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PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

The Texas Department of Motor Vehicles (department) adopts amendments to Chapter 215, Motor Vehicle Distribution, Subchapter A, General Provisions, §§215.1 and §215.2; Subchapter B, Adjudicative Practice and Procedure, §§215.21 - 215.24, 215.27, 215.29, 215.30, 215.32, 215.34 - 215.49, 215.55, 215.56, and 215.58; Subchapter C, Licenses, Generally, §§215.81 - 215.85 and 215.87 - 215.89; Subchapter D, Franchised Dealers, Manufacturers, Distributors, and Converters, §§215.101, 215.103 - 215.106, and 215.108 - 215.119; Subchapter E, General Distinguishing Numbers, §§215.131 - 215.133, 215.135, 215.137 - 215.141, and 215.144 - 215.159; Subchapter F, Vehicle Lessors and Vehicle Lease Facilitators, §§215.171 and 215.173 - 215.181; Subchapter G, Warranty Performance Obligations, §§215.201 - 215.210; Subchapter H, Advertising, §§215.241 - 215.261 and 215.263 - 215.271; Subchapter I, Practice and Procedure for Hearings Conducted by the State Office of Administrative Hearings, §§215.301 - 215.303, 215.305 - 215.308, 215.310, 215.311, and 215.314 - 215.317; and Subchapter J, Administrative Sanctions, §§215.500 - 215.503. The department also adopts the repeal of Subchapter A, §§215.3 - 215.6; Subchapter B, §§215.25, 215.26, 215.28, 215.31, 215.33, 215.50 - 215.54 and 215.57; Subchapter C, §215.86; Subchapter D, §215.107; Subchapter E, §§215.136, 215.142, and 215.143; Subchapter F, §215.172; Subchapter H, §215.262; and Subchapter I, §§215.309, 215.312 and 215.313. Sections 215.1, 215.2, 215.21 - 215.24, 215.27, 215.29, 215.30, 215.32, 215.34 - 215.49, 215.55, 215.56, 215.58, 215.81, 215.82, 215.84, 215.85, 215.87, 215.88, 215.101, 215.103 - 215.106, 215.108 - 215.113, 215.115 - 215.119, 215.131, 215.132, 215.135, 215.137 - 215.139, 215.141, 215.145 - 215.151, 215.154 - 215.156, 215.158, 215.159, 215.171, 215.173, 215.174, 215.176, 215.178 - 215.181, 215.201 - 217.207, 215.209, 215.210, 215.241 - 215.243, 215.247, 215.248, 215.251 - 215.260, 215.263 - 215.269, 215.271, 215.301 - 215.303, 215.305 - 215.308, 215.310, 215.311, 215.314 - 215.317, and 215.500 - 215.503 are adopted without changes and will not be republished. Sections 215.83, 215.89, 215.114, 215.133, 215.140, 215.144, 215.152, 215.153, 215.157, 215.175, 215.177, 215.208, 215.244 - 215.246, 215.249, 215.250, 215.261, and 215.270 are adopted with changes to the proposed text as published in the September 9, 2016, issue of the *Texas Register* (41 TexReg 7011), and will be republished.

Additionally, the department adopts new §215.160, Duty to Identify Motor Vehicles Offered for Sale as Rebuilt, which outlines the requirements for sale of a repaired, rebuilt or reconstructed vehicle, with changes to the proposed text as published in the

September 9, 2016, issue of the *Texas Register* (41 TexReg 7011) and will be republished.

EXPLANATION OF ADOPTED AMENDMENTS, NEW SECTION, AND REPEALS

The department conducted a review of its rules under Chapter 215 in compliance with Government Code, §2001.039. Notice of the department's intention to review was published in the June 19, 2015, issue of the *Texas Register* (40 TexReg 4012).

As a result of the review, the department has determined that the reasons for initially adopting Subchapters A - J continue to exist but that certain amendments and repeals, as detailed in the following paragraphs, are necessary.

Amendments to Subchapter A, §215.1 and §215.2 are adopted to replace terminology with defined terms, delete definitions already defined by statute, revise existing terminology for consistency with other department rules, correct referenced citations, and to delete language that duplicates statute. The title of §215.1 is amended for consistency with other department rules. Additional amendments to §215.2 add and define the term "GDN." The department has determined that the reasons for initially adopting §§215.3 - 215.6 no longer exist and are repealed. Section 215.3 is being repealed because it duplicates language already in statute. Sections 215.4 - 215.6, relating to opinions, are being repealed because those sections are contrary to Government Code, §2001.003(6) which defines a rule as "a state agency statement of general applicability that (i) implements, interprets, or prescribes law or policy, or (ii) describes the procedure or practice requirements of a state agency."

Amendments to Subchapter B, §§215.21 - 215.24, 215.27, 215.29, 215.30, 215.32, 215.34 - 215.49, 215.55, 215.56, and 215.58 are adopted to clarify the purpose of the subchapter, replace terminology with defined terms, correct referenced citations, revise existing terminology for consistency with other department rules, and to delete language contained in statute. An amendment to §215.22 adds that a violation of that section will be reported to the general counsel of the department in addition to the hearing officer. An additional amendment to §215.34 establishes the last known address of a license applicant, license holder, or other person for purposes of giving notice as the mailing address provided to the department when the license holder applies, renews, or notifies the department of a change of address. The department further adopts an amendment to §215.37 to clarify that the costs of transcribing and preparing a record in a contested case hearing will be assessed to the party requesting the record. An additional amendment to §215.58 authorizes the director of the division to issue final orders in contested cases that are resolved by summary judgment or summary disposition. Additional amendments are adopted throughout Subchapter B to simplify and clarify language by removing any unnecessary statutory repetition. In addition, amendments rename the titles of certain sections for consistency and accuracy. The department has further determined that §§215.25, 215.26, 215.28, 215.31, 215.33, 215.50 - 215.54, and 215.57 duplicate language already contained in statute and are no longer necessary. Therefore, those sections are being repealed.

Amendments to Subchapter C, §§215.81 - 215.85 and 215.87 - 215.89 replace terminology with defined terms, revise existing terminology for consistency with other department rules, correct misspelling and referenced citations, and delete language contained in statute. Additional amendments throughout Sub-

chapter C replace "division" with "department" for clarification and consistency with current department practice. An amendment to §215.83 implements legislative changes regarding "active duty." In addition, §215.83 is amended to include the procedures for processing license applications that are currently set out under existing §215.86 because those procedures are more appropriately located under §215.83. Additional amendments to §215.83 subdivide the rule to improve formatting and readability. Because the department is incorporating, with amendments, the rule language under §215.86 with §215.83, §215.86 is being repealed. Additional amendments throughout Subchapter C rename certain section titles for consistency and accuracy with the language contained in those rules.

Amendments to Subchapter D, §§215.101, 215.103 - 215.106, and 215.108 - 215.119 delete language contained in statute, replace terminology with defined terms, and revise existing terminology for consistency with other department rules and current department practice. An amendment to §215.105 clarifies that the provisions of that section apply only to purchases and transfers involving physical relocation. Amendments to §215.112 clarify that the provisions of that section are limited only to motor home shows that require department approval. Additional amendments throughout Subchapter D replace "division" with "department" for clarification and consistency with current department practice. Amendments throughout Subchapter D subdivide and restructure the rules for formatting and improved readability. The department has further determined that §215.107 duplicates language contained in statute and therefore, is being repealed.

Amendments to Subchapter E, §§215.131 - 215.133, 215.135, 215.137 - 215.141, and 215.144 - 215.159 replace terminology with defined terms, delete definitions already defined by statute or add clarifying language to existing definitions, revise existing terminology for consistency with other department rules, correct referenced citations, and delete language contained in statute. An additional amendment to §215.132 adds and defines the term "VIN." An additional amendment to §215.133 includes the acceptance of concealed handgun license (license to carry a handgun) for identification purposes. An amendment to §215.135 specifies that a dealer may not commence business at any location until the department issues a license authorizing that location. Amendments to §215.137 change the title to "Surety Bond" for consistency with statute and to clarify requirements. Amendments were made to §215.138 to clarify use of metal dealer's license plates. Additional amendments to §215.139 subdivide the rule for improved readability and replace existing textual language with graphics under amended subsections (c), (e) and (f)(1). Additional amendments throughout §215.140 clarify that different requirements apply to retail dealers and wholesale motor vehicle dealers. Additional amendments to §215.141 clarify sanctions and add an additional sanctionable offense, effective January 1, 2017, for failure to disclose repaired, rebuilt, or reconstructed motor vehicles. An additional amendment to §215.144 clarifies that license holders are not required to maintain copies of motor vehicle titles submitted electronically. Additional amendments to §215.145 clarify the requirements for dealer status changes. An additional amendment was made to §215.147 to include acceptance of concealed handgun license (license to carry a handgun) for identification. Additional amendments renumber the appendices under §215.153, consistent with the amendments renumbering that section. The department further repeals §§215.136, 215.142, and 215.143 because those sections are

adequately addressed by statute and are no longer necessary. Additionally new §215.160, which outlines the requirements for sale of a repaired, rebuilt or reconstructed vehicle, is adopted.

An amendment to Subchapter F renames the title of that subchapter for consistency with statutorily defined terms. Additional amendments throughout §§215.171 and 215.173 - 215.181 delete definitions already defined by statute or add clarifying language to existing definitions, revise existing terminology for consistency with other department rules, correct referenced citations, and delete language contained in statute. Additional amendments throughout Subchapter F renumber and subdivide certain sections for improved readability. Because the department has deleted the definitions under §215.172, the reasons for adopting that section no longer exist and §215.172 is being repealed.

Amendments to Subchapter G, §§215.201 - 215.210 replace terminology with defined terms, revise existing terminology for consistency with other department rules, correct the referenced citations, and delete language that is already contained in statute. In addition, an amendment to §215.201 renames the title of that section for consistency with other department rules.

