

The repeals are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code; Government Code, §2001.039, which requires the department to review its rules every four years and to readopt, readopt with amendments, or repeal as a result of reviewing the rules; and more specifically, Government Code, §656.048 and §661.002, which require the department to adopt rules and prescribe procedures relating to the operation of the department's sick leave pool and to employee training and education.

#### CROSS REFERENCE TO STATUTE

No other code, article, or statute is affected by this adoption.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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For further information, please call: (512) 465-5665



### SUBCHAPTER A. SICK LEAVE POOL

#### 43 TAC §208.1

##### STATUTORY AUTHORITY

The new section is adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code; Government Code, §2001.039, which requires the department to review its rules every four years and to readopt, readopt with amendments, or repeal as a result of reviewing the rules; and more specifically, Government Code, §656.048 and §661.002, which require the department to adopt rules and prescribe procedures relating to the operation of the department's sick leave pool and to employee training and education.

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### SUBCHAPTER B. EMPLOYEE TRAINING AND EDUCATION

#### 43 TAC §208.11, §208.12

##### STATUTORY AUTHORITY

The new sections are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department under the Transportation Code; Government Code, §2001.039, which requires the department to review its rules every four years and to readopt, readopt with amendments, or repeal as a result of reviewing the rules; and more specifically, Government Code, §656.048 and §661.002, which require the department to adopt rules and prescribe procedures relating to the operation of the department's sick leave pool and to employee training and education.

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### CHAPTER 209. FINANCE

The Texas Department of Motor Vehicles (department) adopts amendments to §209.1, Collection of Debts, and §209.2, Charges for Dishonored Checks; and the repeal of §209.21, Purpose, §209.22, Definitions, §209.31, Purpose, and §209.32, Definitions. The proposed amendments and repeals are adopted without changes to the proposed text as published in the August 15, 2014, issue of the *Texas Register* (39 TexReg 6207) and will not be republished.

##### EXPLANATION OF ADOPTED AMENDMENTS AND REPEALS

The department conducted a review of its rules in compliance with Government Code, §2001.039. Notice of the department's plan to review was published in the April 18, 2014, issue of the *Texas Register* (39 TexReg 3261).

The amendments to §209.1 make this rule conform to 1 TAC §59.2, as required by Government Code, §2107.002. The amendments to §209.1 also clarify when the obligation becomes delinquent because not all of the obligations to the department become delinquent within 30 days of the department's written notice to the debtor. For example, an obligation to pay a penalty or cost under Transportation Code, §643.2525 becomes delinquent if the motor carrier does not pay the obligation within 60 days after the date the final order becomes effective. An additional amendment to §209.1 modifies the definition of the word "security" because a person could pledge something of value to secure an obligation that the person owes to the department.

Amendments to §209.2 increase the processing fee for a dishonored check from \$25 to \$30, as authorized by Business and Commerce Code, §3.506. Further, amendments to §209.2 expand the definition of a dishonored check to clarify that the department has the authority to impose a processing fee on any type of payment received, including a payment by Automated Clearing House (ACH). In addition, amendments to §209.2 clarify that any payment from the drawer or endorser of the dishonored check to the department will be applied first to the processing fee.

Also, nonsubstantive amendments were made to §209.1 and §209.2 to correct grammatical errors and the format for cross references.

The department adopts the repeals of §§209.21, 209.22, 209.31, and 209.32 because these sections are not necessary to state the purpose of Subchapters B or C of Chapter 209 or to define the terms used in these subchapters.

#### COMMENTS

No comments on the proposed repeals or amendments were received.

### SUBCHAPTER A. COLLECTION OF DEBTS

#### 43 TAC §209.1, §209.2

##### STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department. The amendments are also adopted under Business and Commerce Code, §3.506, which authorizes the holder of a dishonored payment device to charge a processing fee of \$30; and more specifically, Government Code, §2107.002, which requires state agencies that collect delinquent obligations owed to the agency to establish procedures by rule for collecting a delinquent obligation.

##### CROSS REFERENCE TO STATUTE

Business and Commerce Code, §3.506; and Government Code, Chapter 2107.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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### SUBCHAPTER B. PAYMENT OF FEES FOR DEPARTMENT GOODS AND SERVICES

#### 43 TAC §209.21, §209.22

##### STATUTORY AUTHORITY

The repeals are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department. The amendments are also adopted under Business and Commerce Code, §3.506, which authorizes the holder of a dishonored payment device to charge a processing fee of \$30; and more specifically, Government Code, §2107.002, which requires state agencies that collect delinquent obligations owed to the agency to establish procedures by rule for collecting a delinquent obligation.

