



Texas Department *of* Motor Vehicles  
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# Motor Vehicle Industry Regulation Advisory Committee

9:00 A.M.  
Thursday, December 16, 2021

**AGENDA**  
**MOTOR VEHICLE INDUSTRY REGULATION ADVISORY COMMITTEE MEETING**  
**TEXAS DEPARTMENT OF MOTOR VEHICLES**  
**4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM**  
**AUSTIN, TEXAS 78731**  
**OPEN MEETING VIA**  
**TELEPHONE CONFERENCE CALL\***  
**PURSUANT TO GOVERNMENT CODE §551.125**  
**THURSDAY, DECEMBER 16, 2021**  
**9:00 A.M.**

**THIS MEETING WILL BE HELD REMOTELY VIA TELEPHONE CONFERENCE CALL\***

**THE PUBLIC PHYSICAL LOCATION FOR PUBLIC TO LISTEN TO THE MEETING:**

Texas Department of Motor Vehicles  
4000 Jackson Ave., Building 1, Lone Star Room  
Austin, Texas 78731

Teleconference Instructions:

Phone number for accessing the meeting via phone:

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Event number/Access code: 2464 863 4627

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All agenda items are subject to possible discussion, questions, consideration, and action by the Motor Vehicle Industry Regulation Advisory Committee of the Texas Department of Motor Vehicles (Advisory Committee). Agenda item numbers are assigned for ease of reference only and do not necessarily reflect the order of consideration by the Advisory Committee. A quorum of the Board of the Texas Department of Motor Vehicles (board) may be present at this meeting for information-gathering purposes and discussion. However, board members will not vote on any Advisory Committee agenda items, nor will any board action be taken.

**1. CALL TO ORDER**

Roll Call and Establishment of Quorum

## **2. DISCUSSION, BRIEFING, AND ACTION ITEMS**

- A. Implementation Plan for Advisory Committee Recommendations Regarding House Bill 3927; Maximum Tag Limits
  - i. Presentation by TxDMV Staff regarding House Bill 3927; Maximum Tag Limits Rule Proposal and Public Comments (BRIEFING AND DISCUSSION)
  - ii. Recommendations of Advisory Committee for Presentation to the Board regarding House Bill 3927; Maximum Tag Limits Rule Proposal and Public Comments (DISCUSSION AND ACTION ITEM)
- B. Pre-Licensing Process for Motor Vehicle Dealers related to Applicant Verification Processes including Fingerprinting and Location Verification
  - i. Presentation by TxDMV Staff regarding Pre-Licensing Process related to Applicant Verification Processes for Motor Vehicle Dealers (BRIEFING AND DISCUSSION)
  - ii. Presentation by TxDMV Staff and Texas Office of Consumer Credit Commissioner (OCCC) regarding Applicant Licensing Verification Using Fingerprinting (BRIEFING AND DISCUSSION)
  - iii. Recommendations of Advisory Committee to the Department regarding Pre-Licensing Process for Motor Vehicle Dealers related to Applicant Verification Processes including Fingerprinting and Location Verification (DISCUSSION AND ACTION ITEM)

## **3. PUBLIC COMMENT**

## **4. ADJOURNMENT**

The Advisory Committee will allow an open comment period to receive public comment on any agenda item or other matter that is under the jurisdiction of the Advisory Committee. No action will be taken on matters that are not otherwise part of the agenda for the meeting. For subjects that are not otherwise part of the agenda for the meeting, Advisory Committee members may respond in accordance with Government Code Section 551.042 and consider referring the matter to the board.

If you want to comment on any agenda item (including an open comment under Item #3), you must send an email to [GCO\\_General@txdmv.gov](mailto:GCO_General@txdmv.gov) with one of the following prior to the agenda item being taken up by the Advisory Committee:

1. a completed registration form (available on the TxDMV webpage for the Board and other public meetings: <https://www.txdmv.gov/about-us/txdmv-board-meetings>); or
2. the following information:
  - a. the agenda item you wish to comment on;
  - b. your name;
  - c. your address (optional), including your city, state, and zip code; and
  - d. who you are representing.

You must wait for the presiding officer to call on you before you verbally make your comment. Each speaker will be limited to three minutes, and time allotted to one speaker may not be reassigned to another speaker.

Agenda items may be presented by the named presenters or other Advisory Committee members.

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than two days in advance, so that appropriate arrangements can be made. Contact David Richards by telephone at (512) 465-1423.

I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements.

CERTIFYING OFFICIAL: Tracey Beaver, General Counsel, (512) 465-5665.



## House Bill (HB) 3927 Briefing Document – Implementation of Temporary Tags Maximum Limits

### Overview

House Bill (HB) 3927 has authorized TxDMV to establish the maximum number of temporary tags that a dealer or converter may obtain in a calendar year. The bill provides the department necessary tools to reduce the fraudulent issuance of temporary tags and when appropriate, stop the fraudulent activity by preventing access to the temporary tag database. Setting maximum temporary tag limits requires the department to carefully balance the need to combat fraud, while ensuring lawfully operating dealers and converters can continue to conduct business efficiently and minimizing any administrative burden for both license holders and the department.

During their September 14, 2021 meeting, The Motor Vehicle Industry Regulatory Advisory Committee (MVIRAC) voted to require the department to present proposed rules implementing all aspects of HB 3927. The proposed draft rules were presented to the Board on October 29, 2021. The Board approved the proposed rule package for publication with the caveat that the advisory committee reconvene after the public comment period to review the proposed rules and any public comments addressing Chapters §215.152 and §215.158, establishing the maximum number of temporary tags that a dealer or converter may issue.

When drafting the proposed rules and developing the metrics to set maximum tag limits, HB 3927 required the department to consider several factors including:

- Time in operation
- Sales data
- Expected growth
- Expected market changes in the dealer's or converter's market
- Temporary conditions that affect sales
- Any other information the TxDMV considers relevant

The bill also allows a dealer or converter to request additional temporary tags from the department if the dealer or converter demonstrates a need.

### Methodology for Setting Maximum Limits

The department developed separate methodologies to establish temporary tag limits for existing dealers and converters, as well as new licensees. The formula used for existing dealers and converters is based on data from the department's various automated systems. Using the available data and bill requirements, the department developed a formula based on the actual number of temporary tags issued by each dealer or converter.

The following identifies each variable used in the formula and the considerations of each:

- Temporary Tag Data
  - to identify the maximum temporary tags issued by the dealer or converter from previous fiscal years,
  - includes in-state buyer's temporary tags and out-of-state buyer's temporary tags to account for out-of-state sales;
- Title Transaction Data



- to determine the maximum title transactions processed for the dealer from previous fiscal years for comparison to the maximum buyer's temporary tags issued;
- Years in Operation
  - the number of years the dealer or converter has been licensed with the department to allow for an annual increase in tag allotment as years in operation increase; and
- Growth Rate
  - the actual, statewide annual growth rate specific to each temporary tag type to account for additional expected growth.

By using this information, the maximum limits established per dealer or converter are based on actual temporary tag issuance for each entity, while still providing flexibility for dealers and converters to operate efficiently without having to request additional temporary tags from the department.

Temporary tag limits for new dealers and converters required an alternative methodology since the department does not have data on actual temporary tag issuance for newly licensed entities. As a result, the department evaluated data trends and considered input from the Motor Vehicle Industry Regulation Advisory Committee (MVIRAC) in determining the appropriate initial allotment of temporary tags for license holders. The department established three specific groups to accommodate the absence of historical data and account for the various statuses of applicants: newly licensed entities; existing licensees moving to a new location; and existing licensees opening an additional location.

A new dealer or converter would remain in the identified allotment group until their license has been renewed and the department is able to use their individual sales and transaction data to apply the formula for established dealers.

The following identifies each group and the allotted number of temporary tags:

- Franchise Dealers
  - 600 temporary tags per each tag type
- Independent Dealers
  - 300 temporary tags per each tag type
- Converters
  - 600 temporary tags

Existing dealers or converters moving to a new location would maintain the temporary tag allotment established at the previous location.

Existing dealers or converters opening an additional location would receive a temporary tag allotment based on the allotment provided to existing locations.

1 Thank you.

2 MR. BACARISSE: All right. Very good.

3 All right. I'm sorry, I just want to make sure  
4 we were doing it right, so go ahead. You can put it out  
5 there and it's up to Member Omumu.

