shall maintain a complete record of all vehicle purchases, leases, and sales of leased vehicles for at
16 least one year after the expiration of the vehicle lease.

17 (1) Complete records reflecting vehicle lease transactions that occurred within the
18 preceding 24 months must be maintained at the licensed location. Records for prior time periods
19 may be kept off-site.

20 (2) Within 15 days of receipt of a request from a representative of the department,
21 a vehicle lessor or vehicle lease facilitator shall deliver a copy of the specified records to the
22 address listed in the request.

- 1 (b) Content of records for lease transaction. A complete record for a vehicle lease
2 transaction must contain:
- 3 (1) the name, address, and telephone number of the vehicle lessor;
- 4 (2) the name, mailing address, physical address, and telephone number of each
5 vehicle lessee;
- 6 (3) the name, address, telephone number, and license number of the lease
7 facilitator;
- 8 (4) the name, work address, and telephone number of each employee of the vehicle
9 lease facilitator that handled the transaction;
- 10 (5) a complete description of the vehicle involved in the transaction, including the
11 VIN;
- 12 (6) the name, address, telephone number, and GDN of the dealer selling the
13 vehicle, as well as the franchised dealer's license number if the vehicle is a new motor vehicle;
- 14 (7) the amount of fee paid to the vehicle lease facilitator or a statement that no fee
15 was paid;
- 16 (8) a copy of the buyer's order and sales contract for the vehicle;
- 17 (9) a copy of the vehicle lease contract;
- 18 (10) a copy of all other contracts, agreements, or disclosures between the vehicle
19 lease facilitator and the consumer lessee; and
- 20 (11) a copy of the front and back of the manufacturer's statement of origin,
21 manufacturer's certificate of origin, or the title of the vehicle, as applicable.

1 (c) Content of records for sale of leased vehicle. A vehicle lessor's complete record for each
2 vehicle sold at the end of a lease to a lessee, a dealer, or at a wholesale motor vehicle auction must
3 contain:

4 (1) the date of the purchase;

5 (2) the date of the sale;

6 (3) the VIN;

7 (4) the name and address of the person selling the vehicle to the vehicle lessor;

8 (5) the name and address of the person purchasing the vehicle from the vehicle lessor;

9 (6) except for a purchase or sale where the Tax Code does not require payment of motor
10 vehicle sales tax, a tax assessor-collector receipt marked paid;

11 (7) a copy of all documents, forms, and agreements applicable to a particular sale,
12 including a copy of:

13 (A) the title application;

14 (B) the work-up sheet;

15 (C) the front and back of manufacturer's certificate of origin or manufacturer's
16 statement of origin, unless the title is obtained through the electronic title system;

17 (D) the front and back of the title, unless the title is obtained through the
18 electronic title system;

19 (E) the factory invoice;

20 (F) the sales contract;

1 (G) the retail installment agreement;

2 (H) the buyer's order;

3 (I) the bill of sale;

4 (J) any waiver;

5 (K) any other agreement between the seller and purchaser; and

6 (L) the purchaser's photo identification if sold to a lessee;

7 (8) a copy of the original manufacturer's certificate of origin, original manufacturer's
8 statement of origin, or title for motor vehicle offered for sale, or a properly stamped original
9 manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for a title
10 transaction entered into the electronic titling system by a dealer;

11 (9) the monthly Motor Vehicle Seller Financed Sales Returns, if any; and

12 (10) if the vehicle sold is a motor home or a towable recreational vehicle subject to
13 inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at
14 the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

15 (d) Records of advertising. A vehicle lessor or vehicle lease facilitator shall maintain a copy
16 of all advertisements, brochures, scripts, or an electronically reproduced copy in whatever medium
17 appropriate, of promotional materials for a period of at least 18 months. Each copy is subject to
18 inspection upon request by the department at the business location during posted business hours.

19 (1) A vehicle lessor and a vehicle lease facilitator shall comply with all federal and
20 state advertising laws and regulations, including Subchapter F of this chapter (relating to
21 Advertising).

1 (2) A vehicle lessor's or vehicle lease facilitator's advertising or promotional
2 materials may not state or infer, either directly or indirectly, that the business involves the sale of
3 new motor vehicles.

4 (e) Title assignments. Each certificate of title, manufacturer's certificate of origin, or other
5 evidence of ownership for a vehicle that has been acquired by a vehicle lessor for lease must be
6 properly assigned from the seller in the vehicle lessor's name.

7 (f) Letters of representation or appointment. A letter of representation or appointment
8 between a vehicle lessor and a vehicle lease facilitator must be executed by both parties and
9 maintained by each party.

