

# TEXAS MARINE DEALERS HANDBOOK

Revised October 2015

Published and distributed by the  
**Boating Trades Association of Texas**

823 Congress Avenue, Ste. 230  
Austin, TX 78701  
(P) 512-238-8013  
(F) 512-495-9031  
[sbulak@eami.com](mailto:sbulak@eami.com)

*The Boating Trades Association of Texas wishes to thank the  
Boating Trades Association of Metropolitan Houston for their  
financial Support of the Texas Marine Dealers handbook*

*Written and Edited by*

**Howard Rose**  
Brown McCarrol, L.L.P.  
111 Congress Avenue, Ste. 1400  
Austin, Texas 78701  
(P) 512-479-9701  
(F) 512-479-1101  
[hrose@mailbmc.com](mailto:hrose@mailbmc.com)

**REPAIR/STORAGE LIEN, CHAPTER 70 – PROPERTY CODE**

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <p>1. <u>Possessory Lien.</u> A repairman who repairs a motorboat, vessel or outboard motor may retain possession of the item until paid the amount due. This is a possessory lien and if the repairman relinquishes possession of the property without receiving payment, the lien is lost in the absence of fraud. If possession of the item, is relinquished in return for a bad check or credit card, the repairman is entitled to possession of the item until the amount due is paid. However, the repairman may repossess the item only if a notice was given to that effect in writing in the repair order or other agreement. The form for notice is attached as _____.</p> <p>The right to retake possession of the articles after a default includes retaking possession or rendering the items unusable on the debtor's premise. However, the repairman must proceed either under judicial process or without a breach of the peace.</p> | <p><b>Section 70.001. Worker's Lien.</b></p> <p>(a) A worker in this state who by labor repairs an article, including a vehicle, motorboat, vessel, or outboard motor, may retain possession of the article until:</p> <p>(1) the amount due under the contract for the repairs is paid; or</p> <p>(2) if no amount is specified by contract, the reasonable and usual compensation is paid.</p> <p>(b) If a worker relinquishes possession of a motor vehicle, motorboat, vessel, or outboard motor in return for a check, money order, or a credit card transaction on which payment is stopped, has been dishonored because of insufficient funds, no funds or because the drawer or maker of the order or the credit card holder has no account or the account upon which it was drawn or the credit card account has been closed, the lien provided by this section continues to exist and the worker is entitled to possession of the vehicle, motorboat, vessel, or outboard motor until the amount due is paid, unless the vehicle, motorboat, vessel, or outboard motor is possessed by a person who became a bona fide purchaser of the vehicle after a stop payment order was made. A person entitled to possession of property under this subsection is entitled to take possession thereof in accordance with the provisions of Section 9.609, Business &amp; Commerce Code.</p> <p>(c) A worker may take possession of an article under Subsection (b) only if the person obligated under the repair contract has signed a notice stating</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | <p>that the article may be subject to repossession under this section. A notice under this subsection must be:</p> <ul style="list-style-type: none"> <li>(1) separate from the written repair contract; or</li> <li>(2) printed on the written repair contract, credit agreement, or other document in type that is boldfaced, capitalized, underlined, or otherwise set out from surrounding written material so as to be conspicuous with a separate signature line.</li> </ul> <p><b>Section 9.609. Secured Party's Right To Take Possession After Default.</b></p> <ul style="list-style-type: none"> <li>(a) After default, a secured party: <ul style="list-style-type: none"> <li>(1) may take possession of the collateral; and</li> <li>(2) without removal, may render equipment unusable and dispose of collateral on the debtor's premises under Section 9.610.</li> </ul> </li> <li>(b) A secured party may proceed under Subsection (a): <ul style="list-style-type: none"> <li>(1) pursuant to judicial process; or</li> <li>(2) without judicial process, if it proceeds without breach of the peace.</li> </ul> </li> <li>(c) If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party that is reasonably convenient to both parties.</li> </ul> |



| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| <p>3. <u>Possession.</u> If the holder of a garageman's lien obtains possession of a boat or motor, the holder is required to notify the owner by the fifth day. The notice tells the owner where it is, how much is due and requests that the amount due be paid and the property removed. A sample form for the notice is attached as _____. There are special provisions for publishing the notice in a newspaper if the owner and/or lienholder's name and address cannot be determined. The charges may include reasonable storage fees.</p> | <p><b>Section 70.004. Possession Of Motor Vehicle, Motorboat, Vessel, Or Outboard Motor.</b></p> <p>(a) A holder of a lien under Section 70.003 on a motor vehicle, motorboat, vessel, or outboard motor who obtains possession of the motor vehicle, motorboat, vessel, or outboard motor under a state law or city ordinance shall give notice for a motor vehicle, motorboat, vessel, or outboard motor registered in this state to the last known registered owner and each lienholder of record not later than the fifth day after the day possession is obtained. If the motor vehicle, motorboat, vessel, or outboard motor is registered outside this state, the notice shall be given to the last known registered owner and each lienholder of record not later than the 14th day after the day possession is obtained.</p> <p>(b) Except as provided by Subsection (c), the notice must be sent by certified mail with return receipt requested and must contain:</p> <ul style="list-style-type: none"> <li>(1) a request to remove the motor vehicle, motorboat, vessel, or outboard motor;</li> <li>(2) a request for payment;</li> <li>(3) the location of the motor vehicle, motorboat, vessel, or outboard motor; and</li> <li>(4) the amount of accrued charges.</li> </ul> <p>(c) The notice may be given by publishing the notice once in a newspaper of general circulation in the county in which the motor vehicle,</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>motorboat, vessel, or outboard motor is stored if:</p> <p>(1) the motor vehicle, motorboat, vessel, or outboard motor is registered in another state;</p> <p>(2) the holder of the lien submits a written request by certified mail, return receipt requested, to the governmental entity with which the motor vehicle, motorboat, vessel, or outboard motor is registered requesting information relating to the identity of the last known registered owner and any lienholder of record;</p> <p>(3) the holder of the lien:</p> <p>(A) is advised in writing by the governmental entity with which the motor vehicle, motorboat, vessel, or outboard motor is registered that the entity is unwilling or unable to provide information on the last known registered owner or any lienholder of record; or</p> <p>(B) does not receive a response from the governmental entity with which the motor vehicle, motorboat, vessel, or outboard motor is registered on or before the 21st day after the date the holder of the lien submits a request under Subdivision (2);</p> <p>(4) the identity of the last known registered owner cannot be determined;</p> <p>(5) the registration does not contain an address for the last known registered owner; and</p> <p>(6) the holder of the lien cannot determine the identities and</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                    | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                                                                                                                                                                                                                                                                                                                                                    | <p>addresses of the lienholders of record.</p> <p>(d) The holder of the lien is not required to publish notice under Subsection (c) if a correctly addressed notice is sent with sufficient postage under Subsection (b) and is returned as unclaimed or refused or with a notation that the addressee is unknown or has moved without leaving a forwarding address.</p> <p>(e) A person is entitled to fees for towing, impoundment, preservation, and notification and to reasonable storage fees for up to five days before the day that the notice is mailed or published, as applicable. After the day that the notice is mailed or published, the person is entitled to reasonable storage, impoundment, and preservation fees until the motor vehicle, motorboat, vessel, or outboard motor is removed and accrued charges are paid.</p> <p>(f) A person charging fees under Subsection (e) commits an offense if the person charges a storage fee for a period of time not authorized by that subsection. An offense under this subsection is punishable by a fine of not less than \$200 nor more than \$1,000.</p> |
| <p>4. <u>Sales.</u> A repairman who holds a lien for repairs, towing, storage, etc. under this Chapter may give notice to the owner and holder of any recorded lien after 30 days. A sample form of notice is attached as Form C. If the item is registered outside Texas, the notice must be sent to the last known registered owner and each</p> | <p><b>Section 70.006. Sale Of Motor Vehicle, Motorboat, Vessel, Or Outboard Motor.</b></p> <p>(a) A holder of a lien under this subchapter or on a motor vehicle subject to Chapter 501, Transportation Code, or on a motorboat, vessel, or outboard motor for which a certificate of title is required under Subchapter B, Chapter</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                         | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p>lienholder of record. There are special rules for giving notice by publication if the names or addresses are not determinable. If the charges are not paid before the 31<sup>st</sup> day after the notice is mailed, the items may be sold at a public sale and the proceeds applied to the charges with any excess to the owner or lienholder. A Notice of Sale should be posted for twenty days at the courthouse and in three public places.</p> | <p>31, Parks and Wildlife Code, as amended, shall give written notice to the owner and each holder of a lien recorded on the certificate of title. If the motor vehicle, motorboat, vessel, or outboard motor is registered outside this state, the holder of a lien under this subchapter who retains possession during that period shall give notice to the last known registered owner and each lienholder of record.</p> <p>(b) Except as provided by Subsection (c), the notice must be sent by certified mail with return receipt requested and must include the amount of the charges and a request for payment.</p> <p>(c) The notice may be given by publishing the notice once in a newspaper of general circulation in the county in which the motor vehicle, motorboat, vessel, or outboard motor is stored if:</p> <p>(1) the holder of the lien submits a written request by certified mail, return receipt requested, to the governmental entity with which the motor vehicle, motorboat, vessel, or outboard motor is registered requesting information relating to the identity of the last known registered owner and any lienholder of record;</p> <p>(2) the holder of the lien:</p> <p>(A) is advised in writing by the governmental entity with which the motor vehicle, motorboat, vessel, or outboard motor is registered that the entity is unwilling or unable to provide information on the last known registered owner or any lienholder of record; or</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>(B) does not receive a response from the governmental entity with which the motor vehicle, motorboat, vessel, or outboard motor is registered on or before the 21st day after the date the holder of the lien submits a request under Subdivision (1);</p> <p>(3) the identity of the last known registered owner cannot be determined;</p> <p>(4) the registration does not contain an address for the last known registered owner; and</p> <p>(5) the holder of the lien cannot determine the identities and addresses of the lienholders of record.</p> <p>(d) The holder of the lien is not required to publish notice under Subsection (c) if a correctly addressed notice is sent with sufficient postage under Subsection (b) and is returned as unclaimed or refused or with a notation that the addressee is unknown or has moved without leaving a forwarding address.</p> <p>(e) After notice is given under this section to the owner of or the holder of a lien on the motor vehicle, motorboat, vessel, or outboard motor, the owner or holder of the lien may obtain possession of the motor vehicle, motorboat, vessel, or outboard motor by paying all charges due to the holder of a lien under this subchapter before the 31st day after the date the notice is mailed or published as provided by this section.</p> <p>(f) If the charges are not paid before the 31st day after the day that the</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                        |
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|                 | <p>notice is mailed or published, as applicable, the lienholder may sell the motor vehicle, motorboat, vessel, or outboard motor at a public sale and apply the proceeds to the charges. The lienholder shall pay excess proceeds to the person entitled to them.</p> |

## NOTICE

1. The undersigned is the holder of a lien under Chapter 70 of the Property Code on a motorboat, vessel or outboard motor for which a Certificate of Title is required under Subchapter B, Chapter 31, Parks and Wildlife Code, as amended ("Property"). The lien secures charges for the (repair)(storage)(towing) of the Property.
2. The Property is in our possession.
3. The amount of the charges is \$\_\_\_\_\_. Storage charges are accruing at \$\_\_\_\_\_ per day. Request is here made for payment of the charges.
4. If the charges are not paid before the 31<sup>st</sup> day after the date hereof, the undersigned as lienholder shall sell the Property at public sale and apply the proceeds to the charges with any excess to those entitled as provided in §70.006 of the Property Code.

**SALES AND USE TAX, CHAPTER 151, – TAX CODE**

The Citations are to Sections of the Tax Code and Rules in 34 TAC



| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                          | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| <p>1. <u>Tax – Sales.</u> A sales tax is imposed on the sale of tangible property and taxable services in Texas. The tax rate is 6.25% of the sales price. This tax would cover all items sold by a dealer that are not part of a boat and motor covered by the Sales Tax on Boats and Motors. See Section on Sales and Use Tax on Boats and Motors.</p> | <p><b>Section 151.051. Sales Tax Imposed.</b></p> <p>(a) tax is imposed on each sale of a taxable item in this state.</p> <p>(b) The sales tax rate is 6 1/4 percent of the sales price of the taxable item sold.</p> <p><b>Section 151.010. Taxable Item.</b></p> <p>"Taxable item" means tangible personal property and taxable services. Except as otherwise provided by this chapter, the sale or use of a taxable item in electronic form instead of on physical media does not alter the item's tax status.</p> |
| <p>2. <u>Tax – Use.</u> A use tax is imposed on the storage, use or other consumption in Texas of tangible personal property or taxable services purchased outside Texas. The rate is the same as the sales tax.</p>                                                                                                                                     | <p><b>Section 151.101. Use Tax Imposed.</b></p> <p>(a) A tax is imposed on the storage, use, or other consumption in this state of a taxable item purchased from a retailer for storage, use, or other consumption in this state.</p> <p>(b) The tax is at the same percentage rate as is provided by Section 151.051 of this code on the sales price of the taxable item.</p>                                                                                                                                        |
| <p>3. <u>Tangible Personal Property.</u> Personal property that can be seen, touched, etc.</p>                                                                                                                                                                                                                                                           | <p><b>Section 151.009. "Tangible Personal Property."</b></p> <p>"Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is perceptible to the senses in any other manner, and, for the purposes of this chapter, the term includes a computer program and a telephone prepaid calling card.</p>                                                                                                                                                            |
| <p>4. <u>Taxable Services – Repairs.</u> Only the listed services are taxed. The repair, remodel, maintenance and restoration of</p>                                                                                                                                                                                                                     | <p><b>Section 151.0101. "Taxable Services."</b></p> <p>(a) "Taxable services" means:</p>                                                                                                                                                                                                                                                                                                                                                                                                                              |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <p>property is a taxable service. So, service work done on boats and motors (except commercial vessels) is taxed. The service provider is a retailer and must collect taxes on charges for materials, parts, labor, consumables, etc. A resale certificate may be given for materials purchased that go into the repair, i.e., are transferred to the customer such as parts. However, warranty work paid by a manufacturer or service contract provider is not taxed. The service provider must keep records to show that the service (or part) was used in a manufacturer's warranty. If parts are purchased for a manufacturer's warranty job, an exemption certificate may be given. If the work is done under an extended warranty and service contract, the repairman may accept a resale certificate from the warranty company, but must collect a tax for labor (or parts) not covered by the warranty.</p> | <ol style="list-style-type: none"> <li>(1) amusement services;</li> <li>(2) cable television services;</li> <li>(3) personal services;</li> <li>(4) motor vehicle parking and storage services;</li> <li>(5) the repair, remodeling, maintenance, and restoration of tangible personal property, except:             <ol style="list-style-type: none"> <li>(A) aircraft;</li> <li>(B) a ship, boat, or other vessel, other than:                 <ol style="list-style-type: none"> <li>(i) a taxable boat or motor as defined by Section 160.001;</li> <li>(ii) a sports fishing boat; or</li> <li>(iii) any other vessel used for pleasure;</li> </ol> </li> <li>(C) the repair, maintenance, and restoration of a motor vehicle; and</li> <li>(D) the repair, maintenance, creation, and restoration of a computer program, including its development and modification, not sold by the person performing the repair, maintenance, creation, or restoration service;</li> </ol> </li> <li>(6) telecommunications services;</li> <li>(7) credit reporting services;</li> <li>(8) debt collection services;</li> <li>(9) insurance services;</li> <li>(10) information services;</li> <li>(11) real property services;</li> </ol> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>(12) data processing services;</p> <p>(13) real property repair and remodeling;</p> <p>(14) security services;</p> <p>(15) telephone answering services;</p> <p>(16) Internet access service; and</p> <p>(17) a sale by a transmission and distribution utility, as defined in Section 31.002, Utilities Code, of transmission or delivery of service directly to an electricity end-use customer whose consumption of electricity is subject to taxation under this chapter.</p> <p><b>Section 3.292. Repair, Remodeling, Maintenance, and Restoration of Tangible Personal Property.</b></p> <p>(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.</p> <p>(1) Commercial vessel--A ship of eight or more tons displacement that is used exclusively in a commercial enterprise including commercial fishing, but excludes any ship used for sports fishing or pleasure.</p> <p>(b) Services to tangible personal property other than aircraft, commercial vessels, and motor vehicles. Persons who repair, restore, remodel, or maintain tangible personal property belonging to another are providing taxable services. Persons who remodel motor vehicles are also covered by this section. Persons who repair, maintain, or restore private aircraft should refer to subsection (i) of this section. Persons who repair, maintain, or restore motor vehicles should refer</p> |

| <u>Comments</u>                                                                                                                                                                                                                                      | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                                                                                                                                                                                                                                                      | <p>to §3.290 of this title (relating to Motor Vehicle Repair and Maintenance).</p> <p>(1) A service provider is a retailer and must obtain a tax permit and collect sales or use tax on the entire charge for materials, parts, labor, consumable supplies, equipment, and any charges connected to the repair, remodeling, restoration, or maintenance service.</p> <p>(2) A service provider may issue a resale certificate instead of paying sales or use tax to the supplier when purchasing materials that will be transferred to the care, custody, and control of a customer.</p> <p>(c) Consumable supplies and equipment. Sales or use tax must be paid by the service provider on supplies, tools, and equipment that are purchased for use in the performance of the repair but that are not transferred to the care, custody, and control of the customer.</p> <p>(e) Repairs under warranties.</p> <p>(1) Manufacturer's warranties. No tax is due on parts or labor furnished by the manufacturer to repair tangible personal property under a manufacturer's warranty or recall campaign.</p> |
| <p>5. <u>Seller and Purchasers.</u> Any person who sells tangible personal property or taxable services must collect and remit sales and use tax on all items sold unless the seller receives a resale, exemption or direct payment certificate.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>a. <u>Permit.</u> Every seller must apply to the comptroller for a tax permit for each place of business. The application is made on Comptroller's Form attached as _____. Each legal entity must have its own permit, and</p>                    | <p><b>Section 151.201. Sales Tax Permits.</b></p> <p>(a) The comptroller shall issue to an applicant who qualifies under Section 151.202 of this code and under Subchapter G of this chapter a separate permit for each place of business in this state.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

| <u>Comments</u>               | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| permits are not transferable. | <p>(b) The holder of a permit shall display it conspicuously in the place of business to which it applies.</p> <p>(c) A permit is valid only for the person and the place of business to which it applies and is nonassignable.</p> <p>(d) Repealed by Acts 1991, 72nd Leg., 1st C.S., ch. 5, §14.12(1).</p> <p><b>Section 151.202. Application for Permit.</b></p> <p>(a) A person desiring to be a seller in this state shall file with the comptroller an application for a permit for each place of business.</p> <p>(b) An application must:</p> <ol style="list-style-type: none"> <li>(1) be on a form prescribed by the comptroller;</li> <li>(2) state the name under which the applicant transacts or intends to transact business;</li> <li>(3) give the address of the place of business to which the permit is to apply;</li> <li>(4) contain any other information required by the comptroller; and</li> <li>(5) be signed by the owner if the owner is an individual, a member or partner if the owner is an association or partnership, or an executive officer or other person authorized by the corporation to sign the application if the owner is a corporation.</li> </ol> |

| <u>Comments</u>                                                                                                                                                                                       | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                                                                                                                                                                                       | <p><b>Section 3.286. Seller's and Purchaser's Responsibilities.</b></p> <p>(c) To obtain a permit.</p> <p>(2) Each legal entity (corporation, partnership, sole proprietor, etc.) must apply for its own permit. The permit cannot be transferred from one owner to another. The permit is valid only for the person to whom it was issued and for the transaction of business only at the address that is shown on the permit. If a person operates two or more types of business at the same location, then only one permit is required.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>b. <u>Security.</u> A seller must furnish security as required by the comptroller. The security may be money, letters of credit or surety bonds. After two years the security may be released.</p> | <p><b>Section 3.286. Seller's and Purchaser's Responsibilities.</b></p> <p>(c) To obtain a permit.</p> <p>(1) A person must complete an application that the comptroller furnishes and must return that application to the comptroller, together with bond or other security that may be required by §3.327 of this title (relating to Taxpayer's Bond or Other Security). A separate permit under the same account is issued to the applicant for each place of business. The permit is issued without charge.</p> <p><b>Section 3.327. Taxpayer's Bond or Other Security.</b></p> <p>(b) A person who applies for a tax permit may be required to post a bond or security in an amount that is equal to the greater of \$ 100,000 or four times the amount of the average monthly tax liability. An itinerant vendor may be required to post a bond, but the minimum amount may not be less than \$ 500. For the purposes of this section, an itinerant vendor is a person who does not operate any place of business as defined in §3.286 of this title (relating to</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                 | <p data-bbox="164 800 196 1123">Seller's Responsibilities).</p> <p data-bbox="232 800 264 1123">(e) Types of security.</p> <p data-bbox="300 558 332 1026">(1) Acceptable types of security:</p> <p data-bbox="368 92 514 1123">(A) irrevocable assignments of accounts in banks, savings and loan institutions, and credit unions, whose deposits are insured by an agency of the United States government;</p> <p data-bbox="550 348 583 930">(B) cash (personal checks are acceptable);</p> <p data-bbox="618 92 709 1123">(C) bank letters of credit that are deemed by the comptroller to be sufficient in amount and secure;</p> <p data-bbox="745 92 777 930">(D) United States Treasury bonds, readily convertible to cash;</p> <p data-bbox="813 663 846 930">(E) surety bonds.</p> <p data-bbox="881 527 914 1026">(2) Unacceptable types of security:</p> <p data-bbox="950 474 982 930">(A) corporate stocks and bonds;</p> <p data-bbox="1018 569 1050 930">(B) personal guarantees.</p> <p data-bbox="1118 432 1151 1123"><b>Section 151.254. Exemption From Filing Security.</b></p> <p data-bbox="1170 92 1424 1123">(a) A person who has filed security under this subchapter is exempted from the security requirements of this subchapter and is entitled, on request, to have the comptroller return, refund, or release the security if in the judgment of the comptroller the person has for two consecutive years continuously complied with the conditions of the security filed under this subchapter.</p> |
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| <u>Comments</u>                                                                                                                                              | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <p>c. <u>Collection</u>. Sellers must collect the tax on each separate sale (no each item of each sale). The tax must be separately stated on each bill.</p> | <p><b>Section 151.053. Sales Tax Brackets.</b></p> <p>(a) If the sales price involves a fraction of a dollar, the sales tax to be added to the sales price shall be computed by multiplying the percentage rate of the sales tax times the amount of the sale. A fraction of one cent that is less than one-half of one cent is not collected and a fraction of one cent that is equal to one-half of one cent or more is collected as one cent of tax.</p> <p>(b) The comptroller may publish schedules and brackets of amounts of taxes based on the formula provided by Subsection (a) of this section for use in the collection of the taxes imposed by this chapter.</p> <p><b>Section 3.286. Seller's and Purchaser's Responsibilities.</b></p> <p>(d) Collecting tax due.</p> <p>(1) Bracket System</p> <p>(A) Each seller must collect the tax on each separate retail sale in accordance with the statutory bracket system in the Tax Code, §151.053. The practice of rounding off the amount of tax that is due on the sale of a taxable item is prohibited. Copies of the bracket system should be displayed in each place of business so both the seller and the customers may easily use them.</p> <p>(B) The sales tax applies to each total sale, not to each item of each sale.</p> <p>(2) Tax due is a debt of the purchaser. The tax due is a debt of the purchaser to the seller until collected. The amount of the sales tax must be separately stated on the bill, contract, or invoice to the customer or there must be a written statement to the customer that the stated price includes sales or use taxes. Contracts, bills, or invoices that merely state that "all taxes" are included</p> |



| <u>Comments</u>                                                                                                                                                                                                                                                                                                 | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                                                                                                                                                                                                                                                                                                                 | <p>are not specific enough to relieve either party to the transaction of its sales and use tax responsibilities. The total amount that is shown on such documents is presumed to be the taxable item's sales price, without tax included. The seller or customer may overcome the presumption by using the seller's records to show that tax was included in the sales price. Out-of-state sellers must identify the tax as Texas sales or use tax.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p>d. <u>Payment.</u> Sellers file a consolidated return by the 20<sup>th</sup> of the month for the previous month and pay the tax. However, if the tax is less than \$500 per month or \$1,500 per quarter, a quarterly return may be filed. A return must be filed even if there are no taxes to report.</p> | <p><b>Section 3.286. Seller's and Purchaser's Responsibilities.</b></p> <p>(e) Return requirements; remitting the tax due.</p> <p>(1) Returns must be filed on forms that the comptroller prescribes.</p> <p>(3) Permit holder.</p> <p>(A) Permit holders are required to file sales and use tax returns even if the permit holder has no sales or use tax to report.</p> <p>(B) Permit holders do not qualify for the occasional sale exemption.</p> <p>(D) Each permit holder shall file a single return together with the tax payment for all businesses-- that operate under the same taxpayer number.</p> <p>(f) Due dates.</p> <p>(1) General rule. Returns and remittances are due the 20<sup>th</sup> day of the month following each reporting period.</p> <p><b>Section 151.401. Tax Due Dates.</b></p> <p>(a) The taxes imposed by this chapter are due and payable to the comptroller on or before the 20th day of the month following the end of each calendar month unless a taxpayer qualifies as a quarterly filer under Subsection</p> |

| <u>Comments</u>                                                                 | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                                                                                 | <p>(b) If a taxpayer owes less than \$ 500 for a calendar month or \$ 1,500 for a calendar quarter, the taxes are due and payable on the 20th day of the month following the end of the calendar quarter.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>6. <u>Records.</u> Records of all sales must be retained for four years.</p> | <p><b>Section 3.286. Seller's and Purchaser's Responsibilities.</b></p> <p>(h) Records required.</p> <p>(1) Records must be kept for four years, unless the comptroller authorizes in writing a shorter retention period. Exemption and resale certificates must be kept for four years following the completion of the last sale covered by the certificate. See §3.281 of this title (relating to Records Required; Information Required) and §3.282 of this title (relating to Auditing Taxpayer Records).</p> <p><b>Section 3.281. Records Required; Information Required.</b></p> <p>(a) Persons who must keep records.</p> <p>(1) Sellers of taxable items and purchasers who store, use, or consume taxable items in this state shall keep books, papers, and records in the form that the comptroller requires.</p> <p>(2) Examples of persons who are required to keep records include the following:</p> <p>(A) a person who sells, leases, or rents tangible personal property;</p> <p>(B) a person who performs taxable labor, such as fabricating, processing, and producing tangible personal property;</p> |