6 MS. GILLMAN: My friendly amendment would be to  
7 approve for publication the rule, the proposed rule, the  
8 formula, with a caveat that after comments are received  
9 within that 30-day period that the advisory committee meet  
10 again and that before a final formula is derived and  
11 brought to the board -- before the next meeting that not  
12 only have the comments been received but there's been  
13 another advisory committee meeting allowing the staff to  
14 share the final or any modified version before coming to  
15 the board.

16 That's my friendly amendment, is before coming  
17 to this board again once that the comments received and  
18 that another advisory committee meeting to formulate a  
19 formula that everyone has seen before this board meets  
20 again.

21 MR. BACARISSE: Member Omumu, are you  
22 comfortable with all that?

23 MS. OMUMU: Mr. Chairman, yes, I accept the  
24 friendly amendment. Thank you.

25 MR. BACARISSE: Okay. So now what we're

1 suggesting -- I just want to make sure that I'm going to  
2 say this right -- and you need to correct me if I'm not  
3 saying it correctly, okay, Member Omumu and Member  
4 Gillman.

5 The newly restated motion would be to approve  
6 agenda 6 with the instruction that in this comment period  
7 of 30 days the advisory must meet in some way,  
8 electronically, or in person --

9 MS. GILLMAN: After the 30 days.

10 MR. BACARISSE: -- after the 30 days, and have  
11 input into this process? Am I stating things correctly,  
12 members?

13 MS. OMUMU: Yes, Mr. Chairman, you are. And  
14 along that same vein, the proposal would now be to approve  
15 both sections, 215.152 and 215.158 with those conditions  
16 that they will be brought back to the advisory committee  
17 for approval before the issue came back -- or the rule  
18 proposal came back to the board.

19 MR. BACARISSE: Okay. Did you get that, Ms.  
20 Beaver?

21 MS. BEAVER: Tracey Beaver, general counsel,  
22 for the record.

23 Yes, the motion was amended for the proposal to  
24 be published in the *Texas Register* for a 30-day comment  
25 period, and then after the comments are received at the

1 close of the comment period, it would go before the  
2 advisory committee for consideration and then back to the  
3 board for adoption consideration.

4 And if the board would like to second that new  
5 motion, then that would be the next thing.

6 MR. BACARISSE: Did she restate it correctly,  
7 Member Omumu? Was that satisfactory to you?

8 MS. OMUMU: Yes, Mr. Chairman, it's  
9 satisfactory. Thank you.

10 MR. BACARISSE: Is there a second to this  
11 motion.

12 MR. SCOTT: Second.

13 MR. BACARISSE: Member Scott seconds.

14 Any discussion on this new motion?

15 MR. ALVARADO: Just to confirm.

16 MR. BACARISSE: Yes, sir, Member Alvarado.

17 MR. ALVARADO: We are now approving agenda item  
18 6 with the additional layer of the advisory committee  
19 meeting after the 30-day period to give additional input  
20 of the comments.

21 MR. BACARISSE: That's what we now have before  
22 us, yes.

23 MR. ALVARADO: I second that.

24 MR. BACARISSE: Okay. That's been seconded,  
25 Member Scott seconded.

1 MR. ALVARADO: Okay.

2 MR. BACARISSE: So may I call the question then  
3 on this agenda item? I'd like to vote on this agenda item  
4 6. All in favor -- I'll call the roll or you just tell me  
5 how you vote.

6 Member Alvarado?

7 MR. ALVARADO: Aye.

8 MR. BACARISSE: Member Gillman?

9 MS. GILLMAN: Aye.

10 MR. BACARISSE: Member McRae?

11 MS. McRAE: Aye.

12 MR. BACARISSE: Member Omumu?

13 MS. OMUMU: Aye.

14 MR. BACARISSE: Member Ramirez?

15 MR. RAMIREZ: Aye.

16 MR. BACARISSE: Member Scott?

17 MR. SCOTT: Aye.

18 MR. BACARISSE: And I, Chairman Bacarisse, vote  
19 aye as well. Okay, thank you.

20 May suggest we take about a five-minute break,  
21 maybe a long five, maybe seven minutes. Thank you all.

22 (Whereupon, a brief recess was taken.)

23 MR. BACARISSE: It is 10:20 in the morning, and  
24 I'm calling the meeting back to order. We are on agenda  
25 item number 7, and if I may turn it over to Corrie



1 issuance, yet balances the business needs of legitimate dealers and converters. Implementation of setting  
2 the maximum tag limits under HB 3927 involves programming to multiple department systems, which the  
3 department intends to leverage to also identify potential fraudulent tag issuance earlier even though the  
4 possible volume will be limited for an individual dealer or converter.

5         The department recognizes that implementing fraud prevention and detection mechanisms  
6 should not adversely impact dealers or converters that are not fraudulently issuing temporary tags. The  
7 system proposed by the department is intended to provide dealers or converters with the number of  
8 temporary tags they need to operate without having to request additional tags. Also, by using existing  
9 department systems, the proposal adds no additional costs for a dealer or converter and creates no new  
10 required activities or reports for dealers.

11         The department also recognizes all dealers and converters are not the same. As such, the proposal  
12 considers actual temporary tag issuance specific to each established dealer and converter as a minimum  
13 allotment and then provides an increase based on each dealer's and converter's licensing tenure, as well  
14 as an increase for growth, resulting in a maximum number of temporary tags unique to each dealer and  
15 converter.

16         New licensees have been considered as well, and the proposal provides an initial allotment of  
17 temporary tags based on the type of dealer and whether the dealer or converter is a first-time licensee,  
18 existing licensee moving locations, or an existing licensee establishing an additional location to ensure a  
19 maximum tag limit appropriate to each situation.

20         The following paragraphs address the amendments in this proposal.

21         The amendment to §215.152(b)(1) is a response to fraudulent activity and clarifies that  
22 information entered to obtain a temporary tag must be true and accurate.

1           The amendments to §215.152 add new subsections (c)-(l) to establish the maximum number of  
2 temporary tags that may be allotted to a dealer or converter. In summary, §215.152(c)-(e) implement  
3 Transportation Code §503.0632(b) and establish the calculated number of temporary tags that a dealer  
4 or converter past its initial license period will receive from the department with no dealer or converter  
5 action. Section 215.152(f) establishes a maximum tag limit for newly licensed dealers and converters.  
6 Section 215.152(i) creates the process for dealers to request additional tags. Section 215.152(g), (h), and  
7 (j)-(l) address general matters related to the maximum number of temporary tags. Section 215.2 defines  
8 terms used in Chapter 215.

9           Section 215.152(c) establishes the calculation for determining the number of buyer's temporary  
10 tags a dealer will receive. Section 215.152(c)(1) creates the base of the calculation based on activity  
11 related to sales implementing §503.0632(b)(1)(B). The base starts with the greater of the dealer's highest  
12 number of in-state buyer temporary tags issued or title transactions recorded in the Registration and Title  
13 System (RTS) over the prior three fiscal years. The department is using state fiscal years, because it will  
14 allow the department time to collect data, determine the multipliers, test the system, and be ready to  
15 release the maximum limits prior to the January 1st calendar year implementation date. All months will  
16 be counted towards the maximum limit although a lag will exist. To limit potential fraudulent action, the  
17 department will limit the number of temporary tags issued in the calculation to twice the number of RTS  
18 transactions. The department then adds to the in state total the number of out-of-state temporary tags  
19 issued to set the base.

20           Section 215.152(c)(2) then multiplies the base total by a time in business factor to implement  
21 §503.0632(b)(1)(A). The anticipated factor is based on the percentage of years the dealer has been in  
22 business over the last 10 years. For example, a dealer that has been in business for five years would receive

1 a 50 percent addition to the base. Thus, a hypothetical dealer that had a calculated base of 100 tags and  
2 was in business for five years would have allotted 150 buyer's tags.

3 Section 215.152(c)(3) then multiplies the base total after the addition of the time in business  
4 factor by a determined market growth rate factor of not less than zero to implement §503.0632(b)(1)(C).  
5 The factor is based on the percentage growth in the market over the prior three fiscal years. For example,  
6 the department's current analysis beginning in 2018 indicates a 9.7 percent growth rate. Thus, the  
7 hypothetical dealer would have an additional 15 temporary tags for a total of 165, which is 65 more than  
8 the dealer used in any of the three prior years.

