

1 **PROPOSAL OF REVISIONS TO**

2 **SUBCHAPTER B. MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRY ENFORCEMENT**

3 **43 TAC §224.58**

4
5 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) proposes to amend 43 Texas
6 Administrative Code (TAC) Subchapter B, Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement,
7 §224.58, concerning denial of access to the license plate system. These amendments are necessary to implement
8 House Bill (HB) 718 enacted during the 88th Legislature, Regular Session (2023). HB 718 amended Transportation
9 Code, Chapter 503 to eliminate the use of temporary tags when purchasing a motor vehicle and replacing these
10 tags with categories of license plates effective July 1, 2025. HB 718 requires the department to develop new
11 distribution methods, systems, and procedures, to set certain fees. Section 34 of HB 718 grants the department
12 authority to adopt rules necessary to implement or administer these changes in law and requires the department
13 to adopt related rules by December 1, 2024. Effective July 1, 2025, Transportation Code, §503.0633 requires the
14 department to monitor the number of license plates or sets of license plates obtained by a dealer and to deny
15 access to the license plate database if the department determines that a dealer is acting fraudulently. These
16 proposed amendments implement Transportation Code, §503.0633(f).

17 The department also proposes non-substantive changes to delete a duplicative word in §215.58(a)(5) and
18 clarify language in §224.58(a)(5) and §224.58(c).

19 **EXPLANATION.**

20 Proposed amendments to the title of §224.58 would delete the phrase “or Converter” and substitute the
21 phrase “License Plate System” for “Temporary Tag System”. These proposed amendments recognize that under
22 HB 718, a converter may not issue a temporary tag or license plate effective July 1, 2025, and that the purpose of

1 the database will change from the tracking and issuance of temporary tags to the tracking and issuing of license
2 plates on July 1, 2025.

3 Proposed amendments throughout §§224.58(a)-(f) would substitute the phrase “license plates” for
4 “temporary tags” because effective July 1, 2025, a dealer may only issue a license plate or set of license plates,
5 and not a temporary tag under Transportation Code, Chapter 503, as amended by HB 718.

6 Proposed amendments throughout §224.58(a)-(f) would substitute the phrase “license plate system” for
7 the terms “temporary tag database”, “a database”, and “database” because the purpose of the system will be to
8 issue and track license plates effective July 1, 2025.

9 Proposed amendments throughout §224.58(a)-(f) delete the phrases “or converter” and “or converter’s”
10 because a converter may not issue a temporary tag or license plate effective July 1, 2025, under Transportation
11 Code, Chapter 503, as amended by HB 718.

12 Proposed amendments to §224.58(a) would delete a statutory reference to Transportation Code,
13 §503.0626 which was repealed by HB 718 and will no longer exist on July 1, 2025, and add references to §503.063
14 and §503.065. These two Transportation Code provisions authorize a dealer to issue a buyer’s license plate or set
15 of license plates to the purchaser of a motor vehicle in Texas under certain circumstances and to issue a buyer’s
16 temporary license plate to an out-of-state buyer. A proposed amendment to §224.58(a) would add “or issue” to
17 clarify that a dealer misuses the license plate system by fraudulently obtaining or issuing a license plate. A
18 proposed amendment to §224.58(a)(4) would delete “or” and proposed amendments to §215.58(a)(5) would
19 delete a period and add a semicolon and “or” because a new paragraph is proposed to be added as §215.58(a)(6).
20 Proposed non-substantive changes to §224.58(a)(5) would delete a redundant “issued,” add “the dealer’s” before
21 “licensed location,” and delete an unnecessary “a” before “storage lot” to clarify that license plate misuse includes
22 a dealer obtaining or issuing a license plate for a vehicle or motor vehicle not located at the dealer’s licensed
23 location or storage lot. A proposed amendment would add new §215.58(a)(6), which defines license plate system

1 misuse to include obtaining or issuing a license plate for a vehicle that is not titled or permitted by law to be
2 operated on a public highway. This proposed new language addresses situations such as a dealer obtaining or
3 issuing a license plate for a rebuilt vehicle that is not titled, or obtaining or issuing a license plate for a vehicle that
4 has not passed a required emissions inspection in a non-attainment county, and prevents the associated public
5 harm.