10 (g) Electronic records. Any record required to be maintained by a vehicle lessor or vehicle
11 lease facilitator may be maintained in an electronic format, provided the electronic record can be
12 printed at the licensed location or sent electronically upon department request.

13

14 §215.179. Change of Vehicle Lessor or Vehicle Lease Facilitator Status.

15 (a) Change of ownership. A vehicle lessor or vehicle lease facilitator that sells or assigns to
16 another any interest in the licensed entity, whether a corporation or otherwise, provided the
17 physical location of the licensed entity remains the same, shall notify the department in writing
18 within 10 days by filing an application to amend the license in the electronic licensing system
19 designated by the department. If the sale or assignment of any portion of the business results in a
20 change of entity, then the purchasing or assignee entity must apply for and obtain a new license by
21 submitting a new license application in the electronic licensing system designated by the
22 department. A publicly held corporation licensed as a vehicle lessor or vehicle lease facilitator
23 needs only inform the department of a change in ownership if one person or entity acquires 10%

1 or greater interest in the licensed entity by submitting a license amendment application in the
2 electronic licensing system designated by the department.

3 (b) Change of operating status of business location. A license holder shall obtain
4 department approval prior to opening a satellite location or relocating an existing location, in
5 accordance with §215.176 of this title (relating to More than One Business Location) by
6 electronically submitting a new license application in the licensing system designated by the
7 department and receiving electronic notice of approval prior to relocating or opening a satellite
8 location. A license holder shall notify the department when closing an existing location or a
9 satellite location by electronically submitting a license amendment to close the license or close the
10 satellite location in the licensing system designated by the department.

11
12 §215.180. Required Notices to Lessees.

13 Vehicle lessors and vehicle lease facilitators shall provide notice of the complaint
14 procedures provided by Occupations Code, §2301.204 and Subchapter M (relating to Warranties:
15 Rights of Vehicle Owners), to each lessee of a new motor vehicle with whom they enter into a
16 vehicle lease.

17

18 **SUBCHAPTER G. WARRANTY PERFORMANCE OBLIGATIONS**

19 **43 TAC §§215.201–215.210**

20 **STATUTORY AUTHORITY.** The department adopts repeals to Chapter 215 under Occupations Code,
21 §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles
22 and the authority to take any action that is necessary or convenient to exercise that authority;
23 Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license

1 holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute
2 and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in
3 connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations
4 Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which
5 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter
6 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives
7 the board authority to deny an application for a license, revoke or suspend a license, place on probation,
8 or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation,
9 violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds
10 a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government
11 Code, §411.122(d), which authorizes department access to criminal history record information
12 maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal
13 history record information from DPS and the FBI for license applicants, license holders, and
14 representatives whose act or omission would be cause for denying, revoking, or suspending a general
15 distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code,
16 Chapters 2301 and 2302; 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;
19 Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases;
20 Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of
21 dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the
22 board to adopt rules necessary to implement and manage the department's temporary tag databases;
23 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and

1 appropriate to implement the powers and the duties of the department, as well as the statutes referenced
2 throughout this preamble.

3 The department also adopts repeals under the authority of Transportation Code, §501.0041 and
4 §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory
5 authority referenced throughout this preamble.

6 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
7 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
8 rules to administer Transportation Code, Chapter 502.

9 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
10 and requirements of all available formal and informal procedures. Government Code, §2001.039 requires
11 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
12 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
13 suspension, annulment, or withdrawal of a license.

14 **CROSS REFERENCE TO STATUTE.** These repeals implement Government Code, Chapters 411 and 2001;
15 Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003,
16 and 1005.

17
18 Text.

19 §215.201. Purpose and Scope.

20 §215.202. Filing of Complaints.

21 §215.203. Review of Complaints.

22 §215.204. Notification to Manufacturer, Converter, or Distributor.

23 §215.205. Mediation; Settlement.

1 §215.206. Hearings.

2 §215.207. Contested Cases: Final Orders.

3 §215.208. Lemon Law Relief Decisions.

4 §215.209. Incidental Expenses.

5 §215.210. Compliance with Order Granting Relief.

