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**43 TAC §221.12**

**STATUTORY AUTHORITY.**

The repeal is proposed under Transportation Code, §503.002, which authorizes the board of the Texas Department of Motor Vehicles (board) to adopt rules for the administration of Transportation Code; Transportation Code, §1002.001, which authorizes the board to adopt rules necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other Texas laws; and Occupations Code, §2302.051, which authorizes the board to adopt rules necessary to administer Chapter 2302.

**CROSS REFERENCE TO STATUTE.**

Transportation Code, Chapter 1002.

§221.12. *Salvage Vehicle Agent.*

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Texas Department of Motor Vehicles

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

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**SUBCHAPTER C. LICENSED OPERATIONS**

**43 TAC §221.41, §221.54**

**STATUTORY AUTHORITY.**

The amendments and new section are proposed under Transportation Code, §503.002, which authorizes the board of the Texas Department of Motor Vehicles (board) to adopt rules for the administration of Transportation Code; Transportation Code, §1002.001, which authorizes the board to adopt rules necessary and appropriate to implement the powers and duties of the department under the Transportation Code and other Texas laws; and Occupations Code, §2302.051, which authorizes the board to adopt rules necessary to administer Chapter 2302.

**CROSS REFERENCE TO STATUTE.**

Transportation Code, Chapter 1002.

§221.41. *Location Requirements.*

A salvage vehicle dealer [holding the new automobile dealer endorsement, used automobile dealer endorsement, salvage vehicle rebuilder endorsement or salvage pool operator endorsement] must meet the following requirements at each licensed business location and must maintain the following requirements during the entire term of the license.

(1) If the licensed business location is not owned by the license holder, the license holder must maintain a lease that extends through the period for which the license will be issued. The lease agreement must be on an executed lease contract containing at a minimum:

- (A) the names of the lessor and lessee;
- (B) the period of time for which the lease is valid; and

(C) the street address or legal description of the property, provided that if only a legal description of the property is provided, the license holder must attach a statement that the property description in the lease agreement is the street address identified on the application.

(2) Any business location requirement in this subchapter are in addition to any requirements by city ordinance, county rule, or state law.

§221.54. *Criteria for Site Visits.*

In determining whether to conduct a site visit at an active salvage dealer's location, the department will consider whether the dealer has:

- (1) failed to respond to a records request;
- (2) failed to operate from the license location; or
- (3) an enforcement history that reveals failed compliance inspections or multiple complaints with administrative sanctions being taken by the department.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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**SUBCHAPTER B. LICENSING**

**43 TAC §221.17**

The Texas Department of Motor Vehicles (department) proposes amendments to 43 TAC §221.17, regarding recognition of out-of-state licenses of military spouses. These amendments are necessary to implement Senate Bill (SB) 1200, 86th Legislature, Regular Session (2019), which creates new Occupations Code, §55.0041, Recognition of Out-Of-State License of Military Spouse. Section 55.0041 authorizes military spouses to engage in a business or occupation in Texas for which a license is required, without applying for a required Texas license, if the applicable Texas licensing agency determines the military spouse is currently licensed in good standing by a jurisdiction with licensing requirements substantially equivalent to the relevant licensing requirements in Texas.

**EXPLANATION OF PROPOSED AMENDMENTS.**

Senate Bill 1200 requires agencies to adopt rules establishing processes to identify jurisdictions with substantially equivalent licensing requirements and to verify that a military spouse is licensed and in good standing in such jurisdiction. Senate Bill 1200 additionally authorizes an agency, at its discretion, to adopt rules to provide for the issuance of a license to a military spouse who is confirmed to be in good standing in a jurisdiction with substantially equivalent licensing requirements.

Proposed amendments to §221.17 renumber subsections where appropriate. Proposed amendments to §221.17 add subsection (b) to provide that military spouses are required to comply with Occupations Code, §55.0041 and this section to obtain authority to engage in the business or occupation in Texas for which

a license from the department is otherwise required. Proposed new §221.17(b)(1) clarifies that the military spouse must submit documentation to the department to request authorization to engage in a business or occupation in Texas under Occupations Code, §55.0041. This documentation is necessary for the department to know which jurisdiction to contact for verification of the status of the military spouse's license, and to ensure the military spouse meets the qualification requirements of Occupations Code, §55.0041. Proposed new §221.17(b)(2) provides that upon the receipt of a military spouse's notice of intent to engage in a business or occupation for which department requires a license, the department will determine whether the military spouse is currently licensed in good standing in another jurisdiction with substantially equivalent licensing requirements to Texas. Proposed new §221.17(b)(2), subparagraphs (A) and (B), describe the process by which the department will verify that a military spouse is licensed and in good standing in a jurisdiction determined to have substantially equivalent licensing requirements.