| <u>Comments</u>                                                                                                                | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                                                                                                                                | <p>(C) a person who performs taxable services that are listed in Tax Code, §151.0101; or</p> <p>(D) a person who purchases taxable items.</p> <p>(b) Records required.</p> <p>(1) Records must reflect the total gross receipts from sales, rentals, leases, taxable services, and taxable labor. Examples include, but are not limited to, receipts, shipping manifests, invoices, and other pertinent papers from each rental, lease, taxable service, and each taxable labor transaction that occurs during each reporting period.</p> <p>(2) Records must reflect total purchases of taxable items. Examples include, but are not limited to, receipts, shipping manifests, invoices, and other pertinent papers of all purchases of taxable items from every source that are made during each reporting period.</p> <p>(3) Additional records must be kept to substantiate any claimed deductions or exclusions authorized by law. Examples include, but are not limited to, receipts, shipping manifests, invoices, exemption certificates, resale certificates, and other pertinent papers that substantiate each claimed deduction or exclusion.</p> <p>(4) Records may be written, kept on microfilm, stored on data processing equipment, or may be in any form that the comptroller may readily examine.</p> |
| <p>7. <u>Resale Certificate.</u> A sale to a purchaser for the purpose of resale in the ordinary course of the purchaser's</p> | <p><b>Section 3.285. Resale Certificate; Sales for Resale.</b></p> <p>(a) Definitions. The following words and terms, when used in this section,</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                      | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <p>business is exempt. The certificate should be obtained at the time of the sale. If it is not obtained until an audit is commenced, the certificate is subject to verification. The form is Texas Sales and Use Tax Resale Certificate or Border States uniform Sale for Resale Certificate attached as _____.</p> | <p>shall have the following meanings, unless the context clearly indicates otherwise.</p> <p>(1) Mexico--Within the geographical limits of the United Mexican States.</p> <p>(2) Sale for resale--A sale of:</p> <p>(A) tangible personal property to a purchaser who acquires the property for the purpose of reselling it in the United States or Mexico in the normal course of business either in the form or condition in which it is purchased, or as an attachment to, or as an integral part of other tangible personal property;</p> <p>(B) tangible personal property to a purchaser who acquires the property for the sole purpose of leasing or renting it in the United States or Mexico to another person, but not if incidental to the leasing or renting of real estate;</p> <p>(C) tangible personal property to a purchaser who acquires the property for the purpose of transferring care, custody, and control of the property to a customer in the United States or Mexico as an integral part of a taxable service;</p> <p>(D) a taxable service to a purchaser who obtains the service for the purpose of reselling it in the United States or Mexico in the normal course of business as an integral part of a taxable service; or</p> <p>(E) a taxable service performed on tangible personal property</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                 | <p>that is held for sale by the purchaser of the taxable service.</p> <p>(3) United States--Within the geographical limits of the United States of America or within the territories and possessions of the United States of America.</p> <p>(b) Acceptance of resale certificate.</p> <p>(1) A sale for resale as defined in subsection (a)(2) of this section is not taxable. All gross receipts of a seller are subject to sales or use tax unless a properly completed resale or exemption certificate is accepted by the seller. A properly completed resale certificate contains the information required by subsection (g) of this section. See also §3.287 of this title (relating to Exemption Certificates).</p> <p>(2) A sale is exempt if the resale certificate is accepted in good faith and the seller lacks actual knowledge that the sale is not a sale for resale. It is the seller's responsibility to take notice of the type business generally engaged in by the purchaser as shown on the resale certificate.</p> <p>(3) A resale certificate may be signed by a purchaser at the time of purchase if the purchaser intends to resell, lease, or rent the taxable item or transfer it as an integral part of a taxable service in the regular course of business.</p> <p>(4) The seller should obtain a properly executed resale certificate at the time the taxable transaction occurs. All certificates obtained on or after the date the comptroller's auditor actually begins work on the audit at the seller's place of business or on the seller's records after the entrance conference are</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                 | <p>subject to verification. All incomplete certificates will be disallowed regardless of when they were obtained. The seller has 60 days from the date written notice is received by the seller from the comptroller in which to deliver the certificates to the comptroller. Written notice shall be given by the comptroller upon the filing of a petition for redetermination or claim for refund. For the purposes of this section, written notice given by mail is presumed to have been received by the seller within three business days from the date of deposit in the custody of the United States Postal Service. The seller may overcome the presumption by submitting proof from the United States Postal Service or by other competent evidence showing a later delivery date. Any certificates delivered to the comptroller during the 60-day period will be subject to independent verification by the comptroller before any deductions will be allowed. Certificates delivered after the 60-day period will not be accepted and the deduction will not be granted. See §3.282 of this title (relating to Auditing Taxpayer Records) and § 3.286 of this title (relating to Seller's and Purchaser's Responsibilities).</p> <p>(c) Blanket resale certificate. A blanket resale certificate describing the general nature of the taxable items purchased for resale may be issued to a seller by a purchaser who purchases only items for resale. The seller may rely on the blanket certificate until it is revoked in writing.</p> <p><b>Section 3.285. Resale Certificate; Sales for Resale.</b></p> <p>(h) Form of a resale certificate. A resale certificate must be substantially either in the form of a Texas Sales and Use Tax Resale Certificate or a Border States Uniform Sale for Resale Certificate. The comptroller adopts both</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                               | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                                                                                                                                                                                                                                                                                                                                                               | <p>certificates by reference. Copies are available for inspection at the office of the Texas Register or may be obtained from the Comptroller of Public Accounts, Tax Policy Division, 111 W. 6th Street, Austin, Texas 78701-2913. Copies may also be requested by calling our toll-free number 1-800-252-5555. In Austin, call 463-4600. (From a Telecommunication Device for the Deaf (TDD) only, call 1-800-248-4099 toll free. In Austin, the local TDD number is 463-4621.)</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p>8. <u>Exemption Certificate.</u> Sales to exempt organizations are tax exempt. Exempt organizations include governmental units, charitable organizations, and chamber of commerce. The certificate obtained after an audit is commenced is subject to verification. The form is the Texas Sales and Use Tax Exemption Certification attached as _____.</p> | <p><b>Section 151.309. Governmental Entities.</b></p> <p>A taxable item sold, leased, or rented to, or stored, used, or consumed by, any of the following governmental entities is exempted from the taxes imposed by this chapter:</p> <ul style="list-style-type: none"> <li>(1) the United States;</li> <li>(2) an unincorporated instrumentality of the United States;</li> <li>(3) a corporation that is an agency or instrumentality of the United States and is wholly owned by the United States or by another corporation wholly owned by the United States;</li> <li>(4) this state;</li> <li>(5) a county, city, special district, or other political subdivision of this state; or</li> <li>(6) a state, or a governmental unit of a state that borders this state, but only to the extent that the other state or governmental unit exempts or does not impose a tax on similar sales of items to this state or a political subdivision of this state.</li> </ul> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p><b>Section 151.310. Religious, Educational, and Public Service Organizations.</b></p> <p>(a) A taxable item sold, leased, or rented to, or stored, used, or consumed by, any of the following organizations is exempted from the taxes imposed by this chapter:</p> <p>(1) an organization created for religious, educational, or charitable purposes if no part of the net earnings of the organization benefits a private shareholder or individual and the items purchased, leased, or rented are related to the purpose of the organization;</p> <p>(2) an organization qualifying for an exemption from federal income taxes under Section 501(c)(3), (4), (8), (10), or (19), Internal Revenue Code, of the item sold, leased, rented, stored, used, or consumed relates to the purpose of the exempted organization and the item is not used for the personal benefit of a private stockholder or individual;</p> <p>(3) a nonprofit organization engaged exclusively in providing athletic competition among persons under 19 years old if no financial benefit goes to an individual or shareholder;</p> <p>(4) a company, department, or association organized for the purpose of answering fire alarms and extinguishing fires or for the purpose of answering fire alarms, extinguishing fires, and providing emergency medical services, the members of which receive no compensation or only nominal compensation for their services rendered, if the taxable item is used exclusively by the company, department, or association; or</p> <p>(5) a chamber of commerce or a convention and tourist promotional agency representing at least one Texas city or county if the chamber of</p> |



| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>commerce or the agency is not organized for profit and no part of its net earnings inures to a private shareholder or other individual.</p> <p>(b) The sale of, or contracting for the sale of, concessions at an event conducted by an organization exempted under Subsection (a)(3) of this section does not prevent the application of the exemption to that organization.</p> <p>(c) An organization that qualifies for an exemption under Subsection (a)(1) or (a)(2) of this section, and each bona fide chapter of the organization, may hold two tax-free sales or auctions under this subsection during a calendar year and each tax-free sale or auction may continue for one day only. The sale of a taxable item the sales price of which is \$ 5,000 or less by a qualified organization or chapter of the organization at a tax-free sale or auction is exempted from the sales tax imposed by Subchapter C of this chapter, except that a taxable item manufactured by or donated to the qualified organization or chapter of the organization may be sold tax free regardless of the sales price to any purchaser other than the donor. The storage, use, or consumption of a taxable item that is acquired from a qualified organization or chapter of the organization at a tax-free sale or auction and that is exempted under this subsection from the taxes imposed by Subchapter C of this chapter is exempted from the use tax imposed by Subchapter D of this chapter until the item is resold or subsequently transferred.</p> <p>(c-1) Notwithstanding Subsection (c), an organization that qualifies for an exemption under Section (a) (4) may hold 10 tax-free sales or auctions during a calendar year. Each tax-free sale or auction may continue for not more than 72 hours. The storage, use, or consumption of a taxable item that is acquired from a</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|                 | <p>qualified organization at a tax-free sale or auction and that is exempted under this subsection from the taxes imposed by Subchapter c is exempted from the use tax imposed by Subchapter D until the item is resold or subsequently transferred. Subsection (d) applies to a tax-free sale or auction authorized by this subsection. This subsection expired September 1, 2014.</p> <p>(d) If two or more organizations jointly hold a tax-free sale or auction, each organization may hold one additional tax-free sale or auction during the calendar year in which the joint sale or auction is held. The employment of and payment of a reasonable fee to an auctioneer to conduct a tax-free auction does not disqualify an otherwise qualified organization from receiving the exemption provided by Subsection (c).</p> <p>(e) A nonprofit hospital or hospital system that qualifies for an exemption under Subsection (a)(2) shall provide community benefits that include charity care and government-sponsored indigent health care as set forth in Subchapter D, Chapter 311, Health and Safety Code.</p> <p>(f) For the purpose of obtaining refund of or claiming a credit for taxes paid under this chapter on the basis of an exemption under this section, an organization is not considered exempted from the taxes imposed by this chapter before the earlier of: (1) the date the organization applied for the exemption with the comptroller; or (2) the date of assessment of the organization's tax liability by the comptroller as a result of an audit, as applicable.</p> <p><b>Section 3.287. Exemption Certificates.</b></p> <p>(h) Form of an exemption certificate. An exemption certificate must be in</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | <p>substantially the form of a Texas Sales and Use Tax Exemption Certification that the comptroller adopts by reference. Copies are available for inspection at the office of the Texas Register or may be obtained from the Comptroller of Public Accounts, Tax Policy Division, 111 West 6th Street, Austin, Texas 78701-2913. Copies may also be requested by calling our toll-free number 1-800-252-5555. In Austin, call 463-4600. (From a Telecommunication Device for the Deaf (TDD) only, call 1-800-248-4099 toll free. In Austin, the local TDD number is 463-4621).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>9. <u>Municipal Sales and Use Tax.</u></p> <p>a. <u>In General.</u></p> <p>A municipality may adopt or repeal a sales and use tax as an election held within the city. For all practical purposes, all the rules relating to the State Sales and Use Tax apply equally to the City Tax. Thus only the items taxed under the State Tax are taxed under the City Tax. All the permits and certificates that apply to one apply to the other. No additional permits or certificates are required to the City Tax, the City Tax is paid along with the State Tax. So the only thing the City Tax does is increase the rate of tax and bring about questions as to allocation, i.e., where was the sale made when more than one location comes into play.</p> <p>b. <u>Allocation.</u></p> <p>(1) If a retailer has only one place of business and that place is in a taxing city, all sales, leases and</p> | <p><b>Section 3.371. Effect of Rules; Permits and Certificates; Exclusion of Certain Sales.</b></p> <p>(a) For the purpose of administering the Local Sales and Use Tax Act (hereafter referred to as the City Act), all rules and regulations relating to the Limited Sales, Excise, and Use Tax Act (hereafter referred to as the State Act) shall have the same effect with respect to the local sales and use tax (hereafter referred to as city tax) except in those situations where rules and regulations relating to city taxes have been issued to clarify specific statutory provisions.</p> <p>(b) Only those taxable items that are subject to taxation by the State of Texas under the State Act shall be subject to taxation under the City Act. All exemptions granted to agencies of government, organizations, persons, and to the sale, storage, use, and other consumption of certain taxable items under the provisions of the Tax Code, §§151.301-151.332, also apply to the imposition and collection of the city tax unless otherwise modified.</p> <p>(c) Permits, exemption certificates, and resale certificates required for the state limited sales and use tax (hereafter referred to as state tax) shall satisfy the</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| <p>rentals are subject to the City Tax – due to the location of the place of business.</p> <p>(2) If a retailer has more than one place of business in the state, the City Tax is allocated to the city (i) where the customer takes possession of the items or (ii) from which the item is shipped.</p> <p>(3) If an order is received at a place of business in a city but shipment is made from outside the city but within the state, the City Tax is allocated to the city where the order was received.</p> <p>(4) If an order is received by a traveling salesman and delivery is made from within the state but outside the city, the City Tax is allocated to the city where the retailer is located which hires the salesman and from which the salesman operates.</p> <p>(5) If the order is received by a retailer outside Texas but delivery is made from Texas but not from the retailer's place of business, the tax is allocated to the city where the delivery is made or possession given to the purchaser.</p> <p>(6) If the retailer makes deliveries of taxable items from a location not in the city or from outside Texas to a Texas purchaser outside a taxing city, the city use tax is applicable.</p> | <p>requirements of the City Act; no additional permit or certificates shall be required as a result of the City Act. See §3.285 of this title (relating to Resale Certificate; Sales for Resale), §3.286 of this title (relating to Seller's and Purchaser's Responsibilities), §3.287 of this title (relating to Exemption Certificates), and §3.288 of this title (relating to Direct Payment Procedures and Qualifications).</p> <p><b>Section 3.374. Collection and Allocation of the City Sales Tax.</b></p> <p>(b) Allocating city sales tax when taxable items are picked up, delivered, or shipped from a Texas retailer's place of business inside a taxing city.</p> <p>(1) One place of business. If a retailer has only one place of business and the place of business is in a taxing city, all sales, leases, and rentals by the retailer are subject to city sales tax based upon the location of the place of business. See the exceptions in subsections (e) and (g) of this section.</p> <p>(2) Multiple places of business. If a retailer has more than one place of business in this state, city sales tax is due and is allocated to the city in which the retailer's place of business is located:</p> <p>(A) where the customer takes possession of the item sold, leased, or rented; or</p> <p>(B) from which the item is shipped or delivered.</p> <p>(c) Allocating city sales tax when delivery or shipment is from a location in Texas other than the retailer's place of business.</p> <p>(1) If an order is received at the place of business of a retailer in Texas, but delivery or shipment is made from a location within the state other</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>than the retailer's place of business, city sales tax is due and is allocated to the city where the order was received.</p> <p>(2) If an order is received by a traveling salesperson, and delivery or shipment is made from a location within the state which is not a place of business of the Texas retailer, city sales tax is due and is allocated to the city where the retailer's place of business is located from which the salesperson operates.</p> <p>(d) Allocating city sales tax when an order is placed with a retailer located outside Texas.</p> <p>(1) If an order is initially received at a retailer's place of business outside the state, but delivery or shipment is made from a location within the state other than a place of business of that retailer, city sales or use tax is due and is allocated to the city where delivery is made or possession is taken by the purchaser.</p> <p>(2) If an order is received by a salesperson assigned to a place of business located outside Texas and delivery or shipment is made from a location within this state other than a place of business of that retailer, city sales tax is due and is allocated to the city where delivery is made or possession is taken by the purchaser.</p> <p>(e) Drop shipment by supplier receiving order. If a purchaser places an order directly with a retailer's supplier, and the items are shipped or delivered directly to the purchaser by the supplier, city sales tax is due and is allocated to the city where delivery is made or possession is taken by the purchaser.</p> <p>(g) Shipments from outside a taxing city or outside Texas. Notwithstanding</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                              | <u>Section</u>                                                                                                                                                                                                                                                                                                             |
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|                                                                                                                                                                                                                                                                                                                                                              | any of the foregoing provisions, if the retailer makes deliveries of taxable items from a location not in a taxing city or from outside the State of Texas to a Texas purchaser located inside a taxing city, the city use tax is applicable. Reference should be made to §3.375 of this title (relating to City Use Tax). |
| <p>10. <u>Other Local Sales and Use Taxes.</u></p> <p>There are also local taxes usually for some special purpose, e.g. transportation or hospitals that are also collected along with the State Sales Tax. All of the city and other taxes are not to exceed 20%. See Guidelines for Collection Local Sales and Use Tax attached as item C under Forms.</p> |                                                                                                                                                                                                                                                                                                                            |

**SALES AND USE TAX – LIST OF FORMS**

See: [www.window.state.tx.us/](http://www.window.state.tx.us/)

**SALES AND USE TAX ON BOATS AND MOTORS CHAPTER 160, – TAX CODE**

The Citations are to Sections of the Tax Code and Rules Compiled in 34 TAC



| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                    | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| <p>1. <u>General.</u> There is a separate chapter in the Tax Code for the sales tax on the sale and use of boats and motors. See Chapter 160, Tax Code, and 34 TAC 3.741, et seq. Generally, they are not covered by the general sales tax.</p> <p>2. <u>Definitions.</u> The definitions in the Tax Code are in 160.001 and in the Rules at §3.741(a). Note particularly the definition of "taxable boat or motor" and "use."</p> | <p><b>Section 160.001. Definitions.</b></p> <p>(1) "Agent of the department" means an agent authorized under Section 31.006, Parks and Wildlife Code.</p> <p>(2) "Boat" has the meaning assigned by Section 31.003, Parks and Wildlife Code.</p> <p>(3) "Dealer or manufacturer" means a dealer or manufacturer as defined under Section 31.003, Parks and Wildlife Code, who has applied for and holds a current number under Section 31.041, Parks and Wildlife Code.</p> <p>(4) "Department" means the Parks and Wildlife Department.</p> <p>(5) "Outboard motor" has the meaning assigned by Section 31.003, Parks and Wildlife Code.</p> <p>(6) "Retail sale" means a sale of an item other than a sale in which the dealer or manufacturer acquires the item for the exclusive purpose of resale.</p> <p>(7) "Sale" includes:</p> <p>(A) an installment and credit sale;</p> <p>(B) an exchange of property for property or money;</p> <p>(C) an exchange in which property is transferred but the seller retains title as security for payment of the purchase price; and</p> <p>(D) any other closed transaction that constitutes a sale.</p> <p>(8) "Tax assessor-collector" means a county tax assessor-collector.</p> <p>(9) "Taxable boat or motor" means:</p> <p>(A) a boat other than a canoe, kayak, rowboat, raft, punt, or other vessel designed to be propelled by paddle, oar, or pole; or</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>(B) an outboard motor.</p> <p>(10) "Seller-financed sale" means a retail sale of a taxable boat or boat motor in which the seller collects all or part of the total consideration in periodic payments and retains a lien on the boat or boat motor until all payments have been received. The term does not include a retail sale of a taxable boat or boat motor in which a person other than the seller provides the consideration for the sale and retains a lien on the boat or boat motor as collateral.</p> <p>(11) "Title" means the certificate of title document as provided for under Chapter 31, Parks and Wildlife Code.</p> <p>(12) "Use" does not include the storage, display, or holding of an item exclusively for sale.</p> <p><b>Section 3.741. Imposition And Collection Of Fees.</b></p> <p>(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.</p> <p>(1) Accessories--Nonessential tangible personal property attached to a boat for the convenience or comfort of the operator or passengers. For purpose of this rule, the term "accessories" includes, but is not limited to, radios, mirrors, transom-mounted ladders, electric trolling motors, and depth finders.</p> <p>(2) Dealer--A person or entity engaged in the business of buying,</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>selling, or exchanging boats or boat motors at an established or permanent place of business in this state. At each such place of business a sign must be conspicuously displayed showing the name of the dealership so that it may be located by the public, and sufficient space must be maintained for an office, service area, and display of boats and boat motors.</p> <p>(3) Department--The Texas Parks and Wildlife Department.</p> <p>(4) Manufacturer--A person or entity engaged in the business of manufacturing new and unused boats and boat motors for the purpose of sale or trade.</p> <p>(5) Retail sale--Any sale of a boat or boat motor other than a sale in which the dealer or manufacturer acquires the boat or boat motor for the exclusive purpose of resale. Dealers and manufacturers, as defined, are the only persons or entities that may acquire a boat or boat motor for resale.</p> <p>(6) Tax assessor-collector--Any of the county tax assessors-collectors in the State of Texas.</p> <p>(7) Taxable boat--Any watercraft, other than a seaplane on water, not more than 65 feet in length. This includes federally documented boats, motorboats, sailboats, jet skis, and boats designed to accommodate an outboard motor. Excluded from this definition are canoes, kayaks, rowboats, inflatable rafts, or other watercraft designed to be propelled by paddle, oar, or pole. These excluded watercraft are taxed under Limited Sales, Excise and Use Tax, unless some other exemption applies.</p> <p>(8) Taxable motor--Any self-contained internal combustion</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                               | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                                                                                                                                                                                                                                                                                               | <p>propulsion system of any horsepower, excluding fuel supply, used to propel a watercraft, that is detachable from the boat. Electric boat motors are excluded.</p> <p>(9) Total consideration-The amount paid or to be paid for a taxable boat or boat motor, including all accessories attached at the time of or before the sale. This amount includes the costs of transportation before the sale and any manufacturer's or importer's excise tax imposed by the United States government. This amount does not include any separately stated finance charges, service charges, or other interest charges. Also excluded from total consideration will be the value of a taxable boat or boat motor taken by the seller as all or part of the consideration for the sale of the boat or boat motor. No other tangible, intangible, or real property will be excluded from total consideration. Also excluded from total consideration are charges for transportation of the boat or boat motor after the sale.</p> <p>(10) Use-Any storage or other exercise of rights of ownership in this state by any person or entity, excluding the storage, display, or holding of a boat or boat motor exclusively for sale by a dealer or manufacturer, as defined in this subsection.</p> |
| <p>3. <u>Sales Tax.</u> A sales tax is imposed on every retail sale of a taxable boat and motor sold in Texas. The purchaser is obligated for the tax. A dealer is not required to collect the tax, but if a dealer does collect the tax, the dealer is liable for the tax and penalties.</p> | <p><b>Section 160.021. Retail Sales Tax.</b></p> <p>(a) A tax is imposed on every retail sale of a taxable boat or motor sold in this state. The tax is an obligation of and shall be paid by the purchaser of the taxable boat or motor. If the purchaser pays the tax to the seller, the tax is an obligation of and shall be paid by the seller.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                 | <p>(b) The tax rate is 6-1/4 percent of the total consideration.</p> <p><b>Section 3.741. Imposition And Collection Of Fees.</b></p> <p>(b) General principles.</p> <p>(1) The purchase of a taxable boat and boat motor and all accessories attached thereto at the time of sale is subject to the boat and boat motor sales and use tax (Tax Code, Chapter 160). The purchase of a taxable boat or boat motor for purposes of rental is subject to Tax Code, Chapter 160.</p> <p>(2) The purchase of accessories for a boat and boat motor attached after the time of sale of the boat or boat motor is subject to the limited sales, excise, and use tax (Tax Code, Chapter 151). The rental of a taxable boat or boat motor is subject to Tax Code, Chapter 151.</p> <p>(3) The purchase of tangible personal property is subject to the limited sales, excise, and use tax, if no item can be identified as a boat or boat motor even if the combination of items of tangible personal property becomes a boat or boat motor. If items of tangible personal property are combined to produce a boat or boat motor, the initial titling or registration of the boat or boat motor in the name of the person who produced the boat or boat motor is not subject to the provisions of the boat and boat motor sales and use tax. If, however, the boat or boat motor is titled or registered in any other person's name, the transfer is subject to the provisions of the boat and boat motor sales and use tax.</p> |

| <u>Comments</u>                                                                                                                                                  | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                                                                                                                                                                  | <p>(4) Safety equipment required by the Parks and Wildlife Code, §§31.064-31.071, including life preservers and fire extinguishers, purchased with a taxable boat or boat motor are considered to be attached to the boat or boat motor and subject to the provisions of the boat and boat motor sales and use tax.</p> <p>(c) Imposition of the tax.</p> <p>(1) A sales tax is imposed on each retail sale of a taxable boat or boat motor in this state. The tax is the obligation of and shall be paid by the purchaser of the taxable boat or boat motor. Although a boat dealer is not required to collect the tax under the Tax Code, if a dealer collects the tax and does not remit the tax to either a county tax assessor-collector or the department, the dealer is liable for tax and penalties.</p> <p>(2) The tax rate is 6.25% of total consideration paid or to be paid.</p> |
| <p>4. <u>Exemptions.</u> The tax is not imposed on the state, a political subdivision or the federal government. Also, a voluntary fire department is exempt</p> | <p><b>Section 160.024. Exemption.</b></p> <p>The taxes imposed by this chapter do not apply to the sale of a taxable boat or motor or to the use of a taxable boat or motor by this state or its political subdivisions or the federal government.</p> <p><b>Section 160.025. Credit For Other Taxes.</b></p> <p>A person is entitled to a credit against the tax imposed by Section 160.022 on a taxable boat or motor in an amount equal to the amount of any similar tax paid by the person in another state on the sale, purchase, or use of the taxable boat or motor if the state in which the tax was paid</p>                                                                                                                                                                                                                                                                        |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                 | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                                                                                                                                                                                                                                                                                                                                                                                                                 | provides a similar credit for a taxpayer of this state.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <p>5. <u>Amount of Tax.</u> The sales and use tax rate is 6.25% of "total consideration." Total consideration is a defined term. Generally, it is the price paid including all accessories but not including transportation cost, financing charges and trade-ins. The use tax on a new resident is \$15. An out of state purchaser gets a credit for tax paid in another state if that state reciprocates.</p> | <p><b>Section 160.002. Total Consideration.</b></p> <p>(a) "Total consideration" means the amount paid or to be paid for a taxable boat or motor, including accessories attached on or before the sale, without deducting:</p> <ul style="list-style-type: none"> <li>(1) the cost of the item;</li> <li>(2) the cost of material, labor or service, interest paid, loss, or any other expense;</li> <li>(3) the cost of transportation of the item before its sale; or</li> <li>(4) the amount of any manufacturer's or importer's excise tax imposed on the item by the United States.</li> </ul> <p>(b) "Total consideration" does not include amounts separately stated on the bill or contract for the following:</p> <ul style="list-style-type: none"> <li>(1) a cash discount;</li> <li>(2) a full cash or credit refund to a customer of the sales price of the item returned to the seller;</li> <li>(3) the amount charged for labor or service rendered in installing, applying, remodeling, or repairing the item sold;</li> <li>(4) a financing, carrying, or service charge or interest on credit extended on the item sold under a conditional sale or other deferred payment contract;</li> </ul> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                 | <p>(5) the value of a taxable boat or motor taken by a seller as all or a part of the consideration for sale of the item; or</p> <p>(6) a charge for transportation of the item after a sale.</p> <p><b>Section 3.741. Imposition and Collection of Tax.</b></p> <p>Total consideration-The amount paid or to be paid for a taxable boat or boat motor, including all accessories attached at the time of or before the sale. This amount includes the costs of transportation before the sale and any manufacturer's or importer's excise tax imposed by the United States government. This amount does not include any separately stated finance charges, service charges, or other interest charges. Also excluded from total consideration will be the value of a taxable boat or boat motor taken by the seller as all or part of the consideration for the sale of the boat or boat motor. No other tangible, intangible, or real property will be excluded from total consideration. Also excluded from total consideration are charges for transportation of the boat or boat motor after the sale.</p> <p><b>Section 160.023. New Resident.</b></p> <p>(a) A use tax is imposed on a new resident of this state who brings into this state for use in this state a taxable boat or motor that has been purchased and owned by the new resident in any other state or foreign country.</p> <p>(b) The tax is \$15 for each taxable boat or motor.</p> <p>(c) The tax imposed by this section is in lieu of the tax imposed by Section 160.022.</p> |



| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <p><b>Section 160.025. Credit For Other Taxes.</b></p> <p>A person is entitled to a credit against the tax imposed by Section 160.022 on a taxable boat or motor in an amount equal to the amount of any similar tax paid by the person in another state on the sale, purchase, or use of the taxable boat or motor if the state in which the tax was paid provides a similar credit for a taxpayer of this state.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>6. <u>Payment.</u> The tax is paid to PWD, its agents or county tax assessor when application is made for a certificate of title. The seller and customer complete a Seller, Donor or Trader affidavit. If the Comptroller finds that an affidavit is false and that more tax is due, both seller and buyer are jointly liable for the correct amount due plus a penalty. There are two ways for the tax to be paid; (1) the customer pays the dealer and the dealer pays the tax within 20 working days of delivery, or (2) the customer takes the affidavit and application for certificate of title to PWD, PWD's agent, or a tax assessor and pays the tax. A certificate of title will not be issued until the tax is paid, generally.</p> | <p><b>Section 160.041. Collection Procedure.</b></p> <p>(a) The department, each agent of the department, and each tax assessor-collector shall collect the taxes imposed by this chapter. The department, agent of the department, or tax assessor-collector of the county in which an application for a Texas certificate of number or certificate of title for a taxable boat or motor is made shall collect the taxes imposed by this chapter on that boat or motor.</p> <p>(b) Except as provided by Subsection (d), the department, agent of the department, or the tax assessor-collector may not accept an application for a Texas certificate of number or certificate of title for a taxable boat or motor from a person unless the tax, if any, is paid.</p> <p>(c) The tax imposed by Section 160.021 is due on the 20th working day after the date that the taxable boat or motor is delivered to the purchaser. The purchaser or the seller, if the purchaser paid the tax to the seller, shall pay the tax to the department, to an agent of the department, or to a tax assessor-collector on or before the due date.</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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|                 | <p>(d) If a purchaser pays the tax imposed by Section 160.021 to the seller, and the seller fails to remit the tax in the time and manner required by Subsection (c), the department, agent of the department, or county tax assessor-collector shall accept an application for a Texas certificate of number or certificate of title for a taxable boat or motor from the purchaser if the purchaser provides proof that the tax was paid to the seller. The comptroller shall adopt rules establishing the method of proof required.</p> <p>(e) The tax imposed by Section 160.022 or 160.023 is due on the 20th working day after the date that the taxable boat or motor is brought into this state. The person liable for the tax shall pay the tax to the department or to a tax assessor-collector on or before the due date.</p> |
|                 | <p><b>Section 3.741. Imposition and Collection of Tax.</b></p> <p>(d) Payment of the tax.</p> <p>(1) After the completion of the seller, donor, or trader's affidavit for the sale of a boat or boat motor, if the seller collects the tax from the purchaser, the seller must remit the tax to either a county tax assessor-collector or to the department within 20 working days from the date the taxable boat or boat motor is delivered to the purchaser.</p> <p>(2) After the completion of the seller, donor, or trader's affidavit for the sale of a boat or boat motor, the seller may give the original affidavit to the purchaser. The purchaser is then required to remit the tax to either a county tax assessor-collector or to the department within 20 working days</p>                                                  |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>from the date the taxable boat or boat motor is delivered to the purchaser.</p> <p>(3) The payment of the boat or boat motor use tax is the responsibility of the user and is due within 20 working days after the date that the taxable boat or boat motor is brought into this state.</p> <p><b>Section 160.042. Required Affidavits.</b></p> <p>(a) A person obligated to pay a tax imposed by this chapter on a transaction shall file the affidavit as provided by this section with the department, agent of the department, or tax assessor-collector on payment of a tax imposed by this chapter.</p> <p>(b) If a taxable boat or motor is sold by a person at a retail sale, the seller and purchaser shall make a joint affidavit stating the value in dollars of the total consideration for the boat or motor at the time of sale.</p> <p>(c) If the ownership of a taxable boat or motor is transferred as a result of a gift, the donor shall make an affidavit stating the nature of the transaction.</p> <p>(d) If the ownership of a taxable boat or motor is transferred as a result of an even exchange, the parties shall make a joint affidavit stating the nature of the transaction.</p> <p>(e) The department, agent of the department, or the tax assessor-collector shall examine each affidavit for the purpose of determining the truth and accuracy of the information it contains. If the department, agent of the department, the tax assessor-collector, or the comptroller has reason to</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>question the truth of the information in an affidavit, or if any material fact fails to meet the rules adopted by the comptroller, the department, agent of the department, the tax assessor-collector, or the comptroller may require any party to the affidavit to furnish substantiation of information in the affidavit before accepting an application for a Texas certificate of number or certificate of title.</p> <p>(f) The department, agent of the department, and the tax assessor-collector shall keep a copy of each affidavit and any substantiating materials until it is called for by the comptroller for auditing.</p> <p><b>Section 160.043. Payment By Seller.</b></p> <p>If the comptroller on an audit of the records of a seller finds that the amount of tax due was incorrectly reported on a joint affidavit and that the amount of tax paid was less than the amount due or that the seller failed to execute and deliver to the purchaser a joint affidavit and any other documents necessary to register the taxable boat or motor, the seller and purchaser are jointly and severally liable for the amount of the tax determined to be due.</p> <p><b>Section 160.045. Penalty.</b></p> <p>(a) A person who fails to pay a tax imposed by this chapter when due forfeits five percent of the amount due as a penalty, and if the person fails to pay the tax before the 31st day after the date on which the tax is due, the person forfeits an additional five percent.</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                 | <p>(b) The minimum penalty imposed by this section is \$1.</p> <p><b>Section 3.741. Imposition and Collection of Tax.</b></p> <p>(e) Failure of tax remittance by the selling dealer.</p> <p>(1) Effective September 1, 1999, if a purchaser pays tax imposed by Tax Code, §160.021 to a selling dealer, and the dealer fails to remit the tax in the time and manner required by Tax Code, §160.041(c), the department, agent of the department, or county tax assessor-collector shall accept an application for a Texas certificate of number or certificate of title for a taxable boat or motor from the purchaser without payment of additional tax by the purchaser. The purchaser must provide proof that the tax was paid to the dealer. Acceptable proof includes an invoice, bill of sale, or a receipt signed by the dealer or its representative showing that the tax was paid to the dealer.</p> <p>(2) The department, agent of the department, or county tax assessor-collector shall notify the Comptroller in writing of the dealer's failure to remit the tax. The notice must:</p> <p>(A) be made before the 31st day after the date the application for title is accepted;</p> <p>(B) contain the name and address of the dealer; and</p> <p>(C) include copies of documentation provided by the purchaser showing tax was paid to the seller.</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| <p>7. <u>Accessories and Components.</u> Items that are "combined into" a boat or motor and included in the sale price of the boat or motor are taxed under this law. A dealer purchasing the items from others may give a resale certificate to the vendor. These items may include water skis and tow ropes if their cost is included in the lump-sum price of the boat or motor. Items attached to an exempt boat are covered by the general sales tax.</p> | <p><b>Section 3.741. Imposition and Collection of Tax.</b></p> <p>(f) Purchase of accessories/components for resale.</p> <p>(1) Items combined into a boat or boat motor. A resale certificate as provided for in the Limited Sales, Excise, and Use Tax Act may be used in purchasing tangible personal property to be combined into a boat or boat motor held for sale in the purchaser's regular course of business. This includes all accessories that are included in a single sales price for the accessory, boat, and boat motor. These accessories include water skis and tow ropes. The lump-sum sales price will be subject to the boat and boat motor sales and use tax.</p> <p>(2) Accessories purchased to be attached to a boat or boat motor that is not subject to the boat and boat motor sales and use tax (boats over 65 feet in length), are subject to the limited sales, excise, and use tax. See also §3.285 of this title (relating to Resale Certificate; Sales for Resale), §3.294 of this title (relating to Rental and Lease of Tangible Personal Property), and §3.297 of this title (relating to Carriers).</p> |
| <p>8. <u>Records.</u> A dealer is required to maintain certain records of the sale of taxable boats or motors.</p>                                                                                                                                                                                                                                                                                                                                             | <p><b>Section 160.046. Records.</b></p> <p>(a) The seller of a taxable boat or motor shall keep at the seller's principal office for at least four years from the date of the sale a complete record of each sale of a taxable boat or motor. The record must include a copy of the invoice of each item sold. The invoice copy must show the full price of the taxable boat or motor and the itemized price of all its accessories. All sales and supporting records of a seller are open to</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p>inspection and audit by the comptroller.</p> <p>(b) A seller's business records must show the total receipts from all sources of income and expense, including transactions involving taxable boats and motors.</p> <p>(c) For a retail sale for which the seller receives full payment at the time of sale, the seller shall keep, at the seller's principal office for at least four years from the date of the sale, documentation of complete payment in the form of:</p> <p>(1) a copy of the payment instrument or a receipt for cash received; and</p> <p>(2) a copy of the receipt for title application, registration, and boat or boat motor tax issued by the county tax assessor-collector or the department or a written statement by the purchaser that:</p> <p>(A) is signed and dated;</p> <p>(B) indicates the date on which the seller provided to the purchaser each of the documents necessary to apply for the title, register the taxable boat or boat motor, and pay the boat or boat motor tax; and</p> <p>(C) includes a statement that the seller advised the purchaser that the purchaser must pay a tax to the county tax assessor-collector or the department.</p> <p>(d) For a seller-financed sale, the seller shall keep at the seller's principal office for at least four years from the date on which the seller receives the final payment for the taxable boat or motor:</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(1) the lienholder's copy of the receipt for title application, registration, and boat or boat motor tax issued by a county tax assessor-collector or the department; and</p> <p>(2) a ledger or other document containing a complete record of the payment history for that boat or boat motor, including:</p> <ul style="list-style-type: none"> <li>(A) the name and address of the purchaser;</li> <li>(B) the total consideration;</li> <li>(C) the amount of the down payment received at the time the boat or boat motor is sold;</li> <li>(D) the date and amount of each subsequent payment;</li> <li>(E) the date of sale; and</li> <li>(F) the date of any repossession.</li> </ul> <p>(e) For a sale for resale, the seller shall keep, at the seller's principal office for at least four years from the date of the sale, the purchaser's written statement of resale on a form prescribed by the comptroller.</p> <p>(f) Any person, other than the seller's employee, acting for the seller of a taxable boat or boat motor has the same record-keeping responsibilities as the seller.</p> |



**DEALER AND DEALER PLATES, CHAPTER 503 - TRANSPORTATION CODE**

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| <p>1. <u>Dealer.</u></p> <p>Any person engaging in business as a “dealer” must have a “dealer general distinguishing number” (GDN) in one of six categories for each location. A “dealer” is a person who regularly and actively buys, sells or exchanges “vehicles” at a permanent location. A “vehicle” includes a trailer. One of the categories requiring a GDN is a “trailer dealer.” So anyone acting as a trailer dealer must have a GDN. There are some exclusions, e.g., selling less than five vehicles in a year.</p> | <p><b>Section 503.021. Dealer General Distinguishing Number.</b></p> <p>A person may not engage in business as a dealer, directly or indirectly, including by consignment, without a dealer general distinguishing number in one of the six categories described by Section 503.029(a)(6) for each location from which the person conducts business as a dealer.</p> <p><b>Sec. 503.001. Definitions.</b> In this chapter:</p> <p>(2) "Commission" means the Texas Transportation Commission.</p> <p>(13) "Semitrailer" has the meaning assigned by Section 502.001.</p> <p><b>Section 503.029. Application For Dealer General Distinguishing Number.</b></p> <p>(a) An applicant for an original or renewal dealer general distinguishing number must submit to the department a written application</p> <p>(6) specifies whether the applicant proposes to be a:</p> <p>(A) franchised motor vehicle dealer;</p> <p>(B) independent motor vehicle dealer;</p> <p>(C) wholesale motor vehicle dealer;</p> <p>(D) motorcycle dealer;</p> <p>(E) house trailer dealer;</p> <p>(F) trailer or semi-trailer dealer; or</p> <p>(G) independent mobility motor vehicle dealer.</p> <p><b>Section 503.024. Exclusions For Dealer.</b></p> <p>(a) A person is not required to obtain a dealer general distinguishing number if the person:</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>(1) sells or offers to sell during a calendar year fewer than five vehicles of the same type that are owned and registered in that person's name; or</p> <p>(2) is a federal, state, or local governmental agency.</p> <p>(b) For the purposes of Section 503.021, a person is not engaging in business as a dealer by:</p> <p>(1) selling or offering to sell a vehicle the person acquired for personal or business use to a person other than a retail buyer if the sale or offer is not made to avoid a requirement of this chapter;</p> <p>(2) selling, in a manner provided by law for the forced sale of vehicles, a vehicle in which the person holds a security interest;</p> <p>(3) acting under a court order as a receiver, trustee, administrator, executor, guardian, or other appointed person;</p> <p>(4) selling a vehicle the person acquired from the vehicle's owner as a result of paying an insurance claim if the person is an insurance company;</p> <p>(5) selling an antique passenger car or truck that is at least 25 years of age; or</p> <p>(6) selling a special interest vehicle that is at least 12 years of age if the person is a collector.</p> <p>(c) For the purposes of Section 503.021, a domiciliary of another state who holds a dealer license and bond, if applicable, issued by the other state is not engaging in business as a dealer by buying a vehicle from, selling a vehicle to, or exchanging a vehicle with a person who:</p> <p>(1) holds a general distinguishing number issued by the department, if the transaction is not intended to avoid a requirement of this chapter; or</p> |

| <u>Comments</u>                                                                                                                                                                    | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                                                                                                                                                                                    | <p>(2) is a domiciliary of another state who holds a dealer license and bond, if applicable, issued by the other state and the transaction is not intended to avoid a requirement of this chapter.</p> <p>(d) For the purposes of Section 503.021, a licensed auctioneer is not engaging in business as a dealer by, as a bid caller, selling or offering to sell property to the highest bidder at a bona fide auction if:</p> <ul style="list-style-type: none"> <li>(1) legal or equitable title does not pass to the auctioneer;</li> <li>(2) the auction is not held to avoid a requirement of this chapter; and</li> <li>(3) for an auction of vehicles owned legally or equitably by a person who holds a general distinguishing number, the auction is conducted at the location for which the general distinguishing number was issued.</li> </ul> <p>(e) In this section, "special interest vehicle" has the meaning assigned by Section 683.077(b).</p> |
| <p>a. <u>Application</u>. A dealer must make application for a GDN. If a dealer does business in more than one location in a municipality, the dealer can do so under one GDN.</p> | <p><b>Section 503.029. Application For Dealer General Distinguishing Number.</b></p> <p>(a) An applicant for an original or renewal dealer general distinguishing number must submit to the department a written application on a form that:</p> <ul style="list-style-type: none"> <li>(1) is provided by the department;</li> <li>(2) contains the information required by the department;</li> <li>(3) contains information that demonstrates the person meets the requirements prescribed by Section 503.032;</li> <li>(4) contains information that demonstrates the applicant has complied with all applicable state laws and municipal ordinances;</li> </ul>                                                                                                                                                                                                                                                                                               |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(5) states that the applicant agrees to allow the department to examine during working hours the ownership papers for each registered or unregistered vehicle in the applicant's possession or control; and</p> <p>(6) specifies whether the applicant proposes to be a:</p> <ul style="list-style-type: none"> <li>(A) franchised motor vehicle dealer;</li> <li>(B) independent motor vehicle dealer;</li> <li>(C) wholesale motor vehicle dealer;</li> <li>(D) motorcycle dealer;</li> <li>(E) house trailer dealer; or</li> <li>(F) trailer or semi-trailer dealer.</li> </ul> <p>(b) The applicant must swear to the truth of the information contained in the application before an officer authorized to administer oaths.</p> <p>(c) A renewal application must be:</p> <ul style="list-style-type: none"> <li>(1) submitted before the date the general distinguishing number expires; and</li> <li>(2) accompanied by the appropriate fee prescribed by Section 503.007.</li> </ul> <p><b>Section 503.027. Requirements Relating To Dealer Location.</b></p> <p>(a) If a dealer consigns for sale more than five vehicles in a calendar year from a location other than the location for which the dealer holds a general distinguishing number, the dealer must also hold a general distinguishing number for the consignment location unless the consignment location is a wholesale motor vehicle auction.</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                         | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>(b) If a person is not otherwise prohibited from doing business as a dealer at more than one location in the territory of a municipality, a person may buy, sell, or exchange a vehicle of the type for which the person holds a dealer general distinguishing number from more than one location in the territory of the municipality without obtaining an additional dealer general distinguishing number. Each location must comply with the requirements prescribed by this chapter and board rules relating to an established and permanent place of business.</p>                                                                                                                                                                                                                                                                                                                                                                                 |
| <p>b. <u>Established Place of Business.</u> An applicant must show that it has an established and permanent place of business. The applicant must own the land or lease not less than the term of the GDN, maintain an office, have a sign with 6" letters, sufficient room to display five vehicles and intends to be regularly and actively engaged in the business during the term of the GDN and be available during reasonable business hours.</p> | <p><b>Section 503.032. Established And Permanent Place Of Business.</b></p> <p>(a) An applicant for a dealer general distinguishing number or wholesale motor vehicle auction general distinguishing number must demonstrate that the location for which the applicant requests the number is an established and permanent place of business. A location is considered to be an established and permanent place of business if the applicant:</p> <p>(1) owns the real property on which the business is situated or has a written lease that has a term of not less than the term of the general distinguishing number.</p> <p>(2) maintains on the location:</p> <p>(A) a permanent furnished office that is equipped as required by the department for the sale of the vehicles of the type specified in the application; and</p> <p>(B) a conspicuous sign with letters at least six inches high showing the name of the applicant's business; and</p> |

| <u>Comments</u>                                                                                                                                                                                                                                         | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                                                                                                                                                                                                                                         | <p>(3) has sufficient space on the location to display at least five vehicles of the type specified in the application.</p> <p>(b) An applicant for a general distinguishing number as a wholesale motor vehicle dealer is not required to maintain display space in accordance with Subsection (a)(3).</p> <p>(c) The applicant must demonstrate that:</p> <p>(1) the applicant must demonstrate that the applicant intends to remain regularly and actively engaged in the business specified in the application for a term of not less than the term of the general distinguishing number of the dealer; and</p> <p>(2) the applicant or a bona fide employee of the applicant will be:</p> <p>(A) at the location to buy, sell, lease, or exchange vehicles; and</p> <p>(B) available to the public or the department at that location during reasonable and lawful business hours.</p> |
| <p>c. <u>Security</u>. The applicant must have a \$25,000.00 surety bond or other security. The bond is to protect the public in the payment of checks by the dealership to buy vehicles and the transfer of good title by the dealer when selling.</p> | <p><b>Section 503.033. Security Requirement.</b></p> <p>(a) The department may not issue or renew a motor vehicle dealer general distinguishing number or a wholesale motor vehicle auction general distinguishing number unless the applicant provides to the department:</p> <p>(1) satisfactory proof that the applicant has purchased a properly executed surety bond in the amount of \$25,000 with a good and sufficient surety approved by the department; or</p> <p>(2) other security under Subsection (c).</p>                                                                                                                                                                                                                                                                                                                                                                    |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                 | <p>(b) The surety bond must be:</p> <p>(1) in a form approved by the attorney general;</p> <p>(2) conditioned on:</p> <p>(A) the payment by the applicant of all valid bank drafts, including checks, drawn by the applicant to buy motor vehicles; and</p> <p>(B) the transfer by the applicant of good title to each motor vehicle the applicant offers for sale.</p> <p>(c) A person may recover against a surety bond or other security if the person obtains against a person issued a motor vehicle dealer general distinguishing number or a wholesale motor vehicle auction general distinguishing number a judgment assessing damages and reasonable attorney's fees based on an act or omission on which the bond is conditioned that occurred during the term for which the general distinguishing number was valid.</p> <p>(d) The liability imposed on a surety is limited to:</p> <p>(1) the amount:</p> <p>(A) of the valid bank drafts, including checks, drawn by the applicant to buy motor vehicles; or</p> <p>(B) paid to the applicant for a motor vehicle for which the applicant did not deliver good title; and</p> <p>(2) attorney's fees that are incurred in the recovery of the judgment and that are reasonable in relation to the work performed.</p> <p>(e) The liability of a surety may not exceed the face value of the surety bond. A surety is not liable for successive claims in excess of the bond amount regardless of the number of claims made against the bond or the number of</p> |



| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                            | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                                                                                                                                                                                                                                                                                                                                                                                            | <p>years the bond remains in force.</p> <p>(f) This section does not apply to a person licensed as a franchised motor vehicle dealer by the department's Motor Vehicle Board.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>d. <u>Fees.</u> The fee for an original GDN is \$500.00 and renewals are \$200.00.</p>                                                                                                                                                                                                                                                                                                  | <p><b>Section 503.007. Fees For General Distinguishing Number.</b></p> <p>(a) The fee for an original general distinguishing number is \$500 for the first year and \$200 for each subsequent year for which the number is valid.</p> <p>(b) The fee for the renewal of a general distinguishing number is \$200 a year.</p> <p>(c) The registration fee for a drive-a-way in-transit license is \$50 a year.</p>                                                                                                                                                                                                                                                                                                                  |
| <p>2. <u>Dealer Plates.</u></p> <p>a. <u>Metal Dealer Plates.</u> In lieu of registering a dealer's vehicles, the dealer may use metal dealer's license plates if the vehicle is the type the dealer sells, e.g., trailers. The fee for a metal dealer's plate is \$20.00. The dealer must make application for the plates. Metal plates may not be used on a service or work vehicle.</p> | <p><b>Section 503.061. Dealer's License Plates.</b></p> <p>(a) Instead of registering under Chapter 502 a vehicle that the dealer owns, operates, or permits to be operated on a public street or highway, the dealer may apply for, receive, and attach metal dealer's license plates to the vehicle if it is the type of vehicle:</p> <p>(1) that the dealer sells; and</p> <p>(2) for which the dealer has been issued a general distinguishing number.</p> <p>(b) The board may adopt rules regulating the issuance and use of a license plate issued pursuant to the terms of this section.</p> <p><b>Section 503.008. Fees For License Plates.</b></p> <p>(a) The fee for a metal dealer's license plate is \$20 a year.</p> |

| <u>Comments</u>                                                                                                         | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                                                                                                                         | <p>(b) The fee for a manufacturer's license plate is \$40 a year.</p> <p>(c) The fee for an additional set of drive-a-way in-transit license plates is \$5 a year.</p> <p><b>Section 503.066. Application For Dealer's Or Manufacturer's License Plates.</b></p> <p>(a) An applicant for one or more original or renewal dealer's or manufacturer's license plates must submit to the department a written application on a form that:</p> <p>(1) is provided by the department; and</p> <p>(2) contains a statement that the applicant agrees to allow the department to examine during working hours the ownership papers for each registered or unregistered vehicle in the applicant's possession or control.</p> <p>(b) The applicant must swear to the truth of the information contained in the application before an officer authorized to administer oaths.</p> <p>(c) An application must be:</p> <p>(1) submitted before the date the plate expires; and</p> <p>(2) accompanied by the appropriate fee prescribed by Section 503.008.</p> <p>(d) A metal license plate issued under this chapter expires on the same date as the expiration of the license under which it is issued.</p> |
| <p>b. <u>Dealer's Temporary Cardboard Tags.</u> A dealer may issue temporary cardboard tags for use on unregistered</p> | <p><b>Sec. 503.062. Dealer's Temporary Cardboard Tags.</b></p> <p>(a) A dealer may issue a temporary cardboard tag for use on an unregistered</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| <u>Comments</u>                                                                                                                                                                                       | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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| <p>vehicles to demonstrate the vehicle, transport from dealer to dealer, etc. Temporary tags may not be used to operate a vehicle for the dealer's personal use, or on a service or work vehicle.</p> | <p>vehicle by the dealer or the dealer's employees only to:</p> <ul style="list-style-type: none"> <li>(1) demonstrate or cause to be demonstrated to a prospective buyer the vehicle for sale purposes only;</li> <li>(2) convey or cause to be conveyed the vehicle: <ul style="list-style-type: none"> <li>(A) from one of the dealer's places of business in this state to another of the dealer's places of business in this state;</li> <li>(B) from the dealer's place of business to a place the vehicle is to be repaired, reconditioned, or serviced;</li> <li>(C) from the state line or a location in this state where the vehicle is unloaded to the dealer's place of business;</li> <li>(D) from the dealer's place of business to a place of business of another dealer;</li> <li>(E) from the point of purchase by the dealer to the dealer's place of business; or</li> <li>(F) to road test the vehicle; or</li> </ul> </li> <li>(3) use the vehicle for or allow its use by a charitable organization.</li> </ul> <p>(b) Subsection (a)(1) does not prohibit a dealer from permitting a prospective buyer to operate a vehicle while the vehicle is being demonstrated.</p> <p>(c) A vehicle being conveyed under this section is exempt from the inspection requirements of Chapter 548.</p> <p>(d) The department may not issue a dealer temporary cardboard tag or contract for the issuance of a dealer temporary cardboard tag but shall prescribe:</p> <ul style="list-style-type: none"> <li>(1) the specifications, form and color of a dealer temporary cardboard tag; and</li> </ul> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <p>(2) procedures for a dealer to generate a vehicle-specific number using the database developed under Section 503.0626 and assign it to each tag;</p> <p>(3) procedures to clearly display the vehicle specific number on the tag and for the period may be used for or by a charitable organization;</p> <p>(4) the period of which a tag may be used for by a charitable organization.</p> <p>(e) For purposes of this section, "charitable organization" means an organization organized to relieve poverty, to advance education, religion, or science, to promote health, governmental, or municipal purposes, or for other purposes beneficial to the community without financial gain.</p>                                                                             |
| <p>c. <u>Buyer's Temporary Cardboard Tags.</u> A dealer may issue cardboard tags to a buyer of an unregistered vehicle which is good for 60 days or the date the vehicle is registered. The dealer must show on the tag the date of sale. The department is directed to develop and maintain a database on persons to whom temporary tags are issued that may be used by law enforcement agencies. A dealer must maintain 24 hour internet access at its place of business so that the dealer may enter into the database information about a buyer for whom a tag was issued. The dealer must give the buyer notice as to the requirements related to a temporary tag and require the buyer to sign a statement as to receipt of this information.</p> | <p><b>Section 503.063. Buyer's Temporary Cardboard Tags.</b></p> <p>(a) Except as provided by this section a dealer shall issue to a person who buys a vehicle one temporary cardboard buyer's tag for the vehicle.</p> <p>(b) Except as provided by this section, the buyer's tag is valid for the operation of the vehicle until the earlier of:</p> <p>(1) the date on which the vehicle is registered; or</p> <p>(2) the 21st day after the date of purchase.</p> <p>(c) The dealer:</p> <p>(1) must show in ink on the buyer's tag the actual date of sale and any other required information; and</p> <p>(2) is responsible for displaying the tag.</p> <p>(d) The dealer is responsible for the safekeeping and distribution of each buyer's tag the dealer obtains.</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | <p>(e) The department may not issue a buyer's tag or contract for the issuance of a buyer's tag but shall prescribe the specifications, color and form of a buyer's tag.</p> <p>(f) The department shall ensure that dealer may generate in advance a sufficient amount of vehicle numbers under Section (e)(2)(B) in order to continue selling vehicles for a period of up to one week in which a dealer is unable to access the internet due to an emergency. The department shall establish and expedited procedure to allow affected dealers to apply for additional vehicle specific numbers so they may remain in business during an emergency. For each buyer's temporary tag, a dealer shall charge the buyer a registration fee of not more than \$5 as prescribed by the department to be sent to the comptroller for deposit to the credit of the state highway fund.</p> <p><b>Section 503.0631. Buyer's Temporary Tag Database.</b></p> <p>(a) The department shall develop and maintain a secure, real-time database of information on person to whom temporary buyer's tags are issued that may be used by a law enforcement agency in the same manner that the agency uses vehicle registration information. The database shall be managed by the vehicle titles and registration division of the department.</p> <p>(b) The database must allow law enforcement agencies to use a vehicle-specific number assigned to an displayed on the tag as required by Section 503.063(e)(2) to obtain information about the person to whom the tag was issued.</p> <p>(c) Except as provided by Subsection (d) before a buyer's temporary</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>cardboard tag may be displayed on a vehicle, a dealer must enter into the database through the Internet information about the buyer of the vehicle for which the tag was issued as prescribed by the department and generate a vehicle-specific number for the tag as required by Section 503.063(e). The department may not deny access to the database to any dealer who holds a general distinguishing number issued under this chapter or who is licensed under Chapter 2301, Occupations Code.</p> <p>(d) A dealer shall obtain 24-hour Internet access at its place of business, but if the dealer is unable to access the Internet at the time of the sale of a vehicle, the dealer shall complete and sign a form, as prescribed by the department, that states the dealer has Internet access, but was unable to access the Internet at the time of sale. The buyer shall keep the original copy of the form in the vehicle until the vehicle is registered to the buyer. Not later than the next business day after the time of the sale, the dealer shall submit the information required under Subsection (c).</p> <p>(e) The department shall adopt rules and prescribe procedures as necessary to implement this section.</p> <p>(f) The dealer may charge a reasonable fee not to exceed \$20 for costs associated with complying with this section.</p> <p><b>Section 503.066. Application for Dealer's or Manufacturer's License Plates</b></p> <p>(a) An applicant for one or more original or renewal dealer's or manufacturer's license plates must submit to the department a written</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                 | <p>application on a form that:</p> <ul style="list-style-type: none"> <li>(1) is provided by the department; and</li> <li>(2) contains a statement that the applicant agrees to allow the department to examine during working hours the ownership papers for each registered or unregistered vehicle in the applicant's possession or control.</li> </ul> <p>(b) An application must be:</p> <ul style="list-style-type: none"> <li>(1) submitted before the date and plate expires; and</li> <li>(2) accompanied by the appropriate fee prescribed by Section 503.008.</li> </ul> <p>(c) A metal license plate issued under this chapter expires on the same date as the expiration of the license under which it is issued.</p> <p><b>Section 503.067. Unauthorized Reproduction, Purchase, Use, Or Sale Of Temporary Tags</b></p> <p>(a) A person may not produce or reproduce a temporary tag or an item represented to be a temporary tag for the purchase of disturbing the date to someone other than a dealer or converter.</p> <p>(b) A person may not operate a vehicle that displays an unauthorized temporary tag.</p> <p>(c) A person other than a dealer or converter may not purchase a temporary tag.</p> <p>(d) A person may not sell or distribute a temporary tag or an item represented to be a temporary tag unless the person is:</p> <ul style="list-style-type: none"> <li>(1) a dealer issuing the tag in connection with the sale of a vehicle;</li> </ul> <p>or</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>(2) a printer or distributor engaged in the business of selling temporary tags solely for uses authorized under this chapter.</p> <p><b>Section 503.068. Limitation on Use of Dealer's License Plates and Tags</b></p> <p>(a) A dealer or an employee of a dealer may not use a dealer's temporary tag as authorization to operate a vehicle for the dealer's or the employee's personal use.</p> <p>(b) A person may not use a metal dealer's license plate or dealer's temporary tag on:</p> <p style="padding-left: 40px;">(1) a service or work vehicle except as provided by subsection (b-1);</p> <p style="text-align: center;">or</p> <p style="padding-left: 40px;">(2) a commercial vehicle that is carrying a load.</p> <p>(b-1) Dealer plates.</p> <p style="padding-left: 40px;">An independent motor vehicle dealer or an employee of an independent motor vehicle dealer may use a metal dealers license plate on a service or work vehicle used to transport a vehicle in the dealers inventory to or from a point of sale. This subsection does not authorize a person to operate a service or work vehicle as a tow truck, as defined by Section 2308.002 Occupation Code, without a license or permit required by Chapter 2308, Occupations Code.</p> <p>(c) For the purposes of this section, a boat trailer carrying a boat is not a commercial vehicle carrying a load. A dealer complying with this chapter may affix to the rear of a boat trailer the dealer owns or sells a metal dealer's license plate or temporary tag issued under Section 503.061, 503.062, or 503.063.</p> <p>(d) This section does not prohibit the operation or conveyance of an</p> |



| <u>Comments</u> | <u>Section</u>                                                                                                                                                          |
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|                 | unregistered vehicle using the full-mount method, saddle-mount method, tow-bar method, or a combination of those methods in accordance with Section 503.062 or 503.063. |
|                 |                                                                                                                                                                         |