6

7

SUBCHAPTER H. ADVERTISING

8 **43 TAC §§215.242, 215.244, 215.249, 215.250, 215.257, 215.261, 215.264, 215.268, and 215.270**

9 **STATUTORY AUTHORITY.** The department adopts amendments to Chapter 215 under Occupations Code,
10 §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles
11 and the authority to take any action that is necessary or convenient to exercise that authority;
12 Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license
13 holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute
14 and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in
15 connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations
16 Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which
17 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter
18 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives
19 the board authority to deny an application for a license, revoke or suspend a license, place on probation,
20 or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation,
21 violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds
22 a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government
23 Code, §411.122(d), which authorizes department access to criminal history record information

1 maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal
2 history record information from DPS and the FBI for license applicants, license holders, and
3 representatives whose act or omission would be cause for denying, revoking, or suspending a general
4 distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code,
5 Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the board to adopt rules as
6 necessary to administer Occupations Code, Chapter 2302; Transportation Code, §503.002, which
7 authorizes the board to adopt rules for the administration of Transportation Code, Chapter 503;
8 Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases;
9 Transportation Code, §503.0296, which requires the board to adopt a rule requiring that an applicant for
10 an original or renewal general distinguishing number who adopts to be an independent motor vehicle
11 dealer complete web-based education and training developed or approved by the department;
12 Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice
13 of a surety bond and the procedure by which a claimant may recover against the surety bond;
14 Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of
15 dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the
16 board to adopt rules necessary to implement and manage the department's temporary tag databases;
17 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
18 appropriate to implement the powers and the duties of the department, as well as the statutes referenced
19 throughout this preamble.

20 The department also adopts amendments under the authority of Transportation Code, §501.0041
21 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the
22 statutory authority referenced throughout this preamble.

1 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
2 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
3 rules to administer Transportation Code, Chapter 502.

4 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
5 and requirements of all available formal and informal procedures. Government Code, §2001.039 requires
6 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
7 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
8 suspension, annulment, or withdrawal of a license.

9 **CROSS REFERENCE TO STATUTE.** These adopted revisions implement Government Code, Chapters 411
10 and 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503,
11 1001–1003, and 1005.

12
13 Text.

14 §215.242. General Prohibition.

15 A person advertising motor vehicles shall not use false, deceptive, unfair, or misleading
16 advertising. In addition to a violation of a specific advertising rule, any other advertising or advertising
17 practices found by the department to be false, deceptive, or misleading, whether herein described, shall
18 be deemed a violation of Occupations Code, Chapter 2301 and shall also be deemed a violation of this
19 rule.

20
21 §215.244. Definitions.

22 The following words and terms, when used in this subchapter, shall have the following meanings,
23 unless the context clearly indicates otherwise.

1 (1) Advertisement--

2 (A) An oral, written, graphic, or pictorial statement or representation made in the
3 course of soliciting business, including, but not limited to a statement or representation:

4 (i) made in a newspaper, magazine, or other publication;

5 (ii) contained in a notice, sign, poster, display, circular, pamphlet, or
6 letter;

7 (iii) aired on the radio;

8 (iv) broadcast on the internet or television; or

9 (v) streamed via an online service.

10 (B) Advertisement does not include direct communication between a person or
11 person's representative and a prospective purchaser.

12 (2) Advertising provision--

13 (A) A provision of Occupations Code, Chapter 2301, relating to the regulation of
14 advertising; or

15 (B) A rule relating to the regulation of advertising, adopted pursuant to the
16 authority of Occupations Code, Chapter 2301.

17 (3) Bait advertisement--An alluring but insincere offer to sell or lease a product of which
18 the primary purpose is to obtain a lead to a person interested in buying or leasing merchandise of the
19 type advertised and to switch a consumer from buying or leasing the advertised product in order to sell
20 or lease some other product at a higher price or on a basis more advantageous to the dealer.

21 (4) Balloon payment--Any scheduled payment made as required by a consumer credit
22 transaction that is more than twice as large as the average of all prior scheduled payments except the
23 down payment.

1 (5) Clear and conspicuous--The statement, representation, or term being disclosed is of
2 such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All
3 language and terms, including abbreviations, shall be used in accordance with their common or ordinary
4 usage and meaning.

5 (6) Dealership addendum--A form that is displayed on a window of a motor vehicle when
6 a dealership installs special features, equipment, parts, or accessories, or charges for services not already
7 compensated by the manufacturer or distributor for work required to prepare a motor vehicle for delivery
8 to a buyer.

9 (A) The purpose of the addendum is to disclose:

10 (i) that it is supplemental;

11 (ii) any added feature, service, equipment, part, or accessory, including
12 the retail price, charged and added by the dealership;

13 (iii) any additional charge to the selling price such as additional dealership
14 markup; and

15 (iv) the total dealer selling price.

16 (B) The dealership addendum form shall not be deceptively similar in appearance
17 to the Monroney label, as defined by paragraph (13) of this section.

18 (7) Demonstrator--A new motor vehicle that is currently in the inventory of the
19 automobile dealership and used primarily for test drives by customers and for other purposes designated
20 by the dealership.

21 (8) Disclosure--Required information that is clear, conspicuous, and accurate.

22 (9) Distributor Suggested Retail Price (DSRP)--means the total price shown on the
23 Monroney Label as specified by subparagraph (D) of paragraph (13) of this section.

