

1 **PROPOSAL OF REVISIONS TO**

2 **SUBCHAPTER A. GENERAL PROVISIONS**

3 **43 TAC §224.27**

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

5 **43 TAC §224.54**

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7 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) proposes to amend 43 Texas  
8 Administrative Code (TAC) Subchapter A, General Provisions, §224.27, concerning final orders and motions for  
9 rehearing, and Subchapter B, Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement, §224.54,  
10 concerning the assessment of civil penalties and license revocation. These amendments are necessary to conform  
11 these rules with House Bill (HB) 718 enacted during the 88th Legislature, Regular Session (2023). HB 718 amended  
12 Transportation Code, Chapter 503 to eliminate the use of temporary tags when purchasing a motor vehicle and  
13 replaced these tags with categories of license plates effective July 1, 2025. Section 34 of HB 718 grants the  
14 department authority to adopt rules necessary to implement or administer these changes in law and requires the  
15 department to adopt related rules by December 1, 2024.

16 The department also proposes a non-substantive change to add missing punctuation in §224.54(c)(6).

17 **EXPLANATION.**

18 Subchapter A. General Provisions.

19 Proposed amendments to §224.27(d) would delete the phrase “temporary tag database” and substitute  
20 the phrase “license plate system.” This proposed amendment recognizes that under HB 718, the purpose of the  
21 database will change from the tracking and issuance of temporary tags to the tracking and issuing of license plates  
22 on July 1, 2025.

1 Subchapter B. Motor Vehicle, Salvage Vehicle, and Trailer Industry Enforcement.

2 A proposed amendment to §224.54(b)(5)(C) would delete the phrase “or temporary tags” because  
3 effective July 1, 2025, a dealer may only issue a license plate or set of license plates, rather than a temporary tag,  
4 under Transportation Code, Chapter 503, as amended by HB 718.

5 Proposed amendments to §224.54(c)(4) would delete the phrases “or temporary tags” and “use an  
6 internet down tag to” because effective July 1, 2025, a dealer may only issue a license plate or set of license plates,  
7 rather than a temporary tag or internet down tag, under Transportation Code, Chapter 503, as amended by HB  
8 718.

9 A proposed nonsubstantive amendment to §224.54(c)(6) would add a period to the end of the sentence  
10 to correct missing punctuation.

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

16 **PUBLIC BENEFIT AND COST NOTE.** Ms. Thompson has also determined that, for each year of the first five years  
17 the amendments are in effect, public benefits include improved consistency and clarity in rule language, which  
18 will be helpful to dealers and the public.

19 Anticipated Costs To Comply With The Proposal. Ms. Thompson anticipates that there will be no costs to  
20 comply with this proposal as the proposal would not change a process and does not place a new requirement on  
21 a dealer.

22 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government Code,  
23 §2006.002, the department has determined that the proposed amendments will not have an adverse economic

1 effect on small businesses or micro-businesses because the amendments implement conforming language  
2 changes related to a continuing statutory requirement to prevent fraud – one that first applied to temporary tags  
3 and will now apply to license plates obtained or issued by a dealer. The amendments will also not have an adverse  
4 impact on rural communities because rural communities are not required to hold a general distinguishing number.  
5 The proposed amendments do not require small businesses or micro-businesses to pay a fee or incur any new  
6 costs to comply with the amendments unless a dealer commits acts considered fraudulent. Therefore, the  
7 department is not required to prepare a regulatory flexibility analysis under Government Code, §2006.002.

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

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

20 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written comments by  
21 5:00 p.m. CDT on September 23, 2024. A request for a public hearing must be sent separately from your written  
22 comments. Send written comments or hearing requests by email to [rules@txdmv.gov](mailto:rules@txdmv.gov) or by mail to Office of

1 General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is  
2 held, the department will consider written comments and public testimony presented at the hearing.