**CONSUMER CREDIT CODE, CHAPTER 345, CONSUMER CREDIT CODE**

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| <p>1. <u>General.</u> Retailers are covered by the Consumer Credit Code ("CCC") unless they accept only payment in full on the spot (i.e., checks, cash or credit card) for goods and services sold. Retailers that are covered must register with the Office of Consumer Credit Commissioner ("OCCC") and their contracts have to comply with the Code and especially Chapter 345 entitled Retail Installment Sales. These contracts are usually called "retail installment contracts."</p>                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <p>2. <u>Registration.</u> Retailers must register on the Creditor Registration Form. The fee is \$10.00 per location and renewals are required before October 31 of each year. The OCCC will mail a renewal form in September. Registration is required as long as a retailer has contracts on its books even though it is issuing no new contracts. The registration is not transferable between locations. The OCCC will issue a decal which must be permanently displayed. Any contract under Chapter 345 must contain certain Consumer Notifications.</p> | <p><b>Section 345.351. Registration of Holder.</b></p> <p>(a) A holder who is not an authorized lender under Chapter 342 or a credit union shall:</p> <p>(1) register with the Office of Consumer Credit Commissioner; and</p> <p>(2) pay an annual fee of \$10 for each location at which a retail installment transaction is originated, serviced, or collected.</p> <p>(b) The finance commission by rule may establish procedures to facilitate the registration and collection of fees under this section, including rules staggering throughout the year the dates on which fees are due.</p> <p><b>Section 1.901. Consumer Notifications.</b></p> <p>(a) When a written contract or agreement is made under the authority of Texas Finance Code, Chapter 345, 347, or 348, the contract must contain as a separate section or otherwise conspicuously set out from the surrounding written material, the following statement: "To contact (insert authorized</p> |

| <u>Comments</u>                                                                      | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                                                                                      | <p>business name of retail seller, creditor, or holder as appropriate) about this account call (insert telephone number of retail seller, creditor, or holder as appropriate). This contract is subject in whole or in part to Texas law which is enforced by the Consumer Credit Commissioner, 2601 N. Lamar Blvd., Austin, Texas 78705-4207; (800) 538-1579; (512) 936-7600, and can be contacted relative to any inquiries or complaints."</p> <p>(b) The telephone number of the retail seller, creditor, or holder may be printed in conjunction with the name and address of the retail seller, creditor, or holder elsewhere on the contract or agreement provided the notice in subsection (a) of this section is amended to direct the reader's attention to the area of the contract where the telephone number may be found.</p> <p>(c) A retail seller as that term is defined in Chapter 345 or in Chapter 348 or a creditor as that term is defined in Chapter 347 may continue to use the notice as previously required by this section without modification for a period of one year following the effective date of this rule.</p> |
| <p>3. <u>Retail Installment Contracts.</u></p> <p>a. <u>General Requirements</u></p> | <p><b>Section 345.051. Retail Installment Contract General Requirements.</b></p> <p>(a) A retail installment contract must be:</p> <ol style="list-style-type: none"> <li>(1) in writing;</li> <li>(2) dated;</li> <li>(3) signed by the retail buyer; and</li> <li>(4) completed as to all essential provisions, except as provided by Section 345.064.</li> </ol> <p>(b) The contract must be designated "Retail Installment Contract."</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |

| <u>Comments</u>    | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                    | (c) The printed or typed part of a retail installment contract, other than instructions for completion, must be in at least eight-point type unless a different size of type is required under this subchapter.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| b. <u>Contents</u> | <p><b>Section 345.052. Contents of Contract.</b></p> <p>(a) A retail installment contract must contain:</p> <ol style="list-style-type: none"> <li>(1) the name of the retail seller and the name of the retail buyer;</li> <li>(2) the place of business of the retail seller;</li> <li>(3) the residence or other address of the retail buyer as specified by the retail buyer;</li> <li>(4) the cash price;</li> <li>(5) the amount of the retail buyer's down payment, specifying the amount paid in money and the amount allowed for goods traded in; and</li> <li>(6) each itemized charge.</li> </ol> <p>(b) A charge for insurance authorized under Subchapter E may be disclosed as provided by that subchapter.</p> <p>(c) A retail installment contract must reasonably identify the goods sold or services furnished under the contract. Multiple items of goods or services may be described in a separate writing in detail sufficient to identify them.</p> <p>(d) The contract must contain substantially the following notice printed or typed in at least 10-point type that is bold-faced, capitalized, or underlined or otherwise conspicuously set out from the surrounding written material:</p> <p><b>"NOTICE TO THE BUYER. DO NOT SIGN THIS CONTRACT BEFORE YOU READ IT OR IF IT CONTAINS BLANK SPACES. YOU ARE</b></p> |

| <u>Comments</u>                                                                                                                                                                                               | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                                                                                                                                                                                                               | ENTITLED TO A COPY OF THE CONTRACT YOU SIGN. UNDER THE LAW YOU HAVE THE RIGHT TO PAY OFF IN ADVANCE THE FULL AMOUNT DUE AND UNDER CERTAIN CONDITIONS MAY OBTAIN A PARTIAL REFUND OF THE FINANCE CHARGE. KEEP THIS CONTRACT TO PROTECT YOUR LEGAL RIGHTS.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>c. <u>"Time Price Differential</u> –amount paid for agreeing to accept payments for goods or services in installments. Any of the following are acceptable maximums.</p> <p>(1) Equal Monthly Payments</p> | <p><b>345.055. Time Price Differential for Contract Payable in Equal Monthly Payments.</b></p> <p>(a) A retail installment contract that is payable in substantially equal monthly payments beginning one month after the date of the contract may provide for a time price differential that does not exceed an add-on charge equal to:</p> <p>(1) \$12 per \$100 per year on the part of the principal balance that is less than or equal to the amount computed under Subchapter C, Chapter 341, using the reference amount of \$500;</p> <p>(2) \$10 per \$100 per year on the part of the principal balance that is more than the amount computed for Subdivision (1) but less than or equal to the amount computed under Subchapter C, Chapter 341, using the reference amount of \$1,000; and</p> <p>(3) \$8 per \$100 per year on the part of the principal balance that is more than the amount computed for Subdivision (2).</p> <p>(b) The time price differential is computed on the original principal balance from the date of the contract until the due date of the final installment, notwithstanding that the balance is payable in installments.</p> |

| <u>Comments</u>                                                                                                                                              | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                                                                                                                                                              | <p>(c) If the retail installment contract is payable for a period that is shorter or longer than a year or is for an amount that is less or greater than \$100, the amount of the maximum time price differential computed under this section is decreased or increased proportionately</p> <p>(d) For the purpose of a computation under this section, 15 or more days of a month may be considered a full month.</p>                                                                                                                             |
| <p>(2) Optional Ceilings – the weekly, monthly, quarterly and annualized ceilings based on 26-week T-bills or as computed by the OCCC from time to time.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>(3) Other</p>                                                                                                                                             | <p><b>Section 345.057. Time Price Differential for Other Contracts.</b></p> <p>A retail installment contract that is payable other than in substantially equal successive monthly payments or the first installment of which is not payable one month from the date of the contract may provide for a time price differential that does not exceed an amount that provides the same effective return as if the contract were payable in substantially equal successive monthly installments beginning one month from the date of the contract.</p> |
| <p>(4) <u>Minimum</u></p>                                                                                                                                    | <p><b>Section 345.058. Minimum Time Price Differential for Contract.</b></p> <p>Notwithstanding Section 345.055, 345.056, or 345.057:</p> <p>(1) a retail installment contract with an initial principal balance of \$75 or more may provide for a minimum time price differential that does not exceed \$12;</p> <p>(2) a retail installment contract with an initial principal balance of more</p>                                                                                                                                               |

| <u>Comments</u>                      | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                                      | <p>than \$25 and less than \$75 may provide for a minimum time price differential that does not exceed \$9; and</p> <p>(3) a retail installment contract with an initial principal balance of \$25 or less may provide for a minimum time price differential that does not exceed \$6.</p>                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>e. <u>Delinquency Charges</u></p> | <p><b>Section 345.060. Charges for Default in Payment of Installment.</b></p> <p>(a) A retail installment contract may provide that if an installment remains unpaid after the 10th day after the maturity of the installment the retail seller may collect:</p> <p>(1) a delinquency charge that is not more than five percent of an installment or \$5, whichever is less; or</p> <p>(2) interest on the amount of the installment accruing after the maturity of the installment at a rate that does not exceed the maximum rate authorized for the contract.</p> <p>(b) Only one delinquency charge may be collected under Subsection (a) on an installment regardless of the duration of the default.</p> |
| <p>f. <u>Collection Charges</u></p>  | <p><b>Section 345.061. Charges for Collecting Debt.</b></p> <p>A retail installment contract may provide for the payment of:</p> <p>(1) an attorney's reasonable fees if the contract is referred for collection to an attorney who is not a salaried employee of the holder; and</p> <p>(2) court costs and disbursements.</p>                                                                                                                                                                                                                                                                                                                                                                                |



| <u>Comments</u>                                      | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| g. <u>Acceleration</u>                               | <p><b>Section 345.062. Acceleration of Debt Maturity.</b><br/> A retail installment contract or retail charge agreement may not authorize the holder to accelerate the maturity of all or a part of the amount owed under the contract or agreement unless:</p> <ol style="list-style-type: none"> <li>(1) the retail buyer is in default in the performance of any of the buyer's obligations; or</li> <li>(2) the holder believes in good faith that the prospect of the buyer's payment or performance is impaired.</li> </ol>                                                                           |
| i. <u>Completion of contract – filling in blanks</u> | <p><b>Section 345.064. Completion of Contract.</b></p> <ol style="list-style-type: none"> <li>(a) A person may not sign a retail installment contract that contains a blank space for an item that is an essential provision of the transaction.</li> <li>(b) If delivery of the goods is not made at the time the contract is executed, the identifying numbers or marks of the goods or similar information and the due date of the first installment may be inserted by the retail seller in the seller's counterpart of the contract after the contract has been signed by the retail buyer.</li> </ol> |
| k. <u>Right to Rescind</u>                           | <p><b>Section 345.066. Buyer's Right to Rescind Contract.</b><br/> Until a retail seller complies with Section 345.065, a retail buyer who has not received delivery of the goods or services is entitled to:</p> <ol style="list-style-type: none"> <li>(1) rescind the contract;</li> <li>(2) receive a refund of all payments made under or in contemplation of the contract; and</li> </ol>                                                                                                                                                                                                             |

| <u>Comments</u>                               | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|                                               | (3) receive the return of all goods traded in to the seller under or in contemplation of the contract or, if those goods cannot be returned, receive the trade-in allowance of those goods.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 1. <u>Buyer's Acknowledgement of Delivery</u> | <p><b>Section 345.067. Buyer's Acknowledgment of Delivery of Contract Copy.</b></p> <p>(a) Any retail buyer's acknowledgment of delivery of a copy of a retail installment contract must:</p> <p>(1) be in at least 10-point type that is bold-faced, capitalized, or underlined or otherwise conspicuously set out from the surrounding written material; and</p> <p>(2) appear directly above the buyer's signature if the acknowledgment is contained in the contract.</p> <p>(b) Any retail buyer's acknowledgment conforming to this section of the delivery of a copy of the retail installment contract is, in any action or proceeding:</p> <p>(1) presumptive proof of the delivery of a copy of the contract and compliance with any requirement relating to the completion of the contract before execution of the contract by the buyer; or</p> <p>(2) conclusive proof of the delivery of a copy of the contract and compliance with any requirement relating to the completion of the contract before execution of the contract by the buyer if the holder purchased the contract without knowledge to the contrary.</p> |

| <u>Comments</u>                    | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| m. <u>Deferment of Installment</u> | <p><b>Section 345.069. Deferment of Installment.</b></p> <p>(a) A holder of a retail installment contract, on request of the retail buyer, may agree to defer the scheduled due date of all or part of one or more installments.</p> <p>(b) A holder may collect from the retail buyer for deferment of an installment:</p> <p>(1) a charge that is a part of the time price differential and computed on the amount deferred for the period of deferment at the monthly rate of 15 cents for each \$10; and</p> <p>(2) the amount of the additional cost to the holder for:</p> <p>(A) premiums for continuing in force any insurance provided for by the contract; and</p> <p>(B) additional necessary official fees.</p> <p>(c) The minimum charge under Subsection (b)(1) is \$1.</p> |
| n. <u>Amendment of Contract</u>    | <p><b>Section 345.070. Amendment of Contract.</b></p> <p>(a) On request of the retail buyer, the holder of a retail installment contract may:</p> <p>(1) amend the contract to renew, restate, or reschedule the unpaid balance of the contract; and</p> <p>(2) collect an amount computed on the principal balance of the amended contract for the term of the amended contract at the applicable rate under Section 345.055, 345.056, 345.057, or 345.058.</p> <p>(b) The principal balance of the amended contract is computed by:</p>                                                                                                                                                                                                                                                 |

| <u>Comments</u>             | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                             | <p>(1) adding:</p> <p>(A) the amount of the unpaid balance on the date of the amendment;</p> <p>(B) the cost of insurance;</p> <p>(C) the amount of each additional necessary official fee;</p> <p>and</p> <p>(D) the amount of each accrued delinquency charge; and</p> <p>(2) subtracting from the total computed under Subdivision (1) an amount equal to the minimum refund credit that would be required under Section 345.075 or 345.076 for prepayment in full on the date of the amendment.</p>                                                                                 |
| <p>o. <u>Prepayment</u></p> | <p><b>Section 345.073. Prepayment of Contract.</b></p> <p>A retail buyer may prepay the unpaid time balance of a retail installment contract in full at any time before the contract's final due date.</p> <p><b>Section 345.074. Refund Credit on Prepayment.</b></p> <p>If a retail buyer prepays a retail installment contract in full or if the holder demands payment of the unpaid balance of the contract in full before the contract's final installment is due, the buyer is entitled to receive a refund credit as provided by Section 345.075 or 345.076, as applicable.</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p><b>Section 345.075. Amount of Refund Credit for Monthly Installment Contract.</b></p> <p>(a) The minimum amount of a refund credit on prepayment of a contract that is payable in substantially equal successive monthly installments beginning one month after the date of the contract is computed by:</p> <p>(1) subtracting an amount equal to the minimum charge authorized by this chapter for that contract from the original time price differential; and</p> <p>(2) multiplying the amount computed under Subdivision (1) by the percentage computed by dividing the sum of all of the monthly balances under the contract's schedule of payments into the sum of the unpaid monthly balances under the contract's schedule of payments beginning on:</p> <p>(A) the first day, after the date of the prepayment or demand for payment in full, that is the date of a month that corresponds to the date of the month that the first installment is due under the contract; or</p> <p>(B) if the prepayment or demand for payment in full is made before the first installment date under the contract, the next monthly anniversary date of the contract occurring after prepayment or demand.</p> <p>(b) A refund credit is not required if the amount of the refund credit is less than \$1.</p> <p><b>Section 345.076. Amount of Refund Credit for Other Contracts.</b></p> <p>The refund credit on a contract to which Section 345.075 does not apply shall be computed in a manner proportionate to the method set out by that</p> |

| <u>Comments</u>              | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                              | <p>section, having due regard for:</p> <p>(1) the amount of each installment; and</p> <p>(2) the irregularity of the installment periods.</p>                                                                                                                                                                                                                                                                                                                                                                                   |
| p. Reinstatement             | <p><b>Section 345.077. Reinstatement of Contract.</b></p> <p>After a demand for payment in full under a retail installment contract, the retail buyer and holder may agree to reinstate the contract and may amend the contract under Section 345.070.</p>                                                                                                                                                                                                                                                                      |
| q. Statement of Payments Due | <p><b>Section 345.082. Statement of Payments and Amount Due Under Contract.</b></p> <p>(a) On written request of a retail buyer, the holder of a retail installment contract shall give or send to the buyer a written statement of the dates and amounts of installment payments and the total amount unpaid under the contract.</p> <p>(b) A retail buyer is entitled to one statement without charge during a six-month period. The charge for each additional requested statement during the period may not exceed \$1.</p> |
| r. Cash Payment              | <p><b>Section 345.083. Receipt for Cash Payment.</b></p> <p>A holder of a retail installment contract shall give to the retail buyer a written receipt for each cash payment.</p>                                                                                                                                                                                                                                                                                                                                               |

| <u>Comments</u>                      | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| <p>4. <u>Property Insurance.</u></p> | <p><b>Section 345.201. Property Insurance.</b></p> <p>(b) If the property is a boat that may be enrolled or licensed as a yacht with the United States Coast Guard and subject to the maritime laws of the United States, a holder may also require a retail buyer to provide in connection with the boat:</p> <ul style="list-style-type: none"> <li>(1) protection and indemnity insurance;</li> <li>(2) longshoremen's and harbor worker's compensation insurance; and</li> <li>(3) medical payments insurance.</li> </ul> <p>(c) The insurance and the premiums or charges for the insurance must bear a reasonable relationship to:</p> <ul style="list-style-type: none"> <li>(1) the amount, term, and conditions of the retail installment contract or retail charge agreement;</li> <li>(2) the existing hazards or risk of loss, damage, or destruction; or</li> <li>(3) the potential liability.</li> </ul> <p>(d) The insurance may not:</p> <ul style="list-style-type: none"> <li>(1) cover unusual or exceptional risks; or</li> <li>(2) provide coverage not ordinarily included in policies issued to the public.</li> </ul> <p>(e) The holder may include the cost of insurance provided under this section as a separate charge in the contract or agreement.</p> |

| <u>Comments</u>                    | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| <p>5. <u>Credit Life, etc.</u></p> | <p><b>Section 345.202. Credit Life, Credit Health and Accident, and Credit Involuntary Unemployment Insurance.</b></p> <p>(a) As additional protection for the contract or agreement, a holder may:</p> <p>(1) request or require a retail buyer to provide credit life insurance and credit health and accident insurance; and</p> <p>(2) request or allow a retail buyer to provide credit involuntary unemployment insurance.</p> <p>(b) A holder may include the cost of insurance provided under Subsection (a) as a separate charge in the contract or agreement.</p> <p><b>Section 345.203. Maximum Amount of Insurance Coverage.</b></p> <p>(a) At any time the total amount of the policies of credit life insurance in force on one retail buyer on one retail installment contract or retail charge agreement may not exceed:</p> <p>(1) the total amount repayable under the contract or agreement;</p> <p>and</p> <p>(2) the greater of the scheduled or actual amount of unpaid indebtedness if the indebtedness is repayable in substantially equal installments.</p> <p>(b) At any time the total amount of the policies of credit health and accident insurance or credit involuntary unemployment insurance in force on one retail buyer on one retail installment contract or retail charge agreement may not exceed the total amount repayable under the contract or agreement, and the amount of each periodic indemnity payment may not exceed the</p> |



| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                 | <p>scheduled periodic payment on the indebtedness.</p> <p><b>Section 345.204. Insurance Statement.</b></p> <p>(a) If insurance is required in connection with a retail installment contract or retail charge agreement, the holder shall give to the retail buyer a statement that clearly and conspicuously states that:</p> <p>(1) insurance is required in connection with the contract or agreement; and</p> <p>(2) the buyer as an option may furnish the insurance through:</p> <p>(A) an existing policy of insurance owned or controlled by the buyer; or</p> <p>(B) an insurance policy obtained from an insurance company authorized to do business in this state.</p> <p>(b) If requested or required insurance is sold or obtained by the holder and the retail installment contract or retail charge agreement includes a premium or rate of charge that is not fixed or approved by the commissioner of insurance, the holder shall deliver or mail to the retail buyer a written statement that includes that fact.</p> <p>(c) A statement under Subsection (a) or (b) may be provided with or as part of the retail installment contract or the retail charge agreement, as appropriate, or separately.</p> |

| <u>Comments</u>            | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| 6. <u>Other Insurance.</u> | <p><b>Section 345.207. Charges for Other Insurance Included in Retail Installment Contract.</b></p> <p>A retail buyer and retail seller may agree in a retail installment contract to include charges for insurance coverage that is:</p> <ol style="list-style-type: none"> <li>(1) for risk of loss or liability reasonably related to: <ol style="list-style-type: none"> <li>(A) the goods or services sold;</li> <li>(B) the anticipated use of the goods or services sold; or</li> <li>(C) goods or services that: <ol style="list-style-type: none"> <li>(i) are related to the goods or services sold; and</li> <li>(ii) may be insured with the goods and services sold;</li> </ol> </li> </ol> </li> <li>(2) written on policies or endorsement forms prescribed or approved by the commissioner of insurance; and</li> <li>(3) ordinarily offered in policies or endorsements offered to the public.</li> </ol> <p><b>Section 345.208. Requirements for Including Insurance Charge in Contract or Agreement.</b></p> <ol style="list-style-type: none"> <li>(a) For insurance to be included as an itemized charge in a retail installment contract or a retail charge agreement: <ol style="list-style-type: none"> <li>(1) the insurance must be written: <ol style="list-style-type: none"> <li>(A) at lawful rates;</li> <li>(B) in accordance with the Insurance Code; and</li> <li>(C) by a company authorized to do business in this state;</li> </ol> </li> </ol> </li> </ol> <p>and</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p>(2) the disclosure requirements of this section must be satisfied.</p> <p>(b) If the insurance is described by Section 345.201, 345.202, or 345.207, the retail installment contract or retail charge agreement, or a separate written statement or specimen copy of a certificate or policy of insurance that is given to the retail buyer, must identify the:</p> <ul style="list-style-type: none"> <li>(1) type of the coverage;</li> <li>(2) term of the coverage; and</li> <li>(3) amount of the premium for the coverage.</li> </ul> <p>(c) If the insurance is described by Section 345.207, the retail installment contract must also clearly indicate that the coverage is optional.</p> <p><b>Section 345.209. Delivery of Insurance Document to Buyer.</b></p> <p>A holder who obtains insurance shall, not later than the 45th day after the date of the delivery of goods or the furnishing of services under a retail installment contract or retail charge agreement, deliver, mail, or cause to be mailed to the retail buyer at the buyer's address specified in the contract or agreement a policy or certificate of insurance that clearly sets forth:</p> <ul style="list-style-type: none"> <li>(1) the amount of the premium;</li> <li>(2) the kind of insurance provided;</li> <li>(3) the coverage of the insurance; and</li> <li>(4) all terms, including options, limitations, restrictions, and conditions, of the policy.</li> </ul> |

| <u>Comments</u>                   | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <p>7. <u>Documentary Fee.</u></p> | <p><b>Section 345.251. Documentary Fee for Certain Vehicles.</b></p> <p>(a) A retail seller may charge a documentary fee for services rendered to, for, or on behalf of a retail buyer in preparing, handling, and processing documents relating to, and closing a retail installment transaction involving, a motorcycle, motor-driven cycle, moped, all-terrain vehicle, boat, boat motor, boat trailer, or towable recreational vehicle.</p> <p>(b) If a documentary fee is charged under this section the fee:</p> <ol style="list-style-type: none"> <li>(1) must be charged to cash buyers and credit buyers;</li> <li>(2) may not exceed \$50; and</li> <li>(3) must be disclosed on the retail installment contract as a separate itemized charge.</li> </ol> <p>(c) A preliminary work sheet on which a sale price is computed and that is shown to the retail buyer, an order from the buyer, or a retail installment contract must include in reasonable proximity to the place on the document where the documentary fee is disclosed:</p> <ol style="list-style-type: none"> <li>(1) the amount of the fee; and</li> <li>(2) the following notice in type that is bold-faced, capitalized, or underlined or otherwise conspicuously set out from the surrounding written material:</li> </ol> <p>"A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PERFORMING SERVICES RELATING TO THE CLOSING OF A SALE. A DOCUMENTARY FEE MAY NOT EXCEED \$50. THIS NOTICE IS</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>REQUIRED BY LAW."</p> <p>(d) If the language primarily used in an oral sales presentation is not the same as the language in which the retail installment contract is written, the retail seller shall furnish to the retail buyer a written statement containing the notice set out in Subsection (c) in the language primarily used in the oral sales presentation.</p> |