1 (10) Factory executive/official motor vehicle--A new motor vehicle that has been used
2 exclusively by an executive or official of the dealer's franchising manufacturer, distributor, or their
3 subsidiaries.

4 (11) Limited rebate--A rebate that is not available to every consumer purchasing or leasing
5 a motor vehicle because qualification for receipt of the rebate is conditioned or restricted in some
6 manner. A rebate conditioned or restricted to purchasers who are residents of the contiguous United
7 States is not a limited rebate.

8 (12) Manufacturer's Suggested Retail Price (MSRP)--means the total price shown on the
9 Monroney Label as specified by subparagraph (D) of paragraph (13) of this section.

10 (13) Monroney Label--The label required by the Automobile Information Disclosure Act,
11 15 U.S.C. §§1231 - 1233, to be affixed to the windshield or side window of certain new motor vehicles
12 delivered to the dealer and that contains information about the motor vehicle, including, but not limited
13 to:

14 (A) the retail price of the motor vehicle suggested by the manufacturer or
15 distributor, as applicable;

16 (B) the retail delivered price suggested by the manufacturer or distributor, as
17 applicable, for each accessory or item of optional equipment, physically attached to the motor vehicle at
18 the time of its delivery to a dealer, which is not included within the price of the motor vehicle as stated in
19 subparagraph (A) of this paragraph;

20 (C) the amount charged, if any, to a dealer for the transportation of the motor
21 vehicle to the location at which it is delivered to the dealer; and

22 (D) the total of the amounts specified pursuant to subparagraphs (A), (B), and (C)
23 of this paragraph.

1 (14) Online service--A network that connects computer users.

2 (15) Rebate or cash back--A sum of money applied to the purchase or lease of a motor
3 vehicle or refunded after full payment has been rendered for the benefit of the purchaser.

4 (16) Savings claim or discount--An offer to sell or lease a motor vehicle at a reduced price,
5 including, but not limited to, a manufacturer's or distributor's customer rebate, a dealer discount, or a
6 limited rebate.

7 (17) Subsequent violation--Conduct that is the same or substantially the same as conduct
8 the department has previously alleged in a notice of an opportunity to cure to be a violation of an
9 advertising provision.

10

11 §215.249. Manufacturer's or Distributor's Suggested Retail Price.

12 (a) Except as provided by subsection (b) of this section, the suggested retail price of a new motor
13 vehicle advertised by a manufacturer or distributor must include all costs and charges for the motor
14 vehicle advertised.

15 (b) The following costs and charges may be excluded if an advertisement described in subsection
16 (a) of this section clearly and conspicuously states the costs and charges are excluded:

17 (1) destination and dealer preparation charges;

18 (2) registration, certificate of title, license fees, or an additional registration fee, if any;

19 (3) taxes; and

20 (4) other fees or charges that are allowed or prescribed by law.

21 (c) Except as provided by this subsection, if the price of a motor vehicle is stated in an
22 advertisement placed with local media in Texas by a manufacturer or distributor and the names of the
23 local dealers for the motor vehicles advertised are included in that advertisement, then the price must

1 include all costs and charges for the motor vehicle advertised, including destination and dealer
2 preparation charges. The only costs and charges that may be excluded from the price are:

- 3 (1) registration, certificate of title, license fees, or an additional registration fee, if any;
4 (2) taxes; and
5 (3) other fees or charges that are allowed or prescribed by law.

6

7 §215.250. Dealer Price Advertising; Savings Claims; Discounts.

8 (a) When featuring a sales price of a motor vehicle in an advertisement, the dealer must be willing
9 to sell the motor vehicle for that featured sales price to any retail buyer. The featured sales price must be
10 the price before the addition or subtraction of any other negotiated items. Destination and dealer
11 preparation charges and additional dealership markup, if any must be included in the featured sales price.

12 (b) The only costs and charges that may be excluded from the featured sales price are:

- 13 (1) registration, certificate of title, or license fees;
14 (2) taxes; and
15 (3) other fees or charges that are expressly allowed by law.

16 (c) A qualification may not be used when featuring a sales price for a motor vehicle such as "with
17 trade," "with acceptable trade," "with dealer-arranged financing," "rebate assigned to dealer," or "with
18 down payment."

19 (d) Advertising an "internet price," "e-price," or using similar terms that indicate or create the
20 impression that there is a different or unique sales price for an online or internet consumer or transaction
21 is prohibited.

22 (e) A savings claim or discount offer is prohibited except to advertise a new motor vehicle. No
23 person may advertise a savings claim or discount offer on a used motor vehicle.

1 (f) Statements such as "up to," "as much as," and "from" shall not be used by a dealer in
2 connection with savings claims or discount offers.