Amendments to Subchapter H, §§215.241 - 215.261 and 215.263 - 215.271 revise existing terminology for consistency with other department rules. Additional amendments replace terminology with defined terms and correct referenced citations. The department amends §215.241 to replace "Board" with "department" for consistency with current department practice, and replaces "code" with "Occupations Code, Chapter 2301" for clarification. Amendments to §215.244 add and define the terms "Distributor Suggested Retail Price (DSRP)," "limited rebate," "Manufacturer's Suggested Retail Price (MSRP)," and "savings claim or discount," and clarify definitions for "Monroney label" and "rebate or cash back." Additional amendments to §215.246 clarify accuracy of internet advertisements. Amendments to §215.248 include internet and online advertisements. Amendments to §215.249 provide clarification of Manufacturer's Suggested Retail Price (MSRP) and Distributor's Suggested Retail Price (DSRP). Additional amendments to §215.250 incorporate the provisions under existing §215.262 relating to savings claims and discount offers with §215.250 because those provisions are more appropriately located under that section. Additionally, where §215.250 states a "motor vehicle," the reference is being made to a specific vehicle, not a type, class, or group of vehicles. Section 215.250 graphics are amended and additional graphics are added for subsections (k) and (l). Because additional terms are added to §215.250, the numbering is changing throughout. The department is adopting §215.250 with changes from the proposed text and not adopting proposed new subsection (m) with its corresponding graphic. Because the department determined that the savings claims and discount offer provisions under §215.262 are more appropriately located under §215.250, §215.262 is being repealed. In addition, amendments to §215.253 add additional clarifying language regarding allowable use of trade-in amounts in advertisements.

Amendments to Subchapter I, §§215.301 - 215.303, 215.305 - 215.308, 215.310, 215.311, and 215.314 - 215.317 replace terminology with defined terms and correct referenced citations for consistency. Additional amendments throughout that subchapter replace "matter" with "contested case" and "Board" with "department." An amendment to §215.307 establishes a license holder's last known address for purposes of giving notice as the "mailing address provided to the department when the license

holder applies or renews its license," or notifies the department of a change of address. An additional amendment to §215.314 authorizes the director of the division to issue a cease and desist order prior to the commencement of a proceeding by the State Office of Administrative Hearings (SOAH). The cease and desist order may be issued without notice and opportunity for hearing if the provisions under Occupations Code, §2301.802(b) are met. An Administrative Law Judge shall hold a hearing to determine whether the interlocutory cease and desist order should remain in effect during the pendency of the proceeding. Additional amendments to §215.317 clarify that a motion for rehearing and a reply to a motion for rehearing of an order issued by the board delegate must be decided by the board delegate. The department has also determined that §§215.309, 215.312, and 215.313 duplicate language contained in statute and those sections are being repealed.

Amendments to Subchapter J, §§215.500 - 215.503 replace terminology with statutorily defined terms and correct referenced citations. Additional amendments subdivide certain sections of that subchapter for improved formatting. An amendment to §215.500 clarifies that an administrative sanction may include denial of an application for a license. An additional amendment to that section establishes the last known address of a license holder for purposes of giving notice as the "mailing address provided to the department when the license holder applies or renews its license," or notifies the department of a change of address. An amendment to §215.503 provides that the department will not refund a fee to a person that is subject to an unpaid civil penalty imposed by a final order.

Additional nonsubstantive amendments throughout Chapter 215 correct punctuation, grammar, and capitalization.

COMMENTS

Comments were received from:

Texas Automobile Dealers Association ("TADA")

Texas Independent Automobile Dealers Association ("TIADA")

Gulf States Toyota, Inc. ("GST")

Lloyd E. Ferguson ("Ferguson")

Based on these comments, a meeting was held with Stakeholders to address their concerns and a consensus was reached.

The comments and responses include:

§215.114, Sale of a Vehicle by a Manufacturer or Distributor at a Wholesale Motor Vehicle Auction.

COMMENT: TADA comments that a typographical error appears in the following sentence: "A GDN is sued..." and TADA suggests that the language is intended to read: "A GDN issued..."

RESPONSE: The department agrees with this comment and the language was corrected.

§215.144 (k) Records.

COMMENT: TIADA requests that language be added to (k): "Original hard copy titles are not required to be kept at the licensed location, but must be made available to the agency upon reasonable request."

RESPONSE: The department agrees and made the requested change to §215.144(k).

§215.160, Duty to Identify Motor Vehicles Offered for Sale as Rebuilt.

COMMENT: TADA requests that language be included stating that if the seller *knows* that a motor vehicle offered for sale has been a salvage motor vehicle as defined by Transportation Code, §501.091(15) and a regular title is subsequently issued under Transportation Code, §501.100, a dealer shall provide a written disclosure that the vehicle has been repaired, rebuilt, or reconstructed, and issued a title.

RESPONSE: The department agrees and made changes to this section to add a "knowing" requirement.

§215.244, Definitions.

COMMENT: Stakeholders recommend adding new subsection (9) to define the Distributor Suggested Retail Price (DSRP) as the total price shown on the Monroney Label as specified by sub-paragraph (D) of paragraph (14) of this section. Stakeholders also recommend adding new subsection (13) Manufacturer's Suggested Retail Price (MSRP), also as the total price shown on the Monroney Label as specified by sub-paragraph (D) of paragraph (14) of this section. GST comments that it is in agreement with the department's proposed changes to add subsection (14) which provides for a "Monroney Label." GST recommends that language "including, but not limited to" be added to (17), the definition for "savings claim or discount," to ensure that other forms of incentives such as low APR financing, subvention cash, and special lease offers are also included.

RESPONSE: The department agrees with the Stakeholders and GST and has added the requested language.

§215.249, Manufacturer's Suggested Retail Price.

COMMENT: The Stakeholders recommend to retitle this section to read "Manufacturer's/Distributors Suggested Retail Price," and to add "/Distributor's" in each section or subsection in which "Manufacturer's Suggested Retail Price" is included, and where applicable.

RESPONSE: The department agrees with the Stakeholders and has retitled the section and added the requested language.

§215.250(a) - (d), Price Advertising; Savings Claims; Discounts.

COMMENT: GST has concerns regarding the removal of the word "Dealer" from the heading of this section and requests that the "Dealer" be placed back into the heading for the purpose of clarifying the subsections of §215.250.

RESPONSE: The department agrees with GST and will make the requested addition to the section heading.

§215.250(f)

COMMENT: GST and Ferguson expressed concerns that the proposed changes to subsection (f) would prohibit the use of "up to," "as much as," and "from" savings claims and discount offers by manufacturers and distributors.

RESPONSE: GST, Ferguson, and the department agreed that the department will add "by a dealer" after the word "used" and before "in connection."

§215.250(g)

COMMENT: GST expresses concern that the proposed change to this subsection would likely apply to manufacturers and distributors, and it would seriously impede the ability of most manufacturers and distributors to advertise certain offers in Texas.

RESPONSE: In addressing GST's concern, the department will add the phrase "by a dealer" after the phrase "when advertised."

Additionally, the department has clarified in the Adoption Preamble that in cases where these sections state a "motor vehicle" the reference is being made to a specific vehicle, not to a type, class, or group of vehicles.

§215.250(h)(1)

COMMENT: GST and Ferguson recommend that (h)(1) be modified to read: "If a savings claim or discount offer includes only a dealer discount, that incentive must be disclosed as a deduction from the total suggested retail price (MSRP/DSRP). The following are acceptable formats for advertising a dealer discount with and without a sales price."

RESPONSE: After a meeting with stakeholders, the department and stakeholders agreed to modify (h)(1) to read: "If a savings claim or discount offer includes only a dealer discount, that incentive must be disclosed as a deduction from the MSRP/DSRP, as applicable. The following are acceptable formats for advertising a dealer discount with and without a sales price." Every use of MSRP/DSRP after that (subsequent subsection in Section 215.250) would carry that same meaning.

§215.250(l)

COMMENT: GST commented that the term "savings claim" be changed to a "dealer discount" so as to prevent dealers from manipulating the non-factory option pricing.

RESPONSE: The department agrees with GST and will make the requested change.

§215.250(m)

COMMENT: GST strongly opposes the proposed language in that "it seeks to specifically call out and highlight distributor installed options and equipment as part of the dealer advertising."

RESPONSE: The department agrees and the proposed language will not be adopted.

SUBCHAPTER A. GENERAL PROVISIONS

43 TAC §§215.1, §215.2

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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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43 TAC §§215.3 - 215.6

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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SUBCHAPTER B. ADJUDICATIVE PRACTICE AND PROCEDURE

43 TAC §§215.21 - 215.24, 215.27, 215.29, 215.30, 215.32, 215.34 - 215.49, 215.55, 215.56, 215.58

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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43 TAC §§215.25, 215.26, 215.28, 215.31, 215.33, 215.50 - 215.54, 215.57

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to

enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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SUBCHAPTER C. LICENSES, GENERALLY

43 TAC §§215.81 - 215.85, 215.87 - 215.89

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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

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

(1) on a form approved by the department;

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

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

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

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

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

(d) Prior to the expiration of a license, a license holder or authorized representative must file with the department a sufficient license renewal application. Failure to receive notice of license expiration from the department does not relieve the license holder from the responsibility to timely file a sufficient license renewal application. A license renewal application is timely filed if:

(1) the department receives a sufficient license renewal application on or before the date the license expires; or

(2) a legible postmark on the envelope transmitting the sufficient license renewal application clearly indicates that the license holder or authorized representative mailed the license renewal application on or before the date the license expires.

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

(1) includes all information and documentation required by the department; and

(2) is filed in accordance with subsection (a) of this section.

(f) A license renewal application received by the department is sufficient if:

(1) the renewal application form is completed by the license holder or authorized representative of the license holder who is an employee, an unpaid agent, a licensed attorney, or certified public accountant;

(2) accompanied by the required license renewal application fee payment; and

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

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

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

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

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

(k) A license holder who fails to timely file a sufficient license renewal application in accordance with subsection (d) of this section is not authorized to continue licensed activities after the date the license expires. A license holder may dispute a decision that a license renewal application was not timely or sufficient by submitting evidence to the department demonstrating that the license renewal application was timely and sufficient. Such evidence must be received by the department within 10 calendar days of the date the department issues notice that a timely or sufficient license renewal application was not received by the department.