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**SUBCHAPTER A. GENERAL PROVISIONS.**

5 **STATUTORY AUTHORITY.** In addition to the rulemaking authority provided in Section 34 of HB 718, the  
6 department proposes amendments to Chapter 224 under Occupations Code, §2301.151, which gives the board  
7 authority to regulate the distribution, sale, and lease of motor vehicles and the authority to take any action that  
8 is necessary or convenient to exercise that authority; Occupations Code, §2301.152, which authorizes the board  
9 to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is  
10 conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions,  
11 and other abuses 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, which  
13 authorizes the board to adopt rules as necessary or convenient to administer Occupations Code, Chapter 2301  
14 and to govern practice and procedure before the board; Occupations Code, §2301.651, which gives the board  
15 authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a  
16 licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to  
17 the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a  
18 written agreement with a retail purchaser of a motor vehicle; Transportation Code, §501.0041, which authorizes  
19 the department to adopt rules to administer Transportation Code, Chapter 501; Transportation Code, §502.0021  
20 which authorizes the department to adopt rules to administer Transportation Code, Chapter 502; Transportation  
21 Code, §503.002, which authorizes the board to adopt rules for the administration of Transportation Code, Chapter  
22 503; Transportation Code, §503.009, which authorizes the board to adopt rules for certain contested cases;  
23 Transportation Code, §503.061, as amended by HB 718, which allows the board to adopt rules regulating the

1 issuance and use of dealer's license plates; Transportation Code, §503.0631, which requires the department to  
2 adopt rules to implement and manage the department's database of dealer-issued buyer's license plates;  
3 Transportation Code, §503.0633, which allows the department to establish the maximum number of license plates  
4 or sets of license plates a dealer may obtain annually under Transportation Code, §503.063 and §503.065;  
5 Transportation Code, §504.0011, which authorizes the board to adopt rules to implement and administer Chapter  
6 504; Transportation Code, §520.003 which authorizes the department to adopt rules to administer Chapter 520;  
7 Transportation Code, §520.021, which allows the department to adopt rules and policies for the maintenance and  
8 use of the department's automated registration and titling system; and Transportation Code, §1002.001, which  
9 authorizes the board to adopt rules that are necessary and appropriate to implement the powers and the duties  
10 of the department, as well as the statutes referenced throughout this preamble.

11 The department also proposes amendments under the authority of Government Code, §2001.004 and  
12 §2001.054, in addition to the statutory authority referenced throughout this preamble. Government Code,  
13 §2001.004 requires state agencies to adopt rules of practice stating the nature and requirements of all available  
14 formal and informal procedures. Government Code, §2001.054 specifies the requirements regarding the grant,  
15 denial, renewal, revocation, suspension, annulment, or withdrawal of a license.

16 **CROSS REFERENCE TO STATUTE.** These proposed revisions implement Government Code, Chapter 2001;  
17 Occupations Code, Chapter 2301; and Transportation Code, Chapters 503, 504, 520, 1001, and 1002.

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19 Text.

20 §224.27. Final Order; Motion for Rehearing.

21 (a) The provisions of Government Code, Chapter 2001, Subchapter F, govern the issuance of a final order  
22 issued under this subchapter and a motion for rehearing filed in response to a final order.

23 (b) Except as provided by subsection (c) of this section and §224.29 of this title (relating to Delegation of

1 Final Order Authority), the board has final order authority in a contested case filed under Occupations Code,  
2 Chapters 2301 or 2302, or under Transportation Code, Chapters 502, 503, 621-623, 643, 645, and 1001-1005.

3 (c) The hearings examiner has final order authority in a contested case filed under Occupations Code,  
4 §2301.204 or Occupations Code Chapter 2301, Subchapter M.

5 (d) A department determination and action denying access to the license plate system [~~temporary tag~~  
6 ~~database~~] becomes final within 26 days of the date of the notice denying access to a database, unless the dealer  
7 or converter:

8 (1) requests a hearing regarding the denial of access, or

9 (2) enters into a settlement agreement with the department.