9 Section 215.152(c)(4) is used here as a remedy if the standard formula is not working based on  
10 sudden changes in the market to implement §503.0632(b)(2)-(4). This provision allows the department to  
11 make adjustments to increase the number of buyer's temporary tags to all dealers in the state, or a more  
12 limited area, if the standard formula is lagging behind. For example, a sudden increase in sales after a  
13 slow market period may require a separate temporary increase in the number of buyer's temporary tags  
14 for all dealers until the increased sales data can be incorporated into the standard calculation. Remedies  
15 for individual dealer situations are addressed in §215.152(i).

16 Section 215.152(d) and (e) apply to dealer and converter temporary tags. The subsections are  
17 similar in construction to the §215.152(c) in that the subsections use prior temporary tag data to establish  
18 a base and then increase the allotment with multipliers based on time in business and growth rate. The  
19 growth rate is based on the actual growth in the use of dealer or converter tags. Also, §215.152(d) and (e)  
20 have a similar provision to §215.152(c)(4) to make adjustments to a rapidly changing market.

21 Section 215.152(f) establishes the number of allotted buyer, dealer, and converter tags for new  
22 licensees. The allotment is by an annual block, because new dealers or converters will have no prior  
23 history to establish a base or significant time in operation to establish a multiplier. The annual block

1 allotment is not subject to the time in operation or annual growth multiplier. The period of allotment will  
2 run through the dealer's or converter's first two-year license period and end the following December 31st.  
3 This will provide information to calculate a base, a three-year multiplier, and the annual growth rate  
4 multiplier. However, even with this information, many dealers and converters may see a significant drop  
5 in the number allotted temporary tags depending on the base number.

6 Section 215.152(g) and (h) are added to avoid the situation under §215.152(f) in which an existing  
7 dealer or converter could inflate the number of temporary tags they are allotted or be limited in its ability  
8 to expand. Section 215.152(g) provides that an existing dealer or converter that is moving its operations  
9 from one location to a different location will continue with its allotment of temporary tags. The dealer or  
10 converter will not be issued a block allotment under subsection (f). Section 215.152(h) provides that an  
11 existing dealer or converter opening an additional location will receive an allotment based on the  
12 allotment provided to existing locations. Section 215.152(g) and (h) do not limit a dealer or converter from  
13 requesting additional temporary tags under §215.152(i).

14 Section 215.152(i) establishes the process under which a dealer or converter may request  
15 additional temporary tags as required by new Transportation Code §503.0632(d). Section 215.152(i)  
16 establishes that the dealer may request additional tags after 50 percent of the calendar allotment have  
17 been used. Also, requests will be made through the eLICENSING system.

18 Section 215.152(i)(1) establishes that the dealer or converter is required to demonstrate that the  
19 need for additional temporary tags results from business operations, including anticipated needs, as  
20 required by §503.0632(c), and lists some types of information that may be presented, including evidence  
21 of factors under §503.0632(b) related to the individual license holder. The list is not exclusive. Section  
22 215.152(i)(2) establishes that the department will consider the information provided but may also  
23 consider any additional information that the department considers to be relevant to making a

1 determination. As in §215.152(i)(1), a non-exclusive list of information that the department may consider  
2 is listed in §215.152(i)(2).

3 Section 215.152(i)(3) establishes that the department is not bound to issue only the number of  
4 additional temporary tags requested by the dealer or converter and may issue more or less than the  
5 request. A decision to grant the request on whole or in part does not constitute a denial of the request.  
6 Section 215.152(i)(4) establishes that a denied request may be appealed to the director of the  
7 department's Motor Vehicle Division. The director's decision is final. Section 215.152(i)(5) establishes that  
8 once a denial is final, a dealer or converter may only submit a subsequent request for additional temporary  
9 tags during that calendar year if the dealer or converter is able to provide additional information not  
10 considered in the prior request.

11 Section 215.152(j) provides that an allotment change under §215.152(i) does not result in a  
12 change to the base allotment in future years. That number will be calculated under §215.152(c), (d) or (e),  
13 or allotted under §215.152(f). Ultimately if the additional number of temporary tags are used, that  
14 number will become the base. Section 215.152(k) provides that the department will continue to monitor  
15 for temporary tag usage that suggests that misuse or fraud has occurred as described in Transportation  
16 Code §§503.038, 503.0632(f), or 503.067. Section 215.152(l) provides that unused temporary tags do not  
17 roll over to subsequent years. The base calculations will be done annually.

18 The amendments to §215.158(d) address the changes in Transportation Code §503.0626 and  
19 §503.0631 that removed the requirement for the temporary tag databases to be within the department's  
20 Vehicle Titles and Registration Division. The department has assigned the function to the department's  
21 Motor Vehicle Division. Otherwise, the proposal does not change the process for determining preprinted  
22 internet-down tags. The amendments to §215.158 also add new subsection (e), which clarifies that a  
23 preprinted internet-down tag will apply against the dealer's maximum number of allotted buyer's tags

1 when the preprinted tag is entered into the temporary tag database as a sale. Preprinting the tags will not  
2 reduce the maximum number of allotted buyer's tags.

3 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,  
4 has determined that for each year of the first five years the proposed amendments and new section are  
5 in effect, there will be no significant fiscal impact to the state or local governments as a result of the  
6 enforcement or administration of the proposal. There will be no significant costs to the department and  
7 the proposed amendments will have no significant impact on revenue collections.

8 Monique Johnston, Director of the Motor Vehicle Division, has determined that there will be no  
9 measurable effect on local employment or the local economy as a result of the proposal, because the  
10 overall number of motor vehicle sales should not be affected.

11 **PUBLIC BENEFIT AND COST NOTE.** Ms. Johnston has also determined that, for each year of the first five  
12 years the proposed rules are in effect, the public benefits include establishing rules to implement HB 3927  
13 and limiting the criminal activity of a small subset of dealers who fraudulently obtain and sell tens of  
14 thousands of temporary tags to persons seeking to engage in violent criminal activity, including armed  
15 robbery, human trafficking, and assaults on law enforcement; or to criminally operate uninsured and  
16 uninspected vehicles as a hazard to Texas motorists and the environment. In addition, the department's  
17 calculations indicate that the numbers will be generous so as not to impede commerce by long time  
18 dealers and converters or new entrants to the marketplace; or burden license holder and department  
19 resources with unnecessary reviews. The proposal is to limit the unauthorized sale of temporary tags and  
20 should not limit or affect a license holder's ability to sell motor vehicles or otherwise conduct legitimate  
21 business.

22 Ms. Johnston anticipates that the proposal will create no additional costs for license holders. A  
23 license holder is not required to purchase any special equipment, employ additional persons, or prepare

1 additional reports. The department will gather the information and make the necessary calculations to  
2 determine the maximum number of temporary tags each dealer or converter will be allotted. To the  
3 extent a request for additional tags is necessary, the department expects the matter can be handled via  
4 the eLICENSING system with primarily the presentation of sales information that shows the tags have  
5 been legitimately issued and that more are needed. This information should be existing and readily  
6 available to the license holder and the use of the eLICENSING system will expedite the review process by  
7 the department.

8 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** The cost analysis in the  
9 Public Benefit and Cost Note section of this proposal has determined that proposed §215.152 and  
10 §215.158 will not result in additional costs for license holders, including any small businesses, micro-  
11 businesses, or rural communities. Therefore, the department is not required to prepare a regulatory  
12 flexibility analysis under Government Code §2006.002.

13 Even if a cost were determined, the department has tried to minimize cost to license holders. The  
14 requirements in §215.152 are designed to be flexible and without a requirement that a license holder  
15 incur costs from the purchase of special equipment, employment of additional persons, or preparation of  
16 additional reports. In addition, the proposal is not to limit or affect a license holder's ability to sell motor  
17 vehicles.

18 To the extent the department was to perform a regulatory flexibility analysis under Government  
19 Code §2006.002, the department would consider the alternatives of not adopting the amendments to  
20 §215.152, exempting small and micro-business license holders from the amendments to §215.152, and  
21 adopting a limited version of §215.152 for small and micro-business license holders. The department  
22 would reject all three options. It has been small and micro-business license holders that have misused the  
23 temporary tag database and issued the tens of thousands of illegal tags. Further, the requirements of

1 §215.152 are minimal. The department, after considering the purpose of the authorizing statutes, does  
2 not believe it is legal or feasible to waive or modify the requirements of proposed §215.150 for a small or  
3 micro-business license holder.