ABANDONED WATERCRAFT, CHAPTER 683, -- TRANSPORTATION CODE

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| <p>1. <u>General.</u> Chapter 683 of the Transportation Code deals with abandoned motor vehicles, aircraft, watercraft or outboard motors. "Watercraft" and "outboard motor" are those subject to registration under Chapter 31 of the Parks and Wildlife Code. An abandoned watercraft or motor are defined in Section 31.003(17) of the Parks and Wildlife Code.</p> <p>A law enforcement agency may take custody of an abandoned watercraft or outboard motor found on either public or private property. If a law enforcement agency fails to take custody of an abandoned watercraft or motor found on private property, the property owner may secure a certificate of title to the items. The procedures for disposition by a law enforcement agency or a private party are outlined below.</p> | <p>Section 31.003, Parks and Wildlife Code adds subdivision (17) as follows:</p> <p>(17) "Abandoned vessel or outboard motor" means a vessel or outboard motor that has remained on private property without the consent of the owner or person in charge of the property for more than seven consecutive days.</p>                                                                                                                                                                                                                                                                       |
| <p>2. <u>Seizure.</u> A law enforcement agency may take into custody an abandoned watercraft or outboard motor found on public or private property.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p><b>Section 683.011. Authority To Take Abandoned Motor Vehicle Into Custody.</b></p> <p>(a) A law enforcement agency may take into custody an abandoned motor vehicle, watercraft, or outboard motor found on public or private property.</p> <p>(b) A law enforcement agency may use agency personnel, equipment, and facilities or contract for other personnel, equipment, and facilities to remove, preserve, and store, send notice regarding and dispose of an abandoned motor vehicle, watercraft, or outboard motor taken into custody by the agency under this subchapter.</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| <p>3. <u>Notice.</u> The law enforcement agency must give the registered owner or lienholder notice within 10 days of taking custody. The notice describes the property, gives its location, the amount of towing, preservation and storage charges, and states that failure to claim the items within 20 days amounts to consent to its auction. If the registered owner or lienholder cannot be determined, there is a provision for notice by publication. The agency is entitled to reasonable storage charges.</p> | <p><b>Section 683.012. Taking Abandoned Motor Vehicle Into Custody: Notice.</b></p> <p>(a) A law enforcement agency shall send notice of abandonment to:</p> <p>(1) the last known registered owner of each motor vehicle, watercraft, or outboard motor taken into custody by the agency or for which a report is received under Section 683.031; and</p> <p>(2) each lienholder recorded: (A) under Chapter 501 for the motor vehicle; or (C) under Chapter 31, Parks and Wildlife Code, for the watercraft or outboard motor.</p> <p>(b) The notice under Subsection (a) must:</p> <p>(1) be sent by certified mail not later than the 10th day after the date the agency:</p> <p>(A) takes the abandoned motor vehicle, watercraft, or outboard motor into custody; or</p> <p>(B) receives the report under Section 683.031;</p> <p>(2) specify the year, make, model, and identification number of the item;</p> <p>(3) give the location of the facility where the item is being held;</p> <p>(4) inform the owner and lienholder of the right to claim the item not later than the 20th day after the date of the notice on payment of:</p> <p>(A) towing, preservation, and storage charges; or</p> <p>(B) garagekeeper's charges and fees under Section 683.032</p> <p>and, if the vehicle is a commercial motor vehicle impounded under Section 644.153(q), the delinquent administrative penalty and costs; and</p> |



| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                 | <p>(S) state that failure of the owner or lienholder to claim the item during the period specified by Subdivision (4) is:</p> <p>(A) a waiver by that person of all right, title, and interest in the item; and</p> <p>(B) consent to the sale of the item at a public auction.</p> <p>(c) Notice by publication in one newspaper of general circulation in the area where the motor vehicle, watercraft, or outboard motor was abandoned is sufficient notice under this section if:</p> <ol style="list-style-type: none"> <li>(1) the identity of the last registered owner cannot be determined;</li> <li>(2) the registration has no address for the owner; or</li> <li>(3) the determination with reasonable certainty of the identity and address of all lienholders is impossible.</li> </ol> <p>(d) Notice by publication:</p> <ol style="list-style-type: none"> <li>(1) must be published in the same period that is required by Subsection (b) for notice by certified mail and contain all of the information required by that subsection; and</li> <li>(2) may contain a list of more than one abandoned motor vehicle, watercraft, or outboard motor.</li> </ol> <p>(e) A law enforcement agency is not required to send a notice, as otherwise required by Subsection (a), if the agency has received notice from a vehicle storage facility that an application has or will be submitted to the department for the disposal of the vehicle.</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <p>4. <u>Auction.</u> If the property is not claimed within 20 days after the notice is sent, the owner and lienholder waive all interest in the property and consent to its auction. Notice of the auction is given but the owner and lienholder get no special notice. The proceeds are used to pay the accrued charges and the balance is held for 90 days for the owner or lienholder. After that the money goes to a fund used for other abandoned property.</p> | <p><b>Section 683.014. Auction Or Use Of Abandoned Items; Waiver Of Rights.</b></p> <p>(a) If an abandoned motor vehicle, watercraft, or outboard motor is not claimed under Section 683.012:</p> <p>(1) the owner or lienholder:</p> <p>(A) waives all rights and interests in the item; and</p> <p>(B) consents to the sale of the item by public auction; and</p> <p>(2) the law enforcement agency may sell the item at a public auction or use the item as provided by Section 683.016.</p> <p>(b) Proper notice of the auction shall be given. A garagekeeper who has a garagekeeper's lien shall be notified of the time and place of the auction.</p> <p>(c) The purchaser of a motor vehicle, watercraft, or outboard motor:</p> <p>(1) takes title free and clear of all liens and claims of ownership;</p> <p>(2) shall receive a sales receipt from the law enforcement agency; and</p> <p>(3) is entitled to register the motor vehicle, watercraft, or outboard motor and receive a certificate of title from the appropriate authority.</p> <p><b>Section 683.015. Auction Proceeds.</b></p> <p>(a) A law enforcement agency is entitled to reimbursement from the proceeds of the sale of an abandoned motor vehicle, watercraft, or outboard motor for:</p> <p>(1) the cost of the auction;</p> |

| Comments                                                                                                         | Section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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| <p>5. <u>Abandoned Items on Private Property.</u></p> <p>The owner of private property on which an abandoned</p> | <p>(2) towing, preservation, and storage fees resulting from the taking into custody; and</p> <p>(3) the cost of notice or publication as required by Section 683.012.</p> <p>(b) After deducting the reimbursement allowed under Subsection (a), the proceeds of the sale shall be held for 90 days for the owner or lienholder of the vehicle.</p> <p>(c) After the period provided by Subsection (b), proceeds unclaimed by the owner or lienholder shall be deposited in an account that may be used for the payment of auction, towing, preservation, storage, and notice and publication fees resulting from taking other vehicles, watercraft, or outboard motors into custody if the proceeds from the sale of the other items are insufficient to meet those fees.</p> <p>(d) A municipality or county may transfer funds in excess of \$1,000 from the account to the municipality's or county's general revenue account to be used by the law enforcement agency or if the vehicle, aircraft, watercraft or outboard motor was located in a county with a population of less than 150,000 by the attorney representing the state.</p> <p>(e) If the vehicle is a commercial motor vehicle impounded under Section 644.153(q), the Department of Public Safety is entitled from the proceeds of the sale to an amount equal to the amount of the delinquent administrative penalty and costs.</p> <p><b>Section 31.0466 Title for Abandoned Vessel; Bond.</b></p> <p>(a) A person may apply for a certificate of title for an abandoned vessel or outboard motor found on the person's property.</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| <p>custody of the property 30 days after the notice, the property owner may apply for a certificate of title covering the items and file a bond for 1½ times the value of the property. The bond expires on the third anniversary. On its expiration, the department may issue certificate of title to the property owner.</p> | <p>(1) executes and files a bond with the department:</p> <p>(A) in the form prescribed by the department;</p> <p>(B) issued by a person authorized to act as a surety business in this state;</p> <p>(C) in an amount equal to 1½ times the value of the abandoned vessel or outboard motor as determined by the department; and</p> <p>(D) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the abandoned vessel or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest, against any expense, loss or damage, including reasonable attorney's fees, resulting from:</p> <p>(i) the issuance of the certificate of title for the abandoned vessel or outboard motor; or</p> <p>(ii) a defect in or undisclosed security interest in the right, title, or interest of the applicant to or in the abandoned vessel or outboard motor;</p> <p>(2) proves to the satisfaction of the department that:</p> <p>(A) the abandoned vessel or outboard motor is not stolen;</p> <p>(B) issuance of a certificate of title would not defraud the owner or a lienholder of the abandoned vessel or outboard motor;</p> <p>(C) at least 30 days before the applicant applied for the certificate, the applicant contacted the applicant's local law enforcement agency through certified mail to report that the vessel or outboard motor is abandoned; and</p> <p>(D) the local law enforcement agency has not taken the abandoned vessel or outboard motor into custody or informed the applicant of the agency's</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                 | <p>intent to take the abandoned vessel or outboard motor into custody; and</p> <p>(3) posts notice of the certificate of title application in the manner and for a period of time designed by rule by the department.</p> <p>(c) A person described by Subsection (b)(1)(D) has a right of action to recover on the bond for a breach of a condition of the bond described by Subsection (B)(1)(D). The aggregate liability of the surety to all persons may not exceed the amount of the bond.</p> <p>(d) A bond filed under this section expires on the third anniversary of the date the bond became effective. The department shall return an expired bond to the person who filed the bond unless the department has been notified of a pending action to recover on the bond.</p> <p>(e) On return of a bond under Subsection (d), the department shall issue a certificate of title to the person to whom the bond is returned.</p> <p>(f) If an abandoned vessel or outboard motor is not claimed before the department issues a certificate of title under this section, the owner or lienholder waives all rights and interests in the abandoned vessel or outboard motor and consents to the cancellation of the certificate for the abandoned vessel or outboard motor.</p> <p>(g) The applicant for the certificate of title for the abandoned vessel or outboard motor takes title free and clear of all liens and claims of ownership.</p> <p>(h) In addition to the situation described by Subsection (b)(2), the commission by rule may define acceptable situations in which certificates of title may be issued after the filing of a bond under this section.</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <u>Section</u>                                                                                                                                                                                                   |
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| <p>6. <u>Junked Vehicles.</u></p> <p>The Transportation Code provisions for a "junked vehicle" now apply also to "watercraft" that has no certificate of number and is not covered by Coast Guard documentation. Presumably, the boat would have to be wrecked, dismantled or inoperable for 72 hours if on public property or 30 days if on private property. A municipality or county may provide procedures to remove or dispose of the junked item. These procedures do not apply if the item is in a regular junk yard or walked off area.</p> | <p>(1) This section does not apply to a vessel or outboard motor that is subject to a contract or lien under Chapter 59 or 70, Property Code.</p> <p>See Section 683.017 et seq., Texas Transportation Code.</p> |

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**VESSEL AND OUTBOARD MOTOR INVENTORY TAX – CHAPTER 23 – TAX CODE**

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                      | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| <p>1. <u>General.</u> The value of a dealer's inventory of boats and motors for personal property ad valorem tax purposes is established based on prior year sales. A "unit property tax factor" is determined. Each month a dealer reports sales and pays the unit factor on the boats and motors sold. At the end of the year, any deficit is paid. The process of making these payments is described below.</p>   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <p>2. <u>Inventory.</u> By February 1 of each year a dealer files a "Dealer's Vessel and Outboard Motor Inventory Declaration" setting forth the market value of the dealer's inventory. The market value is the total annual sales of the dealer (less fleet, dealers sales and subsequent sales) for the previous year divided by 12. This form is sent to the dealer's tax collector and the chief appraiser.</p> | <p><b>Sec. 23.124. Dealer's Vessel and Outboard Motor Inventory; Value.</b></p> <p>(f) The comptroller shall promulgate a form entitled "Dealer's Vessel and Outboard Motor Inventory Declaration." Except as provided by Section 23.125(l) of the code, not later than February 1 of each year or, in the case of a dealer who was not in business on January 1, not later than 30 days after commencement of business, each dealer shall file a declaration with the chief appraiser and file a copy with the collector. The declaration is sufficient to comply with this subsection if it sets forth the following information:</p> <ul style="list-style-type: none"> <li>(1) the name and business address of each location at which the dealer owner conducts business;</li> <li>(2) each of the dealer's and manufacturer's numbers issued by the Parks and Wildlife Department;</li> <li>(3) a statement that the dealer owner is the owner of a dealer's vessel and outboard motor inventory; and</li> <li>(4) the market value of the dealer's vessel and outboard motor</li> </ul> |



| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p>inventory for the current tax year as computed under Subsection (b) of this section.</p> <p>(b) For the purpose of the computation of property tax, the market value of a dealer's vessel and outboard motor inventory on January 1 is the total annual sales from the dealer's vessel and outboard motor inventory, less sales to dealers, fleet transactions, and subsequent sales, for the 12-month period corresponding to the prior tax year, divided by 12.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>3. <u>Unit Property Tax.</u> Each item of vessel and outboard motor inventory is assigned a "unit property tax." It is determined by multiplying the sales price of the item by the unit property tax factor. The unit property tax factor is a number equal to 1/12 of the prior year's aggregate tax rate. The prior year's aggregate tax rate is the combined tax rates of all relevant taxing units levying property taxes on the dealer's inventory.</p> | <p><b>Section 23.125 Prepayment of Taxes by Certain Taxpayers.</b></p> <p>(a) in this section:</p> <p>(1) "Aggregate tax rate" means the combined tax rates of all relevant taxing units authorized by law to levy property taxes against a dealer's vessel and outboard motor inventory.</p> <p>(12) "Unit property tax factor" means a number equal to one-twelfth of the prior year aggregate tax rate at the location where a dealer's vessel and outboard motor inventory is located on January 1 of the current year.</p> <p>(b) Except for a vessel or outboard motor sold to a dealer, a vessel or outboard motor included in a fleet transaction, or a vessel or outboard motor that is the subject of a subsequent sale, an owner or a person who has agreed by contract to pay the owner's current year property taxes levied against the owner's vessel and outboard motor inventory shall assign a unit property tax</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | <p>to each vessel and outboard motor sold from a dealer's vessel and outboard motor inventory. The unit property tax of each vessel or outboard motor is determined by multiplying the sales price of the vessel or outboard motor by the unit property tax factor. On or before the 10th day of each month the owner shall, together with the statement filed by the owner as provided by this section, deposit with the collector a sum equal to the total of unit property tax assigned to all vessels and outboard motors sold from the dealer's vessel and outboard motor inventory in the prior month to which a unit property tax was assigned. The money shall be deposited by the collector in or otherwise credited by the collector to the owner's escrow account for prepayment of property taxes as provided by this section. An escrow account required by this section is used to pay property taxes levied against the dealer's vessel and outboard motor inventory, and the owner shall fund the escrow account as provided by this subsection.</p> |
| <p>4. <u>Inventory Tax Statement.</u> By the 10<sup>th</sup> of each month, a dealer must file a "Dealer's Vessel and Outboard Motor Inventory Tax Statement" showing all sales the prior month. The Statement is filed with the collector with a copy to the chief appraiser. At the same time, the dealer pays the collector the unit property tax on all inventory sold during the month. A collector may establish a procedure to pay the tax amounts when the title for the items sold</p> | <p><b>Section 23.125 Prepayment of Taxes by Certain Taxpayers.</b></p> <p>(e) The comptroller shall promulgate a form entitled "Dealer's Vessel and Outboard Motor Inventory Tax Statement." A dealer shall complete the form with respect to each vessel and outboard motor sold. A dealer may use no other form for that purpose. The statement may include the information the comptroller deems appropriate but shall include at least the following:</p> <p>(1) a description of the vessel or outboard motor sold;</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| <u>Comments</u>                                                                                                                                                                                                                                                             | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| is applied for.                                                                                                                                                                                                                                                             | <p>(2) the sales price of the vessel or outboard motor;</p> <p>(3) the unit property tax of the vessel or outboard motor, if any;</p> <p>and</p> <p>(4) the reason no unit property tax is assigned if no unit property tax is assigned.</p> <p>(f) On or before the 10th day of each month a dealer shall file with the collector the statement covering the sale of each vessel or outboard motor sold by the dealer in the prior month. A dealer shall file a copy of the statement with the chief appraiser and retain documentation relating to the disposition of each vessel and outboard motor sold. A chief appraiser or collector may examine documents held by a dealer as provided by this subsection in the same manner, and subject to the same provisions, as are set forth in Section 23.124(g) of this code.</p> <p>(h) A collector may establish a procedure, voluntary or mandatory, by which the unit property tax of a vessel or outboard motor is paid and deposited into an owner's escrow account at the time of processing the transfer of title to the vessel or outboard motor.</p> |
| 5. <u>Tax Bill.</u> Each tax unit in the dealer's area will send the dealer a tax bill with a copy to the tax collector. The tax collector then pays the amounts previously paid to it monthly to the tax units to apply on the tax bill. The dealer pays any deficiency at | <p><b>Section 23.125 Prepayment of Taxes by Certain Taxpayers.</b></p> <p>(i) A relevant taxing unit shall, on its tax bill prepared for the owner of a dealer's vessel and outboard motor inventory, separately itemize the taxes levied against the dealer's vessel and outboard motor inventory. When the tax</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| <u>Comments</u>      | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| the end of the year. | <p>bill is prepared by a relevant taxing unit for a dealer's vessel and outboard motor inventory, the assessor for the relevant taxing unit, or an entity, if any, other than the collector, that collects taxes on behalf of the taxing unit, shall provide the collector a true and correct copy of the tax bill sent to the owner, including taxes levied against a dealer's vessel and outboard motor inventory. The collector shall apply the money in the owner's escrow account to the taxes imposed and deliver a tax receipt to the owner. The collector shall apply the amount to each relevant taxing unit in proportion to the amount of taxes levied, and the assessor of each relevant taxing unit shall apply the funds received from the collector to the taxes owed by the owner.</p> <p>(j) If the amount in the escrow account is not sufficient to pay the taxes in full, the collector shall apply the money to the taxes and deliver to the owner a tax receipt for the partial payment and a tax bill for the amount of the deficiency together with a statement that the owner must remit to the collector the balance of the total tax due.</p> |

**VEHICLE TITLES AND REGISTRATION, CHAPTERS 501, 502 503, – TRANSPORTATION CODE**

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| <p>1. <u>Titles.</u></p> <p>a. <u>Boats and Outboard Motors.</u> Titles to boats and motors are covered by the Parks and Wildlife Code. See below.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <p>b. <u>Boat Trailers.</u> A Certificate of Title is required for a "motor vehicle." A motor vehicle is defined as a motor driven vehicle or a trailer with a gross weight over 4,000 pounds. Since a boat trailer by itself usually weights less than 4,000 pounds, they are not commonly covered by the Certificate of Title Act §501.001, Transportation Code. Most boat trailers are covered by Manufacturer's Statements of Origin (MSO) and title is usually transferred by endorsement to the MSO. However, there are boat trailers that weigh over 4,000 pounds and they are covered by the Act.</p> | <p><b>Section 501.022. Motor Vehicle Title Required.</b></p> <p>(a) The owner of a motor vehicle registered in this state:</p> <p>(1) except as provided by Section 501.029, shall apply for title to the vehicle; and</p> <p>(2) may not operate or permit the operation of the vehicle on a public highway until the owner:</p> <p>(A) applies for title and registration for the vehicle; or</p> <p>(B) obtains a receipt evidencing title for registration purposes only under Section 501.029.</p> <p>(b) A person may not operate a motor vehicle registered in this state on a public highway if the person knows or has reason to believe that the owner has not applied for a title for the vehicle.</p> <p><b>Section 501.002. Definitions.</b> In this chapter:</p> <p>(17) "Motor vehicle" means:</p> <p>(A) any motor driven or propelled vehicle required to be registered under the laws of this state;</p> <p>(B) a trailer or semi-trailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds;</p> <p>(C) a travel trailer;</p> <p>(D) an all-terrain vehicle or a recreational off-highway vehicle as</p> |

| Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <p>those terms are defined by Section 502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state;</p> <p>or</p> <p>(E) a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this state.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>c. <u>Administration</u>. When a 4,000+ pound trailer is sold by a dealer, the dealer is required to apply for a certificate of title and registration to either the county of the owner's domicile or the county where the trailer is purchased as selected by the buyer. The applicable motor vehicle taxes are due at the same time. The collector issues a title receipt showing the owner and any lienholder. If the sale is a First Sale (no previous title or registration), the MSO must be attached showing all transfers from the manufacturer to the selling dealer. The Certificate of Title is issued in original form to the lienholder with a duplicate to the owner or if there is no lien, the original is issued to the owner. Any subsequent sale is by a transfer form on the Certificate of Title.</p> | <p><b>Section 501.0234. Duty Of Vehicle Dealer On Sale Of Certain Vehicles.</b></p> <p>(a) A person who sells at the first or a subsequent sale a motor vehicle and who holds a general distinguishing number issued under Chapter 503 of this code or Chapter 2301, Occupations Code, shall:</p> <p>(1) except as provided by this section, in the time and manner provided by law, apply, in the name of the purchaser of the vehicle, for the registration of the vehicle, if the vehicle is to be registered, and a certificate of title for the vehicle and file with the appropriate designated agent each document necessary to transfer title to or register the vehicle; and at the same time</p> <p>(2) remit any required motor vehicle sales tax.</p> <p>(b) This section does not apply to a motor vehicle:</p> <p>(1) that has been declared a total loss by an insurance company in the settlement or adjustment of a claim;</p> <p>(2) for which the certificate of title has been surrendered in exchange for:</p> <p>(A) a salvage vehicle title issued under this chapter;</p> <p>(B) a nonrepairable vehicle title issued under this chapter; or</p> <p>(C) an ownership document issued by another state that is</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                 | <p>comparable to a document described by Paragraphs (A) or (B);</p> <p>(3) with a gross weight in excess of 11,000 pounds; or</p> <p>(4) purchased by a commercial fleet buyer who: (A) is a deputy authorized by rules adopted under Section 520.0071; (B) utilizes the dealer title application process developed to provide a method to submit title transactions to the county in which the commercial fleet buyer is a deputy; and (C) has authority to accept an application for registration and application for title transfer that the County Assessor-Collector may accept.</p> <p>(c) Each duty imposed by this section on the seller of a motor vehicle is solely that of the seller.</p> <p>(d) A seller who applies for the registration or a certificate of title for a motor vehicle under Subsection (a)(1) shall apply in the county as directed by the purchaser from the counties set forth in Section 501.023 of this code.</p> <p>(e) The department shall develop a form or electronic process on which the purchaser of a motor vehicle shall designate the purchaser's choice as set out in Section 501.023 as the recipient of all taxes, fees, and other revenue collected as a result of the transaction, which the tax assessor-collector is authorized by law to retain. A seller shall make that form or electronic process available to the purchaser of a vehicle at the time of purchase.</p> <p>(f) A seller has a reasonable time to comply with the terms of Subsection (a)(1) and is not in violation of that provision during the time the seller is making a good faith effort to comply. Notwithstanding compliance with this chapter, equitable title to a vehicle passes to the purchase of the vehicle at the time the vehicle is the subject of a sale that is enforceable by either party.</p> |



| Comments | Section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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|          | <p><b>Section 501.024. Title Receipt.</b></p> <p>(a) A county assessor-collector who receives an application for a certificate of title shall issue a title receipt to the applicant containing the information concerning the motor vehicle required for issuance of a title under Section 501.021 or Subchapter I, after (1) the requirements of this chapter are met, including the payment of the fees required under Section 501.138; and (2) the information is entered into the department's titling system.</p> <p>(b) If a lien is not disclosed on the application for a certificate of title, the assessor-collector shall issue a title receipt to the applicant.</p> <p>(c) If a lien is disclosed on the application for a certificate of title, the assessor-collector shall issue a duplicate title receipt to the lienholder.</p> <p>(d) A title receipt with registration or permit authorizes the operation of the motor vehicle on a public highway in this state until the certificate of title is issued.</p> <p><b>Section 501.025. Manufacturer's Certificate Required On First Sale.</b></p> <p>A county assessor-collector may not issue a title receipt on the first sale of a motor vehicle unless the applicant for the certificate of title provides the application for a certificate of title and a manufacturer's certificate, in a manner prescribed by the department.</p> <p><b>Section 501.071. Sale Of Vehicle; Transfer Of Title.</b></p> <p>(a) Except as provided in Section 503.039, a motor vehicle may not be the subject of a subsequent sale unless the owner designated in the certificate of title</p> |

| <u>Comments</u>                                                                                                                                                                                                                                            | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|                                                                                                                                                                                                                                                            | <p>submits a transfer of ownership of title.</p> <p>(b) The transfer of the certificate of title must be in a manner prescribed by the department that:</p> <p>(1) Certifies the purchaser is the owner of the vehicle; and</p> <p>(2) Certifies there are no liens on the vehicle or provides a release of each lien on the vehicle.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <p>2. <u>Registration.</u></p> <p>a. <u>Boats and Outboard Motors.</u> Boats and motors are, in effect, registered with the Parks and Wildlife Department when the TX number is obtained.</p>                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p>b. <u>Boat Trailers.</u> The registration requirement applies to a motor vehicle, trailer or semi-trailer. Therefore, boat trailers are registered with the local tax collector or deputy, and a license plate is obtained to affix to the trailer.</p> | <p><b>Section 502.040. Registration Required; General Rule.</b></p> <p>(a) Not more than 30 days after purchasing a vehicle or becoming a resident of this state the owner of a motor vehicle, trailer, or semi-trailer shall apply for the registration of the vehicle for:</p> <p>(1) each registration year in which the vehicle is used or to be used on a public highway; and</p> <p>(2) if the vehicle is unregistered for a registration year that has begun and that applies to the vehicle and if the vehicle is used or to be used on a public highway, the remaining portion of that registration year.</p> <p>(b) The application must be accompanied by personal identification as determined by department rule and made in the manner prescribed by the department: (1) through the county assessor-collector of the county in which the owner resides; or (2) if the county in which the owner resides has been</p> |

| <u>Comments</u>                                                                                                                                                        | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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|                                                                                                                                                                        | <p>declared by the Governor as a disaster area, through the assessor-collector of a county that is one of the closest unaffected counties to a county that asks for assistance; and (A) continues to be declared by the Governor as a disaster area because the county has been rendered inoperable by the disaster; and (B) is inoperable for a protracted period of time.</p> <p>(c) A provision of this chapter that conflicts with this section prevails over this section to the extent of the conflict.</p> <p>(d) A county assessor-collector, a deputy county assessor-collector, or a person acting on behalf of a county assessor-collector is not liable to any person for:</p> <ol style="list-style-type: none"> <li>(1) refusing to register a motor vehicle because of the person's failure to submit evidence of residency that complies with the department's rules; or</li> <li>(2) registering a motor vehicle under this section.</li> </ol> |
| <p>c. <u>Application.</u> Application for registration is made to the tax collector or deputy along with an application for a Certificate of Title, if applicable.</p> | <p><b>Section 502.043. Application For Registration.</b></p> <p>(a) An application for vehicle registration must:</p> <ol style="list-style-type: none"> <li>(1) be made in a manner prescribed and include the information required by the department by each rule; and</li> <li>(2) contain a full description of the vehicle as required by department rule;</li> </ol> <p>(b) The department shall deny the registration of a commercial motor vehicle, truck tractor, trailer or semi-trailer if the applicant:</p> <ol style="list-style-type: none"> <li>(1) has a business, operated, managed or otherwise controlled or</li> </ol>                                                                                                                                                                                                                                                                                                                      |

| Comments | Section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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|          | <p>affiliated with a person who is ineligible for registration or whose privilege to operate has been suspended, including the applicant entity, a relative, family member, corporate officer or shareholder;</p> <p>(2) has a vehicle that has been prohibited from operating by the Federal Motor Carrier Administration for safety-related reasons; and</p> <p>(3) is a carrier whose business is operated, managed or otherwise controlled or affiliated with a person who is ineligible for registration, including the owner, a relative, a family member, corporate officer or shareholder; or</p> <p>(4) fails to deliver the county assessor-collector proof of the weight of the vehicle, the maximum load to be carried on the vehicle, and the gross weight for which the vehicle is to be registered.</p> <p>(c) In lieu of filing an application during a year as provided by Subsection (a), the owner of a vehicle registered in any state for that year or the preceding year may present the registration receipt and transfer receipt, if any. The county assessor-collector shall accept the receipt as an application for renewal of the registration if the receipt indicates the applicant owns the vehicle. This section allows issuance for registration purposes only but does not authorize the department to issue a title.</p> <p>(d) The department may require an applicant for a registration to provide current personal identification as required by department rules any identification number required by the department under this subsection may be entered into the department's electronic titling system, but may not be printed on the title.</p> |

| <u>Comments</u>                                    | <u>Section</u>                                                                                                                                                                                                 |
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|                                                    |                                                                                                                                                                                                                |
| d. <u>Fee.</u> The registration fee is set by law. | <b>Section 502.254. Fee: Trailer Or Semi-Trailer.</b><br>(a) The fee for a registration year for registration of a trailer, travel trailer or semi-trailer with a gross weight of 6000 pounds or less is \$45. |