3 (g) The savings claim or discount offer for a new motor vehicle, when advertised by a dealer, must
4 be the savings claim or discount available to any and all members of the buying public.

5 (h) If an advertisement includes a savings claim or discount offer, the amount and type of each
6 incentive that makes up the total amount of the savings claim or discount offer must be disclosed.

7 (1) If a savings claim or discount offer includes only a dealer discount, that incentive must
8 be disclosed as a deduction from the MSRP/DSRP, as applicable. The following are acceptable formats for
9 advertising a dealer discount with and without a sales price.

10 Attached Graphic

11 (2) If a savings claim or discount offer includes only a customer rebate, that incentive must
12 be disclosed as a deduction from the MSRP/DSRP, as applicable. The following are acceptable formats for
13 advertising a customer rebate with and without a sales price.

14 Attached Graphic

15 (3) If a savings claim or discount offer includes both a customer rebate and a dealer
16 discount, the incentives must be disclosed as deductions from the MSRP/DSRP, as applicable. The
17 following are acceptable formats for advertising both a customer rebate and a dealer discount with and
18 without a sales price.

19 Attached Graphic

20 (i) If a savings claim or discount offer includes an option package discount, that discount should
21 be disclosed above, or prior to, the MSRP/DSRP, as applicable, with a total sales price of the motor vehicle
22 before option discounts. Any additional savings or discounts should then be disclosed below the

1 MSRP/DSRP, as applicable. The following are acceptable formats for advertising an option package
2 discount with and without a sales price.

3 Attached Graphic

4 (j) Except as provided herein, the calculation of the featured sales price or featured savings claim
5 or discount may not include a limited rebate. A limited rebate may be advertised by providing the amount
6 of the limited rebate and explaining the conditions or restrictions on qualification for the limited rebate
7 in a statement below the featured sales price or featured savings claim or discount.

8 Attached Graphic

9 (k) In an internet advertisement with multiple limited rebates available on an advertised new
10 motor vehicle, a dealer may display each limited rebate separately allowing a potential buyer to "click" on
11 the limited rebate to view the sales price after deducting the applicable limited rebate or applicable
12 multiple rebates.

13 Attached Graphic

14 (l) If a dealer has added an option that was not obtained from the manufacturer or distributor of
15 the motor vehicle, a dealer discount may not be advertised for that vehicle. If a dealer has added an option
16 obtained from the manufacturer or distributor and disclosed that option and its suggested retail price on
17 a dealership addendum, the dealer may advertise a dealer discount for that motor vehicle if the option is
18 listed, and the difference is shown between the dealer's sales price and the MSRP/DSRP, as applicable, of
19 the vehicle including the option obtained from the manufacturer or distributor.

20 Attached Graphic

21

22 §215.257. Authorized Dealer.

1 The term "authorized dealer" or a similar term shall not be used unless the advertising dealer
2 holds both a franchised dealer license and a franchised dealer GDN to sell the motor vehicles the dealer
3 identifies itself as "authorized" to sell.

4

5 §215.261. Manufacturer or Distributor Sales and Wholesale Prices.

6 A motor vehicle shall not be advertised for sale in any manner that creates the impression that it
7 is being offered for sale by the manufacturer or distributor of the motor vehicle. An advertisement shall
8 not:

9 (1) contain terms such as "factory sale," "fleet prices," "wholesale prices," "factory
10 approved," "factory sponsored," "manufacturer sale," or "distributor sale;"

11 (2) use a manufacturer's or distributor's name or abbreviation in any manner calculated
12 or likely to create an impression that the motor vehicle is being offered for sale by the manufacturer or
13 distributor; or

14 (3) use any other similar terms which indicate sales other than retail sales from the dealer.

15

16 §215.264. Payment Disclosure - Vehicle Lease.

17 (a) An advertisement that promotes a consumer lease and contains the amount of any payment
18 or that contains either a statement of any capitalized cost reduction or other payment or a statement that
19 no payment is required at consummation or prior to consummation or delivery, if delivery occurs after
20 consummation, must clearly and conspicuously include the following:

21 (1) that the transaction advertised is a vehicle lease;

22 (2) the total amount due at consummation or prior to consummation or delivery, if
23 delivery occurs after consummation;

1 (3) the number, amount, and due date or period of scheduled payments under the vehicle
2 lease;

3 (4) a statement of whether a security deposit is required; and

4 (5) a statement that an extra charge may be imposed at the end of the vehicle lease term
5 where the lessee's liability, if any, is based on the difference between the residual value of the leased
6 property and its realized value at the end of the vehicle lease term.

7 (b) Except for a periodic payment, a reference to a charge described in subsection (a)(2) of this
8 section cannot be more prominently advertised than the disclosure of the total amount due at vehicle
9 lease signing or delivery.

