

1 The department adopts §§218.10, 218.33, 218.71, and 218.72 without changes to the proposed
2 text as published in the December 29, 2023, issue of the *Texas Register* (48 TexReg 8267). These rules will
3 not be republished.

4 The department adopts the repeal of 43 TAC Subchapter F, Enforcement, §§218.73 and 218.75 -
5 218.78.

6 The adopted amendments delete certain language regarding adjudicative practice and procedure
7 and refer to new Chapter 224 of this title. In this issue of the *Texas Register*, the department adopts new
8 Chapter 224, which includes all department adjudicative practice and procedure rules in one chapter. The
9 adopted amendments also make the terminology consistent with statute and current practice.

10 **REASONED JUSTIFICATION.** The adopted amendment to §218.10 replaces the word “accident” with
11 “accidental” to be consistent with the terminology in Transportation Code, §643.106.

12 An adopted amendment to §218.16(d)(6) replaces the reference to orders issued or adopted by
13 the department regarding self-insured status with a reference to the department’s approval letter. When
14 the department grants an applicant self-insured status under §218.16(d) and Transportation Code,
15 §643.102, the department issues an approval letter that contains the scope and terms of the approval,
16 including maintenance requirements. Also, an adopted amendment to §218.16(d) clarifies the scope of
17 the reasons for which self-insured status could be revoked by referring to the applicable requirements
18 under §218.16, instead of the requirements under §218.16(d)(6). In addition, an adopted amendment to
19 §218.16(d)(6) states that the revocation of self-insured status will be governed by adopted new Chapter
20 224 of this title and Transportation Code, Chapter 643. The department adopts §218.16(d)(6) with
21 nonsubstantive changes to the text at adoption that reverse the order of the citations in the last sentence
22 for clarity and readability.

1 Adopted amendments to §218.16(d)(7) delete reference to revocation of self-insured status and
2 modify the catch line to indicate this change because revocations are addressed in §218.16(d)(6).
3 Revocations are treated differently than a denial of an application for self-insured status under adopted
4 new Chapter 224 of this title. Government Code, §2001.054 authorizes this distinction between the two
5 actions and the applicable procedures. An adopted amendment to §218.16(d)(7) also replaces the term
6 “self-insurance status” with “self-insured status” to be consistent with the terminology in §218.16(d). In
7 addition, adopted amendments to §218.16(d)(7) reference adopted new §224.126 of this title (relating to
8 Appeal of a Denial of Self-Insured Status) regarding the filing of an appeal of a denial of an application for
9 self-insured status, and clarify that the applicant must file an appeal, rather than a petition for an
10 administrative hearing. Further, an adopted amendment to §218.16(d)(7) deletes the reference to
11 Chapter 206, Subchapter D of this title (relating to Procedures in Contested Cases). In this issue of the
12 *Texas Register*, the department adopts amendments that repeal Subchapter D of Chapter 206 and replace
13 it with provisions in adopted new Chapter 224 of this title.

14 The adopted amendment to §218.16(h) replaces the word “accidents” with “collisions” to be
15 consistent with terminology in Transportation Code, §643.105 as amended by House Bill 2190, 88th Texas
16 Legislature, Regular Session (2023).

17 The adopted amendments to §218.33 replace the reference to Subchapter F of Chapter 218 with
18 a reference to adopted new Chapter 224, which includes all department adjudicative practice and
19 procedure rules in one chapter.

20 The adopted amendments to §218.64(c)(7) replace the prior procedure for the rejection of a
21 collective ratemaking agreement under Transportation Code, §643.154 with a new procedure that is
22 governed by adopted new Chapter 224. Department staff do not recall having any hearings in the history
23 of the department regarding the rejection of a collective ratemaking agreement, which may be because

1 the requirements for an acceptable collective ratemaking agreement are minimal. The adopted
2 amendments to §218.64(c)(7) provide for greater flexibility in the procedure for these cases and make the
3 procedure consistent with Transportation Code, §643.154 and other contested cases under
4 Transportation Code, Chapter 643 to the extent applicable. The department adopts §218.64(c)(7) with
5 nonsubstantive changes to the text at adoption that reverse the order of the citations for clarity and to
6 improve readability.