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

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

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

§215.89. *Fitness.*

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

- (1) the requirements of Occupations Code, Chapter 53;
- (2) the provisions of Occupations Code, §2301.651;
- (3) any specific statutory licensing criteria or requirements;
- (4) mitigating factors; and
- (5) other evidence of a person's fitness, as allowed by law, including the standards identified in subsection (b) of this section.

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

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

(2) is convicted by any local, state, or federal authority of an offense listed in §215.88(j) of this title (relating to Criminal Offense and Action on License) or is convicted in any jurisdiction of an offense containing elements that are substantially similar to the elements in the offenses in §215.88(j);

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

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

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

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

(7) is assessed a civil penalty, administrative fine, fee, or similar assessment by the board, department, or a local, state, or federal regulatory authority for violation of a requirement governing or impacting the distribution or sale of a vehicle or a motor vehicle and fails to comply with the terms of a final order or fails to pay the penalty pursuant to the terms of a final order;

(8) was or is a person defined by §215.88(c) or identified in §215.88(d), or a manager or affiliate of a sole proprietorship, partnership, corporation, association, trust, estate, or other legal entity whose actions or omissions could be considered unfit, who is ineligible for licensure, or whose current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority has been subject to disciplinary action including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment;

(9) has an ownership interest with a person whose actions or omissions could be considered unfit, who is ineligible for licensure, or whose current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority has been subject to disciplinary action, including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment, by the board, department, or any local, state, or federal regulatory authority;

(10) is a business entity that is operated, managed, or otherwise controlled by a relative or family member and that person could be considered unfit, is ineligible for licensure, or whose current or previous license, permit, or other authorization issued by any local, state, or federal regulatory authority has been subject to disciplinary action, including suspension, revocation, denial, corrective action, cease and desist order, or assessment of a civil penalty, administrative fine, fee, or similar assessment; or

(11) is found in an order issued through a contested case hearing to be unfit or acting in a manner detrimental to the system of

distribution or sale of motor vehicles in Texas, the economy of the state, the public interest, or the welfare of Texas citizens.

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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General Counsel

Texas Department of Motor Vehicles

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43 TAC §215.86

STATUTORY AUTHORITY

The repeal 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 the duties of the department; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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 D. FRANCHISED DEALERS, MANUFACTURERS, DISTRIBUTORS, AND CONVERTERS

43 TAC §§215.101, 215.103 - 215.106, 215.108 - 215.119

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

§215.114. *Sale of a Vehicle by a Manufacturer or Distributor at a Wholesale Motor Vehicle Auction.*

A manufacturer or distributor licensed under Occupations Code, Chapter 2301 or a wholly owned subsidiary of a manufacturer or distributor, may sell motor vehicles it owns to dealers through a licensed Texas wholesale motor vehicle auction. A GDN issued to a licensed manufacturer, distributor, or wholly owned subsidiary of a manufacturer or distributor shall be canceled, unless otherwise allowed under 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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43 TAC §215.107

STATUTORY AUTHORITY

The repeal 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 the duties of the department; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

43 TAC §§215.131 - 215.133, 215.135, 215.137 - 215.141, 215.144 - 215.160

STATUTORY AUTHORITY

The amendments and new section 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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested

cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

§215.133. *General Distinguishing Number.*

(a) No person may engage in business as a dealer unless that person has a currently valid general distinguishing number assigned by the department for each location from which the person engages in business. If a dealer consigns more than five vehicles in a calendar year for sale from a location other than the location for which the dealer holds a general distinguishing number, the dealer must also hold a general distinguishing number for the consignment location.

(b) The provisions of subsection (a) of this section do not apply to:

(1) a person who sells or offers for sale fewer than five vehicles of the same type as herein described in a calendar year and such vehicles are owned by him and registered and titled in his name;

(2) a person who sells or offers to sell a vehicle acquired for personal or business use if the person does not sell or offer to sell to a retail buyer and the transaction is not held for the purpose of avoiding the provisions of Transportation Code, §503.001 et seq., and this subchapter;

(3) an agency of the United States, this state, or local government;

(4) a financial institution or other secured party selling a vehicle in which it holds a security interest, in the manner provided by law for the forced sale of that vehicle;

(5) a receiver, trustee, administrator, executor, guardian, or other person appointed by or acting pursuant to the order of a court;

(6) an insurance company selling a vehicle acquired from the owner as the result of paying an insurance claim;

(7) a person selling an antique passenger car or truck that is at least 25 years old or a collector selling a special interest motor vehicle as defined in Transportation Code, §683.077, if the special interest vehicle is at least 12 years old;

(8) a licensed auctioneer who, as a bid caller, sells or offers to sell property to the highest bidder at a bona fide auction if neither legal nor equitable title passes to the auctioneer and if the auction is not held for the purpose of avoiding another provision of Transportation Code, §503.001 et seq., and this subchapter; and provided that if an auction is conducted of vehicles owned, legally or equitably, by a person who holds a general distinguishing number, the auction may be conducted only at a location for which a general distinguishing number has been issued to that person or at a location approved by the department as provided in §215.135 of this subchapter (relating to More than One Location); and

(9) a person who is a domiciliary of another state and who holds a valid dealer license and bond, if applicable, issued by an agency of that state, when the person buys a vehicle from, sells a vehicle to, or exchanges vehicles with a person who:

(A) holds a current valid general distinguishing number issued by the department, if the transaction is not intended to avoid the terms of Transportation Code, §503.001 et seq.; or

(B) is a domiciliary of another state if the person holds a valid dealer license and bond, if applicable, issued by that state, and if the transaction is not intended to avoid the terms of Transportation Code, §503.001 et seq.

(c) Application for a general distinguishing number shall be on a form prescribed by the department properly completed by the applicant showing all information requested thereon and shall be submitted to the department accompanied by the following:

(1) proof of a \$25,000 surety bond as provided in §215.137 of this title (relating to Surety Bond);

(2) the fee for the general distinguishing number as prescribed by law for each type of license requested;

(3) the fee as prescribed by law for each metal dealer plate requested as prescribed by law;

(4) a copy of each assumed name certificate on file with the Office of the Secretary of State or county clerk; and

(5) a photocopy of at least one of the following documents for the owner, president, or managing partner of the dealership:

(A) current driver's license;

(B) current Department of Public Safety identification;

(C) current concealed handgun license or license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(D) current passport; or

(E) current United States armed forces identification.

(d) A person who applies for a general distinguishing number and will operate as a dealer under a name other than the name of that person shall use the name under which that person is authorized to do business, as filed with the Office of the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded on the application using the letters "DBA."

(e) If the general distinguishing number is issued to a corporation, the dealer's name and assumed name used by the dealer, as on file with the Office of the Secretary of State, shall be recorded on the application.

(f) A wholesale dealer license holder may buy, sell, or exchange vehicles with licensed dealers. A wholesale dealer license holder may not sell or exchange vehicles at retail.

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

(h) An application for a general distinguishing number may be denied if an applicant for such license has committed any act that could result in license cancellation or revocation under Transportation Code, §503.001 et seq.; Occupations Code, §2301.001 et seq.; or any rule or regulation of the department.

(i) Upon request by the department, the applicant shall submit documents demonstrating that the applicant owns the real property on which the business is situated or has a written lease for the property that has a term of not less than the term of the license.

§215.140. *Established and Permanent Place of Business.*

A dealer must meet the following requirements at each licensed location and maintain the requirements during the term of the license.

(1) Business hours for retail dealers.

(A) A retail dealer's office shall be open at least four days per week for at least four consecutive hours per day.

(B) The retail dealer's business hours for each day of the week must be posted at the main entrance of the retail dealer's office that is accessible to the public. The owner or a bona fide employee of the retail dealer shall be at the retail dealer's licensed location during the posted business hours for the purposes of buying, selling, exchanging, or leasing vehicles. If the owner or a bona fide employee is not available to conduct business during the retail dealer's posted business hours due to special circumstances or emergencies, a separate sign must be posted indicating the date and time the retail dealer will resume operations. Regardless of the retail dealer's business hours, the retail dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, answering service, or answering machine.

(2) Business hours for wholesale motor vehicle dealers. A dealer that holds only a wholesale motor vehicle dealer's license must post its business hours at the main entrance of the wholesale motor vehicle dealer's office. A wholesale motor vehicle dealer shall be at the wholesale motor vehicle dealer's licensed location at least two weekdays per week for at least two consecutive hours per day. Regardless of the wholesale motor vehicle dealer's business hours, the wholesale motor vehicle dealer's telephone must be answered from 8:00 a.m. to 5:00 p.m. weekdays by a bona fide employee, answering service, or answering machine.

(3) Business sign requirements for retail dealers. A retail dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the retail dealer's business name or assumed name substantially similar to the name reflected on the retail dealer's license under which the retail dealer conducts business. The sign must be permanently mounted at the address listed on the application for the retail dealer's license. A retail dealer may use a temporary sign or banner if that retail dealer can show proof that a sign that meets the requirements of this paragraph has been ordered.

(4) Business sign requirements for wholesale motor vehicle dealers. A wholesale motor vehicle dealer must display a conspicuous, permanent sign with letters at least six inches in height showing the wholesale motor vehicle dealer's business name or assumed name substantially similar to the name reflected on the wholesale motor vehicle dealer's license under which the wholesale motor vehicle dealer conducts business. The sign must be permanently mounted on the business property and shall be on the main door to the wholesale motor vehicle dealer's office or on the outside of the building that houses the wholesale motor vehicle dealer's office. If the wholesale motor vehicle dealer's office is located in an office building with one or more other businesses and an outside sign is not permitted by the landlord, a business sign permanently mounted on or beside the main door to the wholesale motor vehicle dealer's office with letters at least two inches in height is acceptable. A wholesale motor vehicle dealer may use a temporary sign or banner if the wholesale motor vehicle dealer can show proof that a sign that meets the requirements of this paragraph has been ordered.