6 A proposed amendment to §224.58(b) would substitute the phrase “or issued a license plate in the license
7 plate system” for “temporary tags from the temporary tag database” to implement the change from temporary
8 tags to license plates mandated by HB 718.

9 A proposed nonsubstantive change to §224.58(c) adds “address” after “email” to clarify that a notice
10 under this section will be sent to the license holder’s last known email address in the department-designated
11 licensing system.

12 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer, has
13 determined that for each year of the first five years the new section will be in effect, there will be no fiscal impact
14 to state or local governments as a result of the enforcement or administration of the proposal. Corrie Thompson,
15 Director of the Enforcement Division, has determined that there will be no measurable effect on local employment
16 or the local economy as a result of the proposal.

17 **PUBLIC BENEFIT AND COST NOTE.** Glenna Bowman, Chief Financial Officer, has determined that for each year of
18 the first five years the new section will be in effect, there will be no fiscal impact to state or local governments as
19 a result of the enforcement or administration of the proposal. Corrie Thompson, Director of the Enforcement
20 Division, has determined that there will be no measurable effect on local employment or the local economy as a
21 result of the proposal.

22 **PUBLIC BENEFIT AND COST NOTE.** Ms. Thompson has also determined that, for each year of the first five years
23 the new section is in effect, public benefits include limiting the criminal activity of a small subset of dealers who

1 fraudulently obtain and sell license plates to persons seeking to engage in violent criminal activity, including armed
2 robbery, human trafficking, and assaults on law enforcement, or to persons seeking to criminally operate
3 uninsured and uninspected vehicles as a hazard to Texas motorists and the environment.

4 Anticipated Costs To Comply With The Proposal. Ms. Thompson anticipates that there will be no costs to
5 comply with this proposed rule as the proposed rule only applies when a dealer’s actions indicate fraud.

6 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government Code,
7 §2006.002, the department has determined that the proposed new section will not have an adverse economic
8 effect on small businesses or micro-businesses because the rule implements a continuing statutory requirement
9 to prevent fraud – one that first applied to temporary tags and will now apply to license plates obtained or issued
10 by a dealer. The new section will also not have an adverse impact on rural communities because rural communities
11 are not required to hold a general distinguishing number. The proposed section does not require small businesses
12 or micro-businesses to pay a fee or incur any new costs to comply with this new rule unless a dealer commits acts
13 considered fraudulent. Therefore, the department is not required to prepare a regulatory flexibility analysis under
14 Government Code, §2006.002.

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

19 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first five
20 years the proposed new section is in effect, no government program would be created or eliminated.
21 Implementation of the proposed new section would not require the creation of new employee positions or
22 elimination of existing employee positions. Implementation would not require an increase or decrease in future
23 legislative appropriations to the department or an increase or decrease of fees paid to the department. The

1 proposed new section does not create a new regulation and does not expand, limit, or repeal an existing
2 regulation. Lastly, the proposed new section does not increase the number of individuals subject to the rule's
3 applicability and will not affect this state's economy.

4 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written comments by
5 5:00 p.m. CDT on August 12, 2024. A request for a public hearing must be sent separately from your written
6 comments. Send written comments or hearing requests by email to rules@txdmv.gov or by mail to Office of
7 General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is
8 held, the department will consider written comments and public testimony presented at the hearing.

9 **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the
10 department proposes amendments to §224.58 under Transportation Code, §§503.002, 503.0631, and 1002.001.
11 Transportation Code, §503.002 authorizes the department to adopt rules to administer Transportation Code
12 Chapter 503. Transportation Code, §503.0631(e) authorizes the department to adopt rules and prescribe
13 procedures as necessary to implement §503.0631. Transportation Code, §1002.001 authorizes the board to adopt
14 rules that are necessary and appropriate to implement the powers and the duties of the department.