7 The adopted amendment to the heading for Subchapter F of Chapter 218 makes the heading
8 consistent with the amendments and repeals in Subchapter F that change the scope of the subchapter.
9 Adopted amendments to §218.70 make the section consistent with the amendments to and repeals of
10 sections within Subchapter F. Also, an adopted amendment to §218.70 references the assessment of civil
11 penalties under §218.71 in certain cases under federal law regarding the interstate movement of
12 household goods. In addition, an adopted amendment to §218.70 states that the enforcement actions
13 under Chapter 218 are governed by adopted new Chapter 224 of this title and Transportation Code,
14 Chapters 643 and 645, as applicable.

15 Further, an adopted amendment to §218.70 deletes reference to Transportation Code, Chapter
16 648 regarding foreign commercial motor transportation because the department enforces the insurance
17 requirements under Transportation Code, Chapter 643, rather than Chapter 648. Transportation Code,
18 §643.101(b) requires the department by rule to set the amount of liability insurance required for a motor
19 carrier at an amount that does not exceed the amount required under a federal regulation adopted under
20 49 U.S.C. §13906(a)(1). The insurance requirements in 49 C.F.R. Part 387 were adopted under 49 U.S.C.
21 §13906. The department adopted the insurance requirements in Subchapter G of Chapter 218 under
22 Transportation Code, §643.101(b). Also, Transportation Code, Chapter 648 does not provide the
23 department with enforcement authority. Sections in Transportation Code, Chapter 643 provide the

1 department with enforcement authority, such as §§643.251, 643.252, 643.2525, 643.254, and 643.256.
2 The department adopts §218.70 with nonsubstantive changes to the text at adoption that reverse the
3 order of the citations in the last sentence for clarity and readability.

4 The adopted amendments to §218.71 delete subsections (b) and (d) and re-letter the section
5 accordingly. In this issue of the *Texas Register*, the department adopts new Chapter 224, which includes
6 new §224.115 of this title (relating to Administrative Penalty and Sanction Assessment; Probation of
7 Suspension), which contains the language found in deleted §218.71(b). Chapter 224 also includes new
8 §224.116 of this title (relating to Administrative Proceedings), which contains a modified version of
9 deleted §218.71(d).

10 The adopted amendments to §218.72(a) add language regarding the department’s authority to
11 deny a certificate of registration to a motor carrier under Transportation Code, §643.252, as well as the
12 department’s authority to place on probation a motor carrier whose registration is suspended. Also, an
13 adopted amendment to §218.72(a) changes the word “for” to “on.”

14 Adopted amendments to §218.72 delete subsection (c) and re-letter the section accordingly. In
15 this issue of the *Texas Register*, the department adopts new Chapter 224, which includes new §224.115
16 of this title (relating to Administrative Penalty and Sanction Assessment; Probation of Suspension), which
17 contains a modified version of the language found in deleted §218.72(c) regarding the probation of any
18 suspension ordered under Transportation Code, §643.252.

19 The department adopts the repeal of the following sections: §§218.73, 218.75, 218.76, 218.77,
20 and 218.78. In this issue of the *Texas Register*, the department adopts new Chapter 224, which includes
21 the language from these repealed sections with some modifications.

22 **SUMMARY OF COMMENTS.**

23 No comments on the proposed amendments and repeals were received.

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SUBCHAPTER B. MOTOR CARRIER REGISTRATION

43 TAC §218.10 AND §218.16

STATUTORY AUTHORITY. The department adopts the amendments under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.101(b), which requires the department by rule to set the amount of liability insurance required for a motor carrier at an amount that does not exceed the amount required under a federal regulation adopted under 49 U.S.C. §13906(a)(1); Transportation Code, §643.102, which authorizes a motor carrier to comply with the requirements under Transportation Code, §643.101 through self-insurance if it complies with the requirements; Transportation Code, §643.2525, which provides the administrative hearing process under Transportation Code, Chapter 643; Transportation Code, Section 648.102, which requires the department to adopt rules that conform with 49 C.F.R. Part 387 that require motor carriers operating foreign commercial motor vehicles in this state to maintain financial responsibility; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Government Code, §2001.054, which specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The amendments implement Transportation Code, Chapters 643 and 648; and Government Code, Chapter 2001.

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2 Text.

3 §218.10. Purpose.