**BOAT MANUFACTURERS, DISTRIBUTORS AND DEALERS**  
**CHAPTER 2352 – OCCUPATIONS CODE**

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| <u>Comments</u>                                                                                                                                                                                                                              | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
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| Chapter 2352 of the Occupations Code contains the statutory provisions relating to the regulation of manufacturers, distributors and dealers as between each other. References are to chapter 2352, Occupation code unless otherwise stated. |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p>A. <u>Definitions</u></p> <p>The definitions are primarily taken from the Water Safety Act, §31.003 of the Parks &amp; Wildlife code. The statute also defines "Agreement," "Boat," "Boat Motor" and "Distributor."</p>                   | <p><b>§2352.001. Definitions.</b></p> <p>In this chapter:</p> <p>(1) "Agreement" means a written agreement between a manufacturer or distributor and a dealer for the purchase and sale of new boats or new boat motors.</p> <p>(2) "Boat" means:</p> <p>(A) a motorboat; or</p> <p>(B) any other vessel that is more than 14 feet in length and is designed to be propelled by a sail.</p> <p>(2a) "Boat motor" means a mechanical form of propulsion for a vessel, including an inboard or outboard motor.</p> <p>(3) "Dealer" means a person engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging at least five vessels, motor boats or boat motors during a calendar year.</p> <p>(4) "Distributor" means a person who:</p> <p>(A) offers for sale, sells, or distributes new boats or new boat motors to dealers; or</p> <p>(B) controls a person described by Paragraph (A).</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>(5) "Manufacturer" means a person engaged in the business or manufacturing new and unused vessels or boat motors for the purpose of sale or trade.</p> <p>(5a) "Marketing standards" means mutually agreed standards in a manufacturer's marketing or promotional activities.</p> <p>(6) "Motorboat" has the meaning assigned by Section 31.003, Parks and Wildlife Code.</p> <p>(7) "New" has the meaning assigned by Section 31.003, Parks and Wildlife Code.</p> <p>(8) "Outboard motor" has the meaning assigned by Section 31.003, Parks and Wildlife Code.</p> <p>(8a) "Performance standards" means reasonable standards that are mutually developed and agreed to by a manufacturer and a dealer relating to:</p> <p>(A) achievement of market share by a dealer for manufacturer products sold in a territory;</p> <p>(B) achievement of a level of performance in a manufacturer's certified dealer program, if any; and</p> <p>(C) participation in a plan that addresses improvement, if needed, in dealer performance.</p> <p>(8b) "Territory" means:</p> <p>(A) for the sale of a manufacturer's boats, a defined geographical area within which a dealer is appointed by the manufacturer as the sole authorized dealer; or</p> |



| <u>Comments</u>                                                                                                                                                      | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|                                                                                                                                                                      | <p>(B) for the sale of all other manufacturer products, a market area within which a dealer is appointed by the manufacturer as an authorized dealer.</p> <p>(9) "Vessel" has the meaning assigned by Section 31.003, Parks and Wildlife Code.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p><u>B Agreement Required.</u></p> <p>1. A manufacturer or distributor is required to execute a dealer agreement with its dealers to sell new boats and motors.</p> | <p><u>\$2352.051. Agreement Required.</u></p> <p>A manufacturer or distributor contracting with a dealer may not sell or offer for sale, and a dealer may not purchase or offer to purchase, a new boat or a new boat motor unless the manufacturer or distributor and the dealer enter into an agreement that complies with this chapter.</p>                                                                                                                                                                                                                                                                                                                                                 |
| <p>2. <u>Contents.</u> The contents of the dealer agreement are set by law. Various of these items are discussed in the ensuing paragraphs.</p>                      | <p><u>\$2352.052. Terms Of Agreement.</u></p> <p>(a) An agreement under this chapter must include:</p> <ul style="list-style-type: none"> <li>(1) the dealer's territory and dealership locations;</li> <li>(2) the length of the agreement which must be not less than three years;</li> <li>(3) performance standards or marketing standards, if any;</li> <li>(4) working capital, inventory, facility, equipment, or tool standards including mutually agreed minimum product stocking requirements, if any;</li> <li>(5) provisions for termination or nonrenewal of the agreement and the designation of a successor dealer in the event of the dealer's death or disability;</li> </ul> |

| <u>Comments</u>                                                                                                                                                                                                                                                                           | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|                                                                                                                                                                                                                                                                                           | <p>(6) the obligations of the manufacturer, distributor, and dealer in the preparation and delivery of and warranty service on new boats and new boat motors;</p> <p>(7) the obligations of the manufacturer, distributor, and dealer on termination of the agreement, including inventory of new boats and new outboard motors, parts inventory, equipment, furnishings, special tools, and required signs;</p> <p>(8) mutually agreed standards for maintenance of:</p> <p>(A) a dedicated or self-funded line of credit, if any; and</p> <p>(B) a trade-in line of credit or self-funded trade-in line of credit, if any; and</p> <p>(9) dispute resolution procedures.</p> <p>(d) Notwithstanding the terms of a dealer agreement, a dealer agreement and any transaction subject to this chapter must comply with the requirements of this chapter.</p> |
| <p>3. <u>Term</u>. The length of the agreement must not be less than 3 years. However, an initial agreement between a manufacturer and a dealer may have a term of less than 3 years. An extension or renewal of the initial agreement or a subsequent agreement must be for 3 years.</p> | <p>§§ 2352.052(a)(2) the length of the agreement which must be not less than three years.</p> <p>(d) Notwithstanding Subsection (a)(2), an initial agreement between a dealer and a manufacturer may have a term of less than three years. An extension or renewal of the initial agreement or a subsequent agreement under this chapter between the same dealer and manufacturer must be for a term of not less than three years.</p>                                                                                                                                                                                                                                                                                                                                                                                                                       |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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| <p>4. <u>Performance Standards.</u> Performance standards are required to be included in the dealer agreement. Manufacturers are required to make reasonable efforts to provide the dealer with information as to compliance with these standards. The standards must be evaluated annually and may be adjusted by agreement. In the absence of agreement the standards remain unchanged.</p>                                                                                                                                        | <p>§ 2352.052(a) An agreement under this chapter will include : (3) performance standards or marketing standards, if any;</p> <p>§ 2352.0521. <b>Performance Standards.</b></p> <p>(a) A manufacturer shall make reasonable efforts to provide a dealer with information regarding the dealer's compliance with performance standards.</p> <p>(b) Performance standards must be evaluated on an annual basis and, if a dealer and manufacturer agree, may be adjusted to promote the sale of the manufacturer's products.</p> <p>(c) If revised performance standards are not agreeable, the initial performance standards remain in place until the expiration of the agreement.</p> <p>(d) At the end of the first year of an agreement, a dealer and manufacturer shall evaluate the dealer's progress in meeting the agreement's performance standards, marketing standards, and line of credit standards, to determine whether to enter into a new three-year agreement.</p> |
| <p>5. <u>Territory.</u> A dealer's territory must be set out in the Dealer Agreement. During the agreement, a manufacturer may not appoint another authorized dealer in a dealer's territory. A dealer may not advertise or promote boats outside the dealer's territory (including through the internet) except for advertising without a price or at a manufacturer's suggested retail price. A dealer may not use a broker in another dealer's territory, but may sell a boat to a customer from outside the territory if the</p> | <p>§ 2352.052(a) an agreement under this Chapter must include: (1) the dealer's territory and dealership locations.</p> <p>§ 2352.0522. <b>Dealer Territory.</b></p> <p>(a) During the term of an agreement, a manufacturer may not appoint another authorized dealer for the sale of the manufacturer's boats in a dealer's territory.</p> <p>(b) Except for purposes of advertising without an advertised price or with a manufacturer's suggested retail price, a dealer may not advertise or promote the</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| customer visits the dealership.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <p>sale of the manufacturer's boats outside the dealer's territory, including through the Internet.</p> <p>(c) A dealer may not use a broker in another dealer's territory to sell a manufacturer's boat.</p> <p>(d) This chapter does not prohibit a dealer from selling a boat to a customer residing outside of the dealer's territory who independently visits the dealership and seeks to purchase a boat from the dealer.</p>                                                                       |
| <p>6. <u>Default</u></p> <p>(a) Manufacturer, Distributor or Dealer. A "default" is a material failure to (i) meet minimum stocking requirements (ii) make timely payment of a material obligation (iii) comply with applicable law or (iv) material fraud under the dealer agreement.</p> <p>(b) Dealer. A "defect" is a material failure to (i) meet applicable performance standards for a defined one model year (ii) meet marketing standards specified in the agreement (iii) meet standards for a line of credit or (iv) marketing a manufacturer's boats outside the dealer's territory.</p> <p>(c) Cure. A manufacturer or distributor must give a dealer written notice of default unless the default is for fraud,</p> | <p>§ 2352.052(a) An agreement under this chapter must include: (5) provisions for termination or non-renewal of the agreement.</p> <p>§ 2352.0523. <b>Default.</b></p> <p>(a) A default under an agreement under this chapter by a manufacturer, distributor, or dealer is:</p> <p>(1) a material failure to meet minimum product stocking requirements as specified by the agreement;</p> <p>(2) a material failure to make timely payment of any material obligation as specified by the agreement;</p> |

| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
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| <p>non-compliance with the law or there have been three valid notices for the same default within a 12-month period. A dealer has from 30 to 180 days after receipt of the notice to cure a default, depending on the type of default.</p> <p>(d) Termination or Non-Renewal. A manufacturer or distributor may not terminate a dealer agreement unless the dealer defaults as provided above. The dealer must receive notice of the default and possible termination, been given the applicable cure period and have failed to cure the default except for certain default. The defaults for which a cure period is required are listed in Sec. 2352.053(d).</p> <p>Good cause is not required for non-renewal of an agreement.</p> <p>The fact that a dealer holds an agreement covering another line of boat or motor is not a default or grounds for termination.</p> | <p>(3) a material failure to substantially comply with a federal, state, or local law, rule, regulation, ordinance, or order applicable to the agreement; or</p> <p>(4) an act of material fraud relating to the performance of a right or obligation under the agreement.</p> <p>(b) A default by a dealer under an agreement under this chapter is:</p> <p>(1) a material failure to meet applicable performance standards as specified by the agreement for a defined one model year marketing cycle;</p> <p>(2) a material failure to meet applicable marketing standards as specified by the agreement;</p> <p>(3) a material failure to meet applicable standards for a dedicated or self-funded line of credit or a trade-in or self-funded trade-in line of credit as specified by the agreement; or</p> <p>(4) the marketing of the manufacturer's boats by the dealer outside of the dealer's territory in violation of this chapter.</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|                 | <p>§ 2352.0524. Cure of Defaults.</p> <p>(a) Except as provided by Section 2352.053(d)(3), (8), or (9), a manufacturer or distributor must give a dealer written notice of a default under Section 2352.0523 and allow the dealer to cure the default within a cure period as provided by Subsection (b).</p> <p>(b) A dealer must cure a default not later than the:</p> <p>(1) 30th day after the date of receipt of notice of a default under Section 2352.0523(a)(2) or (b)(4);</p> <p>(2) 60th day after the date of receipt of notice of a default under Section 2352.0523(b)(2) or (3);</p> <p>(3) 90th day after the date of receipt of notice of a default under Section 2352.0523(a)(1); or</p> <p>(4) 180th day after the date of receipt of notice of a default under Section 2352.0523(b)(1).</p> <p>Sec. 2352.053. Termination or Nonrenewal of Agreement, Notice.</p> <p>(a) Except as provided by Subsection (d), a [A] manufacturer or distributor may not terminate an agreement unless the dealer defaults under Section 2352.0523</p> |

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                 | <p>and:</p> <p>(1) the manufacturer or distributor gives the dealer written notice of the default and possible termination in clear and concise terms;</p> <p>(2) the notice states the default;</p> <p>(3) the dealer has been given the applicable cure period to make a good faith effort to cure the default stated in the notice; and</p> <p>(4) the dealer fails to cure the default.</p> <p>(b) Good cause is not required for the nonrenewal of an agreement .</p> <p>(c) The fact that a dealer holds an agreement involving another line, make, or brand of new boat or new boat motor does not constitute a default or grounds for termination of an agreement.</p> <p>(d) A manufacturer or distributor may terminate an agreement on written notice, without a cure period, if the dealer:</p> <p>(1) financially defaults to the manufacturer, the distributor, or a financing source;</p> <p>(2) becomes subject to an order for relief, as that term is used in Title 11, United States Code;</p> |

| <u>Comments</u>                                                                                                              | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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|                                                                                                                              | <p>(3) engages in an act of material fraud relating to the performance of a right or obligation under the agreement;</p> <p>(4) is a corporation that ceases to exist;</p> <p>(5) becomes insolvent or takes or fails to take any action that constitutes an admission of inability to pay debts as the debts mature;</p> <p>(6) makes a general assignment for the benefit of creditors to an agent authorized to liquidate any substantial amount of assets;</p> <p>(7) applies to a court for the appointment of a receiver for any assets or properties;</p> <p>(8) fails to substantially comply with a federal, state, or local law, rule, regulation, ordinance, or order applicable to the agreement; or</p> <p>(9) receives three valid notices of a default under Section 2352.0523 for the same default, whether cured or not, within a 12-month period.</p> |
| <p>7. <u>General</u>. If a new agreement is entered, the initial agreement becomes void. However, if no new agreement is</p> | <p>(c) If the dealer and manufacturer enter into a new agreement, the initial agreement is void. If the dealer and manufacturer do not enter into a new</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |



| <u>Comments</u>                                                                                                                                                                                                                                                                                                                                                          | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| <p>entered, the initial agreement remains in effect.</p> <p>A dealer agreement must comply with this chapter without regard to the terms of the dealer agreement. The same is true of any transaction subject to the chapter whether or not there is an agreement.</p>                                                                                                   | <p>agreement, the dealer and manufacturer are bound by the terms and conditions of the initial agreement.</p> <p>(d) Notwithstanding the terms of a dealer agreement, a dealer agreement and any transaction subject to this chapter must comply with the requirements of this chapter..</p>                                                                                                                                                                                                                                                                                               |
| <p>D. <u>Regulation.</u></p> <p>Manufacturers/distributors and dealers are subject to a series of regulations as follows:</p> <p>1. <u>Delivery Requirements.</u> If a manufacturer/distributor publicly advertises a new boat or motor as available, it shall deliver the products in reasonable quantities and within a reasonable time after receipt of an order.</p> | <p><b>§2352.101. Delivery Requirements.</b></p> <p>(a) A manufacturer or distributor who publicly advertises a new boat, new boat motor, or part as available for immediate delivery shall deliver the boat, boat motor, or part in reasonable quantities and within a reasonable time after receipt of an order from a dealer who has an agreement with the manufacturer or distributor applicable to the advertised boat, boat motor, or part.</p> <p>(b) Subsection (a) does not apply if circumstances beyond the control of the manufacturer or distributor prevent the delivery.</p> |
| <p>2. <u>Sale of Dealership.</u></p> <p>A manufacturer/distributor may not unreasonably withhold approval of a sale of a dealership or designation of a successor if the dealer complies with the dealer agreement and the new dealer meets the criteria in the agreement or the industry.</p>                                                                           | <p><b>§2352.102. Sale, Transfer, Or Passage Of Title.</b></p> <p>A manufacturer or distributor may not unreasonably withhold approval of a sale, transfer, or passage of title of a dealer, agreement, management of the dealer, or designation of a successor dealer if:</p> <p>(1) the dealer complies with any provisions in the agreement for the sale, transfer, or passage of title;</p> <p>(2) the transferee meets the criteria:</p> <p>(A) stated in the agreement; or</p>                                                                                                        |

| <u>Comments</u>                                                                                                                                    | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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|                                                                                                                                                    | <p>(B) generally applied by the manufacturer or distributor in similar situations; and</p> <p>(3) the transferee agrees to be bound by the terms and conditions of the manufacturer's or distributor's standard agreement.</p>                                                                                                                                                                                                                                                                                                                              |
| <p>3. <u>Financing</u> and <u>Insurance</u>. A manufacturer/distributor may not require a dealer to use a certain financing source or insurer.</p> | <p><u>§2352.103. Financing.</u></p> <p>(a) A manufacturer or distributor may not require a dealer to finance through a particular financing source a new boat or new boat motor sold by the dealer.</p> <p>(b) A manufacturer or distributor may not require a dealer to act as the manufacturer's or distributor's agent in securing:</p> <p>(1) a promissory note and security agreement in connection with the sale or purchase of a new boat or new boat motor; or</p> <p>(2) an insurance policy on the operation of a new boat or new boat motor.</p> |
| <p>4. <u>Parts after Termination</u>. After termination, a dealer may continue to purchase parts to service the products for a year.</p>           | <p><u>§2352.104. Sale Of Parts And Accessories After Termination Of Agreement.</u></p> <p>(a) After a manufacturer or distributor terminates or does not renew an agreement, the former dealer may continue to purchase parts and accessories to service the products covered by the agreement until the first anniversary of the date of termination or non-renewal. The manufacturer or distributor shall sell parts and accessories under this subsection at the same price offered to a current dealer.</p>                                             |

| <u>Comments</u>                                                                                                                                                                                 | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|                                                                                                                                                                                                 | (b) Until the first anniversary of the date of termination or non-renewal of an agreement, a dealer shall continue to perform warranty work for the manufacturer's products, unless otherwise specified by the manufacturer in the termination notice.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p>5. <u>Warranty Service.</u> A manufacturer/distributor must fairly compensate dealers for warranty work, using the retail labor rate and approve and pay warranty claims within 30 days.</p> | <p><b>\$2352.105. Compensation For Warranty Service.</b></p> <p>(a) A manufacturer or distributor shall fairly compensate a dealer for the work and services the dealer performs and for expenses the dealer incurs to comply with a manufacturer's or distributor's warranty.</p> <p>(b) Except as provided by Subsection (c), a manufacturer or distributor may not pay a dealer a labor rate for warranty work that is less than the rate the dealer charges retail customers for nonwarranty work of the same kind by similar technicians.</p> <p>(c) A manufacturer or distributor who has a warranty program that reimburses a dealer at 100 percent of the dealer's retail labor rate if the dealer complies with reasonable and objective criteria shall pay the dealer the labor rate provided by the terms of the program or a rate equal to 80 percent of the dealer's retail labor rate, whichever rate is higher.</p> <p>(d) A manufacturer or distributor shall approve or disapprove a dealer's written claim for warranty work not later than the second business day after the date of receipt of the claim. If the claim is approved, the manufacturer or distributor shall pay the claim not later than the 30<sup>th</sup> day after the date of receipt of the dealer's written invoice or written proof of completion of the warranty</p> |

| <u>Comments</u>                                                                                                             | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                                                                                                                             | <p>work. If the claim is disapproved, the manufacturer or distributor shall notify the dealer of the grounds for disapproval.</p> <p>(e) A manufacturer or distributor may not audit a claim filed for warranty work after the first anniversary of the date the claim is submitted.</p> <p>(f) A manufacturer must act as the single source of contact for the dealer for the manufacturer's component part product warranties, other than engine-related product warranties.</p> <p><b>§2352.1051. Delivery of Parts.</b></p> <p>On signing an agreement, a manufacturer shall provide the dealer with a written statement of the approximate amount of time the manufacturer takes to deliver a part to the dealer.</p> |
| <p>6. <u>Rebates.</u> A manufacturer/ distributor may not require a dealer to pay part of a refund, rebate or discount.</p> | <p><b>§2352.106. Refunds, Rebates, And Discounts.</b></p> <p>A dealer may not pay or assume a part of a refund, rebate, discount, or other financial adjustment made by the manufacturer or distributor to a customer or a dealer unless the dealer voluntarily agrees to make the payment or assumption.</p>                                                                                                                                                                                                                                                                                                                                                                                                              |

| <u>Comments</u>                                                                                                                                                                  | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <p>7. <u>Repurchase.</u> On termination of a dealer agreement, the manufacturer/ distributor must repurchase current inventory and parts at invoiced cost at the dealership.</p> | <p>§ 2352.107. <u>Repurchase By Manufacturer Or Distributor.</u></p> <p>(a) A manufacturer or distributor who terminates an agreement shall repurchase on demand from the dealer any of the following items, purchased by the dealer from the manufacturer or distributor, that are free and clear of a lien or encumbrance:</p> <p>(1) a new, unsold, and complete boat, with accessories and packaged trailers sold with the boat, and any boat motor that:</p> <p>(A) is in the dealer's inventory; and</p> <p>(B) was purchased during the two years preceding the date of the termination; and</p> <p>(2) any new, current, unsold, undamaged, and unused parts or accessories for boats or boat motors in the original resalable merchandising package.</p> <p>(b) A demand for repurchase must be made in writing not later than the 90th day after the date the manufacturer or distributor terminates the agreement. The dealer must provide the manufacturer or distributor with a complete list of the items to be repurchased. The manufacturer or distributor shall complete the repurchase within a reasonable time.</p> <p>(c) The manufacturer or distributor shall:</p> <p>(1) repurchase an item described by Subsection (a)(1) at the dealer's invoiced cost, less any allowance paid to the dealer;</p> <p>(2) repurchase an item described by Subsection (a)(2) at the dealer's invoiced cost; and</p> |

| <u>Comments</u>                                                                                                                           | <u>Section</u>                                                                                                                                                                                                                                                                                                         |
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|                                                                                                                                           | (3) pay the cost incurred by the dealer to transport an item described by Subsection (a) to the manufacturer.                                                                                                                                                                                                          |
| <u>E. Enforcement.</u><br>1. A person who violates the Act or the agreement is liable for actual damages plus court costs and legal fees. | §2352.201. <u>Civil Liability.</u><br>A person who violates this chapter or an agreement regulated by this chapter is liable to an injured party for:<br>(1) the actual damages caused by the violation; and<br>(2) reasonable legal fees and court costs if litigation is commenced in connection with the violation. |
| 2. The venue for a dispute is the dealer's home county.                                                                                   | §352.202. <u>Venue For Dispute.</u><br>Venue for a dispute under an agreement is in the county of the dealer's principal place of business as stated in the agreement.                                                                                                                                                 |
| 3. A dealer may not be required to arbitrate an issue out of state or an unreasonable distance from the dealership.                       | §2352.203. <u>Arbitration.</u><br>A dealer may not be required to submit to arbitration on an issue between the dealer and the manufacturer or distributor at a location that is out of state or an unreasonable distance from the dealer's principal place of business.                                               |

| <u>Comments</u>                                                                                                                                                                                                                                                            | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| <p>4. A manufacturer or distributor is liable for a civil penalty to the state up to \$500.00 for each violation. Each sale of a boat or motor is a separate violation. The Attorney General is authorized to collect the civil penalty including reasonable expenses.</p> | <p><b>§2352.204. Civil Penalty.</b></p> <p>(a) A manufacturer or distributor who violates this chapter is liable to this state for a civil penalty. The amount of the penalty may not exceed \$500 for each violation.</p> <p>(b) Each sale of a new boat or boat motor by a manufacturer or distributor in violation of Section 2352.051 is a separate violation.</p> <p>(c) The attorney general may sue to collect a civil penalty under this section. The attorney general may recover, on behalf of the state, the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.</p> |

**WATER SAFETY ACT – PARKS & WILDLIFE DEPARTMENT**



| Comments                                                                                                                                                                                                                                                                                                              | Section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| <p>The Water Safety Act sets out the now familiar requirements for numbering boats, certificates of title for boats and motors, required boating equipment, regulations for operating boats and enforcement of the Act. Also, this act now governs the issue of dealers, distributors and manufacturers licenses.</p> | <p><b>§31.001. Title</b><br/>This chapter may be cited as the Water Safety Act.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p>A. <u>General – Policy and Definitions.</u> It is the policy of the state to promote recreational water safety.</p>                                                                                                                                                                                                | <p><b>§31.002. State Policy</b><br/>It is the duty of this state to promote recreational water safety for persons and property in and connected with the use of all recreational water facilities in the state, to promote safety in the operation and equipment of facilities, and to promote uniformity of laws relating to water safety.</p>                                                                                                                                                                                                                                                                                                                     |
| <p>The important definitions are “boat,” “motorboat,” “dealer,” “new,” and “personal watercraft.” The 2003 Legislative Session added the definition of “distributor.” The 2005 Legislative Session expanded the definition of “dealer” to include a person in the business of “displaying for sale.”</p>              | <p><b>§31.003. Definitions</b></p> <p>(1) “Boat” means a vessel not more than 65 feet in length, measured from the tip of the bow in a straight line to the stern.</p> <p>(2) “Vessel” means any watercraft, other than a seaplane on water, used or capable of being used for transportation on water.</p> <p>(3) “Motorboat” means any vessel propelled or designed to be propelled by machinery, whether or not the machinery is permanently or temporarily affixed or is the principal source of propulsion.</p> <p>(4) “Owner” means the person who rightfully claims lawful possession of a vessel by virtue of the legal title or an equitable interest.</p> |

| Comments | Section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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|          | <p>(5) "Water of this state" means any public water within the territorial limits of this state.</p> <p>(6) "Operate" means to navigate or otherwise use a motorboat or a vessel.</p> <p>(7) "Dealer" means a person customarily engaged in the business of buying, selling, or exchanging at least five vessels or outboard motors during a calendar year at an established or permanent place of business in this state and that at each place of business there is a sign conspicuously displayed showing the name of the dealership so that it may be located by the public and sufficient space to maintain an office, service area, and display of products.</p> <p>(8) "Vessel livery" means a business establishment engaged in renting or hiring out vessels for profit.</p> <p>(9) Repealed by Acts 1997, 75<sup>th</sup> Leg., ch. 1363, §12, eff. Sept. 1, 1997.</p> <p>(10) "Reasonable time" means 15 days</p> <p>(11) "Manufacturer" means a person engaged in the business of manufacturing new and unused vessels and outboard motors for the purpose of sale or trade.</p> <p>(12) "New" means every vessel or outboard motor after its manufacture and before its sale or other transfer to a person not a manufacturer or dealer.</p> <p>(13) "Outboard motor" means any self-contained internal combustion propulsion system, excluding fuel supply, which is used to propel a vessel and which is detachable as a unit from the vessel.</p> <p>(14) "Personal watercraft" means a type of motorboat that is specifically designed to be operated by a</p> |

| Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.</p> <p>(15) "Authorized agent" means a dealer who is authorized by the department under §31.006 of this code to collect taxes and fees and issue certificates of number.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <p>The Act applies to all public water of the state.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | <p><b>§31.004. Application of Chapter</b></p> <p>The provisions of this chapter apply to all public water of this state and to all vessels on public water. Privately owned water is not subject to the provisions of this chapter.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <p><b>B. Licenses</b></p> <p>1. <b>Requirements.</b> A dealer, distributor or manufacturer must hold a license. A dealer must have a license for each place of business operated.</p> <p>The application is made on Form PWD 310. The form sets out the items required with the application as set out in Rule §53.110. The license is for two years and costs \$525.00.</p> <p>The applicant must sign an affidavit of compliance with Chapter 2352, Occupation Code, regarding franchise agreements, and the new "license agreement" between it and the department.</p> | <p><b>§31.041. Dealer's, Distributor's, and Manufacturer's License</b></p> <p>(a) A person may not engage in business in this state as a dealer, distributor, or manufacturer unless the person holds a license issued under this section and enters into a license agreement with the department. A dealer must have a license for each place of business owned and operated by the person.</p> <p>(d) A dealer, distributor, or manufacturer of vessels in this state may use the dealer's, distributor's, or manufacturer's number for vessels the dealer, distributor, or manufacturer wishes to show, demonstrate, or test on the water of this state instead of securing a certificate of number for each vessel. The number shall be attached to any vessel that the dealer, distributor, or manufacturer sends temporarily on the water. For purposes of this subsection, "show, demonstrate, or test" does not include the use of a vessel for recreational purposes or for participation in a contest or event.</p> |

| Comments | Section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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|          | <p>(e) The application for a license under this section must state that the applicant is a dealer, distributor, or manufacturer within the meaning of this chapter, and the facts stated on the application must be sworn before an officer authorized to administer oaths. An application submitted by a dealer must be accompanied by photographs of the business sufficient to show any sign the business is required to display and the extent of the space the business is required to maintain. The application must also be accompanied by a copy of the tax permit of the dealer, distributor, or manufacturer issued by the comptroller under Chapter 151, Tax Code, if the dealer, distributor, or manufacturer has a tax permit. The two-year fee for a dealer's, distributor's, or manufacturer's number is \$500. A license may not be issued until the provisions of this section have been satisfied.</p> <p><b>Rule §310412. Licensing Rules</b></p> <p>The commission may adopt rules regarding licenses issued under Section 31.041, including rules:</p> <ol style="list-style-type: none"> <li>(1) regarding license transfer procedures;</li> <li>(2) prescribing application and license agreement forms;</li> <li>(3) regarding application and renewal procedures;</li> <li>(4) prescribing reporting and recordkeeping requirements for license holders;</li> <li>(5) setting fees to be charged for:             <ol style="list-style-type: none"> <li>(A) a transferred license; or</li> <li>(B) a replacement license;</li> </ol> </li> <li>(6) prescribing license requirements; and</li> <li>(7) establishing license revocation and suspension procedures.</li> </ol> |

SUBCHAPTER G. MARINE DEALERS,  
DISTRIBUTORS, AND MANUFACTURERS

§ 53.110. Marine Dealer, Distributors, and  
Manufacturers

(a) The following words and terms, when used in this subchapter shall have the following meanings, unless the context clearly indicates otherwise. Consignment—The sale or offer for sale by a person other than the owner under terms of a verbal or written authorization from the owner.