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

8 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first  
9 five years the proposed new section is in effect, the proposed rule:

10 will not create or eliminate a government program;

11 will not require the creation of new employee positions or the elimination of existing employee  
12 positions;

13 will not require an increase or decrease in future legislative appropriations to the department;

14 will not require an increase or decrease in fees paid to the department;

15 will create new regulation establishing the process for determining the maximum number of  
16 temporary tags that may be allocated to dealers and converters and the procedures for requesting  
17 additional tags;

18 will not expand existing regulations;

19 will not repeal existing regulations;

20 will not increase or decrease the number of individuals subject to the rule's applicability; and

21 will not positively or adversely affect the Texas economy.

22 **REQUEST FOR PUBLIC COMMENT.**

1 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on December  
2 13, 2021. A request for a public hearing must be sent separately from your written comments. Send  
3 written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General  
4 Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is  
5 held, the department will consider written comments and public testimony presented at the hearing.

6 **STATUTORY AUTHORITY.** The department proposes amendments to §§215.152 and 215.158 under  
7 Transportation Code §§503.002, 503.0632, and 1002.001.

8 Transportation Code §503.002 authorizes the department to adopt rules to administer  
9 Transportation Code Chapter 503.

10 Transportation Code §503.0632(a) provides that the department by rule may establish the  
11 maximum number of temporary tags that a dealer or converter may obtain in a calendar year under  
12 §§503.062, 503.0625, or 503.063.

13 Transportation Code §1002.001 authorizes the board to adopt rules that are necessary and  
14 appropriate to implement the powers and the duties of the department.

15 **CROSS REFERENCE TO STATUTE.** Transportation Code §§503.062, 503.0625, 503.063, and 503.0632(a)-  
16 (e).

17

18 **TEXT.**

19

#### **Subchapter E. General Distinguishing Numbers**

20

#### **43 TAC §215.152 and 215.158**

21

22 §215.152. Obtaining Numbers for Issuance of Temporary Tags.

1 (a) A dealer, a federal, state, or local governmental agency, or a converter is required to have  
2 internet access to connect to the temporary tag databases maintained by the department.

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

6 (1) enter in the temporary tag database true and accurate information about the vehicle,  
7 dealer, converter, or buyer, as appropriate; and

8 (2) obtain a specific number for the temporary tag.

9 (c) The department will inform each dealer annually of the maximum number of buyer's  
10 temporary tags the dealer is authorized to issue during the calendar year under Transportation Code  
11 §503.0632. The number of buyer's temporary tags allocated to each dealer by the department will be  
12 determined based on the following formula:

13 (1) Sales data determined from the department's systems from previous three fiscal  
14 years. A dealer's base number will contain the greater of:

15 (A) the maximum number of in-state buyer's temporary tags issued during  
16 previous fiscal years, or

17 (B) the maximum number of title transactions processed through the Registration  
18 and Title System during previous fiscal years; and

19 (C) the addition of the maximum number of out-of-state buyer's temporary tags  
20 issued during previous fiscal years; except

21 (D) the dealer's base number will be limited to an amount that is not more than  
22 two times the number of title transactions identified in subparagraph (B) of this paragraph.

23 (2) a multiplier based on the dealer's time in operation; and

1                   (3) the total value of paragraphs (1) and (2) of this subsection, multiplied by the expected  
2 annual growth rate percentage, not less than zero, to determine the buyer's temporary tag allotment;  
3 and in addition:

4                   (4) the department may increase the determined allotment of buyer's temporary tags for  
5 dealers in the state, in a geographic or population area, or in a county, based on:

6                                   (A) changes in the market;

7                                   (B) temporary conditions that may affect sales; and

8                                   (C) any other information the department considers relevant.

9                   (d) The department will inform each dealer annually of the maximum number of agent temporary  
10 tags and vehicle specific temporary tags the dealer is authorized to issue during the calendar year under  
11 Transportation Code §503.0632. The number of agent temporary tags and vehicle specific temporary tags  
12 allocated to each dealer by the department, for each tag type, will be determined based on the following  
13 formula:

14                   (1) dealer temporary tag data for agent temporary tags and vehicle specific temporary  
15 tags determined from the department's systems from previous three fiscal years. A dealer's base number  
16 will contain the maximum number of dealer temporary tags issued during previous fiscal years;

17                                   (2) a multiplier based on the dealer's time in operation; and

18                   (3) the total value of paragraphs (1) and (2) of this subsection, multiplied by the expected  
19 annual growth rate percentage, not less than zero, to determine the dealer's temporary tag allotment;  
20 and in addition:

21                   (4) the department may increase a dealer's allotment of agent temporary tags and vehicle  
22 specific temporary tags for dealers in the state, in a geographic or population area, or in a county, based  
23 on:

- 1                   (A) changes in the market;  
2                   (B) temporary conditions that may affect sales; and  
3                   (C) any other information the department considers relevant.

4           (e) The department will inform each converter annually of the maximum number of temporary  
5 tags the converter is authorized to issue during the calendar year under Transportation Code §503.0632.  
6 The number of temporary tags allocated to each converter by the department will be determined based  
7 on the following formula:

8                   (1) converter temporary tag data determined from the department's systems from  
9 previous three fiscal years. A converter's base number will contain the maximum number of converter  
10 temporary tags issued during previous fiscal years;

11                   (2) A multiplier based on the converter's time in operation; and

12                   (3) the total value of paragraphs (1) and (2) of this subsection, multiplied by the expected  
13 annual growth rate percentage, not less than zero, to determine the converter's temporary tag allotment.

14                   (4) The department may increase a converter's allotment of converter temporary tags for  
15 converters in the state, in a geographic or population area, or in a county, based on:

16                               (A) changes in the market;

17                               (B) temporary conditions that may affect sales; and

18                               (C) any other information the department considers relevant.

19           (f) A dealer or converter that is licensed after the commencement of a calendar year shall be  
20 authorized to issue the number of temporary tags allotted in this subsection prorated on all or part of the  
21 remaining months until the commencement of the calendar year after the dealer's or converter's initial  
22 license expires. The allocations shall be as determined by the department in granting the license, but not  
23 more than:

1                   (1) 600 temporary tags for a franchised dealer per each tag type, buyer's temporary tags,  
2 agent temporary tags, and vehicle specific tags;

3                   (2) 300 temporary tags for a nonfranchised dealer per each tag type, buyer's temporary  
4 tags, agent temporary tags, and vehicle specific tags; and

5                   (3) A converter will be allocated 600 temporary tags.

6                   (g) An existing dealer or converter that is moving its operations from one location to a different  
7 location will continue with its allotment of temporary tags and not be allocated temporary tags under  
8 subsection (f) of this section.

9                   (h) An existing dealer or converter opening an additional location will receive a maximum  
10 allotment based on the allotment provided to existing locations.

11                   (i) After using 50 percent of the allotted maximum number of temporary tags, a dealer or  
12 converter may request an increase in the number of temporary tags by submitting a request in the  
13 department's eLICENSING system.

14                   (1) The dealer or converter must provide information demonstrating the need for  
15 additional temporary tags results from business operations, including anticipated needs, as required by  
16 §503.0632(c). Information may include documentation of sales and tax reports filed as required by law,  
17 information of anticipated need, or other information of the factors listed in §503.0632(b).

18                   (2) The department shall consider the information presented and may consider  
19 information not presented that may weigh for or against granting the request that the department in its  
20 sole discretion determines to be relevant in making its determination. Other relevant information may  
21 include information of the factors listed in §503.0632(b), the timing of the request, and the applicant's  
22 temporary tag activity.

1                   (3) The department may allocate a lesser or greater number of additional temporary tags  
2 than the amount requested by the dealer or converter. Allocation of a lesser or greater number of  
3 additional temporary tags is not a denial of the request.

4                   (4) If a request is denied, a dealer or converter may appeal the denial to the Director of  
5 the Motor Vehicle Division whose decision is final.

6                   (5) Once a denial is final, a dealer or converter may only submit a subsequent request for  
7 additional temporary tags during that calendar year if the dealer or converter is able to provide additional  
8 information not considered in the prior request.

9                   (j) A change in the allotment under subsection (i) of this section does not create a dealer or  
10 converter base for subsequent year calculations.

11                   (k) The department may at any time initiate an enforcement action against a dealer or converter  
12 if temporary tag usage suggests that misuse or fraud has occurred as described in Transportation Code  
13 §§503.038, 503.0632(f), or 503.067.

14                   (l) Unused dealer or converter tag allotments from a calendar year do not roll over to subsequent  
15 years.