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

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

(B) A dealer's office must comply with all applicable local zoning ordinances and deed restrictions.

(C) A dealer's office may not be located within a residence, apartment, hotel, motel, or rooming house.

(D) The physical address of the dealer's office must be recognized by the U.S. Postal Service or capable of receiving U.S. mail. The department will not mail a license or a metal dealer's license plate to an out of state address.

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

(6) Required office equipment for a retail dealer and a wholesale motor vehicle dealer. At a minimum, a dealer's office must be equipped with:

(A) a desk;

(B) two chairs;

(C) internet access; and

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

(7) Number of retail dealers in one office. Not more than four retail dealers may be located in the same business structure.

(8) Number of wholesale motor vehicle dealers in one office. Not more than eight wholesale motor vehicle dealers may be located in the same business structure.

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

(10) Dealer housed with other business.

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

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

(11) Display area requirements.

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

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

(i) The display area must be located at the retail dealer's business address or contiguous with the retail dealer's address. A noncontiguous storage lot is permissible only if there is no public access and no sales activity occurs at the storage lot. A sign stating the retail dealer's name, telephone number, and the fact the property is a storage lot is permissible.

(ii) The display area must be of sufficient size to display at least five vehicles of the type for which the GDN is issued. Those spaces must be reserved exclusively for the retail dealer's inventory and may not be shared or intermingled with another business or a

public parking area, a driveway to the office, or another dealer's display area.

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

(iv) If the retail dealer shares a display or parking area with another business, including another dealer, the dealer's vehicle inventory must be separated from the other business's display or parking area by a material object or barrier that cannot be readily removed.

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

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

(12) Dealers holding a license issued under Occupations Code, Chapter 2302. If a dealer also holds a license issued under Occupations Code, Chapter 2302, each salvage motor vehicle that is offered for sale on the premises of the dealer's display area must be clearly and conspicuously marked with a sign informing a potential buyer that the vehicle is a salvage motor vehicle. This requirement does not apply to a licensed salvage pool operator.

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

(A) the name of the landlord as the lessor of the premises and the name of the dealer as the tenant or lessee of the premises;

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

(C) the street address or legal description of the property, provided that if only a legal description of the property is included, the applicant must attach a statement that the property description in the lease agreement is the street address identified on the application; and

(D) the signature of the landlord as the lessor and the signature of the dealer as the tenant or lessee.

(14) Dealer must display license. A dealer must display the dealer's license issued by the department at all times in a manner that makes the license easily readable by the public and in a conspicuous place at each place of business for which the dealer's license is issued. If the dealer's license applies to more than one location, a copy of the original license may be displayed in each supplemental location.

§215.144. *Records.*

(a) Purchases and sales records. A dealer must 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 a representative of the department during business hours.

(b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer must 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.

(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 receipt of a request sent by mail or electronic document transfer from a representative of the department, a dealer must 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 division prior to submitting its records.

(e) Content of records. A dealer's complete record for each vehicle purchase or vehicle sale must contain:

(1) the date of the purchase;

(2) the date of the sale;

(3) the VIN;

(4) the name and address of the person selling the vehicle to the dealer;

(5) the name and address of the person purchasing the vehicle from the dealer;

(6) the name and address of the consignor if the vehicle is offered for sale by consignment;

(7) except for a purchase or sale where the Tax Code does not require payment of motor vehicle sales tax, a copy of the receipt, titled "Tax Collector's Receipt for Texas Title Application/Registration/Motor Vehicle Tax";

(8) a copy of all documents, forms, and agreements applicable to a particular sale, including a copy of:

(A) the title application;

(B) the work-up sheet;

(C) the front and back of manufacturer's certificate of origin or manufacturer's statement of origin, unless the title is obtained through the electronic title system;

(D) the front and back of the title, unless the title is obtained through the electronic title system;

(E) the factory invoice;

(F) the sales contract;

(G) the retail installment agreement;

(H) the buyer's order;

(I) the bill of sale;

(J) any waiver;

(K) any other agreement between the seller and purchaser; and

(L) Form VTR-136, relating to County of Title Issuance, completed and signed by the buyer;

(9) the original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for motor vehicles offered for sale by a dealer, and a properly stamped original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for motor vehicles sold by a dealer if the title transaction is entered into the electronic system by the dealer;

(10) the dealer's monthly Motor Vehicle Seller Financed Sales Returns, if any; and

(11) if the vehicle sold is a motor home or a towable recreational vehicle subject to inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

(f) Title assignments.

(1) For each vehicle a dealer acquires or offers for sale, the dealer must properly take assignment in the dealer's name of any:

- (A) title;
- (B) manufacturer's statement of origin;
- (C) manufacturer's certificate of origin; or
- (D) other evidence of ownership.

(2) A dealer must apply in the name of the purchaser of a vehicle for the registration of the vehicle with the appropriate county tax assessor-collector as selected by the purchaser.

(3) To comply with Transportation Code, §501.0234(f), a registration is considered filed within a reasonable time if the registration is filed within:

- (A) 20 working days of the date of sale of the vehicle for a vehicle registered in Texas; or
- (B) 45 days of the date of sale of the vehicle for a dealer-financed transaction involving a vehicle that is registered in Texas.

(4) The dealer is required to provide to the purchaser the receipt for the registration application.

(5) The dealer is required to maintain a copy of the receipt for the registration application in the dealer's sales file.

(g) Out of state sales. For a sales transaction involving a vehicle to be transferred out of state, the dealer must:

- (1) within 20 working days of the date of sale, either file the application for certificate of title on behalf of the purchaser or deliver the properly assigned evidence of ownership to the purchaser; and
- (2) maintain in the dealer's record at the dealer's licensed location a photocopy of the completed sales tax exemption form for out of state sales approved by the Texas Comptroller of Public Accounts.

(h) Consignment sales. A dealer offering a vehicle for sale by consignment shall have a written consignment agreement or a power of attorney for the vehicle, and shall, after the sale of the vehicle, take assignment of the vehicle in the dealer's name and, pursuant to subsection (f), apply in the name of the purchaser for transfer of title and registration, if the vehicle is to be registered, with the appropriate county tax assessor-collector as selected by the purchaser. The dealer must, for a minimum of 48 months, maintain a record of each vehicle offered for sale by consignment, including the VIN and the name of the owner of the vehicle offered for sale by consignment.

(i) Public motor vehicle auctions.

(1) A GDN holder that acts as a public motor vehicle auction must comply with subsection (h) of this section.

(2) A public motor vehicle auction:

(A) is not required to take assignment of title of a vehicle it offers for sale;

(B) must take assignment of title of a vehicle from a consignor prior to making application for title on behalf of the buyer; and

(C) must make application for title on behalf of the purchaser and remit motor vehicle sales tax within 20 working days of the sale of the vehicle.

(3) A GDN holder may not sell another GDN holder's vehicle at a public motor vehicle auction.

(j) Wholesale motor vehicle auction records. A wholesale motor vehicle auction license holder must maintain, for a minimum of 48 months, a complete record of each vehicle purchase and sale occurring through the wholesale motor vehicle auction. The wholesale motor vehicle auction license holder shall make the record available for inspection and copying by a representative of the department during business hours.

(1) A wholesale motor vehicle auction license holder must maintain at the licensed location a record reflecting each purchase and sale for at least the preceding 24 months. Records for prior time periods may be kept off-site.

(2) Within 15 days of receipt of a request sent by mail or by electronic document transfer from a representative of the department, a wholesale motor vehicle auction license holder must deliver a copy of the specified records to the address listed in the request.

(3) A wholesale motor vehicle auction license holder's complete record of each vehicle purchase and sale shall, at a minimum, contain:

- (A) the date of sale;
- (B) the VIN;
- (C) the name and address of the person selling the vehicle;
- (D) the name and address of the person purchasing the vehicle;
- (E) the dealer license number of both the selling dealer and the purchasing dealer, unless either is exempt from holding a license;
- (F) all information necessary to comply with the Truth in Mileage Act;
- (G) auction access documents, including the written authorization and revocation of authorization for an agent or employee, in accordance with §215.148 of this title (relating to Dealer Agents);
- (H) invoices, bills of sale, checks, drafts, or other documents that identify the vehicle, the parties, or the purchase price;
- (I) any information regarding the prior status of the vehicle such as the Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and
- (J) a copy of any written authorization allowing an agent of a dealer to enter the auction.

(k) Electronic records. A license holder may maintain a record in an electronic format if the license holder can print the record at the licensed location upon request by a representative of the department. A license holder does not have to maintain a copy of a vehicle title if the title is submitted through the electronic title system. Original hard copy titles are not required to be kept at the licensed location, but must be made available to the department upon request.

§215.152. *Obtaining Numbers for Issuance of Temporary Tags.*

(a) A dealer or a converter is required to have internet access to connect to the temporary tag databases maintained by the department.

(b) Except as provided by §215.157 of this title (relating to Advance Numbers, Preprinted Internet-down Temporary Tags), before a temporary tag may be issued and displayed on a vehicle, a dealer or converter must:

- (1) enter in the temporary tag database information about the vehicle, dealer, converter, or buyer, as appropriate; and
- (2) obtain a specific number for the temporary tag.

§215.153. Specifications for All Temporary Tags.

(a) Information printed or completed on a temporary tag must be in black ink on a white background. Other than for a motorcycle, a completed buyer's, dealer's, converter's, or preprinted Internet-down temporary tag shall be six inches high and at least eleven inches wide. For a motorcycle, the completed buyer's, dealer's, converter's, or preprinted Internet-down temporary tag shall be four inches high and at least seven inches wide.

(b) A temporary tag must be:

- (1) composed of plastic or other durable, weather-resistant material; or
- (2) sealed in a two mil clear poly bag that encloses the entire temporary tag.