(b) Any person or entity, including a person or entity purporting to be a broker or brokerage house, who acts as an intermediary or assists in the sale, sale on consignment, display for sale, purchase, trade, or transfer of a vessel, motorboat, or outboard motor in exchange for a fee, commission, or other consideration is considered to be engaged in the business of buying, selling, selling on consignment, displaying for sale, or exchanging a vessel for the purposes of this subchapter. Any person or entity, including a person or entity purporting to be a broker or brokerage house, engaged in any activity described above is subject to the provisions of this subchapter.

(c) A person shall apply for a license as a dealer by submitting a properly completed, department-approved application form, accompanied by the following:

(1) the fee prescribed by law for each license requested;

(2) photographs clearly showing:

(A) the permanent sign at the location designated in the application as the applicant's permanent place of business, clearly indicating the name of the business;

(B) the front of the business with public access; and

(C) space sufficient for office, service area (not applicable to floating inventory or listings), and display of vessels, motorboats, or outboard motors (not applicable to floating inventory or listings);

(3) a copy of the Tax Permit issued by the Comptroller under Chapter 151, Tax Code;

(4) verification of all assumed name(s), if applicable, in the form of assumed name certificate(s) on file with the Secretary of State or county clerk;

(5) a photocopy of the current driver's license or Department of Public Safety identification of the

owner, president or managing partner of the business; and

(6) a list of dealer agreements; and

(7) if the applicant is to maintain floating inventory of listings at a location other than that designated as the applicant's permanent place of business, a record of at least five marinas where floating inventory or listings are expected to be displayed. If the applicant contemplates using less than five marinas, then the application shall include an explanatory statement. The record must identify, at a minimum, the name, physical address, and telephone for each marina.

(d) A person shall apply for a license as a distributor or manufacturer by submitting a properly completed, department-approved application form accompanied by the following:

(1) the fee prescribed by law for each license requested;

(2) verification of all assumed name(s), if applicable, in the form of assumed name certificate(s) on file with the Secretary of State or county clerk;

(3) a complete list of manufacturers represented by a distributorship; and

(4) a complete list of distributors, dealers, and manufacturers;

(e) The department may issue a license under this subchapter if:

(1) the applicant submits a complete application form and required attachments; and

(2) the applicant signs a department-provided license agreement stating that the applicant agrees to comply with all applicable state laws, including Occupation Code, Chapter 2352, concerning Franchise Agreements, when required.

(f) A license holder shall notify the department in writing within 10 days if there is any change of:

(1) ownership;

(2) business name;

(3) physical location;

(4) dealer agreement;

(5) distributors, dealers, or representatives; or

(6) address or phone information.

(g) The licenses issued under this subchapter to dealers must be publicly displayed at all times in the place of business for which the license is issued.

(h) A license holder must keep a complete record available for inspection in the place of business relating to all vessels, motorboats, and outboard motors purchased, sold, or displayed for sale for a

minimum of 24 months. Content of records must include the:

- (1) date of purchase;
  - (2) date of sale;
  - (3) hull identification number and/or motor identification number;
  - (4) name and address of person selling to the dealer;
  - (5) name and address of person purchasing from the dealer;
  - (6) name and address of selling dealer or individual if vessel and/or outboard motor is offered for sale by consignment;
  - (7) a copy of the vessel/outboard motor title/registration receipt;
  - (8) copies of any and all documents, forms, and agreements applicable to a particular sale, consignment, listing, transfer of ownership, titling, titling and registration, or documentation through the U.S. Coast Guard, including, but not limited to title applications, work-up sheets, Manufacturer's Certificates of Origin, titles or photocopies of the front and back of titles, factory invoices, sales contracts, retail installment agreements, buyer's orders, bills of sale, waivers, or other agreements between the seller and purchaser; and
  - (9) copies of written consignment agreements or power of attorney for vessels, motorboards, or outboard motors.
- (i) The department may suspend or revoke a license under this subchapter if:
- (1) the licensee has been finally convicted or received deferred adjudication for a violation of Parks and Wildlife Code, Chapter 31, or a rule adopted under that chapter;
  - (2) the licensee has violated Parks and Wildlife Code, Chapter 31, or a rule adopted under that chapter;
  - (3) the licensee made a false or misleading statement in connection with the original or renewal application for the license, either in the formal application itself or in any other written instrument relating to the application submitted to the commission or its officers or employees;
  - (4) the licensee is indebted to the state for taxes, fees, or payment of penalties imposed by Parks and Wildlife Code, Chapter 31, or a rule adopted under that chapter;
  - (5) the applicant or licensee was previously the holder of a license issued under this subchapter that was revoked for cause and never reissued by the

department, or that was suspended for cause and the terms of the suspension have not been fulfilled;

(6) the applicant or licensee was previously a partner, stockholder, director, or officer controlling or managing a partnership, corporation, or store location whose license issued under this subsection was revoked for cause and never reissued, or was suspended for cause and the terms of the suspension have not been fulfilled;

(7) the business does not intend to be open to all members of the public nor during normal business hours;

(8) the licensee or an employee of the licensee has obtained, or attempted to obtain, any money, commission, fee, barter, exchange or other compensation by fraud, deception or misrepresentation; or

(9) the licensee or an employee of the licensee is finally convicted or receives deferred adjudication for a violation of any federal or state law relating to the sale, distribution, financing, registration, testing, or insuring of a vessel.

(c) Provisions governing the revocation or suspension of a license are as follows:

(1) Before suspending or revoking a license under this subchapter, the staff of the executive director of the department (executive director) shall provide notice by certified mail to the licensee's last known address of the department's intent to revoke or suspend the license. Within 30 days of the date of the letter, the licensee may request an administrative hearing. The hearing request must be in writing and addressed to: Manager of Boat Fitting, Registration, and Marine Licensing, Texas Parks and Wildlife Department, 4200 Smith School Rd., Austin, TX 78744. For a hearing request to be valid, the department must receive the hearing request within 30 days of the date of the letter notifying the licensee of the department's intent to revoke or suspend the license. If no hearing request is received within this time frame, the executive director shall make a final decision whether to revoke or suspend the license.

(2) Timely hearing requests shall be referred by the department to the State Office of Administrative Hearings (SOAH) for adjudication.

(3) The department shall provide notice of the hearing date to the licensee by certified mail at the licensee's last known address at least ten days prior to the hearing date.

(4) The licensee shall be responsible for all hearing costs to SOAH, including but not limited to transcript and court reporting costs incurred by the department. Prior to the beginning of the hearing, at



the request of department, the SOAH judge shall require the licensee to post a bond in an amount set by the SOAH judge, payable to the department and conditioned on prompt payment of hearing costs. Failure to post the requested bond prior to the start of the hearing shall result in default by the licensee.

(5) The failure of the licensee to appear at the hearing shall entitle the department's staff to request issuance of a default proposal for decision or order by the judge.

(6) At the conclusion of the hearing, SOAH shall prepare a proposal for decision in accordance with SOAH rules. The proposal for decision shall be submitted to the department's deputy executive director for administration, who will make the final decision on whether to revoke or suspend the licensee.

Source: The provisions of this § 53.110 adopted to be effective July 7, 2004, 29 TexReg 6309; amended to be effective February 19, 2006, 31 TexReg 851.

| <u>Comments</u> | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                 | <p><b>Rule §53.201. Application, Renewal, Transfer, and Replacement</b></p> <p>A. A person shall apply for a license as a dealer by submitting a properly completed, department-approved application form, accompanied by the following:</p> <ol style="list-style-type: none"> <li>1. the fee prescribed by law for each license requested;</li> <li>2. photographs clearing showing: <ol style="list-style-type: none"> <li>a. the permanent sign clearly indicating the name of the business;</li> <li>b. the front of the business with public access; and</li> <li>c. space sufficient for office, service area, and display of products;</li> </ol> </li> <li>3. a copy of the Tax Permit issued by the Comptroller under Chapter 151, Tax Code;</li> <li>4. verification of all assumed name(s), if applicable, in the form of assumed name certificate(s) on file with the Secretary of State or county clerk;</li> <li>5. a photocopy of the current driver's license or Department of Public Safety identification of the owner, president or managing partner of the business; and</li> <li>6. a list of dealer agreements.</li> </ol> <p>B. A person shall apply for a license as a distributor or manufacturer by submitting a properly completed, department-approved application form accompanied by the following:</p> <ol style="list-style-type: none"> <li>1. the fee prescribed by law for each license requested;</li> <li>2. verification of all assumed name(s), if applicable, in the form of assumed name certificate(s) on file</li> </ol> |

| <u>Comments</u>                                                                                        | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|                                                                                                        | <p>with the Secretary of State or county clerk;</p> <ol style="list-style-type: none"> <li>3. a complete list of manufacturers represented by a distributorship; and</li> <li>4. a complete list of distributors, dealers, and manufacturers.</li> </ol> <p>C. The department may issue a license under this subchapter if:</p> <ol style="list-style-type: none"> <li>1. the applicant submits a complete application form and required attachments; and</li> <li>2. the applicant signs a department-provided affidavit stating full compliance with state law including Occupation Code, Chapter 2352, concerning Franchise Agreements, when required.</li> </ol> |
| <p>2. <u>Changes.</u> Changes in a dealership or manufacturer/distributor must be reported to PWD.</p> | <p><b>Rule §53.202. Notification - Change of Dealer, Manufacturer, Distributor Status</b></p> <p>A license holder shall notify the department in writing within 10 days if there is any change of:</p> <ol style="list-style-type: none"> <li>1. ownership;</li> <li>2. business name;</li> <li>3. physical location;</li> <li>4. dealer agreement;</li> <li>5. distributors, dealers, or representatives; or</li> <li>6. address or phone information</li> </ol>                                                                                                                                                                                                    |

| <u>Comments</u>                                                                                                             | <u>Section</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| <p>3. <u>Term.</u> A license is valid for two years and may not be transferred except as provided.</p>                      | <p><b>§31.0411. Term of License; Transfer</b></p> <p>(a) Except as provided by Subsection (b), a license issued under Section 31.041:</p> <p>(1) Is valid for two years from the date of issuance; and</p> <p>(2) may not be transferred to another person.</p> <p>(b) A license issued under Section 31.041 in the name of a business remains valid for the business location specified on the license if a change of ownership or business name occurs.</p> <p>(c) A license issued under Section 31.041 may be transferred to a new address if:</p> <p>(1) a business moves to another location; and</p> <p>(2) (a change of ownership has not occurred.</p> |
| <p>4. <u>Recordkeeping.</u> License holders must keep a record as to all boats and motors purchased, sold or displayed.</p> | <p><b>Rule §53.204. Reporting and Record keeping Requirements</b></p> <p>A license holder must keep a complete record available for inspection in the place of business relating to all vessels, motorboats, and outboard motors purchased, sold, or displayed for sale for a minimum of 24 months. Content of records must include the:</p> <ol style="list-style-type: none"> <li>1. date of purchase;</li> <li>2. date of sale;</li> <li>3. hull identification number and/or motor identification number;</li> <li>4. name and address of person selling to the dealer;</li> <li>5. name and address of person purchasing from the dealer;</li> </ol>       |

| Comments                                                                                                                                                                                                                                                              | Section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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|                                                                                                                                                                                                                                                                       | <p>6. name and address of selling dealer or individual if vessel and/or outboard motor is offered for sale by consignment;</p> <p>7. a copy of the vessel/outboard motor title/registration receipt;</p> <p>8. copies of any and all documents, forms, and agreements applicable to a particular sale, including, but not limited to title applications, work-up sheets, Manufacturer's Certificates of Origin, titles or photocopies of the front and back of titles, factory invoices, sales contracts, retail installment agreements, buyer's orders, bills of sale, waivers, or other agreements between the seller and purchaser; and</p> <p>9. copies of written consignment agreements or power of attorney for vessels, motorboats, or outboard motors.</p> |
| <p>5. <u>Exemption.</u> The licensing provisions do not apply to the sale of a vessel less than 12 feet long with 5 horsepower or less.</p>                                                                                                                           | <p><u>§31.0413. Exemption From Dealer Licensing Requirements</u></p> <p>The dealer licensing provisions of this subchapter do not apply to the sale of a canoe, kayak, punt, rowboat, rubber raft, paddleboat, or other vessel that is less than 12 feet in length and has a horsepower rating of five horsepower or less or to the sale of an outboard motor with a manufacturer's rate of five horsepower or less.</p>                                                                                                                                                                                                                                                                                                                                            |
| <p>C. <u>Numbering Vessels</u></p> <p>1. <u>Certificate Required.</u> Each vessel on state waters shall be numbered in accordance with the Federal Boating Act of 1958. A vessel may not be operated without the number being displayed on both sides of the bow.</p> | <p><u>§31.021. Required Numbering</u></p> <p>(a) Each vessel on the water of this state shall be numbered in accordance with the provisions of this chapter unless specifically exempted. The numbering system shall be in accord with the Federal boat Act of 1958 and subsequent federal legislation.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

(b) No person may operate or give permission for the operation of any vessel or may dock, moor, or store a vessel owned by the person on the water of this state unless:

- (1) the vessel is numbered as required by this chapter;
- (2) the certificate of number awarded to the vessel is in full force and effect; and
- (3) the identifying number set forth in the certificate is properly displayed on each side of the bow of the vessel as required by this chapter.

*Comments:*

*C.Numbering Vessels1.*

*Certificate Required. Each vessel on state waters shall be numbered in accord with the Federal Boating Act of 1958. A vessel may not be operated without the number being displayed on both sides of the bow.*

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**§31.022. Exemptions From Required Numbering**

(a) a vessel is not required to be numbered under the provisions of this chapter if it is:

- (1) operated within this state for a period not exceeding 90 consecutive days and is covered by a number if full force and effect which has been awarded under federal law or a federally approved numbering system of another state;
- (2) from a country other than the United States temporarily using the water of this state;
- (3) owned by the United States, a state, or a subdivision of a state; or
- (4) a ship's lifeboat.

(b) The department may exempt from numbering a class of vessels if it finds that the numbering of the vessels of that class will not materially aide in their identification. The department may also exempt from numbering under a numbering system of an agency of the federal government if it were subject to federal law.

- (c) All canoes, kayaks, punts, rowboats, rubber rafts, or other vessels under 14 feet in length when paddled, poled, oared, or windblown are exempt from the numbering provisions of this chapter.
- (d) A vessel in use at a water ski tournament, competition, or exhibition sanctioned in writing by the governing board of the governmental entity that has jurisdiction over the body of water on which the tournament, competition, or exhibition occurs is exempt from the numbering provisions of this chapter.

*Comments:*

*Exemptions:*

- (1) vessels operated less than 90 consecutive days with a number from another state*
- (2) vessels from outside the U.S. being temporarily used*
- (3) U.S. or state vessels*
- (4) Ship's lifeboat*
- (5) Vessels under 14 feet without power*

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**§31.023. Vessels Numbered Under Federal or Other State Law**

The owner of any vessel for which a current certificate of number has been awarded under any federal law or a federally approved numbering system of another state shall, if the vessel is operated on the water of this state in excess of 90 consecutive days, make application for a certificate of number in the manner prescribed in this chapter for residents of this state.

*Comments:*

*After 90 days, an out of state vessel must be numbered.*

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**§31.024. Application for Number**

- (a) The owner of each vessel requiring numbering by this state shall file an application for a number with the department, an authorized agent, or a county tax assessor-collector.

(b) The application shall be signed by the owner of the vessel and shall be accompanied by the fee prescribed in Section 31.026 of this code. If the application is received by a county tax assessor-collector as a collection fee shall be sent to the department. If the application is received by an authorized agent, the application and the fee shall be sent to the department as required by Section 31.0006 of this code.

(c) On receipt of the application in approved form, the department shall enter it on the records of its office and issue to the applicant a certificate of number stating the number awarded to the vessel and the name and address of the owner.

(d) The application form, the form of the certificate of number, and the manner of renewal shall be prescribed by the department.

(e) The department, an authorized agent, or a county tax assessor-collector may not issue a certificate of number unless the tax due on the vessel under Chapter 160, Tax Code is paid.

*Comments:*

*2.Filing. An application for a number is filed with the Parks & Wildlife Department (PWD), an authorized agent or county, tax assessor-collector. The application is made on Form PWD 143, copies of which are attached as \_\_\_\_\_. PWD issues the certificate number if the sales tax is paid. The form for the certificate is attached as \_\_\_\_\_. Proof of ownership is made by a certificate of title or certified statement of ownership.*

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**§ 31.036. Proof of Ownership**

(a) A certificate of title is required as proof of ownership of a vessel for which a certificate of number is sought.

b) A certified statement of ownership is sufficient proof of ownership for a vessel of a type for which certificate of title is not required.

**§31.025. Renewal of Certificates of Number**

(a) An application for the renewal of each certificate of number shall be prepared by the department and mailed to the owner of the vessel during the period of the last 90 days before the expiration date of the certificate. The same number shall be issued on renewal.



- (b) The application for renewal may be returned to the department, to any county tax assessor-collector, or if permitted by the department, to an agent of the department.
- (c) Applications not received during the 90-day period shall be treated in the same manner as original applications.

*Comments:*

*Renewal. A certificate of renewal application will be mailed by PWD during the last 90 days before the expiration date. If the application is not sent in during the 90-day period, an original application must be made. The form for renewal is PWD 143M/144M, attached as \_\_\_\_\_.*

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**§31.026. Fees**

- (a) Each application for an original or renewal certificate of number for a vessel shall be accompanied by a two-year fee determined by the following classification schedule or determined in the same classifications by the commission, whichever amount is more:

SEE EXHIBIT OF FEES ATTACHED



# FEE CHART

## Boat / Outboard Motor and Related Items

Effective September 1, 2009

|                                                                                                                      |           |       |
|----------------------------------------------------------------------------------------------------------------------|-----------|-------|
| <b>VESSEL REGISTRATION:</b>                                                                                          |           |       |
| Less than 16 feet in length                                                                                          | (Class A) | \$32  |
| 16 feet but less than 26 feet in length                                                                              | (Class 1) | \$53  |
| 26 feet but less than 40 feet in length                                                                              | (Class 2) | \$110 |
| 40 feet or more in length                                                                                            | (Class 3) | \$150 |
| Livery Boat less than 16 feet in length                                                                              | (Class A) | \$32  |
| <b>CERTIFICATE OF NUMBER (registration ID card):</b>                                                                 |           |       |
| Transfer of Ownership (any Texas registered vessel)                                                                  |           | \$11  |
| Replacement Certificate of Number Card                                                                               |           | \$11  |
| Corrected Certificate of Number Card                                                                                 |           | \$11  |
| <b>REGISTRATION REPLACEMENT DECALS:</b>                                                                              |           |       |
| Replacement Registration Decals with new certificate of number card (required)                                       |           | \$22  |
| <b>TEXAS CERTIFICATE OF TITLE:</b>                                                                                   |           |       |
| Certificate of Title- Vessel / Outboard Motor                                                                        |           | \$27  |
| Certificate of Title- Transfer of Vessel / Outboard Motor                                                            |           | \$27  |
| Certificate of Title- Replacement for Lost or Destroyed Title                                                        |           | \$27  |
| Certificate of Title- Correction Transaction                                                                         |           | \$27  |
| Certificate of Title- Bonded Title                                                                                   |           | \$37  |
| "Quick" Title – (To expedite the replacement of lost or destroyed titles only)                                       |           | \$64  |
| <b>TAXES:</b>                                                                                                        |           |       |
| New Resident Tax (applies to owner relocating from out of state to Texas)                                            |           | \$15  |
| Sales / Use Tax (percentage of the sales price)                                                                      |           | 6.25% |
| Penalties and Interest (apply 20 business days after the sales date - see form PWD 930 to calculate the amount owed) |           |       |
| <b>OTHER:</b>                                                                                                        |           |       |
| Game Warden Inspection / State Assigned Hull Identification Number                                                   |           | \$25  |
| Ownership History Request                                                                                            |           | \$11  |
| <b>PARTY BOATS:</b>                                                                                                  |           |       |
| Annual Inspection                                                                                                    |           | \$132 |
| New License Application                                                                                              |           | \$132 |
| Renew Existing License                                                                                               |           | \$53  |
| Replace a Lost or Destroyed License                                                                                  |           | \$53  |
| Update an Existing License                                                                                           |           | \$53  |
| <b>MARINE LICENSE:</b>                                                                                               |           |       |
| New License Application                                                                                              |           | \$500 |
| Additional Marine Decal and ID card                                                                                  |           | \$126 |
| Renewal of License                                                                                                   |           | \$500 |
| Transfer Business (New Owner)                                                                                        |           | \$500 |
| Transfer Business Location (Same Owner)                                                                              |           | \$11  |
| Correction / Update of Information                                                                                   |           | \$4   |

#### **§31.028. Certificate of Number**

The certificate of number shall be pocket-size. The certificate or a facsimile of it shall be carried on board the vessel at all times. It does not have to be on the person of the operator if prior to trial the operator can produce for examination a valid certificate of number.

*Comments:*

*The certificate should be carried on the boat.*

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#### **§31.029. Term of Certificate of Number**

Every certificate of number awarded pursuant to this chapter shall continue in full force and effect for a period of two years unless sooner terminated or discontinued in accordance with the provisions of this chapter.

*Comments:*

*5.Term. The certificate continues for two years. See renewal at paragraph 3, above.*

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#### **§30.030. Duplicate Certificates and Decals**

- (a) If a certificate of number becomes lost, mutilated, or illegible, the owner of the vessel for which the certificate was issued may obtain a duplicate on application to the department and the payment of a fee of \$2 or an amount set by the commission, whichever amount is more.
- (b) If a registration decal becomes lost, mutilated, or illegible, the owner of the vessel for which the decal was issued may obtain a replacement decal on application to the department and the payment of a fee of \$2 or an amount set by the commission, whichever amount is more.

*Comments:*

*6.Duplicate. A certificate of number of registration deal if lost or mutilated may be duplicate.*

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#### **§31.031. Numbering Pattern**

The numbering pattern used consists of the prefix "TX" followed by a combination of exactly four numerals and further followed by a suffix of two letters. The group o numerals appearing between the letters shall be separated from the letters by hyphens or equivalent spaces.

| Comments | Section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|          | <p>(b) All basic numbers of each series shall begin with 1000. TX-1000-AA through TX-999-AA will be allotted to dealers and manufacturers. TX-1000-AB through TX-999-ZZ will be allotted to all other vessel owners and livery operators.</p> <p>(c) The letters "G", "I", "O", and "Q" shall be omitted from all letter sequences.</p> <p><b>§31.032. Numbering on Bow</b></p> <p>(a) The owner of a vessel shall paint on or attach to each side of the forward half of the vessel the identification number and a registration decal in the manner prescribed by the department. The number shall read from left to right and shall be of block characters of good proportion of not less than three inches in height. The numbers shall be of a color which will contrast with the hull material of the vessel and so maintained as to be clearly visible and legible.</p> <p>(a-1) On a vessel configured so that a number on the hull or superstructure is not easily visible, the number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the number is visible from each side of the vessel.</p> <p>(b) The owner of a vessel required to be numbered under this subchapter and documented by the United States Coast Guard is not required to attach an identification number as required by Subsection (a).</p> <p>(c) The commission shall adopt rules for the placement of the registration decal in an alternate location for antique boats. In this subsection, "antique boat" means a boat that:</p> <p>(1) is used primarily for recreational purposes; and</p> |

| Comments                                                                                                                                                                                                                                                                       | Section                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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|                                                                                                                                                                                                                                                                                | <p>(2) was manufactured 35 or more years before the date the registration decal is issued.</p> <p><b>§31.033. Unauthorized Numbers Prohibited</b></p> <p>(a) No person may paint, attached, or otherwise display on the forward half of a vessel a number other than the number awarded to the vessel or granted reciprocity under this chapter.</p> <p>(b) No person may deface or alter the certificate of number or the number assigned to and appearing on a vessel.</p> <p>(c) No person may display on a vessel a registration decal that is altered, fraudulent, or issued under a certificate of number assigned to another vessel.</p>                                                                                                                                                                                             |
| <p>8. <u>Change of Ownership.</u> The owner of a numbered vessel shall notify PWD of a sale or transfer within a reasonable time. The purchaser presents an application for a title and registration on PWD 143. Change of address of the owner should be reported to PWD.</p> | <p><b>§31.037. Change in Ownership Interest; Notice to Department</b></p> <p>(a) The owner of a vessel numbered in this state shall notify the department within a reasonable time of the transfer of all or any part of his interest in the vessel, other than the creation of a security interest, or of the destruction or abandonment of the vessel. The notice shall be accompanied by a surrender of the certificate of number.</p> <p>(b) If the vessel is destroyed or abandoned, the department shall cancel the certificate and enter the cancellation in its records.</p> <p>(c) The purchaser of a vessel shall present evidence of his ownership to the department within a reasonable time along with his name, address, and the number of the vessel and shall at the same time pay to the department a fee of \$2 or an</p> |

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|                                   | <p>amount set by the commission, whichever amount is more.</p> <p>On receipt of the application and fee the department shall transfer the certificate of number issued for the vessel to the new owner. Unless the application is made and fee paid within a reasonable time the vessel is without a certificate of number, and it is unlawful for any person to operate the vessel until the certificate is issued.</p> <p><b>§31.038. Change Of Address; Notice To Department</b></p> <p>(a) The holder of a certificate of number shall notify the department within a reasonable time if his address no longer conforms to the address appearing on the certificate and shall inform the department of his new address.</p> <p>(b) The department may provide in its regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of the outstanding certificate to show the new address of the holder. Changes of address shall be noted on the records of the department.</p> |
| 9. <u>Release of Information.</u> | <p><b>§31.0391. Release Of Information</b></p> <p>(a) The department or a county may not release the name or address of a person recorded in the department vessel and outboard motor ownership records unless the department or county receives a written request that:</p> <p>(1) contains the requestor's name and address; and</p> <p>(2) states that the use of the information is for a lawful purpose.</p> <p>(b) This section does not apply to the release of information to:</p> <p>(1) a peace officer as defined by Article 2.12, Code of Criminal Procedure, who is acting in an official capacity; or</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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|                                                     | (2) a state official or an official of a political subdivision of this state who requests the information for tax purposes.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 10. <u>Dealers, Distributors and Manufacturers.</u> | <p><b>§31.041. Dealer's, Distributor's, And Manufacturer's License</b></p> <p>(a) A person may not engage in business in this state as a dealer, distributor, or manufacturer unless the person holds a license issued under this section and enters into a license agreement with the department. A dealer must have a license for each place of business owned and operated by the person.</p> <p>(b) The commission shall establish the form and manner for display of a license issued under this section.</p> <p>(c) The department shall issue a dealer, distributor, or manufacturer number to each dealer, distributor, or manufacturer licensed under this section in the manner provided by Section 31.031(b).</p> <p>(d) A dealer, distributor, or manufacturer of vessels in this state may use the dealer's, distributor's, or manufacturer's number for vessels the dealer, distributor, or manufacturer wishes to show, demonstrate, or test on the water of this state instead of securing a certificate of number for each vessel. The number shall be attached to any vessel that the dealer, distributor, or manufacturer sends temporarily on the water. For purposes of this subsection, "show, demonstrate, or test" does not include the use of a vessel for recreational purposes or for participation in a contest or event. The commission, however, may establish rules concerning the issuance and price of validation cards permitting the limited and temporary use of vessels for recreation purposes or participation in contests or events. Any fees collected by the department shall be deposited in the game, fish and water safety account</p> |

established under Section 11.032.