4 Transportation Code, Chapter 643, provides that a motor carrier may not operate a commercial
5 motor vehicle or transport household goods on a for-hire basis on a road or highway of this state unless
6 the carrier registers with the department or is exempt from registration under Transportation Code,
7 §643.002. This subchapter prescribes the procedures by which a motor carrier, leasing business, or for-
8 hire transporter of household goods may register, and sets out minimum insurance requirements and
9 minimum workers' compensation or accidental insurance requirements.

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11 §218.16. Insurance Requirements.

12 (a) Automobile liability insurance requirements. A motor carrier must file proof of commercial
13 automobile liability insurance with the department on a form acceptable to the director for each vehicle
14 required to be registered under this subchapter. The motor carrier must carry and maintain automobile
15 liability insurance that is combined single limit liability for bodily injury to or death of an individual per
16 occurrence, loss or damage to property (excluding cargo) per occurrence, or both. Extraneous
17 information will not be considered acceptable, and the department may reject proof of commercial
18 automobile liability insurance if it is provided in a format that includes information beyond what is
19 required. Minimum insurance levels are indicated in the following table. However, a motor carrier that
20 operates a foreign commercial motor vehicle must comply with the minimum level of financial
21 responsibility in 49 C.F.R. Part 387 to the extent Part 387 prescribes a higher level of financial
22 responsibility than the following table. The department adopts by reference 49 C.F.R. Part 387. Effective

1 October 23, 2015, the department adopts by reference the amendments to 49 C.F.R. Part 387 with an
2 effective date of October 23, 2015.

3 Attached Graphic

4 (b) Cargo insurance. Household goods carriers shall file and maintain with the department proof
5 of financial responsibility.

6 (1) The minimum limits of financial responsibility for a household goods carrier for hire
7 is \$5,000 for loss or damage to a single shipper's cargo carried on any one motor vehicle.

8 (2) The minimum limits of financial responsibility for a household goods carrier for hire
9 is \$10,000 for aggregate loss or damage to multiple shipper cargo carried on any one motor vehicle. In
10 cases in which multiple shippers sustain damage and the aggregate amount of cargo damage is greater
11 than the cargo insurance in force, the insurance company shall prorate the benefits among the shippers
12 in relationship to the damage incurred by each shipper.

13 (c) Workers' compensation or accidental insurance coverage.

14 (1) A motor carrier that is required to register under this subchapter and whose primary
15 business is transportation for compensation or hire between two or more incorporated cities, towns, or
16 villages shall provide workers' compensation for all its employees or accidental insurance coverage in
17 the amounts prescribed in paragraph (2) of this subsection.

18 (2) Accidental insurance coverage required by paragraph (1) of this subsection shall be
19 at least in the following amounts:

20 (A) \$300,000 for medical expenses and coverage for at least 104 weeks;

21 (B) \$100,000 for accidental death and dismemberment, including 70 percent of
22 employee's pre-injury income for not less than 104 weeks when compensating for loss of income; and

23 (C) \$500 for the maximum weekly benefit.

1 (d) Qualification of motor carrier as self-insured.

2 (1) General qualifications. A motor carrier may meet the insurance requirements of
3 subsections (a) and (b) of this section by filing an application, in a form prescribed by the department, to
4 qualify as a self-insured. The application must include a true and accurate statement of the motor
5 carrier's financial condition and other evidence that establishes its ability to satisfy obligations for bodily
6 injury and property damage liability without affecting the stability or permanency of its business. The
7 department may accept USDOT evidence of the motor carrier's qualifications as a self-insured.

8 (2) Applicant guidelines. In addition to filing an application as prescribed by the
9 department, an applicant for self-insured status must submit materials that will allow the department to
10 determine the following information.

11 (A) Applicant's net worth. An applicant's net worth must be adequate in relation
12 to the size of its operations and the extent of its request for self-insurance authority. The applicant must
13 demonstrate that it can and will maintain an adequate net worth.

14 (B) Self-insurance program. An applicant must demonstrate that it has
15 established and will maintain a sound insurance program that will protect the public against all claims
16 involving motor vehicles to the same extent as the minimum security limits applicable under this
17 section. In determining whether an applicant is maintaining a sound insurance program, the department
18 will consider:

- 19 (i) reserves;
- 20 (ii) sinking funds;
- 21 (iii) third-party financial guarantees;
- 22 (iv) parent company or affiliate sureties;
- 23 (v) excess insurance coverage; and

1 (vi) other appropriate aspects of the applicant's program.