10 (c) Except for disclosures of limitations on rate information, if a percentage rate is advertised, that
11 rate shall not be more prominently advertised than any other disclosure or deal term.

12 (d) If a vehicle lessor provides a percentage rate in an advertisement, a notice stating "this
13 percentage may not measure the overall cost of financing this lease" shall accompany the rate disclosure.
14 The vehicle lessor shall not use the terms "annual percentage rate," "annual lease rate," or any equivalent
15 terms in any advertisement containing a percentage rate.

16 (e) A multi-page advertisement that provides a table or schedule of the required disclosures is
17 considered a single advertisement, provided that for vehicle lease terms appearing without all of the
18 required disclosures, the advertisement refers to the page or pages on which the table or schedule
19 appears.

20 (f) A merchandise tag stating any item listed in subsection (a) of this section must comply with
21 subsection (a) of this section by referring to a sign or to a display prominently posted in the vehicle lessor's
22 place of business. The sign or display must contain a table or schedule of the required disclosures under
23 subsection (a).

1 (g) An advertisement made through television or radio stating any item listed in subsection (a) of
2 this section, must include the following statements:

3 (1) that the transaction advertised is a vehicle lease;

4 (2) the total amount due at consummation or due prior to consummation or delivery, if
5 delivery occurs after consummation; and

6 (3) the number, amount, and due date or period of scheduled payments under the vehicle
7 lease.

8 (h) In addition to the requirements of subsection (g) of this section, an advertisement made
9 through television or radio stating any item listed in subsection (a) of this section, must:

10 (1) provide a toll-free telephone number along with a statement that the telephone
11 number may be used by consumers to obtain the information in subsection (a) of this section; or

12 (2) direct the consumer to a written advertisement in a publication of general circulation
13 in the community served by the media station, including the name and the date of the publication, with
14 a statement that the required disclosures in subsection (a) of this section are included in the
15 advertisement.

16 (i) The toll-free telephone number required by subsection (h)(1) of this section shall be available
17 for at least 10 days, beginning on the date of the broadcast. Upon request, the vehicle lessor shall provide
18 the information in subsection (a) of this section orally or in writing.

19 (j) The written advertisement required by subsection (h)(2) of this section shall be published
20 beginning at least three days before the broadcast and ending at least 10 days after the broadcast.

21

22 §215.268. Bankruptcy and Liquidation Sales.

1 A person who advertises a liquidation sale, auction sale, or going out of business sale shall state
2 the correct name and permanent address of the business in the advertisement. The phrases "going out of
3 business," "closing out," "shutting doors forever," "bankruptcy sale," "foreclosure," "bankruptcy," or
4 similar phrases or words indicating that a business is ceasing operation shall not be used unless the
5 business is closing its operations and follows the procedures required by Business and Commerce Code,
6 Chapter 17, Subchapter F.

7

8 §215.270. Enforcement.

9 (a) The department may file a Notice of Department Decision against a license holder alleging a
10 violation of an advertising provision pursuant to Occupations Code, §2301.203, provided the department
11 can show:

12 (1) that the license holder who allegedly violated an advertising provision has received
13 from the department a notice of an opportunity to cure the violation by certified mail, return receipt
14 requested, in compliance with subsection (b) of this section; and

15 (2) that the license holder committed a subsequent violation of the same advertising
16 provision.

17 (b) An effective notice of an opportunity to cure issued under subsection (a)(1) of this section
18 must:

19 (1) state that the department has reason to believe that the license holder violated an
20 advertising provision and must identify the provision;

21 (2) set forth the facts upon which the department bases its allegation of a violation; and

1 (3) state that if the license holder commits a subsequent violation of the same advertising
2 provision, the department will file a Notice of Department Decision under §224.56 of this title (relating to
3 Notice of Department Decision).

4 (c) As a part of the cure procedure, the department may require a license holder who allegedly
5 violated an advertising provision to publish a retraction notice to effect an adequate cure of the alleged
6 violation. A retraction notice must:

7 (1) appear in a newspaper of general circulation in the area in which the alleged violation
8 occurred;

9 (2) appear in the portion of the newspaper devoted to motor vehicle advertising, if any;

10 (3) identify the date and the medium of publication, print, electronic, or other, in which
11 the advertising alleged to be a violation appeared; and

12 (4) identify the alleged violation of the advertising provision and contain a statement of
13 correction.

14 (d) A cure is made solely for the purpose of settling an allegation and is not an admission of a
15 violation of these rules; Occupations Code, Chapter 2301; or other law.