16  
17 §215.158. General Requirements and Allocation of Preprinted Internet-down Temporary Tag Numbers.

18                   (a) The dealer, or a federal, state, or local governmental agency, is responsible for the safekeeping  
19 of preprinted Internet-down temporary tags and shall store them in a secure place, and promptly destroy  
20 any expired tags. The dealer, or a federal, state, or local governmental agency shall report any loss, theft,  
21 or destruction of preprinted Internet-down temporary tags to the department within 24 hours of  
22 discovering the loss, theft, or destruction.

1 (b) A dealer, or a federal, state, or local governmental agency, may use a preprinted Internet-  
2 down temporary tag up to 12 months after the date the preprinted Internet-down temporary tag is  
3 created. A dealer, or a federal, state, or local governmental agency, may create replacement preprinted  
4 Internet-down temporary tags up to the maximum allowed, when:

5 (1) a dealer, or a federal, state, or local governmental agency, uses one or more  
6 preprinted Internet-down temporary tags and then enters the required information in the temporary tag  
7 database after access to the temporary tag database is again available; or

8 (2) a preprinted Internet-down temporary tag expires.

9 (c) The number of preprinted Internet-down temporary tags that a dealer, or federal, state, or  
10 local governmental agency, may create is equal to the greater of:

11 (1) the number of preprinted Internet-down temporary tags previously allotted by the  
12 department to the dealer or a federal, state, or local governmental agency;

13 (2) 30; or

14 (3) 1/52 of the dealer's, or federal, state, or local governmental agency's, total annual  
15 sales.

16 (d) For good cause shown, a dealer, or a federal, state, or local governmental agency, may obtain  
17 more than the number of preprinted Internet-down temporary tags described in subsection (c) of this  
18 section. The director of the Motor Vehicle Division [~~Vehicle Titles and Registration Division~~] of the  
19 department or that director's delegate may approve, in accordance with this subsection, an additional  
20 allotment of preprinted Internet-down temporary tags for a dealer, or a federal, state, or local  
21 governmental agency, if the additional allotment is essential for the continuation of the dealer's, or a  
22 federal, state, or local governmental agency's, business. The director of the Motor Vehicle Division  
23 [~~Vehicle Titles and Registration Division~~] of the department, or a federal, state, or local governmental

1 agency, or that director's delegate will base the determination of the additional allotment of preprinted  
2 Internet-down temporary tags on the dealer's, or a federal, state, or local governmental agency's, past  
3 sales, inventory, and any other factors that the director of the Motor Vehicle Division [~~Vehicle Titles and~~  
4 ~~Registration Division~~] of the department or that director's delegate determines pertinent, such as an  
5 emergency. A request for additional preprinted Internet-down temporary tags must specifically state why  
6 the additional preprinted Internet-down temporary tags are necessary for the continuation of the  
7 applicant's business.

8 (e) Preprinted Internet-down temporary tags created under subsection (c) of this section apply to  
9 the maximum tag limit established in §215.152 of this title (relating to Obtaining Numbers for Issuance of  
10 Temporary Tags) when the preprinted tag is entered into the temporary tag database as a sale.

11

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

14 Issued at Austin, Texas, on October 29, 2021.

15

16

17

/s/ Tracey Beaver  
Tracey Beaver, General Counsel

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Friday, November 12, 2021 4:03 PM  
**To:** Zz - Resource - GCO\_Rules  
**Subject:** Paper plates

**ATTENTION: This email originated from outside of TxDMV. Malicious software, such as viruses, worms, and ransomware can be transmitted via email attachments and links. Do not click any links or open any attachments unless you recognize the sender and have confirmed the content is safe.**

I read an article about dealers being able to issue thousands upon thousands of temporary tags and I am truly appalled that it has gone on so long. This puts so many of us in danger on the roads we pay for. It puts our law enforcement at even greater risk. If we don't support our officers and do something to back them up we may not have many left. Allowing dealers to issue 900 per dealer is not going to stop these criminals. They will just keep making up fraudulent accounts. There needs to be fingerprints and background checks for these dealers instead of just blindly issuing them to any Tom, Dick or Harry. Please consider putting in stronger measures to combat this.

Sincerely

[REDACTED]

[Sent from Yahoo Mail for iPhone](#)

[REDACTED]

---

**From:** [REDACTED]  
**Sent:** Saturday, November 20, 2021 8:10 AM  
**To:** Zz - Resource - GCO\_Rules  
**Subject:** Paper plates

**ATTENTION: This email originated from outside of TxDMV. Malicious software, such as viruses, worms, and ransomware can be transmitted via email attachments and links. Do not click any links or open any attachments unless you recognize the sender and have confirmed the content is safe.**

I am appalled by the idea of issuing 900 paper tags per dealer, if a dealer only has one car on his lot he should only have the capabilities of printing only one paper tag. If a legit dealer has the 900 cars for sale then he can only print 900 paper tags. Dealers should not be or have the capability of printing more tags than the cars being sold on their lot. Enough is enough. I am frustrated of seeing cars on the highway with paper plates.

Regards,  
[REDACTED]

**From:** [REDACTED]  
**To:** [Zz - Resource - GCO Rules](#)  
**Subject:** Honest Texas Citizen  
**Date:** Wednesday, December 8, 2021 9:17:23 PM

---

ATTENTION: This email originated from outside of TxDMV. Malicious software, such as viruses, worms, and ransomware can be transmitted via email attachments and links. Do not click any links or open any attachments unless you recognize the sender and have confirmed the content is safe.

This Paper License Plate issue is outrageous. For four years you people have argued over who has the authority to impose a simple law of "Proving the I.D. of the agent for any public company the sells automobiles ? This is straight up corruption at its finest ! Any person who represents the good state of Texas should be finger printed and forced to prove their identity for each and every business license given by the state. And this person should have to renew this license once a year at the least. Along with tracking how many paper plates are given out by each licensed business. If any dealer is giving out more then 900 paper license plates a year, a red flag should automatically be thrown up and their license automatically be suspended immediately, causing a denial of even one more paper plate being issues to that person or business license. This is just plain common sense. It is crazy that anyone could register any unsafe POS in our state and legally put it on the road, endangering Texas citizens and the public as many times as they want. And no one is checking up on this. It's the day of electronics and computers. Blaming this problem on anything other then corruption is absurd ! This is a very dangerous game y'all are playing with peoples lives. A perfect example of why we must prove identities in todays world has just been proven with this past Presidential election ! I bet y'all understand that !

Sent from my iPhone



December 10, 2021

Tracey Beaver  
General Counsel  
Texas Department of Motor Vehicles  
4000 Jackson Avenue  
Austin, TX 78731

Re: 43 TAC Chapter 215 Proposals, Texas Register, November 12, 2021

Dear Ms. Beaver:

The Texas Independent Automobile Dealers Association (TIADA) respectfully submits the following comments in response to the Texas Department of Motor Vehicles (TxDMV) proposed changes to 43 Texas Administrative Code Chapter 215.

TIADA represents over 1,000 independent automobile dealers throughout the state of Texas which range in size from large publicly traded companies to small and micro-businesses. Our members use the temporary tag system to allow test drives of vehicles, transport vehicles for business purposes, and most importantly to deliver vehicles to their purchasers. TIADA strongly supports TxDMV's efforts to limit fraudulently used temporary tags, however TIADA would like to note the problem is not a "small subset of dealers" who are fraudulently selling temporary tags as portrayed in testimony during board meetings, but instead are criminals who are abusing the temporary tag database. Criminals should never be given legitimacy by recognizing them as something they are not.

TIADA after reviewing the purposed rules has the following concerns and suggestions for amendments of 43 TAC §§215.150, 215.152, 215.154, and 215.505:

**The purposed rule over broadly makes dealers responsible for controlling access to the temporary tag database.** §215.150(d) states "A dealer or converter is responsible for all use of and access to the applicable temporary tag database under the dealer's or converter's account, including access by any user or unauthorized person." As purposed dealers would be responsible for breaches of the database that are outside of their control, such as attacks by hackers to the TxDMV system. This is especially concerning with the numerous recent high profile cyber and ransomware attacks, which recently led to the Federal Trade Commission changing its Safeguards Rule. Therefore, TIADA recommends replacing §215.150(d) with the following:

"A dealer or converter is responsible for taking reasonable measures to safeguard the use and access to the applicable temporary tag database under the dealer's or converter's account, including access by any user or unauthorized person. Dealer and converter reasonable measures include, but are not limited to monitoring temporary tag usage, managing account access, and taking timely and appropriate actions to maintain system security, including:"

TIADA Comments to TxDMV – 43 TAC Chapter 215

December 10, 2021

Page | 2 of 4

**Small and micro-businesses should receive a minimum number of tags.** §215.152 is complex and requires multiple calculations. Small and micro-businesses, which make up approximately half of all licensees should be able to easily verify their allotment of temporary tags is correct. To avoid requiring small and micro-businesses to make complex calculations, there should be a minimum number of tags that every dealer qualifies for. Additionally, small and micro-businesses can fluctuate greatly in sales due to numerous non-market related conditions, such as an owner battling health issues for years and finally being well enough to focus on their business or a significant change in access to capital. Therefore, TIADA recommends a minimum number of tags for small and micro-businesses and since 300 is used for new businesses, TIADA feels that number is also appropriate as a minimum level for an established business.