10 (e) Unless a timely motion for rehearing is filed with the appropriate final order authority as provided by  
11 law, an order shall be deemed final and binding on all parties. All administrative remedies are deemed to be  
12 exhausted as of the effective date of the final order.

13 (f) If a timely motion for rehearing is not filed, the final order shall be deemed final and binding in  
14 accordance with the provisions of Government Code, §2001.144.

15 (g) If a final and binding order includes an action on a license, the department may act on the license on  
16 the date the final order is deemed final and binding, unless the action is stayed by a court order.

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

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23 to establish the qualifications of license holders, ensure that the distribution, sale, and lease of motor vehicles is

1 conducted as required by statute and board rules, to prevent fraud, unfair practices, discrimination, impositions,  
2 and other abuses in connection with the distribution and sale of motor vehicles, and to enforce and administer  
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6 authority to deny an application for a license, revoke or suspend a license, place on probation, or reprimand a  
7 licensee if the applicant or license holder is unfit, makes a material misrepresentation, violates any law relating to  
8 the sale, distribution, financing, or insuring of motor vehicles, willfully defrauds a purchaser, or fails to fulfill a  
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11 §224.54. Civil Penalty and Revocation Assessment.

12 (a) Occupations Code, §2301.801 and §2302.354, and Transportation Code, §503.095 govern the  
13 amount of a civil penalty that may be assessed by the department against a license holder.

14 (b) In determining the amount of civil penalty to assess the department will consider the following  
15 aggravating factors:

16 (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of  
17 any prohibited act, and the harm or potential harm to the safety of the public;

18 (2) the economic damage to the public caused by the violation;

19 (3) any history of previous violations including whether the license holder previously entered  
20 into an agreed order with the department or otherwise received a warning or reduced penalty;

21 (4) the amount necessary to deter a future violation; and

22 (5) any other matter that justice may require, including:

23 (A) the number of violations or number of consumers harmed by violation(s);

- 1 (B) whether the consumer received a title;
- 2 (C) whether the license holder misused license plates [~~or temporary tags~~];
- 3 (D) whether the license holder attempted to conceal a violation;
- 4 (E) whether the act constituting the violation was intentional, premeditated, knowing,
- 5 or grossly negligent; and
- 6 (F) whether an order issued by the department was violated.

7 (c) In determining whether license revocation is appropriate, the department will consider the following

8 factors:

- 9 (1) whether the license holder is unfit under standards governing the occupation, including
- 10 qualifications for a license;
- 11 (2) whether the license holder made a material misrepresentation in any written
- 12 communication or information provided to the department;
- 13 (3) whether the license holder willfully defrauded a purchaser;
- 14 (4) whether the license holder misused license plates [~~or temporary tags~~], including whether the
- 15 license holder attempted to [~~use an internet-down-tag-to~~] avoid inspection requirements;
- 16 (5) whether the license holder failed to fulfill a written agreement with a retail purchaser of a
- 17 vehicle or motor vehicle; and
- 18 (6) whether the license holder failed to attend an approved dealer training seminar as ordered
- 19 in an agreed final order.

20 (d) The department will consider the following mitigating factors in determining the amount of civil

21 penalty to assess or whether license revocation is appropriate:

- 22 (1) acknowledgment by the licensee of any wrongdoing;
- 23 (2) willingness to cooperate with the department; and

1 (3) efforts to correct a violation.

2 (e) The department will publish a disciplinary matrix on the department website to provide guidance to  
3 license holders on the administrative penalties and other sanctions that may be assessed for the most common  
4 violations. The department will consider the disciplinary matrix published at the time of the violation; however,  
5 the disciplinary matrix does not prevent the department from seeking administrative penalties and other  
6 sanctions above or below the recommended ranges listed in the disciplinary matrix. Also, the disciplinary matrix  
7 does not prevent the board or the board's delegate from ordering administrative penalties and other sanctions  
8 above or below the recommended ranges listed in the disciplinary matrix.

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