2 (C) Safety program. An applicant must submit evidence of substantial
3 compliance with the federal motor carrier safety regulations as adopted by the Texas Department of
4 Public Safety and with Transportation Code, Chapter 644.

5 (3) Other securities or agreements. The department may accept an application for
6 approval of a security or agreement if satisfied that the security or agreement offered will adequately
7 protect the public.

8 (4) Periodic reports. An applicant shall file annual statements, semi-annual and quarterly
9 reports, and any other reports required by the department reflecting the applicant's financial condition
10 and the status of its self-insurance program while the motor carrier is self-insured.

11 (5) Duration and coverage of self-insured status. The department may approve an
12 applicant as a self-insured for any specific time or for an indefinite time. An approved self-insured status
13 only applies to the type of cargo that the applicant reported to the department in the application for
14 self-insured status.

15 (6) Revocation of self-insured status. On receiving evidence that a self-insured motor
16 carrier's financial condition has changed, that its safety program or record is inadequate, or that it is
17 otherwise not in compliance with this subchapter, the department may at any time require the self-
18 insured to provide additional information. On 10 days' notice from the department, the self-insured
19 shall appear and demonstrate that it continues to have adequate financial resources to pay all claims
20 involving motor vehicles for bodily injury and property damage liability. The self-insured shall also
21 demonstrate that it remains in compliance with the requirements of this section and of any active self-
22 insurance requirements included in the department's approval letter. If an applicant fails to comply with
23 the applicable requirements under this section, its self-insured status may be revoked. The revocation of

1 self-insured status will be governed by Chapter 224 of this title (relating to Adjudicative Practice and
2 Procedure) and Transportation Code, Chapter 643.

3 (7) Appeal of denial of application for self-insured status. An applicant may
4 appeal a denial of self-insured status by filing an appeal in accordance with §224.126 of this title
5 (relating to Appeal of a Denial of Self-Insured Status).

6 (e) Filing proof of insurance with the department.

7 (1) Forms.

8 (A) A motor carrier shall file and maintain proof of automobile liability insurance
9 for all vehicles required to be registered under this subchapter at all times. This proof shall be filed on a
10 form acceptable to the director.

11 (B) A household goods carrier shall also file and maintain proof of cargo
12 insurance for its cargo at all times. This proof shall be on a form acceptable to the director.

13 (2) Filing proof of insurance. A motor carrier's insurer shall file and maintain proof of
14 insurance on a form acceptable to the director:

15 (A) at the time of the original application for motor carrier certificate of
16 registration;

17 (B) on or before the cancellation date of the insurance coverage as described in
18 subsection (f) of this section;

19 (C) when the motor carrier changes insurers;

20 (D) when the motor carrier asks to retain the certificate number of a revoked
21 certificate of registration;

22 (E) when the motor carrier changes its name under §218.13(e)(2) of this title
23 (relating to Application for Motor Carrier Registration);

1 (F) when the motor carrier, under subsection (a) of this section, changes the
2 classification of the cargo being transported; and

3 (G) when replacing another active insurance filing.

4 (3) Filing fee. Each certificate of insurance or proof of financial responsibility filed with
5 the department for the coverage required under this section shall be accompanied by a nonrefundable
6 filing fee of \$100. This fee applies both when the carrier submits an original application and when the
7 carrier submits a supplemental application when retaining a revoked certificate of registration number.

8 (4) Acceptable filings. The motor carrier's insurer must file proof of insurance with the
9 department in a form prescribed by the department and approved by an authorized agent of the
10 insurer.

11 (f) Cancellation of insurance coverage. Except when replaced by another acceptable form of
12 insurance coverage or proof of financial responsibility approved by the department, no insurance
13 coverage shall be canceled or withdrawn until 30 days after notice has been given to the department by
14 the insurer in a form approved by the department. Nonetheless, proof of insurance coverage for a seven
15 day or 90 day certificate of registration may be canceled by the insurer without 30 days' notice if the
16 certificate of registration is expired, suspended, or revoked, and the insurer provides a cancellation date
17 on the proof of insurance coverage.