16

17 **SUBCHAPTER I. PRACTICE AND PROCEDURE FOR HEARINGS CONDUCTED BY THE STATE OFFICE OF**

18 **ADMINISTRATIVE HEARINGS**

19 **43 TAC §§215.301–215.317**

20 **STATUTORY AUTHORITY.** The department adopts repeals to Chapter 215 under Occupations Code,
21 §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor vehicles
22 and the authority to take any action that is necessary or convenient to exercise that authority;
23 Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license

1 holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by statute
2 and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses in
3 connection with the distribution and sale of motor vehicles, and to enforce and administer Occupations
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5 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter
6 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives
7 the board authority to deny an application for a license, revoke or suspend a license, place on probation,
8 or reprimand a licensee if the applicant or license holder is unfit, makes a material misrepresentation,
9 violates any law relating to the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds
10 a purchaser, or fails to fulfill a written agreement with a retail purchaser of a motor vehicle; Government
11 Code, §411.122(d), which authorizes department access to criminal history record information
12 maintained by DPS; Government Code, §411.12511, which authorizes the department to obtain criminal
13 history record information from DPS and the FBI for license applicants, license holders, and
14 representatives whose act or omission would be cause for denying, revoking, or suspending a general
15 distinguishing number or license issued under Transportation Code, Chapter 503, or Occupations Code,
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22 dealer complete web-based education and training developed or approved by the department;
23 Transportation Code, §503.033, which authorizes the board to adopt rules prescribe the form of the notice

1 of a surety bond and the procedure by which a claimant may recover against the surety bond;
2 Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of
3 dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which require the
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18 suspension, annulment, or withdrawal of a license.

19 **CROSS REFERENCE TO STATUTE.** These repeals implement Government Code, Chapters 411 and 2001;
20 Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003,
21 and 1005.

22
23 Text.

- 1 §215.301 Purpose and Scope
- 2 §215.302 Conformity with Statutory Requirements
- 3 §215.303 Application of Board and SOAH Rules
- 4 §215.305 Filing of Complaints, Protests, and Petitions; Mediation
- 5 §215.306 Referral to SOAH
- 6 §215.307 Notice of Hearing
- 7 §215.308 Reply to Notice of Hearing and Default Proceedings
- 8 §215.310 Issuance of Proposals for Decision and Orders
- 9 §215.311 Amicus Briefs
- 10 §215.314 Cease and Desist Orders
- 11 §215.315 Statutory Stay
- 12 §215.316 Informal Disposition
- 13 §215.317 Motion for Rehearing

14

15 **SUBCHAPTER G. ADMINISTRATIVE SANCTIONS**

16 **43 TAC §§215.500–215.502, 215.505**

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23 board to adopt rules necessary to implement and manage the department's temporary tag databases;

1 and Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and
2 appropriate to implement the powers and the duties of the department, as well as the statutes referenced
3 throughout this preamble.

4 The department also adopts amendments under the authority of Transportation Code, §501.0041
5 and §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the
6 statutory authority referenced throughout this preamble.

7 Transportation Code, §501.0041 authorizes the department to adopt rules to administer
8 Transportation Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt
9 rules to administer Transportation Code, Chapter 502.

10 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature
11 and requirements of all available formal and informal procedures. Government Code, §2001.039 requires
12 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
13 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
14 suspension, annulment, or withdrawal of a license.

15 **CROSS REFERENCE TO STATUTE.** These amendments implement Government Code, Chapters 411 and
16 2001; Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–
17 1003, and 1005.

18

19 Text.

20 §215.500. Administrative Sanctions.

21 An administrative sanction may include:

22 (1) denial of an application for a license;

23 (2) suspension of a license;

- 1 (3) revocation of a license;
- 2 (4) the imposition of civil penalties; or
- 3 (5) a refund under §215.504 of this title (relating to Buyer or Lessee Refund).

4

5 **STATUTORY AUTHORITY.** The department adopts repeals to Chapter 215 under Occupations Code,
6 §2301.151, which gives the board authority to regulate the distribution, sale, and lease of motor
7 vehicles and the authority to take any action that is necessary or convenient to exercise that authority;
8 Occupations Code, §2301.152, which authorizes the board to establish the qualifications of license
9 holders, ensure that the distribution, sale, and lease of motor vehicles is conducted as required by
10 statute and board rules, to prevent fraud, unfair practices, discrimination, impositions, and other abuses
11 in connection with the distribution and sale of motor vehicles, and to enforce and administer
12 Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155,
13 which authorizes the board to adopt rules as necessary or convenient to administer Occupations Code,
14 Chapter 2301 and to govern practice and procedure before the board; Occupations Code, §2301.651,
15 which gives the board authority to deny an application for a license, revoke or suspend a license, place
16 on probation, or reprimand a licensee if the applicant or license holder is unfit, makes a material
17 misrepresentation, violates any law relating to the sale, distribution, financing, or insuring of motor
18 vehicles, willfully defrauds a purchaser, or fails to fulfill a written agreement with a retail purchaser of a
19 motor vehicle; Government Code, §411.122(d), which authorizes department access to criminal history
20 record information maintained by DPS; Government Code, §411.12511, which authorizes the
21 department to obtain criminal history record information from DPS and the FBI for license applicants,
22 license holders, and representatives whose act or omission would be cause for denying, revoking, or
23 suspending a general distinguishing number or license issued under Transportation Code, Chapter 503,