15 The department also proposes amendments under Occupations Code, §2301.151, which gives the board
16 authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that
17 is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board
18 to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is
19 conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions,
20 and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer
21 Occupations Code, Chapter 2301 and Transportation Code, Chapter 503; Occupations Code, §2301.155, which
22 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301

1 and to govern practice and procedure before the board; and Government Code, §2001.004 requires state agencies
2 to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.
3 **CROSS REFERENCE TO STATUTE.** These adopted revisions implement Government Code, Chapter 2001;
4 Occupations Code, Chapter 2301; and Transportation Code, Chapters 503, 1001, and 1002.

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7 **SUBCHAPTER B. MOTOR VEHICLE, SALVAGE VEHICLE, AND TRAILER INDUSTRY ENFORCEMENT**

8

43 TAC §224.58

9 Text.

10 §224.58. Denial of Dealer [~~or Converter~~] Access to License Plate System [~~Temporary Tag System~~].

11 (a) In this section "fraudulently obtained license plates [~~temporary tags~~] from the license plate system
12 [~~temporary tag database~~]" means misuse by a dealer [~~or converter~~] account user of the license plate system
13 [~~temporary tag database~~] authorized under Transportation Code, §503.063, [~~§503.0626 or~~] §503.0631, or
14 §503.065 to obtain or issue:

15 (1) an excessive number of license plates [~~temporary tags~~] relative to dealer sales;

16 (2) a license plate [~~temporary tags~~] for a vehicle or vehicles not in the dealer's [~~or converter's~~]
17 inventory (a vehicle is presumed not to be in the dealer's [~~or converter's~~] inventory if the vehicle is not listed in
18 the relevant monthly Vehicle Inventory Tax Statement);

19 (3) access to the license plate system [~~temporary tag database~~] for a fictitious user or person
20 using a false identity;

1 (4) a license plate [~~temporary tags~~] for a vehicle or a motor vehicle when a dealer is no longer
2 operating at a licensed location; [~~or~~]

3 (5) a license plate [~~temporary tags issued~~] for a vehicle or a motor vehicle not located at the
4 dealer's [~~a~~] licensed location or [~~a~~] storage lot; or [-]

5 (6) a license plate for a vehicle or motor vehicle that is not titled or permitted by law to be
6 operated on a public highway.

7 (b) The department shall deny a dealer [~~or converter~~] access to the license plate system [~~temporary tag~~
8 ~~database~~] effective on the date the department sends notice electronically and by certified mail to the dealer [~~or~~
9 ~~converter~~] that the department has determined, directly or through an account user, that the dealer [~~or~~
10 ~~converter~~] has fraudulently obtained or issued a license plate in the license plate system [~~temporary tags from~~
11 ~~the temporary tag database~~]. A dealer [~~or converter~~] may seek a negotiated resolution with the department by
12 demonstrating the dealer [~~or converter~~] took corrective action or that the department's determination was
13 incorrect.

14 (c) Notice shall be sent to the dealer's [~~or converter's~~] last known mailing address and last known email
15 address in the department-designated licensing system.

16 (d) A dealer [~~or converter~~] may request a hearing on the denial of access to the license plate system
17 [~~temporary tag database~~], as provided by Subchapter O, Chapter 2301, Occupations Code. The request must be
18 in writing and the dealer [~~or converter~~] must request a hearing under this section. The department must receive
19 the written request for a hearing within 26 days of the date of the notice denying access to the license plate
20 system [~~database~~]. The request for a hearing does not stay the denial of access under subsection (b) of this
21 section. A dealer [~~or converter~~] may continue to seek a negotiated resolution with the department after a

1 request for hearing has been submitted under this subsection by demonstrating the dealer [~~or converter~~] took
2 corrective action or that the department's determination was incorrect.

3 (e) The department may also issue a Notice of Department Decision stating administrative violations as
4 provided in §224.56 of this title (relating to Notice of Department Decision) concurrently with the notice of
5 denial of access under this section. A Notice of Department Decision may include notice of any violation,
6 including a violation listed under subsection (a) of this section.

7 (f) A department determination and action denying access to the license plate system [~~temporary tag~~
8 ~~database~~] becomes final if the dealer [~~or converter~~] does not request a hearing or enter into a settlement
9 agreement with the department within 26 days of the date of the notice denying access to the license plate
10 system [~~a database~~].

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