**Provisions should be made to handle changes in business practices.** Most dealers use agent specific tags, but during the COVID pandemic some dealers switched to vehicle specific tags so they could send customers on test drives without a salesperson. Also, many dealers facing staff shortages are considering not having their salespeople go on test drives and may switch to vehicle specific tags. The number of tags issued per year is greatly increased when a dealer uses vehicle specific tags, and this limit would hinder the ability for dealers currently using agent specific tags to switch to vehicle specific tags. Therefore, TIADA recommends a process to increase the allotment of temporary tags when a dealer switches from agent specific tags to vehicle specific tags.

**The multipliers provided by §215.152 based on years in operation are unclear.** The preamble to §215.152 provides an example of a years in business multiplier that could be expressed in words thereby resolving the ambiguity of §215.152. TIADA suggests adopting the following formula in lieu of the purposed language of §215.152(c)(2) and §215.152(d)(2):

“a multiplier giving a 10 percent increase in tags for each year the dealer has been in business up to 10 years”

**Experienced license holders must receive the same multipliers.** §215.152 provides that a dealer will receive “a multiplier based on the dealer’s time in operation,” but the term dealer fails to provide if it is also extended to experienced license holders or license holders who changed their legal entity. A process is already in place to recognize experienced licensed holders as it relates to pre-licensing education. That process requires an experienced license holder to upload a statement listing the dates, license holder names, and license numbers they have been associated with over the years. Likewise, TIADA recommends a similar process be adopted to ensure experienced license holders are allocated enough temporary tags. Furthermore, dealers often must obtain a new GDN due to a change in location or ownership. For example, a dealer who grew up in his family’s dealership recently had to obtain a license and new GDN because his parents passed, and he was unable to transfer the prior GDN because the ownership structure changed. Another dealer recently had to obtain a new GDN because the dealership relocated outside of the city limits. In both of these instances, it would appear that the dealer was only licensed for a short time. Therefore, TIADA suggests the following language in lieu of “a multiplier based on the dealer’s time in operation”:

TIADA Comments to TxDMV – 43 TAC Chapter 215

December 10, 2021

Page | 3 of 4

“a multiplier based on the greater of  
(A) a dealer’s time in operation at any licensed location, or  
(B) the number of years any GDN holder has operated at that location.”

**§215.152 appears to set an absolute limit on independent dealers receiving a license after the commencement of a calendar year to 300 temporary tags.** §215.152(f) states “. . . The allocations shall be as determined by the department in granting the license, **but not more than** [emphasis added].” TIADA believes situations may arise that require more than 300 temporary tags. Therefore, TIADA suggests the inserting the word “initial” before the word “allocations” and after the word “The” thereby making it clear that a dealer can obtain more temporary tags.

**It is unclear if §215.152(f) applies to §215.152(h).** §215.152(h) should follow the format of §215.152(g) by clearly stating subsection (f) does not apply. This avoids any confusion created by subsection (f) which provides a nonfranchised dealer shall not be allowed more than 300 temporary tags.

**§215.152 should provide a process for obtaining an additional allotment for dealers who are licensed in other states.** The two largest used car dealers in Texas both started in other states. Future large volume dealers may not have a footprint in Texas prior to opening a large volume location. Therefore, TIADA recommends changing a new subsection to §215.152 stating the following:

“A dealer or convert operating in another state will receive a maximum allotment based on the sales of their existing locations”

**An allocated amount of tags less than requested is effectively a denial.** §215.152(i)(3) provides an “allocation of a lesser or greater number of additional temporary tags is not a denial of the request.” However, the refusal of a certain number of additional temporary tags requested or desired is a constructive denial that a dealer should be able to appeal. Therefore, TIADA suggests updating the language to state “Allocation of a lesser number of additional tags is considered a denial of the request.”

**The proposed rule creates confusion by qualifying courtesy cars in §215.154(e).** §215.154(e)(3) states “a courtesy car with no signs on the vehicle” is not allowed to use a temporary tag. The negative-implication canon of construction provides the expression of one thing implies the exclusion of others. Since “courtesy cars with no signs” are expressed, the negative-implication canon would lead one to believe courtesy cars with signs are allowed. Therefore, TIADA believes §215.154(e)(3) should remain unchanged and not be amended to add “with no signs on the vehicle”.

**The proposed rules should follow the objective of HB 3927 by focusing on grossly excessive issuance of temporary tags.** HB 3927 was passed to deal with criminals issuing grossly excessive numbers of temporary tags without any sales. §215.505(a)(1) provides a dealer is misusing the

TIADA Comments to TxDMV – 43 TAC Chapter 215

December 10, 2021

Page | 4 of 4

temporary tag database if it obtains “an excessive number of temporary tags relative to dealer sales”. What is “an excessive number of temporary tags relative to dealer sales”? Is just one tag issued by a rouge employee enough to take away a dealer’s access to the temporary tag system? This is especially concerning since access can be denied before a hearing. Therefore, TIADA recommends the following instead of “an excessive number of temporary tags relative to dealer sales”:

“a grossly excessive number of temporary tags relative to dealer sales”

Thank you in advance for your consideration of our comments and your efforts. TIADA stands ready to help in any way we can to ensure criminals are prevented from accessing the temporary tag system and appreciates all the efforts by TxDMV to ensure our members legitimate uses are maintained. If we can be of any additional assistance, please do not hesitate to contact us.

Respectfully,



Earl Cooke

Director of Compliance and Business Development

[earl.cooke@txiada.org](mailto:earl.cooke@txiada.org)



H.B. No. 3927

1 state; and

2 (2) the vehicle:

3 (A) at the time of purchase, is not located or  
4 required to be titled or registered in this state;

5 (B) will be titled and registered in accordance  
6 with the laws of the buyer's state of residence; and

7 (C) will be inspected in accordance with the laws  
8 of the buyer's state of residence, if the laws of that state require  
9 inspection.

10 (j) A vehicle may be issued and display a buyer's tag  
11 without satisfying the inspection requirements of Chapter 548 if  
12 the vehicle is purchased at public auction in this state and is:

13 (1) an antique vehicle as defined by Section  
14 683.077(b); or

15 (2) a special interest vehicle as defined by Section  
16 683.077(b) that:

17 (A) is at least 12 years of age; and

18 (B) has been the subject of a retail sale.

19 SECTION 3. Sections 503.0631(a) and (c), Transportation  
20 Code, are amended to read as follows:

21 (a) The department shall develop, manage, and maintain a  
22 secure, real-time database of information on persons to whom  
23 temporary buyer's tags are issued that may be used by a law  
24 enforcement agency in the same manner that the agency uses vehicle  
25 registration information. [~~The database shall be managed by the~~  
26 ~~vehicle titles and registration division of the department.~~]

27 (c) Except as provided by Subsection (d), before a buyer's

H.B. No. 3927

1 temporary tag may be displayed on a vehicle, a dealer must enter  
2 into the database through the Internet information about the buyer  
3 of the vehicle for which the tag was issued as prescribed by the  
4 department and generate a vehicle-specific number for the tag as  
5 required by Section 503.063(e). Except as provided by Section  
6 506.0632(f), the [The] department may not deny access to the  
7 database to any dealer who holds a general distinguishing number  
8 issued under this chapter or who is licensed under Chapter 2301,  
9 Occupations Code.

10 SECTION 4. Subchapter C, Chapter 503, Transportation Code,  
11 is amended by adding Section 503.0632 to read as follows:

12 Sec. 503.0632. DEPARTMENT REGULATION OF TEMPORARY TAGS AND  
13 ACCESS TO TEMPORARY TAG DATABASES. (a) The department by rule may  
14 establish the maximum number of temporary tags that a dealer or  
15 converter may obtain in a calendar year under Section 503.062,  
16 503.0625, or 503.063.