(c) A dealer or converter may manually copy the information from the temporary tag database to a preprinted temporary tag template. A temporary tag completed in this manner must:

- (1) display the information drawn in letters and numerals with a permanent, thick, black marking pen; and
- (2) comply with the specifications of the applicable temporary tag identified by the following appendices:

(A) Appendix A-1 - Dealer's Temporary Tag - Assigned to Specific Vehicle;
Figure: 43 TAC §215.153(c)(2)(A)

(B) Appendix A-2 - Dealer's Temporary Tag - Assigned to Agent;
Figure: 43 TAC §215.153(c)(2)(B)

(C) Appendix B-1 - Buyer's Temporary Tag;
Figure: 43 TAC §215.153(c)(2)(C)

(D) Appendix B-2 - Preprinted Internet-down Temporary Tag; and
Figure: 43 TAC §215.153(c)(2)(D)

(E) Appendix C-1 - Converter's Temporary Tag.
Figure: 43 TAC §215.153(c)(2)(E)

§215.157. Advance Numbers, Preprinted Internet-down Temporary Tags.

(a) In accordance with Transportation Code, §503.0631(d), a dealer may obtain an advance supply of preprinted Internet-down temporary tags with specific numbers and buyer's temporary tag receipts to issue in lieu of buyer's temporary tags if the dealer is unable to access the internet.

(b) If a dealer is unable to access the internet at the time of a sale, the dealer must complete the preprinted Internet-down temporary buyer's tag and buyer's temporary tag receipt by providing details of the sale, signing the buyer's temporary tag receipt, and retaining a copy. The dealer must enter the required information regarding the sale in the

temporary tag database not later than the close of the next business day that the dealer has access to the internet. The buyer's temporary tag receipt must include a statement that the dealer has internet access but, at the time of the sale, the dealer was unable to access the internet or the temporary tag database.

§215.160. Duty to Identify Motor Vehicles Offered for Sale as Rebuilt.

(a) For each motor vehicle a dealer displays or offers for retail sale and which the dealer knows has been a salvage motor vehicle as defined by Transportation Code, §501.091(15) and a regular title subsequently issued under Transportation Code, §501.100, a dealer shall disclose in writing that the motor vehicle has been repaired, rebuilt, or reconstructed and issued a title under Transportation Code, §501.100. The written disclosure must:

- (1) be visible from outside of the motor vehicle; and
- (2) contain lettering that is reasonable in size, stating as follows: *"This motor vehicle has been repaired, rebuilt or, reconstructed after formerly being titled as a salvage motor vehicle."*

(b) Upon the sale of a motor vehicle which has been a salvage motor vehicle as defined by Transportation Code, §501.091(15) and a regular title subsequently issued under Transportation Code, §501.100, a dealer shall obtain the purchaser's signature on the vehicle disclosure form or on an acknowledgement written in eleven point or larger font that states as follows: *"I, (name of purchaser), acknowledge that at the time of purchase, I am aware that this vehicle has been repaired, rebuilt, or reconstructed and was formerly titled as a salvage motor vehicle."*

(c) The purchaser's acknowledgement as required in subsection (b) of this section may be incorporated in a Buyer's Order, a Purchase Order, or other disclosure document. This disclosure does not require a separate signature.

(d) An original signed acknowledgement required by subsection (b) of this section or a signed vehicle disclosure form shall be given to the purchaser and a copy of the signed acknowledgement or vehicle disclosure form shall be retained by the dealer in the records of motor vehicles sales required by §215.144 of this title (relating to Records). If the acknowledgement is incorporated in a Buyer's Order, a Purchase Order, or other disclosure document, a copy of that document must be given to the purchaser and a copy retained in the dealer's records in accordance with §215.144.

(e) This section does not apply to a wholesale motor vehicle auction.

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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43 TAC §§215.136, 215.142, 215.143

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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SUBCHAPTER F. LESSORS AND LEASE FACILITATORS

43 TAC §§215.171, 215.173 - 215.181

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically,

Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

§215.175. *Sanctions.*

(a) The board or department may:

(1) deny a vehicle lessor or vehicle lease facilitator application;

(2) revoke or suspend a vehicle lessor or vehicle lease facilitator license; or

(3) assess a civil penalty or take other action on a vehicle lessor or vehicle lease facilitator applicant or license holder, or a person engaged in business for which a vehicle lessor or vehicle lease facilitator license is required.

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

(1) fails to maintain an established and permanent place of business required by §215.177 of this title (relating to Established and Permanent Place of Business);

(2) fails to maintain records required under this subchapter;

(3) refuses or fails to comply with a request by a representative of the department to examine during the vehicle lessor's or vehicle lease facilitator's posted business hours at the vehicle lessor's or vehicle lease facilitator's licensed location:

(A) a vehicle leasing record required to be maintained by §215.178 of this title (relating to Records Required for Vehicle Lessors and Vehicle Lease Facilitators);

(B) ownership papers for a vehicle owned, leased, or under that vehicle lessor's or vehicle lease facilitator's control; or

(C) evidence of ownership or a current premises lease agreement for the property upon which the business is located;

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

(5) fails to notify the department in writing within 10 days of a change of the vehicle lessor or vehicle lease facilitator license holder's:

(A) mailing address;

(B) physical address;

(C) telephone number; or

(D) email address;

(6) fails to notify the department in writing within 10 days of a change of the vehicle lessor or vehicle lease facilitator license holder's name or ownership;

(7) fails to comply with the fee restrictions or other requirements under Occupations Code, §2301.357 or §§2301.551 - 2301.556;

(8) fails to maintain advertisement records or otherwise fails to comply with the advertising requirements of:

(A) §215.178; or

(B) Subchapter H of this chapter (relating to Advertising);

(9) violates any law relating to the sale, lease, distribution, financing, or insuring of motor vehicles;

(10) is convicted of an offense that, in accordance with Occupations Code, Chapter 53 and with §215.88 of this title (relating to Criminal Offense and Action on License), directly relates to the duties or responsibilities of the licensed occupation;

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

(12) uses or allows use of a vehicle lessor or vehicle lease facilitator license in violation of any law or for the purpose of avoiding any provision of Occupations Code, Chapter 2301; or

(13) willfully omits material information or makes a material misrepresentation in any application or other documentation filed with the department.

(c) The board or department may take action on a vehicle lessor's license or assess civil penalties for the vehicle lessor's failure to notify the department in writing within 10 days of any change, addition, or deletion to the list of vehicle lease facilitators with whom the vehicle lessor conducts business, including any change to a vehicle lease facilitator's mailing address, physical address, telephone number, or email address.

(d) The board or department may take action on a vehicle lease facilitator's license or assess civil penalties for the vehicle lease facilitator's failure to notify the department in writing within 10 days of any change, addition, or deletion to the list of vehicle lessors for whom the vehicle lease facilitator conducts business, including any change to a vehicle lessor's mailing address, physical address, telephone number, or email address.

(e) The board or department may take action on a vehicle lessor's or vehicle lease facilitator's license if the vehicle lessor or vehicle lease facilitator accepts a fee from a dealer, directly or indirectly, for referring a customer who purchases or considers purchasing a motor vehicle.

§215.177. Established and Permanent Place of Business.

(a) A vehicle lessor or vehicle lease facilitator operating within the State of Texas must meet the following requirements at each location where vehicles are leased or offered for lease.

(1) Physical location requirements.

(A) A vehicle lessor or vehicle lease facilitator operating within the State of Texas must be open to the public. The vehicle lessor's or vehicle lease facilitator's business hours for each day of the week must be posted at the main entrance of the office. The owner or an employee of the vehicle lessor or vehicle lease facilitator must be at the location during the posted business hours for the purpose of leasing vehicles. In the event the owner or an employee is not available to conduct business during the posted business hours, a separate sign must be posted indicating the date and time such owner or employee will resume vehicle leasing operations.

(B) A vehicle lessor's or vehicle leasing facilitator's office structure must be of sufficient size to accommodate the following required equipment:

(i) a desk and chairs from which the vehicle lessor or vehicle lease facilitator transacts business; and

(ii) a working telephone number listed in the business name or assumed name under which the vehicle lessor or vehicle lease facilitator conducts business.

(C) A vehicle lessor or vehicle lease facilitator that files an application for a new license or a vehicle lessor that files an application for a satellite location must comply with the following requirements:

(i) The office must be located in a building with connecting exterior walls on all sides.

(ii) The office must comply with all applicable local zoning ordinances and deed restrictions.

(iii) The office may not be located within a residence, apartment, hotel, motel, or rooming house.

(iv) The physical address of the office must be recognized by the U.S. Postal Service and capable of receiving U.S. mail.

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

(E) One or more licensed vehicle lessors or vehicle lease facilitators, or a combination of one or more licensed vehicle lessors and vehicle lease facilitators may occupy the same business structure and conduct vehicle leasing operations in accordance with the license held by the vehicle lessor or licensed vehicle lease facilitator. Each person engaged in business as a vehicle lessor or vehicle lease facilitator must have:

(i) a separate desk from which that vehicle lessor or vehicle lease facilitator transacts business;

(ii) a separate working telephone number listed in the vehicle lessor or vehicle lease facilitator's business name or assumed name;

(iii) a separate right of occupancy that meets the requirements of this section; and

(iv) a vehicle lessor or vehicle lease facilitator license issued by the department in the name of the vehicle lessor or vehicle lease facilitator.

(F) A vehicle lease facilitator's established and permanent place of business must be physically located within the State of Texas.

(2) Sign requirements. A vehicle lessor or vehicle lease facilitator shall display a conspicuous and permanent sign at the licensed location showing the name under which the vehicle lessor or vehicle lease facilitator conducts business. Outdoor signs must contain letters that are at least six inches in height.

(3) Premises lease requirements. If the premises from which a licensed vehicle lessor or vehicle lease facilitator conducts business is not owned by the license holder, the license holder must maintain for the licensed location a valid premises lease that is continuous during the period of time for which the vehicle lessor's or vehicle lease facilitator's license will be issued. The premises lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the landlord of the premises and the name of the vehicle lease facilitator as the tenant of the premises;

(B) the street address or legal description of the property, provided that if only a legal description of the property is included,

the applicant must attach a statement that the property description in the lease agreement is the street address identified on the application; and

(C) the period of time for which the premises lease is valid.