18 (g) Replacement insurance filing. The department will consider a new insurance filing as the
19 current record of financial responsibility required by this section if:

20 (1) the new insurance filing is received by the department; and

21 (2) a cancellation notice has not been received for previous insurance filings.

22 (h) Insolvency of insurance carrier. If the insurer of a motor carrier becomes insolvent or
23 becomes involved in a receivership or other insolvency proceeding, the motor carrier must file an

1 affidavit with the department. The affidavit must be executed by an owner, partner, or officer of the
2 motor carrier and show that:

3 (1) no collisions have occurred and no claims have arisen during the insolvency of the
4 insurance carrier; or

5 (2) all claims have been satisfied.

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SUBCHAPTER C. RECORDS AND INSPECTIONS

8

43 TAC §218.33

9 **STATUTORY AUTHORITY.** The department adopts the amendments under Transportation Code,
10 §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter
11 643; Transportation Code, §643.251, which authorizes the department to impose an administrative
12 penalty against a motor carrier required to register under Subchapter B of Transportation Code, Chapter
13 643 that violates Chapter 643 or a rule or order adopted under Chapter 643; Transportation Code,
14 §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under
15 Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is
16 suspended; Transportation Code, §643.2525, which provides the administrative hearing process under
17 Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to
18 adopt rules that are necessary and appropriate to implement the powers and duties of the department
19 under the Transportation Code and other laws of this state; Government Code, §2001.004, which
20 requires state agencies to adopt rules of practice stating the nature and requirements of all available
21 formal and informal procedures; Government Code, §2001.054, which specifies the requirements
22 regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license; and

1 the statutory authority referenced throughout this preamble and in the rule text, which is incorporated
2 herein by reference.

3 **CROSS REFERENCE TO STATUTE.** The amendments implement Transportation Code, Chapters 643 and
4 645; and Government Code, Chapter 2001.

5
6 Text.

7 §218.33. Enforcement.

8 A motor carrier who fails or refuses to permit an inspection, fails to maintain and make available
9 the requisite records, or otherwise fails to comply with the requirements of this subchapter commits a
10 violation subject to enforcement under Chapter 224 of this title (relating to Adjudicative Practice and
11 Procedure).

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13 **SUBCHAPTER E. CONSUMER PROTECTION**

14

43 TAC §218.64

15 **STATUTORY AUTHORITY.** The department adopts the amendments under Transportation Code,
16 §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter
17 643; Transportation Code, §643.252, which authorizes the department to suspend, revoke, or deny a
18 registration issued under Transportation Code, Chapter 643 or place on probation a motor carrier whose
19 registration is suspended; Transportation Code, §643.2525, which provides the administrative hearing
20 process under Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the
21 board to adopt rules that are necessary and appropriate to implement the powers and duties of the
22 department under the Transportation Code and other laws of this state; Government Code, §2001.004,
23 which requires state agencies to adopt rules of practice stating the nature and requirements of all

1 available formal and informal procedures; Government Code, §2001.054, which specifies the
2 requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of
3 a license; and the statutory authority referenced throughout this preamble and in the rule text, which is
4 incorporated herein by reference.

5 **CROSS REFERENCE TO STATUTE.** The amendments implement Transportation Code, Chapter 643; and
6 Government Code, Chapter 2001.

7

8 Text.

9 §218.64. Rates.

10 (a) **Ratemaking.** A household goods carrier and/or its household goods agent shall set maximum
11 rates and charges for services in its applicable tariff. The household goods carrier and/or its household
12 goods agent shall disclose the maximum rates and charges to prospective shippers before transporting a
13 shipment between two incorporated cities.

14 (b) **Prohibited charges and allowances.** A household goods carrier and/or its household goods
15 agent shall not charge more than the maximum charges published in its tariff on file with the
16 department for services associated with transportation between two incorporated cities.

17 (c) **Collective ratemaking agreements.**

18 (1) **Eligibility.** In accordance with Transportation Code, §643.154, a household goods
19 carrier and/or its household goods agent may enter into collective ratemaking agreements between one
20 or more other household goods carriers or household goods agents concerning the establishment and
21 filing of maximum rates and charges, classifications, rules, or procedures.

22 (2) **Designation of collective ratemaking associations.** An approved association may be
23 designated by a member household goods carrier as its collective ratemaking association for the

1 purpose of filing a tariff containing maximum rates and charges required by §218.65 of this title (relating
2 to Tariff Registration).