1 or Occupations Code, Chapters 2301 and 2302; Occupations Code, §2302.051, which authorizes the
2 board to adopt rules as necessary to administer Occupations Code, Chapter 2302; Transportation Code,
3 §503.002, which authorizes the board to adopt rules for the administration of Transportation Code,
4 Chapter 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain
5 contested cases; Transportation Code, §503.0296, which requires the board to adopt a rule requiring
6 that an applicant for an original or renewal general distinguishing number who adopts to be an
7 independent motor vehicle dealer complete web-based education and training developed or approved
8 by the department; Transportation Code, §503.033, which authorizes the board to adopt rules prescribe
9 the form of the notice of a surety bond and the procedure by which a claimant may recover against the
10 surety bond; Transportation Code, §503.061, which requires the board to adopt rules regulating the
11 issuance of dealer's license plates; and Transportation Code, §§503.0626, 503.0631, and 503.0632 which
12 require the board to adopt rules necessary to implement and manage the department's temporary tag
13 databases; and Transportation Code, §1002.001, which authorizes the board to adopt rules that are
14 necessary and appropriate to implement the powers and the duties of the department, as well as the
15 statutes referenced throughout this preamble.

16 The department also adopts repeals under the authority of Transportation Code, §501.0041 and
17 §502.0021; and Government Code, §§2001.004, and 2001.039, and 2001.054, in addition to the statutory
18 authority referenced throughout this preamble.

19 Transportation Code, §501.0041 authorizes the department to adopt rules to administer Transportation
20 Code, Chapter 501. Transportation Code, §502.0021 authorizes the department to adopt rules to
21 administer Transportation Code, Chapter 502.

22 Government Code, §2001.004 requires state agencies to adopt rules of practice stating the nature and
23 requirements of all available formal and informal procedures. Government Code, §2001.039 requires

- 1 state agencies to readopt, readopt with amendments, or repeal a rule as the result of reviewing the rule.
- 2 Government Code, §2001.054 specifies the requirements regarding the grant, denial, renewal, revocation,
- 3 suspension, annulment, or withdrawal of a license.
- 4 **CROSS REFERENCE TO STATUTE.** These repeals implement Government Code, Chapters 411 and 2001;
- 5 Occupations Code, Chapters 2301 and 2302; and Transportation Code, Chapters 501–503, 1001–1003,
- 6 and 1005.
- 7
- 8 Text.
- 9 §215.501. Final Decisions and Orders; Motions for Rehearing.
- 10 §215.502. Judicial Review of Final Order.
- 11 §215.505. Denial of Dealer or Converter Access to Temporary Tag System.

Figure: 43 TAC §215.139(c)

If a new license applicant is:	Maximum number of dealer's standard license plates issued during the first license term is:
1. a franchised motor vehicle dealer	5
2. a franchised motorcycle dealer	5
3. an independent motor vehicle dealer	2
4. an independent motorcycle dealer	2
5. a franchised or independent travel trailer dealer	2
6. a trailer or semi-trailer dealer	2
7. an independent mobility motor vehicle dealer	2
8. a wholesale motor vehicle dealer	1

Figure: 43 TAC §215.139(e)

If a vehicle dealer is:	Maximum number of dealer's standard license plates issued per license term is:
1. a franchised motor vehicle dealer	30
2. a franchised motorcycle dealer	10
3. an independent motor vehicle dealer	3
4. an independent motorcycle dealer	3
5. a franchised or independent travel trailer dealer	3
6. a trailer or semi-trailer dealer	3
7. an independent mobility motor vehicle dealer	3
8. a wholesale motor vehicle dealer	1

Figure: 43 TAC §215.139(f)(1)

If a vehicle dealer is:	Number of additional standard license plates issued to a dealer with a demonstrated need through proof of sales is:
1. a wholesale motor vehicle dealer	1
2. a dealer selling fewer than 50 vehicles during the previous 12-month period	1
3. a dealer selling 50 to 99 vehicles during the previous 12-month period	2
4. a dealer selling 100 to 200 vehicles during the previous 12-month period	5
5. a dealer selling more than 200 vehicles during the previous 12-month period	any number of standard license plates the dealer requests.