(b) A vehicle lessor that does not deal directly with the public to execute vehicle leases and whose licensed location is in another state must meet the following requirements at each location.

(1) Physical location requirements.

(A) The vehicle lessor's office structure must be of sufficient size to accommodate the following required equipment:

(i) a desk and chairs from which the vehicle lessor transacts business; and

(ii) a working telephone number listed in the business name or assumed name under which the vehicle lessor conducts business.

(B) A vehicle lessor that files an application for a new license or a satellite location with a primary licensed location in another state must conform to the following requirements:

(i) The office must be located in a building with connecting exterior walls on all sides.

(ii) The office must comply with all applicable local zoning ordinances and deed restrictions.

(iii) The office may not be located within a residence, apartment, hotel, motel, or rooming house.

(iv) The physical address of the office must be recognized by the U.S. Postal Service and capable of receiving U.S. mail.

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

(D) More than one licensed vehicle lessor may occupy the same business structure and conduct vehicle leasing operations under different names in accordance with the license held by each vehicle lessor. Each person engaged in business as a vehicle lessor must have:

(i) a separate desk from which that vehicle lessor transacts business;

(ii) a separate working telephone number listed in the vehicle lessor's business name or assumed name;

(iii) a separate right of occupancy that meets the requirements of this section; and

(iv) a vehicle lessor license issued by the department in the name of the vehicle lessor.

(2) Sign requirements. An out of state vehicle lessor shall display a conspicuous and permanent sign at the licensed location showing the name under which the vehicle lessor conducts business. Outdoor signs must contain letters at least six inches in height.

(3) Premises lease requirements. If the out of state premises from which a licensed vehicle lessor conducts business is not owned by the license holder, the license holder must maintain a valid premises lease for the property of the licensed location. The premises lease must be continuous during the period of time for which the license will be issued. The premises lease agreement must be on a properly executed form containing at a minimum:

(A) the name of the landlord of the premises and the name of the licensed lessor identified as the tenant of the premises;

(B) the street address or legal description of the property, provided that if only a legal description of the property is included, the applicant must attach a statement that the property description in the lease agreement is the street address identified on the application; and

(C) the period of time for which the premises lease is valid.

(c) A vehicle lessor or vehicle lease facilitator shall be independent of financial institutions and dealerships in location and in business activities, unless that vehicle lessor or vehicle lease facilitator is an:

(1) employee or legal subsidiary of the financial institution or dealership; or

(2) entity wholly owned by the financial institution or dealership.

(d) For purposes of this section, an employee is a person who meets the requirements of §215.173(b) of this title (relating to License).

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43 TAC §215.172

STATUTORY AUTHORITY

The repeal 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 the duties of the department; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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SUBCHAPTER G. WARRANTY PERFORMANCE OBLIGATIONS

43 TAC §§215.201 - 215.210

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

§215.208. *Lemon Law Relief Decisions.*

(a) Unless otherwise indicated, this section applies to decisions that relate to lemon law complaints. Decisions shall give effect to the presumptions provided in Occupations Code, §2301.605, where applicable.

(1) If it is found that the manufacturer, distributor, or converter is not able to conform the motor vehicle to an applicable express warranty by repairing or correcting a defect in the complainant's motor vehicle, creating a serious safety hazard or substantially impairing the use or market value of the motor vehicle after a reasonable number of attempts, and that the affirmative defenses provided under Occupations Code, §2301.606 are not applicable, the final order authority shall issue a final order to the manufacturer, distributor, or converter to:

(A) replace the motor vehicle with a comparable motor vehicle, less a reasonable allowance for the owner's use of the vehicle; or

(B) accept the return of the motor vehicle from the owner and refund the full purchase price of the motor vehicle to the owner, less a reasonable allowance for the owner's use of the motor vehicle.

(2) In any decision in favor of the complainant, the final order authority will, to the extent possible, accommodate the complainant's request with respect to replacement or repurchase of the motor vehicle.

(b) This subsection applies only to the repurchase of motor vehicles.

(1) When a refund of the purchase price of a motor vehicle is ordered, the purchase price shall be the total purchase price of the motor vehicle, excluding the amount of any interest, finance charge, or insurance premiums. The award to the motor vehicle owner shall include reimbursement of the amount of the lemon law complaint filing fee paid by, or on behalf of, the motor vehicle owner. The refund shall be made payable to the motor vehicle owner and to any lienholder, respective to their ownership interest.

(2) There is a rebuttable presumption that a motor vehicle has a useful life of 120,000 miles. Except in cases where the preponderance of the evidence shows that the motor vehicle has a longer or shorter expected useful life than 120,000 miles, the reasonable allowance for the owner's use of the motor vehicle shall be that amount obtained by adding subparagraphs (A) and (B) of this paragraph.

(A) The product obtained by multiplying the purchase price, as defined in paragraph (1) of this subsection, of the motor vehicle by a fraction having as its denominator 120,000 and having as its numerator the number of miles that the motor vehicle traveled from the time of delivery to the owner to the first report of the defect or condition forming the basis of the repurchase order; and

(B) 50% of the product obtained by multiplying the purchase price by a fraction having as its denominator 120,000 and having as its numerator the number of miles that the motor vehicle traveled after the first report of the defect or condition forming the basis of the repurchase order. The number of miles during the period covered in this paragraph shall be determined from the date of the first report of the defect or condition forming the basis of the repurchase order through the date of the hearing.

(3) There is a rebuttable presumption that the useful life of a towable recreational vehicle is 3,650 days or 10 years. Except in cases where a preponderance of the evidence shows that the vehicle has a longer or shorter expected useful life than 3,650 days or 10 years, the reasonable allowance for the owner's use of the towable recreational vehicle shall be that amount obtained by adding subparagraphs (A) and (B) of this paragraph.

(A) The product obtained by multiplying the purchase price, as defined in paragraph (1) of this subsection, of the towable recreational vehicle by a fraction having as its denominator 3,650 days or 10 years, except the denominator shall be 1,825 days or five years, if the towable recreational vehicle is occupied on a full time basis, and having as its numerator the number of days from the time of delivery to the owner to the first report of the defect or condition forming the basis of the repurchase order.

(B) 50% of the product obtained by multiplying the purchase price by a fraction having as its denominator 3,650 days or 10 years, except the denominator shall be 1,825 days or five years, if the

towable recreational vehicle is occupied on a full time basis, and having as its numerator the number of days of ownership after the first report of the defect or condition forming the basis of the repurchase order. The number of days during the period covered in this paragraph shall be determined from the date of the first report of the defect or condition forming the basis of the repurchase order through the date of the hearing.

(C) Any day or part of a day that the vehicle is out of service for repair will be deducted from the numerator in determining the reasonable allowance for use of a towable recreational vehicle in this paragraph.

(c) This subsection applies only to leased motor vehicle relief.

(1) Except in cases involving unusual and extenuating circumstances supported by a preponderance of the evidence, when a refund of the purchase price of a leased motor vehicle is ordered, the purchase price shall be allocated and paid to the lessee and the vehicle lessor, respectively, in accordance with subparagraphs (A) and (B) of this paragraph.

(A) The lessee shall receive the total of:

(i) all lease payments previously paid by the lessee to the vehicle lessor under the terms of the lease; and

(ii) all sums previously paid by the lessee to the vehicle lessor in connection with entering into the lease agreement, including, but not limited to any capitalized cost reduction, down payment, trade-in, or similar cost, plus sales tax, license, registration fees, and other documentary fees, if applicable.

(B) The vehicle lessor shall receive the total of:

(i) the actual price paid by the vehicle lessor for the motor vehicle, including tax, title, license, and documentary fees, if paid by the vehicle lessor and evidenced in a bill of sale, bank draft demand, tax collector's receipt, or similar instrument; and

(ii) an additional 5.0% of the purchase price plus any amount or fee paid by vehicle lessor to secure the lease or interest in the lease.

(C) A credit reflecting all of the payments made by the lessee shall be deducted from the actual purchase price that the manufacturer, converter, or distributor is required to pay the vehicle lessor, as specified in subparagraph (B)(i) and (ii) of this paragraph.

(2) When the final order authority orders a manufacturer, converter, or distributor to refund the purchase price in a leased vehicle transaction, the motor vehicle shall be returned to the manufacturer, converter, or distributor with clear title upon payment of the sums indicated in paragraph (1)(A) and (B) of this subsection. The vehicle lessor shall transfer title of the motor vehicle to the manufacturer, converter, or distributor, as necessary to effectuate the lessee's rights. The lease shall be terminated without penalty to the lessee.

(3) Refunds shall be made to the lessee, vehicle lessor, and to any lienholder, respective to their ownership interest. The refund to the lessee under paragraph (1)(A) of this subsection shall be reduced by a reasonable allowance for the lessee's use of the motor vehicle. A reasonable allowance for use shall be computed in accordance with subsection (b)(2) or (3) of this section, using the amount in paragraph (1)(B)(i) of this subsection as the applicable purchase price.

(d) This subsection applies only to replacement of motor vehicles.

(1) Upon issuance of an order from the final order authority to a manufacturer, converter, or distributor to replace a motor vehicle, the manufacturer, converter, or distributor shall:

(A) promptly authorize the exchange of the complainant's motor vehicle with the complainant's choice of any comparable motor vehicle; and

(B) instruct the dealer to contract the sale of the selected comparable motor vehicle with the complainant under the following terms.

(i) The sales price of the comparable motor vehicle shall be the vehicle's Manufacturer's Suggested Retail Price (MSRP/DSRP, as applicable);

(ii) The trade-in value of the complainant's motor vehicle shall be the MSRP/DRSP, as applicable, at the time of the original transaction, less a reasonable allowance for the complainant's use of the complainant's motor vehicle.

(iii) The use allowance for replacement relief shall be calculated in accordance with subsection (b)(2) and (3) of this section.