3 (3) Submission. In accordance with Transportation Code, §643.154, a collective
4 ratemaking agreement shall be filed with the department for approval. The agreement shall include the
5 following information:

6 (A) full and correct name, business address (street and number, city, state and
7 zip code), and phone number of the association;

8 (B) whether the association is a corporation or partnership; and

9 (i) if a corporation, the government, state, or territory under the laws of
10 which the applicant was organized and received its present charter; and

11 (ii) if an association or a partnership, the names of the officers or
12 partners and date of formation;

13 (C) full and correct name and business address (city and state) of each
14 household goods carrier on whose behalf the agreement is filed and whether it is an association, a
15 corporation, an individual, or a partnership;

16 (D) the name, title, and mailing address of counsel, officer, or other person to
17 whom correspondence in regard to the agreement should be addressed; and

18 (E) a copy of the constitution, bylaws, or other documents or writings, specifying
19 the organization's powers, duties, and procedures.

20 (4) Signature. The collective ratemaking agreement shall be signed by all parties subject
21 to the agreement or the association's executive officer.

22 (5) Incomplete agreement. If the department receives an agreement which does not
23 comply with this subsection, the department will send a letter to the individual submitting the

1 agreement. The letter shall identify the information that is missing and advise the association that the
2 agreement will not be processed until the information is received.

3 (6) Approval. In accordance with Transportation Code, §643.154, the director or
4 designee will approve a collective ratemaking agreement if the agreement provides that:

5 (A) all meetings are open to the public; and

6 (B) notice of meetings shall be sent to shippers who are multiple users of
7 household good carriers.

8 (7) Noncompliance. If the director or the director's designee determines that an
9 agreement does not comply with paragraph (6) of this subsection, the matter will be governed by
10 Chapter 224 of this title (relating to Adjudicative Practice and Procedure) and Transportation Code,
11 Chapter 643.

12 (8) New parties to an agreement. An updated agreement shall be filed with the
13 department as new parties are added.

14 (9) Amendments to approved agreements. Amendments to approved agreements
15 (other than as to new parties) may become effective only after approval of the department.

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SUBCHAPTER F. ENFORCEMENT

18

43 TAC §§218.70–218.78

19 **STATUTORY AUTHORITY.** The department adopts the amendments and repeals under Transportation
20 Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code,
21 Chapter 643; Transportation Code, §643.251, which authorizes the department to impose an
22 administrative penalty against a motor carrier required to register under Subchapter B of Transportation
23 Code, Chapter 643 that violates Chapter 643 or a rule or order adopted under Chapter 643; Transportation

1 Code, §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under
2 Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended;
3 Transportation Code, §643.2525, which provides the administrative hearing process under Transportation
4 Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to appeal the denial
5 of an application for registration, renewal of registration, or reregistration under Transportation Code,
6 Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are
7 necessary and appropriate to implement the powers and duties of the department under the
8 Transportation Code and other laws of this state; Government Code, §2001.004, which requires state
9 agencies to adopt rules of practice stating the nature and requirements of all available formal and informal
10 procedures; Government Code, §2001.054, which specifies the requirements regarding the grant, denial,
11 renewal, revocation, suspension, annulment, or withdrawal of a license; and the statutory authority
12 referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

13 **CROSS REFERENCE TO STATUTE.** The amendments and repeals implement Transportation Code, Chapters
14 643 and 645; and Government Code, Chapter 2001.

15
16 Text.

17 §218.70. Purpose.

18 The purpose of this subchapter is to provide for administrative penalties and sanctions under
19 Transportation Code, Chapters 643 and 645, as well as the probation of the suspension of a motor
20 carrier's certificate of registration. This subchapter also provides for the assessment of civil penalties in
21 certain cases under federal law regarding the interstate movement of household goods. The
22 enforcement actions under this chapter are governed by Chapter 224 of this title (relating to
23 Adjudicative Practice and Procedure) and Transportation Code, Chapters 643 and 645, as applicable.

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§218.71. Administrative Penalties.

(a) Authority. The department, after notice and opportunity for hearing, may impose an administrative penalty against the following:

(1) a motor carrier that violates a provision of Transportation Code, Chapter 643 or Chapter 645 or violates a rule or order adopted under Transportation Code, Chapter 643 or Chapter 645; or

(2) a motor carrier or broker that violates a federal law or regulation, the enforcement of which has been delegated to the department.