Proposed new §221.17(b)(3) implements the discretionary rulemaking authority in SB 1200, specifically new Occupations Code, §55.0041(f), which authorizes a state agency to adopt rules providing for the issuance of a license to a military spouse for whom the agency has confirmed licensure in good standing in a jurisdiction with substantially equivalent licensing requirements. The department's issuance of a license will help clarify that a military spouse authorized to practice a business or occupation in Texas, based on the department's confirmation under this section, is entitled to a license and will be subject to the same requirements for maintaining a license as a licensee who was granted a license under the standard licensure application process.

**FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer, has determined that for each year of the first five years the amendments will be in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. Daniel Avitia, Director of the Motor Vehicle Division, has determined that there will be no measurable effect on local employment or the local economy as a result of the proposal.

**PUBLIC BENEFIT AND COST NOTE.** Mr. Avitia has also determined that, for each year of the first five years the amended section is in effect, public benefits are anticipated. The public benefits anticipated as a result of the proposed amendments include helping military spouses relocating to Texas quickly make the transition to doing business in Texas under their licenses as well as bringing additional qualified individuals into Texas to work in the motor vehicle industry. Mr. Avitia anticipates that there will be no costs to comply with this rule.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by the Government Code, §2006.002, the department has determined that the proposed amendments will not have an adverse economic effect on small businesses, micro-business, and rural. The proposed new amendments do not require small business, micro businesses, or rural communities to comply with any new regulations. Therefore, in accordance with the Government Code, §2006.002, the department is not required to prepare a regulatory flexibility analysis.

**TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit

an owner's right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first five years the proposed amendments are in effect, no government program will be created or eliminated. Implementation of the proposed amendments will not require the creation of new employee positions or elimination of existing employee positions. Implementation will not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. The proposed amendments will not create a new or existing regulation, but will limit an existing regulation to implement SB 1200. Additionally, the proposed amendments do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

**REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on September 23, 2019. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to [rules@txdmv.gov](mailto:rules@txdmv.gov) or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

**STATUTORY AUTHORITY.** The amendments are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; Occupations Code, §2302.051, which provides the board authority to adopt rules as necessary to administer Chapter 2302, Salvage Vehicle Dealers; and more specifically, Occupations Code, §55.0041(e), which provides the department authority to adopt for this rule.

**CROSS REFERENCE TO STATUTE.** Occupations Code, §55.0041 and Chapter 2302.

*§221.17. License Processing for Military Service Members, Spouses, and Veterans.*

(a) The department will process a license, amendment, or renewal application submitted for licensing of a military service member, military spouse, or military veteran in accordance with Occupations Code, Chapter 55.

(b) A military spouse may engage in a business or occupation for which a department issued license is required if the military spouse meets the requirements of Occupations Code, §55.0041 and this section.

(1) To meet the requirements of Occupations Code, §55.0041, a military spouse must submit to the department:

(A) notice of the military spouse's intent to engage in a business or occupation in Texas for which a department issued license is required;

(B) proof of the military spouse's residency in Texas and a copy of the military spouse's military identification card, as required by Occupations Code, §55.0041(b)(2); and

(C) documentation demonstrating that the military spouse is licensed and in good standing in another jurisdiction for the relevant business or occupation.

(2) Upon receipt of the notice and documentation required by paragraphs (1)(B) and (1)(C) of this subsection the department shall:

(A) confirm with the other licensing jurisdiction that the military spouse is currently licensed and in good standing for the relevant business or occupation; and

(B) conduct a comparison of the other jurisdiction's license requirements, statutes, and rules with the department's licensing requirements to determine if the requirements are substantially equivalent.

(3) If the department confirms that a military spouse is currently licensed in good standing in another jurisdiction with substantially equivalent licensing requirements, the department may issue a license to the military spouse for the relevant business or occupation. The license is subject to requirements of this chapter and Occupations Code, Chapter 2302 in the same manner as a license issued under

the standard application process, unless exempted under Occupations Code, Chapter 55.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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