17 (b) The maximum number of temporary tags that the department  
18 determines a dealer or converter may obtain under this section must  
19 be based on the dealer's or converter's anticipated need for  
20 temporary tags, taking into consideration:

21 (1) the dealer's or converter's:

22 (A) time in operation;

23 (B) sales data; and

24 (C) expected growth;

25 (2) expected changes in the dealer's or converter's  
26 market;

27 (3) temporary conditions that may affect sales by the

H.B. No. 3927

1 dealer or converter; and

2 (4) any other information the department considers  
3 relevant.

4 (c) At the request of a dealer or converter, the department  
5 may authorize additional temporary tags of any type for the dealer  
6 or converter if the dealer or converter demonstrates a need for  
7 additional temporary tags resulting from business operations,  
8 including anticipated need.

9 (d) The department's denial of a request under Subsection  
10 (c) may be overturned if a dealer or converter shows by a  
11 preponderance of the evidence the need for additional temporary  
12 tags.

13 (e) The department shall monitor the number of temporary  
14 tags obtained by a dealer or converter.

15 (f) If the department determines that a dealer or converter  
16 is fraudulently obtaining temporary tags from the temporary tag  
17 database, the department may, after giving notice electronically  
18 and by certified mail to the dealer or converter, deny access to a  
19 temporary tag database to the dealer or converter. A dealer or  
20 converter denied access to a temporary tag database under this  
21 subsection may request a hearing on the denial as provided by  
22 Subchapter 0, Chapter 2301, Occupations Code.

23 SECTION 5. Sections 503.067(b) and (d), Transportation  
24 Code, are amended to read as follows:

25 (b) A person may not operate a vehicle that displays:

26 (1) a temporary tag in violation of this chapter or  
27 Chapter 502; or

H.B. No. 3927

1           (2) any other [~~an~~] unauthorized temporary tag.

2           (d) A person may not sell or distribute a temporary tag or an  
3 item represented to be a temporary tag unless the person is[~~+~~

4           [~~(1)~~] a dealer issuing the tag in connection with the  
5 sale of a vehicle[~~+~~or

6           [~~(2) a printer or distributor engaged in the business~~  
7 ~~of selling temporary tags solely for uses authorized under this~~  
8 ~~chapter~~].

9           SECTION 6. The changes in law made by this Act apply only to  
10 an offense committed on or after the effective date of this Act. An  
11 offense committed before the effective date of this Act is governed  
12 by the law in effect on the date the offense was committed, and the  
13 former law is continued in effect for that purpose. For purposes of  
14 this section, an offense was committed before the effective date of  
15 this Act if any element of the offense occurred before that date.

16           SECTION 7. This Act takes effect September 1, 2021.

H.B. No. 3927

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I certify that H.B. No. 3927 was passed by the House on May 7, 2021, by the following vote: Yeas 128, Nays 12, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3927 on May 28, 2021, by the following vote: Yeas 125, Nays 16, 4 present, not voting.

\_\_\_\_\_  
Chief Clerk of the House

I certify that H.B. No. 3927 was passed by the Senate, with amendments, on May 22, 2021, by the following vote: Yeas 30, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

\_\_\_\_\_  
Governor

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# Pre-Licensing Process

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## Overview

The Motor Vehicle Division's (MVD) eighteen-member licensing staff typically processes over 18,500 license applications per year on average, 20% of which are new GDN applications. An overview of the current licensing review process for an Independent GDN is outlined in Appendix A, and three-year historical application data is included in Appendix B.

TxDMV is authorized under Government Code §411.122(d) to obtain criminal history information on license applicants from the Department of Public Safety (DPS). MVD currently performs these background checks for all owners, managers, directors, officers, members, or partners listed in each application using the person's name, social security number, and date of birth. Each person's driver's license number and social security number is then used to verify any criminal history records found.

Texas Transportation Code §503.032 and Title 43, Texas Administrative Code, §215.140, require an applicant for a general distinguishing number (GDN) to demonstrate that its proposed physical location is an "established and permanent place of business." Historically, the Motor Vehicle Division applicants may submit a lease or sublease in the applicant's name and photographs of the premises showing all physical location requirements are met. The MVD may request the Enforcement Division conduct a site visit to verify the location prior to issuing a license. Site visit referral data is included in Appendix B.

## Enhancements

The MVD has identified options to further improve pre-licensing procedures for independent GDN applicants. These actions are aimed at strengthening fraud deterrence, while also ensuring that legitimate applicants can meet licensure requirements without unnecessary burden. These potential recommendations are described below and summarized in Appendix C.

Additional enhancements that may require possible rule changes will be presented for discussion during the December 16<sup>th</sup> Motor Vehicle Industry Regulation Advisory Committee (MVIRAC). In a forthcoming rule proposal, MVD may recommend the Board consider adding the following additional requirements for independent GDN dealers in Chapter 215 to further deter fraud:

- Requiring identification for all owners and managers or other authorized representatives;
- Perform criminal background checks on all persons listed on the application, not just owners, president and managing partners;
- Requiring a notarized photo affidavit to be submitted with the identification;
- Requiring the eTAG administrator to be an owner or manager listed on the application;

- Requiring a notarized premise affidavit and additional premises photos for new applicants and current license holders who are relocating;
- Requiring a notarized premises affidavit and additional premises photos to be submitted when a license up for renewal has a premises-related complaint history; and
- Requiring site visits before licensing, with one owner or manager attending:
  - all new applications
  - all office relocations
  - renewal applications with premise complaint history

### **Fingerprinting Applicants**

Fingerprinting may offer a more comprehensive and accurate identity and criminal history search of the DPS and FBI databases. In addition, fingerprints would be collected through a service that would require the individual to be present and show identification prior to having their fingerprints collected electronically. However, the legislature has not granted TxDMV specific statutory authority to collect fingerprints as part of the application process. The ability to collect fingerprints is a prerequisite under Government Code §411.087(d)(1) for the department to access the DPS and FBI fingerprint databases and related services. The department is reviewing its options to proceed with collecting fingerprints based on existing laws and will present its finding to the board in a future meeting. Appendix D includes a list of state agencies that currently require fingerprinting for one or more license types and a list of other states that require fingerprinting for dealer licensing.

Attachments:

Appendix A – GDN Pre-Licensing Process Overview and Most Common Application Deficiencies

Appendix B – Historical Application Data

Appendix C – Summary Chart: Preventing Fraud and eTAG Abuse in the Pre-Licensing for Independent GDN

Appendix D – Fingerprint Use in Licensing: Texas Agencies and Dealer Requirements in Other States

## APPENDIX A

### General Distinguishing Number (GDN) Pre-Licensing Overview

- A GDN application is submitted via eLICENSING and assigned to a Licensing Specialist for processing typically within one business day. The Licensing Specialist reviews the file in detail and completes a variety of identity, affiliation, and location checks to identify possible issues.
- The assigned Licensing Specialist complete the following checks for new GDN applications:
  - Reviews for other active applications, previously withdrawn applications, and previous MVD licenses;
  - Reviews for license conflicts related to the location including other dealers present at the same location (e.g., maximum occupancy of dealers reached, license conflicts due to type of dealers at location, etc.);
  - Verifies the name and date of birth for each applicant, owner, and manager listed on the application and runs a DPS criminal history report;
  - Checks each person listed on the application for possible affiliation with any other individual, business entity, or license that may have been deemed unfit to hold a license;
  - Reviews the proposed business location via Google Maps;
  - Reviews that the correct payment amount was received; and
  - Reviews for current or previous disciplinary history or concerns.
- Once the checks are complete, the Licensing Specialist then conducts a detailed analysis of the application information, including the applicant's responses to application questions and attachments received. This analysis includes:
  - Reviewing the business name and assumed names (DBAs) through the appropriate county or the Texas Secretary of State;
  - Reviewing the ownership breakdown of the business and confirming that the correct business type is listed;
  - Reviewing any attachments provided by the applicant which may include:
    - Photos of the exterior and interior of the business;
    - Certificate of Responsibility;
    - Ownership or lease documentation;
    - Applicant Photo identification;
    - Assumed name or DBA certificates;
    - Surety bond;
    - Certificate of Occupancy and any other required building permits; and
    - A completion certificate from an approved dealer licensing education program.