(b) Memorandum of Agreement. Pursuant to a Memorandum of Agreement between the department and the Federal Motor Carrier Safety Administration, United States Department of Transportation, the department is authorized to initiate an enforcement action and assess civil penalties against a motor carrier or broker, as applicable, under the authority of the following:

(1) 49 U.S.C. §§13702, 13704, 13707(b), 13901, 14104(b), 14706(f), 14708, 14710, 14901(d)(2) and (3), 14901(e), and 14915, as amended;

(2) 49 C.F.R. §§366.4, 370.3-370.9, 371.3(c), 371.7, 371.105, 371.107, 371.109, 371.111, 371.113, 371.115, 371.117, 371.121, 373.201, Part 375, §§378.3 - 378.9, 387.301(b), 387.307, 387.403, and Part 386 Appendix B(g)(22) - (23), as amended; and

(3) any future delegations pursuant to 49 U.S.C. §14710.

§218.72. Administrative Sanctions.

(a) Grounds for suspension, revocation, denial, and probation. Transportation Code, §643.252 provides the grounds on which the department can suspend, revoke, or deny a certificate of registration

1 issued under Transportation Code, Chapter 643. Transportation Code, §643.252 also provides the
2 grounds on which the department can place on probation a motor carrier whose registration is
3 suspended.

4 (b) Department of Public Safety enforcement recommendations.

5 (1) The department may suspend or revoke a certificate of registration of a motor
6 carrier upon a written request by the Department of Public Safety, if a motor carrier:

7 (A) has an unsatisfactory safety rating under 49 C.F.R., Part 385; or

8 (B) has multiple violations of Transportation Code, Chapter 644, a rule adopted
9 under that chapter, or Transportation Code, Title 7, Subtitle C.

10 (2) A request under paragraph (1) of this subsection must include documentation
11 showing the violation.

12 (c) Refund.

13 (1) The department may order a motor carrier that violates Transportation Code
14 Chapter 643, department rules, or a department order adopted under Transportation Code Chapter 643
15 to issue a refund to a customer who paid the motor carrier to transport household goods.

16 (2) Under this subsection, a refund is the return of any percentage of funds paid, or
17 contracted to be paid, to a motor carrier transporting household goods, whether those funds are
18 documented as a separate line item or included in the overall amount paid by a customer.

19 (A) A refund includes overpayments, fees paid for services not rendered, and
20 fees paid for charges not listed on the household mover's tariff after the household mover takes
21 possession of the customer's property.

22 (B) A refund does not include any consideration of damages or harm over the
23 amount paid by the customer.

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STATUTORY AUTHORITY. The department adopts the repeals under Transportation Code, §643.003, which authorizes the department to adopt rules to administer Transportation Code, Chapter 643; Transportation Code, §643.251, which authorizes the department to impose an administrative penalty against a motor carrier required to register under Subchapter B of Transportation Code, Chapter 643 that violates Chapter 643 or a rule or order adopted under Chapter 643; Transportation Code, §643.252, which authorizes the department to suspend, revoke, or deny a registration issued under Transportation Code, Chapter 643 or place on probation a motor carrier whose registration is suspended; Transportation Code, §643.2525, which provides the administrative hearing process under Transportation Code, Chapter 643; Transportation Code, §643.2526, which authorizes an applicant to appeal the denial of an application for registration, renewal of registration, or reregistration under Transportation Code, Chapter 643; Transportation Code, §1002.001, which authorizes the board to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other laws of this state; Government Code, §2001.004, which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures; Government Code, §2001.054, which specifies the requirements regarding the grant, denial, renewal, revocation, suspension, annulment, or withdrawal of a license; and the statutory authority referenced throughout this preamble and in the rule text, which is incorporated herein by reference.

CROSS REFERENCE TO STATUTE. The repeals implement Transportation Code, Chapters 643 and 645; and Government Code, Chapter 2001.

Text.

- 1 §218.73. Administrative Proceedings.
- 2 §218.75. Cost of Preparing Agency Record.
- 3 §218.76. Registration Suspension Ordered under Family Code.
- 4 §218.77. Cease and Desist Order.
- 5 §218.78. Appeal of Denial.
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