(2) Upon any replacement of a complainant's motor vehicle, the complainant shall be responsible for payment or financing of the usage allowance of the complainant's vehicle, any outstanding liens on the complainant's vehicle, and applicable taxes and fees associated with the new sale, excluding documentary fees.

(A) If the comparable motor vehicle has a higher MSRP/DSRP, as applicable, than the complainant's vehicle, the complainant shall be responsible at the time of sale to pay or finance the difference in the two vehicles' MSRPs/DSRPs, as applicable, to the manufacturer, converter or distributor.

(B) If the comparable motor vehicle has a lower MSRP/DSRP, as applicable, than the complainant's vehicle, the complainant will be credited the difference in the MSRP/DSRP, as applicable, between the two motor vehicles. The difference credited shall not exceed the amount of the calculated usage allowance for the complainant's vehicle.

(3) The complainant is responsible for obtaining financing, if necessary, to complete the transaction.

(4) The replacement transaction, as described in paragraphs (2) and (3) of this subsection, shall be completed as specified in the final order. If the replacement transaction cannot be completed within the ordered time period, the manufacturer shall repurchase the complainant's motor vehicle in accordance with the repurchase provisions of this section. If repurchase relief occurs, a party may request calculation of the repurchase price by the final order authority.

(e) If the final order authority finds that a complainant's motor vehicle does not qualify for replacement or repurchase, an order may be entered in any proceeding, where appropriate, requiring repair work to be performed or other action taken to obtain compliance with the manufacturer's, converter's, or distributor's warranty obligations.

(f) If the motor vehicle is substantially damaged or if there is an adverse change in the motor vehicle's condition beyond ordinary wear and tear, from the date of the hearing to the date of repurchase, and the parties are unable to agree on an amount allowed for such damage or condition, either party may request reconsideration by the final order authority of the repurchase price contained in the final order.

(g) In any award in favor of a complainant, the final order authority may require the dealer involved to reimburse the complainant, manufacturer, converter, or distributor for the cost of any items or op-

tions added to the motor vehicle if one or more of those items or options contributed to the defect that is the basis for the order, repurchase, or replacement. This subsection shall not be interpreted to require a manufacturer, converter, or distributor to repurchase a motor vehicle due to a defect or condition that was solely caused by a dealer add-on item or option.

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 H. ADVERTISING

43 TAC §§215.241 - 215.261, 215.263 - 215.271

STATUTORY AUTHORITY

The amendments, new section, and 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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

§215.244. Definitions.

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

(1) Advertisement--

(A) An oral, written, graphic, or pictorial statement or representation made in the course of soliciting business, including, but not limited to a statement or representation:

- (i) made in a newspaper, magazine, or other publication;
- (ii) contained in a notice, sign, poster, display, circular, pamphlet, or letter;
- (iii) aired on the radio;
- (iv) broadcast on the internet or television; or
- (v) streamed via an online service.

(B) Advertisement does not include direct communication between a person or person's representative and a prospective purchaser.

(2) Advertising provision--

(A) A provision of Occupations Code, Chapter 2301, relating to the regulation of advertising; or

(B) A rule relating to the regulation of advertising, adopted pursuant to the authority of Occupations Code, Chapter 2301.

(3) Bait advertisement--An alluring but insincere offer to sell or lease a product of which the primary purpose is to obtain a lead to a person interested in buying or leasing merchandise of the type advertised and to switch a consumer from buying or leasing the advertised product in order to sell or lease some other product at a higher price or on a basis more advantageous to the dealer.

(4) Balloon payment--Any scheduled payment made as required by a consumer credit transaction that is more than twice as large as the average of all prior scheduled payments except the down payment.

(5) Clear and conspicuous--The statement, representation, or term being disclosed is of such size, color, contrast, and audibility and is presented so as to be readily noticed and understood. All language and terms, including abbreviations, shall be used in accordance with their common or ordinary usage and meaning.

(6) Dealership addendum--A form that is displayed on a window of a motor vehicle when the dealership installs special features, equipment, parts, or accessories, or charges for services not already compensated by the manufacturer or distributor for work required to prepare a motor vehicle for delivery to a buyer.

(A) The purpose of the addendum is to disclose:

- (i) that it is supplemental;
- (ii) any added feature, service, equipment, part, or accessory, including the retail price, charged and added by the dealership;
- (iii) any additional charge to the selling price such as additional dealership markup; and
- (iv) the total dealer selling price.

(B) The dealership addendum form shall not be deceptively similar in appearance to the Monroney label, as defined by paragraph (14) of this section.

(7) Demonstrator--A new motor vehicle that is currently in the inventory of the automobile dealership and used primarily for test drives by customers and for other purposes designated by the dealership.

(8) Disclosure--Required information that is clear, conspicuous, and accurate.

(9) Distributor Suggested Retail Price (DSRP)--means the total price shown on the Monroney Label as specified by sub-paragraph (D) of paragraph (14) of this section.

(10) Factory executive/official motor vehicle--A new motor vehicle that has been used exclusively by an executive or official of the dealer's franchising manufacturer, distributor, or their subsidiaries.

(11) License holder--Any person required to obtain a license from the department.

(12) Limited rebate--A rebate that is not available to every consumer purchasing or leasing a motor vehicle because qualification for receipt of the rebate is conditioned or restricted in some manner. A rebate conditioned or restricted to purchasers who are residents of the contiguous United States is not a limited rebate.

(13) Manufacturer's Suggested Retail Price (MSRP)--means the total price shown on the Monroney Label as specified by sub-paragraph (D) of paragraph (14) of this section.

(14) Monroney Label--The label required by the Automobile Information Disclosure Act, 15 U.S.C. §§1231 - 1233, to be affixed to the windshield or side window of certain new motor vehicles delivered to the dealer and that contains information about the motor vehicle, including, but not limited to:

(A) the retail price of the motor vehicle suggested by the manufacturer or distributor, as applicable;

(B) the retail delivered price suggested by the manufacturer or distributor, as applicable, for each accessory or item of optional equipment, physically attached to the motor vehicle at the time of its delivery to a dealer, which is not included within the price of the motor vehicle as stated in subparagraph (A) of this paragraph;

(C) the amount charged, if any, to a dealer for the transportation of the motor vehicle to the location at which it is delivered to the dealer; and

(D) the total of the amounts specified pursuant to subparagraphs (A), (B), and (C) of this paragraph.

(15) Online service--A network that connects computer users.

(16) Rebate or cash back--A sum of money applied to the purchase or lease of a motor vehicle or refunded after full payment has been rendered for the benefit of the purchaser.

(17) Savings claim or discount--An offer to sell or lease a motor vehicle at a reduced price, including, but not limited to, a manufacturer's or distributor's customer rebate, a dealer discount, or a limited rebate.

(18) Subsequent violation--Conduct that is the same or substantially the same as conduct the department has previously alleged in an earlier communication to be a violation of an advertising provision.

§215.245. *Availability of Motor Vehicles.*

(a) A dealer may advertise a specific new motor vehicle or line-make of vehicles for sale if the specific motor vehicle or line-make is in the possession of the dealer at the time the advertisement is placed.

(b) If the specific motor vehicle or line-make is not in the possession of the dealer at the time the advertisement is placed, the dealer must clearly and conspicuously disclose that fact in the advertisement and state that the motor vehicle may be obtained from the manufacturer, distributor, or some other source. The advertisement must set forth the number of motor vehicles available at the advertised price, if a price is advertised, at the time the advertisement is placed or the dealer can

show that it has the number of motor vehicles available to meet the reasonable expectable public demand based on prior experience.

(c) If an advertised price pertains to only one specific motor vehicle, then the advertisement must also disclose the motor vehicle's stock number or VIN.

(d) This section does not prohibit general advertising of motor vehicles by a manufacturer, dealer advertising association, or distributor, nor does it prohibit the inclusion of the names and addresses of the dealers selling such motor vehicles in the particular area.

(e) A motor vehicle dealer may advertise a specific used motor vehicle for sale if:

(1) the specific used motor vehicle is in the possession of the dealer at the time the advertisement is placed; and

(2) the title certificate to the used motor vehicle has been assigned to the dealer.

§215.246. *Accuracy.*

Advertisements shall be accurate, clear, and conspicuous. Advertisements shall not be false, deceptive, or misleading. For an internet advertisement, a disclosure may be considered accurate, clear, and conspicuous if:

(1) the viewer highlights, hovers a mouse or cursor over, or otherwise selects certain text or images on a screen that results in an immediate and legible visible disclosure; or

(2) only one click on select text or image(s) is required to view the disclosure; and

(3) the internet advertisement clearly and conspicuously indicates where to hover or click for the disclosure and is in close proximity to the information being disclosed.

§215.249. *Manufacturer's/Distributor's Suggested Retail Price.*

(a) Except as provided by subsection (b) of this section, the suggested retail price of a new motor vehicle advertised by a manufacturer or distributor shall include all costs and charges for the motor vehicle advertised.

(b) The following costs and charges may be excluded if an advertisement described in subsection (a) of this section clearly and conspicuously states the costs and charges are excluded:

(1) destination and dealer preparation charges;

(2) registration, certificate of title, license fees, or an additional registration fee, if any;

(3) taxes; and

(4) other fees or charges that are allowed or prescribed by law.

(c) Except as provided by this subsection, if the price of a motor vehicle is stated in an advertisement placed with local media in the State of Texas by a manufacturer or distributor and the names of the local dealers for the motor vehicles advertised are included in that advertisement, then the price must include all costs and charges for the motor vehicle advertised, including destination and dealer preparation charges. The only costs and charges that may be excluded from the price are:

(1) registration, certificate of title, license fees, or an additional registration fee, if any;

(2) taxes; and

(3) other fees or charges that are allowed or prescribed by law.

§215.250. *Dealer Price Advertising; Savings Claims; Discounts.*

(a) When featuring a sales price of a new or used motor vehicle in an advertisement, the dealer must be willing to sell the motor vehicle for that featured sales price to any retail buyer. The featured sales price shall be the price before the addition or subtraction of any other negotiated items. Destination and dealer preparation charges must be included in the featured sales price.