##### CROSS REFERENCE TO STATUTE

Business and Commerce Code, §3.506; and Government Code, Chapter 2107.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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### SUBCHAPTER C. DONATIONS AND CONTRIBUTIONS

#### 43 TAC §209.31, §209.32

##### STATUTORY AUTHORITY

The repeals are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and duties of the department. The amendments are also adopted under Business and Commerce Code, §3.506, which authorizes the holder of a dishonored payment device to charge a processing fee of \$30; and more specifically, Government Code, §2107.002, which requires state agencies that collect delinquent obligations owed to the

agency to establish procedures by rule for collecting a delinquent obligation.

#### CROSS REFERENCE TO STATUTE

Business and Commerce Code, §3.506; and Government Code, Chapter 2107.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## CHAPTER 210. CONTRACT MANAGEMENT

The Texas Department of Motor Vehicles (department) adopts amendments to Subchapter A, Purchase Contracts, §210.1 and §210.2; adopts the repeals of Subchapter B, Civil Rights, §210.21; Subchapter C, Historically Underutilized Business Program, §210.41 and §210.42; and Subchapter D, Disadvantaged Business Enterprise Program, §§210.61 - 210.65; and adopts new Subchapter B, Historically Underutilized Business Program, §210.21 and §210.22. The amendments, repeals, and new subchapter are adopted without changes to the proposed text as published in the August 15, 2014, issue of the *Texas Register* (39 TexReg 6210) and will not be republished.

#### EXPLANATION OF ADOPTED AMENDMENTS, REPEALS, AND NEW SUBCHAPTER

In accordance with Government Code, §2001.039, the department conducted a review of its rules under Chapter 210. Notice of the department's intention to review was published in the August 15, 2014, issue of the *Texas Register* (39 TexReg 6246).

As a result of the review, the department has determined that Subchapters B and D are no longer necessary and should be repealed. Subchapter B only references department compliance with a federal law, and does not add anything to that federal requirement and is thus redundant. Subchapter D relates to requirements for contracting using federal monies and is not applicable to department operations.

The department has further determined that the reasons for initially adopting rules under Subchapters A and C continue to exist, but that amendments and renumbering are necessary.

Nonsubstantive amendments to §210.1 and §210.2 correct punctuation, grammar, and capitalization, and clarify or update the language to conform to statutory requirements.

New Subchapter B, Historically Underutilized Business Program, §210.21, Purpose, and §210.22, Program, is adopted to replace existing Subchapter C. New §210.22 makes non-substantive amendments to existing §210.42 to correct the referenced citation to include 34 TAC Part 1, Chapter 20, Subchapter B, and revises terminology for consistency with other

department rules. New §210.21 is adopted without changes to the text of existing §210.41.

#### COMMENTS

No comments on the proposed amendments, repeals, and new subchapter were received.

## SUBCHAPTER A. PURCHASE CONTRACTS

### 43 TAC §210.1, §210.2

#### STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Government Code, §2001.039, which requires state agencies to review their rules every four years and to readopt, readopt with amendments, or repeal as a result of reviewing the rules; Occupations Code, §2301.153(a)(9) and Government Code, §1001.010, which provide specific rulemaking authority to the department for contracting; Government Code, §2155.076, which requires state agencies to adopt rules regarding procurement protests; Government Code, §2161.003, which requires state agencies to adopt rules promulgated by the Texas Comptroller of Public Accounts regarding Historically Underutilized Businesses (HUBs); and Government Code, §2260.051 and §2260.052, which set forth procedures for contract claim negotiations and require state agencies to adopt rules governing contract claims negotiations and mediations under Government Code, Chapter 2260.

#### CROSS REFERENCE TO STATUTE

Government Code, Chapters 1001, 2155, 2161, and 2260; and Occupations Code, Chapter 2301.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## SUBCHAPTER B. CIVIL RIGHTS

### 43 TAC §210.21

#### STATUTORY AUTHORITY

The repeals are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Government Code, §2001.039, which requires state agencies to review their rules every four years and to readopt, readopt with amendments, or repeal as a result of reviewing the rules; Occupations Code, §2301.153(a)(9) and