- The Licensing Specialist sends a deficiency letter to the applicant if additional documentation or clarification is needed.
- If the application is complete and no other information is required, the Licensing Specialist approves the application, creates the license, and sends the license to the applicant.

**Most Common GDN Application Deficiencies:**

- **Premises Location** – The initial photo(s) or documentation received are not sufficient to determine if the location meets the premises requirements.
- **Premises Compliance** - The applicant is unable to verify that the proposed business location meets all applicable state laws and municipal ordinances.
- **Surety Bond Deficiencies** – The bond received is incomplete or contains incorrect information and either requires a rider amendment or a new bond.

**APPENDIX B****Historical Application Processing Data, FY 2019 – FY 2021**

## I. Total Number of Applications Received in Fiscal Years 2019 – 2021 (New, Amendment, and Renewals)

<b>License Type</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Total</b>
Manufacturer	181	155	175	<b>511</b>
Franchise	2,956	2,679	2,643	<b>8,278</b>
Lease Facilitator	52	24	41	<b>117</b>
Lessor	180	182	163	<b>525</b>
Salvage Dealer	9,613	1,982	1,221	<b>12,816</b>
In-transit	127	83	139	<b>349</b>
Distributor	80	80	81	<b>241</b>
GDN	13,676	13,006	14,033	<b>40,715</b>
Converter	108	133	123	<b>364</b>

## II. Total Number of New GDN Applications Received in Fiscal Years 2019 - 2021

<b>GDN Subtype</b>	<b>FY 2019</b>	<b>FY 2020</b>	<b>FY 2021</b>	<b>Total</b>
Motor Vehicle	2,992	2993	2,916	<b>8,901</b>
Motorcycle	88	110	117	<b>315</b>
Towable Recreational Vehicle/ Travel Trailer	70	103	123	<b>296</b>
Wholesale Motor Vehicle Auction License	14	14	111	<b>139</b>
Utility Trailer/Semi-Trailer	310	294	382	<b>986</b>
Independent Mobility Motor Vehicle Dealer	1	2	11	<b>14</b>
Wholesale Dealer License	193	193	274	<b>660</b>

III. Total number of New GDN Applications Received in Fiscal Years 2019, 2020, and 2021 with the Application Reason "Relocation":

GDN Subtype	FY 2019	FY 2020	FY 2021	Total
Motor Vehicle	110	106	101	317
Motorcycle	2	1	1	4
Towable Recreational Vehicle/ Travel Trailer	0	0	2	2
Utility Trailer/Semi-Trailer	8	4	4	16
Wholesale Dealer License	4	3	10	17

IV. Total Number of New License Applications Received, Other Than GDN, Fiscal Years 2019-2021

License Type	FY 2019	FY 2020	FY 2021	Total
Manufacturer	28	30	30	88
Franchised Dealer	309	317	261	887
Lease Facilitator	21	6	8	35
Lessor	58	44	31	133
Salvage Dealer	1634	1834	609 <sup>1</sup>	4,077
In-transit	50	38	67	155
Distributor	12	6	13	31
Converter	23	31	36	90

<sup>1</sup> The decrease in applications received is in direct relation to changes made during the 86<sup>th</sup> Legislative Session allowing a GDN holder to operate as a Salvage Vehicle Dealer without holding a separate Salvage Dealer License and eliminating salvage license endorsements (e.g., Salvage Pool Operator, Salvage Vehicle Dealer-New, Salvage Vehicle Dealer-Used, etc.) in favor of a comprehensive Salvage Vehicle Dealer License.

V. Average Days to Process Applications – TxDMV Board Key Performance Indicators

KPI#	Measure	FY 19 Average	FY 20 Average	FY 21 Average
1	Average # of days to process new franchise license applications	27	26	26
2	Average # of days to process franchise renewal applications	7	5	4
3	Average # of days to process franchise license amendments	6	5	6
4	Average # of days to process GDN license applications	12	14	14
5	Average # of days to process GDN renewals	5	5	4
6	Average # of days to process GDN license amendments	5	6	7

VI. Number of MVD-requested dealership site visits from Enforcement Division

Fiscal Year	Number of Site Visits Requested
FY 2019	393
FY 2020	251
FY 2021	270
FY 2022, first 6 weeks	82

**APPENDIX C**

**Preventing Fraud and eTAG Abuse in the Pre-Licensing Process: Independent GDN**

<b>Applicant Checks</b>	<b>Possible Enhancements</b>	<b>Future Options</b>
<p>The following checks were in place prior to 2021:</p> <ul style="list-style-type: none"> <li>▪ Verifying owners, officers, and managers identity through Driver’s License</li> <li>▪ Checking criminal background history on owners and managers listed on the application in DPS and Lexis/Nexis if out of state ID or Passport provided</li> <li>▪ Reviewing lease or sublease in applicant’s name</li> <li>▪ Reviewing one or more location pictures to ensure premise is met</li> <li>▪ Option to request ENF site visit if concern</li> </ul>	<p>The following possible enhancements to consider:</p> <ul style="list-style-type: none"> <li>▪ Verifying property owner in County Appraisal District (CAD) records</li> <li>▪ Requiring notarized statement from CAD property owner if property owner records conflict with lease</li> <li>▪ Asking applicant if other businesses are at the same location</li> <li>▪ Requesting verification that the proposed business location meets all applicable state laws and municipal ordinances (if applicable)</li> <li>▪ Flagging all associated accounts and specific addresses for review on license renewal based on Licensing Committee concerns</li> </ul>	<p>Enhancements which could be included in future rule requests:</p> <ul style="list-style-type: none"> <li>▪ Add additional identification requirements:                             <ul style="list-style-type: none"> <li>▪ Require ID for all representatives listed in application</li> <li>▪ Require ID format to be a notarized photo affidavit with recent photo</li> <li>▪ Require eTAG administrator to be an owner or manager listed in the application</li> <li>▪ Criminal background checks on all person listed on application</li> </ul> </li> <li>▪ Requiring premise affidavit and additional premises photos for new applicants</li> <li>▪ Requiring a premise affidavit when license is being renewed if relevant complaint history</li> <li>▪ Require site visits before licensing, with one owner or manager attending:                             <ul style="list-style-type: none"> <li>▪ all new applications</li> <li>▪ all office relocations</li> <li>▪ renewal applications with premise complaint history (requires additional resources)</li> </ul> </li> <li>▪ Add fingerprinting requirement (requires statutory change)</li> </ul>

## APPENDIX D

### Fingerprint Use in Licensing: Texas Agencies and Dealer Requirements in Other States

#### A. Texas State Agencies that Require Fingerprinting for One or More Licenses

##### Behavioral Health Executive Council

- Texas State Board of Examiners of Marriage and Family Therapists

- Texas State Board of Examiners of Professional Counselors

- Texas State Board of Examiners of Psychologists

- Texas State Board of Social Worker Examiners

##### Judicial Branch Certification

- Court Reporters

- Guardianship

- Process Server

- Licensed Court Interpreter

##### Texas Appraiser Licensing and Certification Board

##### Texas Board of Architectural Examiners

##### Texas Board of Law Examiners

##### Texas Board of Nursing

##### Texas Board of Occupational Therapy Examiners

##### Texas Board of Physical Therapy Examiners

##### Texas Board of Professional Engineers and Land Surveyors

##### Texas Commission on Environmental Quality

##### Texas Department of Family and Protective Services

##### Texas Department of Housing and Community Affairs

- Broker of manufactured homes

- Retailer of used manufactured homes

- Retailer/Installer of new or used manufactured homes

##### Texas Department of Insurance

##### Texas Department of Licensing and Regulation

##### Texas Department of Public Safety

##### Texas Education Agency

##### Texas Medical Board

##### Texas Office of Consumer Credit Commissioner

- Commercial Motor Vehicle Sales Finance

- Property Tax Lender

- Credit Access Business

- Regulated Lender

- Pawnshop

- Pawn Employees

- Debt Management & Settlement Providers

- Residential Mortgage Loan Originators

Texas Optometry Board  
Texas Real Estate Commission  
Texas State Board of Dental Examiners  
Texas State Board of Pharmacy  
Texas State Board of Plumbing Examiners  
Texas State Board of Public Accountancy  
Texas State Board of Veterinary Medical Examiners

**B. Other states that require fingerprinting for dealer license applicants**

At least fifteen states including Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Michigan, Nevada, New Hampshire, New Jersey, Ohio, Utah, and Wyoming.