(b) The only costs and charges that may be excluded from the featured sales price are:

- (1) registration, certificate of title, or license fees;
- (2) taxes; and
- (3) other fees or charges that are allowed or prescribed by law.

(c) A qualification may not be used when featuring a sales price for a motor vehicle such as "with trade," "with acceptable trade," "with dealer-arranged financing," "rebate assigned to dealer," or "with down payment."

(d) Advertising an "internet price," "e-price," or using similar terms that indicate or create the impression that there is a different or unique sales price for an online or internet consumer or transaction is prohibited.

(e) A savings claim or discount offer is prohibited except to advertise a new motor vehicle. No person may advertise a savings claim or discount offer on a used motor vehicle.

(f) Statements such as "up to," "as much as," and "from" shall not be used by a dealer in connection with savings claims or discount offers.

(g) The savings claim or discount offer for a new motor vehicle, when advertised by a dealer, must be the savings claim or discount available to any and all members of the buying public.

(h) If an advertisement includes a savings claim or discount offer, the amount and type of each incentive that makes up the total amount of the savings claim or discount offer must be disclosed.

(1) If a savings claim or discount offer includes only a dealer discount, that incentive must be disclosed as a deduction from the MSRP/DSRP, as applicable. The following are acceptable formats for advertising a dealer discount with and without a sales price.

Figure: 43 TAC §215.250(h)(1)

(2) If a savings claim or discount offer includes only a customer rebate, that incentive must be disclosed as a deduction from the MSRP/DSRP, as applicable. The following are acceptable formats for advertising a customer rebate with and without a sales price.

Figure: 43 TAC §215.250(h)(2)

(3) If a savings claim or discount offer includes both a customer rebate and a dealer discount, the incentives must be disclosed as deductions from the MSRP/DSRP, as applicable. The following are acceptable formats for advertising both a customer rebate and a dealer discount with and without a sales price.

Figure: 43 TAC §215.250(h)(3)

(i) If a savings claim or discount offer includes an option package discount, that discount should be disclosed above, or prior to, the MSRP/DSRP, as applicable, with a total sales price of the motor vehicle before option discounts. Any additional savings or discounts should then be disclosed below the MSRP/DSRP, as applicable. The following are acceptable formats for advertising an option package discount with and without a sales price.

Figure: 43 TAC §215.250(i)

(j) Except as provided herein, the calculation of the featured sales price or featured savings claim or discount may not include a limited rebate. A limited rebate may be advertised by providing the amount of the limited rebate and explaining the conditions or restrictions on qualification for the limited rebate in a statement below the featured sales price or featured savings claim or discount.

Figure: 43 TAC §215.250(j)

(k) In an internet advertisement with multiple limited rebates available on an advertised new motor vehicle, a dealer may display each limited rebate separately allowing a potential buyer to "click" on the limited rebate to view the sales price after deducting the applicable limited rebate or applicable multiple rebates.

Figure: 43 TAC §215.250(k)

(l) If a dealer has added an option that was not obtained from the manufacturer or distributor of the motor vehicle, a dealer discount may not be advertised for that vehicle. If a dealer has added an option obtained from the manufacturer or distributor and disclosed that option and its suggested retail price on a dealership addendum, the dealer may advertise a dealer discount for that motor vehicle if the option is listed, and the difference is shown between the dealer's sales price and the MSRP/DSRP, as applicable, of the vehicle including the option obtained from the manufacturer or distributor.

Figure: 43 TAC §215.250(l)

§215.261. *Manufacturer/Distributor Sales and Wholesale Prices.*

A motor vehicle shall not be advertised for sale in any manner that creates the impression that it is being offered for sale by the manufacturer or distributor of the motor vehicle. An advertisement shall not:

(1) contain terms such as "factory sale," "fleet prices," "wholesale prices," "factory approved," "factory sponsored," "manufacturer sale," or "distributor sale";

(2) use a manufacturer's/distributor's name or abbreviation in any manner calculated or likely to create an impression that the motor vehicle is being offered for sale by the manufacturer or distributor; or

(3) use any other similar terms which indicate sales other than retail sales from the dealer.

§215.270. *Enforcement.*

(a) The department may file a Notice of Department Decision against a license holder alleging a violation of an advertising provision pursuant to Occupations Code, §2301.203, provided the department can show:

(1) that the license holder who allegedly violated an advertising provision has received from the department a notice of an opportunity to cure the violation by certified mail, return receipt requested, in compliance with subsection (b) of this section; and

(2) that the license holder committed a subsequent violation of the same advertising provision.

(b) An effective notice issued under subsection (a)(1) of this section must:

(1) state that the department has reason to believe that the license holder violated an advertising provision and must identify the provision;

(2) set forth the facts upon which the department bases its allegation of a violation; and

(3) state that if the license holder commits a subsequent violation of the same advertising provision, the department will formally file a Notice of Department Decision.

(c) As a part of the cure procedure, the department may require a license holder who allegedly violated an advertising provision to publish a retraction notice to effect an adequate cure of the alleged violation. A retraction notice must:

(1) appear in a newspaper of general circulation in the area in which the alleged violation occurred;

(2) appear in the portion of the newspaper devoted to motor vehicle advertising, if any;

(3) identify the date and the medium of publication, print, electronic, or other, in which the advertising alleged to be a violation appeared; and

(4) identify the alleged violation of the advertising provision and contain a statement of correction.

(d) A cure is made solely for the purpose of settling an allegation and is not an admission of a violation of these rules; Occupations Code, Chapter 2301; or other law.

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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David D. Duncan

General Counsel

Texas Department of Motor Vehicles

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For further information, please call: (512) 465-4208



43 TAC §215.262

STATUTORY AUTHORITY

The repeal 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 the duties of the department; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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 I. PRACTICE AND PROCEDURE FOR HEARINGS CONDUCTED BY THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

43 TAC §§215.301 - 215.303, 215.305 - 215.308, 215.310, 215.311, 215.314 - 215.317

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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◆ ◆ ◆
43 TAC §§215.309, 215.312, 215.313

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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**SUBCHAPTER J. ADMINISTRATIVE
SANCTIONS**

43 TAC §§215.500 - 215.503

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; Occupations Code, §2301.155, which requires the board of the Texas Department of Motor Vehicles to adopt rules necessary or convenient to administer Occupations Code, Chapter 2301; and more specifically, Occupations Code, §2301.266, which authorizes the board to adopt rules applicable to the issuance of duplicate licenses; and Occupations Code, §2301.602, which requires the board to adopt rules to enforce Chapter 2301, Subchapter M; Transportation Code, §503.002 which authorizes the board to adopt rules to administer Transportation Code, Chapter 503; and more specifically, Transportation Code, §503.009, which authorizes the board to adopt rules for procedures concerning contested cases; Transportation Code, §503.061, which requires the board to adopt rules regulating the issuance of dealer's license plates; and Transportation Code, §503.0626 and §503.0631, which require the board to adopt rules necessary to implement and manage the department's temporary tag databases.

CROSS REFERENCE TO STATUTE

Government Code, §2001.039; Occupations Code, Chapter 2301; and Transportation Code, Chapter 503.

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Figure: 43 TAC §215.153(c)(2)(E)

APPENDIX C-1

TEXAS CONVERTER
VEHICLE OWNED BY JOHN DOE CONVERSIONS
THIS VEHICLE TEMPORARILY REGISTERED WITH STATE UNDER PERMIT #

EXPIRES

VIN

CONVERTER'S TEMPORARY TAG

Figure: 43 TAC §215.250(h)(1)

Dealer Discount with Sales Price:

MSRP/DSRP, as applicable	\$20,000
Less Dealer Discount	<u>1,000</u>
Sales Price	\$19,000

Dealer Discount without Sales Price:
"\$1,000 Discount Off MSRP/DSRP"

Figure: 43 TAC §215.250(h)(2)

Customer Rebate with Sales Price:

MSRP/DSRP, as applicable	\$18,000
Less Rebate	<u>500</u>
Sales Price	\$17,500

Customer Rebate without Sales Price:
"\$500 Rebate Off MSRP/DSRP"

Figure: 43 TAC §215.250(h)(3)

Customer Rebate and Dealer Discount with Sales Price:

MSRP/DSRP, as applicable	\$20,000
Less Rebate	500
Less Dealer Discount	<u>500</u>
Sales Price	\$19,000

Customer Rebate and Dealer Discount without Sales Price:
"\$1,000 Savings Off MSRP/DSRP (\$500 Rebate and \$500 Dealer Discount)"

Figure: 43 TAC §215.250(i)

Option Package Discount with Sales Price:	
Total Vehicle Plus Options	\$10,995
Option Package Discount	1,000
MSRP/DSRP, as applicable	9,995
Less Rebate	500
Less Dealer Discount	<u>500</u>
Sales Price	\$8,995

Option Package Discount without Sales Price:
"Total Savings \$2,000 (\$1,000 Option Package Discount; \$500 rebate, and \$500 dealer discount off MSRP/DSRP)"

Figure: 43 TAC §215.250(j)

MSRP/DSRP, as applicable	\$20,000
Less Rebate	1,000
Less Dealer Discount	<u>1,000</u>
Sales Price	\$18,000

FIRST TIME BUYERS RECEIVE
ADDITIONAL \$500 OFF

Figure 43 TAC §215.250(k)

Additional Available Limited Rebates (Click the applicable box or boxes for Sales Price)
See Dealer for Eligibility Terms

- HISD Teachers Receive Additional \$500 Discount
- Active Duty Military Receive Additional \$500 Discount
- Dallas Metro Residents Receive Additional \$500 Discount
- Loyalty Owner Receive Additional \$500 Discount
- "X" Financing Receive Additional \$500 Discount

Sales Price with Selected Discounts \$_____

Figure: 43 TAC §215.250(l)

MSRP/DSRP, as applicable	\$20,000.00
Total Dealer Installed Factory Options	<u>\$1,000.00</u>
Total	\$21,000.00
Less Dealer Discount	<u>\$500.00</u>
Sales Price	\$20,500.00