(e) The application for a license under this section must state that the applicant is a dealer, distributor, or manufacturer within the meaning of this chapter, and the facts stated on the application must be sworn before an officer authorized to administer oaths. An application submitted by a dealer must be accompanied by photographs of the business sufficient to show any sign the business is required to display and the extent of the space the business is required to maintain. The application must also be accompanied by a copy of the tax permit of the dealer, distributor, or manufacturer issued by the comptroller under Chapter 151, Tax Code, if the dealer, distributor, or manufacturer has a tax permit. The two-year fee for a dealer's, distributor's, or manufacturer's number is \$500. A license may not be issued until the provisions of this section have been satisfied.

(f) A dealer, distributor, or manufacturer holding a dealer's, distributor's, or manufacturer's license may issue a reasonable temporary facsimile of the number issued under Subsection (c), which may be used by any authorized person. A person purchasing a vessel may use the dealer's number for a period not to exceed 15 days prior to filing an application for a certificate of number. The form of the facsimile and the manner of display of the number shall be prescribed by the department.

(g) A dealer, distributor, or manufacturer holding a dealer's, distributor's, or manufacturer's license may transfer a certificate of number or a certificate of title to a vessel or outboard motor without securing a certificate of number or certificate of title in the dealer's, distributor's, or manufacturer's name if the vessel or outboard motor is sold in the normal course of the dealer's, distributor's, or



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| application. | <p>for the vessel or outboard motor in the name of the transferee;</p> <p>(4) if the vessel or outboard motor is not covered by a certificate of title or a manufacturer's or importer's certificate and if the transferor is not a manufacturer or dealer, delivering to the transferee sufficient evidence of title or other information to permit the transferee to apply for and receive a certificate of title for the vessel or outboard motor in the name of the transferee; or</p> <p>(5) delivering to the transferee a certificate of title for the vessel or outboard motor in the name of the transferor and properly endorsed to show the transfer or evidence of an involuntary transfer.</p> <p>(b) For the purposes of Subsection (a)(5) of this section an involuntary transfer shall mean the transfer of ownership pursuant to a contractual or statutory lien which confers the power or right to the transfer. The evidence shall reflect the proper exercise of the right conferred pursuant to the lien.</p> <p>(c) the transferor shall provide the documents or evidence required by Subsection (a) of this section to the department or the transferee, as appropriate, in sufficient time to allow the transferee to register and obtain a certificate of title for the vessel or outboard motor not later than 20 days after the date of the sale.</p> <p>(d) Notwithstanding the provisions of Subsection (a) of this section, a buyer of a new vessel or a new outboard motor in the ordinary course of business as provided in Section 9.320(a), Business &amp; Commerce Code, takes the interest free of security interests as provided in that section. A buyer of a vessel or outboard motor that is not new shall be governed by Subsection (a) of this section.</p> <p>(e) The transferee shall provide the department with sufficient evidence of ownership for transfer of a vessel or</p> |
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|                                                                                                                                                                                                                                                                                                                                                                  | <p>outboard motor if the transferee:</p> <p>(1) failed to obtain the title from the transferor or the title was lost, stolen, or mutilated before the transfer was made; and</p> <p>(2) has made reasonable efforts to contact the transferor to obtain the required documentation.</p> <p>(f) A person who is not licensed as a dealer, distributor, or manufacturer under this chapter must obtain a certificate of number or certificate of title to a vessel or outboard motor in the person's name before transferring the certificate of number or certificate of title.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <p>4. <u>Bond.</u> If PWD refuses to issue a title, an applicant can file a bond in an amount 1½ times the value of the vessel or outboard motor to indemnify prior owners, lienholders and subsequent purchasers. The applicant must prove that the property is not stolen and that the issuance of a certificate would not defraud an owner or lienholder.</p> | <p><b>§31.0465. Appeal Regarding Certificate Of Title; Bond; Rules</b></p> <p>(a) An applicant for a certificate of title under Section 31.046 may appeal the department's refusal to issue the title by filing a bond with the department as provided by this section.</p> <p>(b) A bond filed under this section must be:</p> <p>(1) in the form prescribed by the department;</p> <p>(2) executed by the applicant;</p> <p>(3) issued by a person authorized to act as a surety business in this state;</p> <p>(4) in an amount equal to 1-1/2 times the value of the vessel or outboard motor as determined by the department; and</p> <p>(5) conditioned to indemnify all prior owners and lienholders and all subsequent purchasers of the vessel or outboard motor or persons who acquire a security interest in the vessel or outboard motor, and their successors in interest, against any expense, loss, or damage, including reasonable attorney's fees, resulting from:</p> <p>(A) the issuance of the certificate of title for</p> |

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|                                                              | <p>the vessel or outboard motor; or</p> <p>(B) a defect in or undisclosed security interest in the right, title, or interest of the applicant to or in the vessel or outboard motor.</p> <p>(c) The department may issue the certificate of title to the person filing the bond if the applicant proves to the satisfaction of the department that:</p> <p>(1) the vessel or outboard motor is not stolen; and</p> <p>(2) issuance of a certificate of title would not defraud the owner or a lienholder of the vessel or outboard motor.</p> <p>(d) A person described by Subsection (b)(5) has a right of action to recover on the bond for a breach of a condition of the bond described by Subsection (b)(5). The aggregate liability of the surety to all persons may not exceed the amount of the bond.</p> <p>(e) A bond filed under this section expires on the third anniversary of the date the bond became effective. The department shall return an expired bond to the person who filed the bond unless the department has been notified of a pending action to recover on the bond.</p> <p>(f) On return of a bond under Subsection (e), the department shall issue a certificate of title to the person to whom the bond is returned.</p> <p>(g) In addition to the situation described by Subsection (c), the commission by rule may define acceptable situations in which certificates of title may be issued after the filing of a bond under this section.</p> |
| <p>E. <u>Required Equipment</u></p> <p>1. <u>Lights.</u></p> | <p><b>§31.064. Lights</b></p> <p>A vessel or motorboat when not at dock must have and exhibit at least one bright light, lantern, or flashlight from sunset to sunrise in all weather. A vessel or motorboat when</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

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| <p>underway between sunset and sunrise in all weather must have and exhibit the lights prescribed by the commandant of the Coast Guard for boats of its class. No other lights that may be mistaken for those prescribed may be exhibited.</p> <p><b>§31.066. Life Preserving Devices</b></p> <p>(a) A motorboat including a motorboat carrying passenger for hire, must have at least one wearable personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard for each person on board, so placed as to be readily accessible.</p> <p>(b) The operator of a motorboat less than 26 feet in length, while underway, shall require every passenger under 13 years of age to wear a wearable personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard. A life belt or ring buoy does not satisfy this requirement.</p> <p>(c) A person may not operate a recreational vessel 16 feet or more in length unless the vessel is equipped with:</p> <p>(1) the number of wearable personal flotation devices required under Subsection (a); and</p> <p>(2) additionally, at least one immediately accessible Type IV throwable flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.</p> <p>(d) A person under 13 years of age on board a vessel described by Section 31.073(a) or (b) must wear a wearable personal flotation device of the sort prescribed by the commandant of the Coast Guard while the vessel is under way.</p> <p>(e) An adult operator of a vessel described by Section 31.073 may not permit a person under 13 years of age to be on board the vessel while the vessel is under way if the person</p> | <p>2. <u>Life Preservers</u></p> |
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| 3. | <u>Fire Extinguishers.-</u> | <p>under 13 years of age is not wearing a wearable personal flotation device required by Subsection (d).</p> <p><b>§31.067. Fire Extinguishers</b></p> <p>(a) A motorboat must have the number, size, and type of fire extinguishers prescribed by the commandant of the Coast Guard.</p> <p>(b) The fire extinguishers must be capable of promptly and effectively extinguishing burning gasoline. They must be kept in condition for immediate and effective use at all times and must be placed so as to be readily accessible.</p>                                                                                                                                                                                   |
| 4. | <u>Flame Arrestor.</u>      | <p><b>§31.068. Flame Arrestors; Backfire Traps</b></p> <p>A motorboat must have the carburetor or carburetors of every engine using gasoline as fuel, except outboard motors, equipped with an efficient flame arrestor, backfire trap, or other similar device prescribed by the regulations of the commandant of the Coast Guard.</p>                                                                                                                                                                                                                                                                                                                                                                                  |
| 5. | <u>Rearview mirrors.</u>    | <p><b>§31.071. Rearview Mirrors</b></p> <p>(a) A vessel used to tow a person or persons on water skis or an aquaplane or similar device on the water of this state must have a rearview mirror of a size no less than four inches from bottom to top and across from one side to the other. The mirror must be mounted firmly so as to give the boat operator a full and complete view beyond the rear of the boat at all times.</p> <p>(b) Subsection (a) of this section does not apply to vessels used in water ski tournaments, competitions, or exhibitions, or to a vessel that, in addition to its operator, has on board a person 13 years of age or older observing the progress of the person being towed.</p> |
| 6. | <u>Canoes, etc.</u>         | <p><b>§31.073. Canoes, Punts, Rowboats, Sailboats, Rubber Rafts, Racing Shells, Rowing Sculls, Kayaks and other</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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|                                                                                                                                                                               | <p><b>paddle craft; Equipment Exemptions</b></p> <p>(a) All canoes, kayaks, punts, rowboats, sailboats, rubber rafts and other paddle craft when paddled, poled, oared, or windblown are exempt from all safety equipment requirements except each vessel must have the following:</p> <ul style="list-style-type: none"> <li>(1) one Coast Guard approved wearable personal flotation device for each person aboard; and</li> <li>(2) the lights prescribed by the commandant of the Coast Guard for class A vessels and required under Section 31.064.</li> </ul> <p>(a-1) Notwithstanding Subsection (a), a vessel described by that subsection, except a canoe or kayak, that is 16 feet or more in length must be equipped with at least one Type IV personal flotation device of the sort prescribed by the regulations of the commandant of the Coast Guard.</p> <p>(b) Racing shells, rowing sculls, and racing kayaks while participating in or practicing for an officially sanctioned race are exempt from all safety equipment requirements except the lights prescribed by the commandant of the Coast Guard for vessels and required under Section 31.064.</p> <p>(c) In this section, "racing shell," "rowing scull," or "racing kayak" means a manually propelled boat:</p> <ul style="list-style-type: none"> <li>(1) recognized by a national or international racing association for use in competitive racing;</li> <li>(2) not designed or used to carry equipment serving any purpose other than competitive racing; and</li> <li>(3) in which each occupant, except a coxswain, rows, sculls, or paddles.</li> </ul> |
| <p><b>F. Boating Regulations.</b></p> <p>1. <u>Local.</u> Cities, counties and political sub-divisions of the state may make regulations as to operation and equipment of</p> | <p><b>§31.092. Local Regulations</b></p> <p>(a) The governing body of an incorporated city or town, with respect to public water within its corporate limits and all lakes owned by it, may designate by ordinance certain areas as</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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| <p>boats within their limits or owned by them. The rules must be consistent with the Water Safety Act and filed with PWD. No fees may be imposed for registration or inspection of boats but a political subdivision of the state may charge launch, docking, entry or recreational fees.</p> | <p>bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.</p> <p>(b) The commissioners court of a county, with respect to public water within the territorial limits of the county that is outside of the limits of an incorporated city or town or a political subdivision designated in Subsection (c) of this section and that are not lakes owned by an incorporated city or town, may enter an order on its books designating certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.</p> <p>(c) The governing board of a political subdivision of the state created pursuant to Article XVI, Section 59, of the Texas Constitution, for the purpose of conserving and developing the public water of the state, with respect to public water impounded within lakes and reservoirs owned or operated by the political subdivision, may designate by resolution or other appropriate order certain areas as bathing, fishing, swimming, or otherwise restricted areas and may make rules and regulations relating to the operation and equipment of boats which it deems necessary for the public safety. The rules and regulations shall be consistent with the provisions of this chapter.</p> <p>(d) A copy of all rules and regulations adopted under this section shall be summarily filed with the department.</p> <p>(e) No city, town, village, special district, or other political subdivision of the state may impose or collect a fee</p> |
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|                            | for the registration or inspection of vessels to be used on public water against the owner or operator of a vessel used on public water. This section does not apply to Chapter 321, Tax Code, nor to any launch fees, docking fees, entry fees, or other recreational fees which may be imposed or collected by any political subdivision of the State of Texas for the use of the facilities afforded by any such district to the public.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                            | <p><b>§31.093. Rules Of The Road</b></p> <p>The United States Coast Guard Inland Rules apply to all public water of this state to the extent they are applicable.</p> <p><b>§31.094. Reckless Or Negligent Operation</b></p> <p>No person may operate any motorboat or vessel or manipulate any water skis, aquaplane, or similar device in a willfully or wantonly reckless or negligent manner that endangers the life, limb, or property of any person.</p> <p><b>§31.095. Excessive Speed</b></p> <p>(a) No person may operate any boat at a rate of speed greater than is reasonable and prudent, having due regard for the conditions and hazards, actual and potential, then existing, including weather and density of traffic, or greater than will permit him, in the exercise of reasonable care, to bring the boat to a stop within the assured clear distance ahead.</p> <p>(b) The commission may provide for the standardization of speed limits for moving vessels. No political subdivision or state agency may impose a speed limit not in conformity with the commission's standards.</p> <p><b>§31.096. Reckless Operation And Excessive Speed</b></p> <p>No person may operate a vessel or manipulate water skis, an aquaplane, or a similar device on the water of this state in willful or wanton disregard of the rights or safety of</p> |
| 2. <u>Operation.</u>       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 3. <u>Speed and Buoys.</u> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |



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|  | <p>others or without due caution or circumspection, and at a speed or in a manner that endangers, or is likely to endanger, a person or property.</p> <p><b>§31.098. Hazardous Wake Or Wash</b></p> <p>No person may operate a motorboat so as to create a hazardous wake or wash.</p> <p><b>§31.099. Circular Course Around Fisherman Or Swimmer</b></p> <p>(a) No person may operate a motorboat in a circular course around any other boat any occupant of which is engaged in fishing or around any person swimming.</p> <p>(b) No swimmer or diver may come within 200 yards of a sight-seeing or excursion boat except for maintenance purposes or unless within an enclosed area.</p> <p><b>Rule §55.301. Application</b></p> <p>These sections apply to all public waters in the State of Texas.</p> <p><b>Rule §55.302. Definitions</b></p> <p>The following words and terms, when used in this undesignated head, shall have the following meanings, unless the context clearly indicates otherwise.</p> <p>(1) Department--Texas Parks and Wildlife Department.</p> <p>(2) Governing board--The governing board of an incorporated city or town, a commissioners court of a county, or the governing board of a political subdivision of the state created pursuant to the Texas Constitution, Article XVI, §59, as identified in the Parks and Wildlife Code, §31.092(c).</p> <p>(3) Headway speed--Slow, idle speed, or speed only fast enough to maintain steerage on course.</p> |
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|  | <p>(4) Regulated area--Any area on public water designated and posted "Slow, No Wake" area by the governing board.</p> <p>(5) Slow, no wake--Headway speed without creating a swell or wake.</p> <p>(6) Uniform state waterway buoy marking system--Information and Regulatory Marking System contained in Federal Regulation 33 Code of Federal Regulations §62.33.</p> <p><b>Rule §55.303. General Rules</b></p> <p>The following rules shall govern the speed limits of moving vessels on all public waters of this state.</p> <p>(1) Governing boards may establish regulated areas under procedures and rules set out in Parks and Wildlife Code, §31.092, when these rules are determined to be necessary for public safety.</p> <p>(A) Regulated areas shall be designated and posted as "Slow, No Wake" areas.</p> <p>(B) Numerical speed limits, such as miles per hour, shall not be used on public waters.</p> <p>(C) Boat speeds outside of regulated areas shall be governed by the Parks and Wildlife Code, §31.095(a).</p> <p>(D) The governing board shall post and maintain regulated areas with buoys or pilings consistent with the uniform state waterway buoy marking system authorized by these rules.</p> <p>(2) Regulations governing water events and regattas administered by the United States Coast Guard are exempt from these rules to the extent of conflict.</p> <p><b>Rule §55.304. System of Markers</b></p> <p>(a) The Uniform State Waterway Buoy Marking System contained in 33 Code of Federal Regulations §62.33 is</p> |
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|  | <p>hereby adopted for all public waters in this state.</p> <p>(b) This federal regulation describes the meanings associated with various markers.</p> <p>(c) This federal regulation is published in the Code of Federal Regulations. It may be obtained from any United States Depository Library or by writing the department.</p> <p><b>Rule §55.305. Penalties</b></p> <p>The penalties for violation of this subchapter are prescribed by the Texas Parks and Wildlife Code, §31.127.</p> <p><b>§31.103. Water Skis, Aquaplanes, Etc.: Time And Manner Of Operation</b></p> <p>(a) No person may operate a vessel on any water of this state towing a person or persons on water skis, surfboards, or similar devices and no person while being towed may engage in water-skiing, surfboarding or similar activity at any time between the hours from one-half hour after sunset to one-half hour before sunrise. This subsection does not apply to motorboats or vessels used in water ski tournaments, competitions, or exhibitions or trials therefore if adequate lighting is provided.</p> <p>(b) All motorboats having in tow or otherwise assisting in towing a person on water skis, aquaplanes, or similar contrivances shall be operated in a careful and prudent manner and at a reasonable distance from persons and property so as not to endanger the life or property of any person.</p> <p>(c) A person being towed on water skis, aquaplanes, or similar devices by a vessel is considered an occupant of the vessel.</p> <p><b>§31.104. Accidents: Duty Of Operators</b></p> <p>The operator of a vessel involved in a collision,</p> |
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4. Skis, etc.

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|                               | <p>accident, or casualty shall:</p> <p>(1) render to other persons affected such assistance as may be practicable and necessary in order to save them from or minimize any danger insofar as he can do so without serious danger to his own vessel, crew, and passengers; and</p> <p>(2) give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.</p>                                                                                                                                                                                                                                                                                                                        |
| 5. <u>Accidents</u>           | <p><b>§31.105. Accident Reports</b></p> <p>(a) The operator of a vessel involved in a collision, accident, or other casualty that results in death or injury to a person or damage to property in excess of an amount set by the Commission of not less than \$2,000 shall report to the department on or before the expiration of 30 days after the incident a full description of the collision, accident, or casualty in accordance with regulations established by the department.</p> <p>(b) The accident reports are confidential and are inadmissible in court as evidence.</p> <p>(c) On request made by an authorized official or agency of the United States, any information available to the department under Subsection (a) of this section shall be sent to the official or agency.</p> |
| 6. <u>Personal Watercraft</u> | <p><b>§31.106. Personal Watercraft</b></p> <p>(a) No person shall operate a personal watercraft in the following manner or under the following circumstances:</p> <p>(1) unless each person riding on or towed behind the vessel is wearing a U.S. Coast Guard approved Type I, II, III, or V personal flotation device;</p> <p>(2) if the vessel is equipped by the manufacturer</p>                                                                                                                                                                                                                                                                                                                                                                                                                 |

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|  | <p>with a lanyard type engine cutoff switch, unless such lanyard is attached to the person, clothing, or personal flotation device of the operator as appropriate for the vessel involved;</p> <p>(3) during the period between sunset and sunrise;</p> <p>(4) within 50 feet of any other vessel, person, stationary platform or other object, or shore, except at headway speed;</p> <p>(5) if the operator is under 13 years of age, unless the operator is supervised by another person who:</p> <p>(A) is at least 18 years of age; or</p> <p>(B) can lawfully operate the watercraft; and</p> <p>(C) is on board the watercraft when underway.</p> <p>(6) if the personal watercraft is a motorboat, within any area prohibited for operation of a motorboat by state law or local rule or regulation;</p> <p>(7) while towing water skis, an aquaplane, a surfboard, a tube, or any other similar device, unless the towing vessel is designed to carry on board a minimum of two persons;</p> <p>(8) by jumping the wake of another vessel recklessly or unnecessarily close to that vessel; or</p> <p>(9) in a manner that requires the operator to swerve at the last possible moment to avoid collision.</p> <p>(b) The provisions of this section do not apply to professional exhibitions or an officially sanctioned race, tournament, or exhibition.</p> <p>(c) Subsection (a)(4) of this section does not prohibit the operation of personal watercraft on bodies of water less than 100 feet in width.</p> <p>(d) An owner of a personal watercraft permitting a person under 18 years of age to operate the personal watercraft in a</p> |
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|                            | <p>manner prohibited by this section may be notified of the violation.</p> <p>(e) For the purposes of this section, a person is considered to be accompanying the operator of a personal watercraft if the person is on board the personal watercraft when underway.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 7. <u>Operators</u>        | <p><b>§31.107. Operation Of Motorboat</b></p> <p>No person may operate a motorboat powered by a motor with a manufacturer's rating of more than 15 horsepower on the public waters of this state unless the person is at least 13 years of age or is supervised by another person who:</p> <ul style="list-style-type: none"> <li>(1) is at least (18) years of age or older; or</li> <li>(2) can lawfully operate the motorboat; and</li> <li>(3) is on board the motorboat when under way.</li> </ul>                                                                                                                                                                                                                                                                                                                    |
| 8. <u>Boater Education</u> | <p><b>§31.108. Boater Education Program</b></p> <p>(a) The commission shall adopt rules to:</p> <ul style="list-style-type: none"> <li>(1) administer a boater education program that is designed to educate persons about the safe operation of vessels;</li> <li>(2) approve boater education courses that meet or exceed the minimum instruction requirement, as the requirement exists on January 1, 1997, established by the National Association of State Boating Law Administrators;</li> <li>(3) create an equivalency examination that may be taken, as the commission determines is consistent with promoting public safety in the operation of vessels, instead of the boater education course; and</li> <li>(4) ensure that boater education courses and examinations are available in each county.</li> </ul> |

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|  | <p>(a-1) A boater education course or equivalency examination under this section must include information on how to prevent the spread of exotic harmful or potentially harmful aquatic plants, fish, and shellfish, including department-approved methods for cleaning:</p> <ul style="list-style-type: none"> <li>(1) a boat;</li> <li>(2) a boat's motor;</li> <li>(3) fishing and other equipment; and</li> <li>(4) a boat trailer.</li> </ul> <p>(b) The commission by rule may create exemptions from boater education requirements imposed by statute to the extent the exemptions are consistent with promoting public safety in the operation of vessels.</p> <p>(c) The commission by rule shall create a standard form for a boater identification card to be issued to a person who successfully completes a boater education course or course equivalency examination.</p> <p>(d) The department may appoint agents to:</p> <ul style="list-style-type: none"> <li>(1) administer a boater education course or course equivalency examination; and</li> <li>(2) issue boater identification cards under guidelines established by the commission.</li> </ul> <p>(e) An officer or employee of the department shall collect a \$5 examination or course fee and forward the fee and any examination documentation to the department not later than the 30th day after the date the examination or course is administered.</p> <p>(f) An agent acting under authority of Subsection (d):</p> <ul style="list-style-type: none"> <li>(1) shall collect a \$10 examination or course fee and forward the fee and any examination documentation to the department not later than the 30th day after the date the examination or course is administered; and</li> </ul> |
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|  | <p>(2) may collect and keep a \$3 service fee.</p> <p><b>§31.109. Boater Education Course Required For Certain Persons</b></p> <p>(a) This section applies only to a person who is:</p> <p>(1) born on or after September 1, 1993; and</p> <p>(2) operating on the public water of this state:</p> <p>(A) a vessel powered by a motor with a manufacturer's rating of more than 15 horsepower; or</p> <p>(B) a windblown vessel over 14 feet in length.</p> <p>(b) A person subject to this section must have in the person's possession a photographic identification card; and either:</p> <p>(1) a boater identification card issued by the department; or</p> <p>(2) proof of completion of the requirements to obtain a vessel operator's license issued by the United States Coast Guard.</p> <p>(c) The department shall issue a boater identification card to a person who has successfully completed:</p> <p>(1) a boater education course approved by the department; or</p> <p>(2) a course equivalency examination approved by the department.</p> <p>(d) A boater identification card issued to a person who has successfully completed a boater education course or course equivalency examination does not expire.</p> <p>(e) If, on or before the trial of a person charged with an offense for failing to possess a document required under Subsection (b), the person produces for the court or the prosecuting attorney a document required by Subsection (b) that was issued to the person and was valid at the time of the</p> |
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|  | <p>offense, the court shall dismiss the charge.</p> <p>(f) A person charged with a Class C Parks and Wildlife Code misdemeanor for failing to possess a document required under Subsection (b) may make to the court not later than the 10<sup>th</sup> day after the date of the alleged offense an oral or written motion requesting permission to take a boater education course approved by the department or a vessel operator's licensing course provided by the United States Coast Guard. The court shall defer the proceedings brought against a person who makes a motion described by this subsection and allow the person 90 days to present written evidence that the person has successfully completed the course approved by the department or provided by the United States Coast Guard. If the person successfully completes the course and the court accepts the presented evidence, the court shall dismiss the charge.</p> <p><b>§31.110. Exemption From Boater Education Course Requirement; Deferral Program.</b></p> <p>A person is not required to comply with Section 31.109 if the person:</p> <ul style="list-style-type: none"> <li>(1) holds a master's, mate's, or operator's license issued by the United States Coast Guard;</li> <li>(2) is supervised by a person who is at least 18 years of age and who is otherwise exempt from the requirements of Section 31.109 or possesses a boater identification card as required by Section 31.109;</li> <li>(3) is not a resident of this state and has proof that the person has successfully completed a boater education course or equivalency examination in another state that is approved by the department;</li> <li>(5) is exempt by rule of the commission.</li> </ul> |
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|  | <p>(b) For purposes of this section, to be considered to be supervising the operator of a watercraft, the person must be on board and the watercraft when under way.</p> <p>(c) The commission by rule shall establish a boater education deferral program. The deferral program must be available at no coast to boat dealers, manufacturers, and distributors.</p> <p><b>Rule §55.701. Boater Education Program</b></p> <p>(a) All courses approved for certification and equivalency exam processes must be approved by the department using minimum national standards as means of approval.</p> <p>(b) Courses and equivalency exams shall consist of the following subjects:</p> <ul style="list-style-type: none"> <li>(1) Boats--boat uses, capacities, trailers, equipment, numbering, titling;</li> <li>(2) Boating safety--accident causes, prevention and emergency procedures;</li> <li>(3) Boating operation--preparation, float plans, navigation rules, navigation aids, local hazards and weather; and</li> <li>(4) State laws--Texas Water Safety Act, Boating While Intoxicated (BWI) Laws, violation prevention and basic boating responsibilities.</li> </ul> <p>(c) The course is successfully completed when the student:</p> <ul style="list-style-type: none"> <li>(1) attends at least six hours of training;</li> <li>(2) is evaluated by the instructor as acceptable in attitude, knowledge and skill; and</li> </ul> |
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|  | <p>(3) scores a minimum of 70% on a course exam prescribed by the department.</p> <p>(d) In lieu of a course, a person may complete an equivalency exam process consisting of a multiple-choice exam proctored by an agent appointed by the department or accessed through a department-sponsored web site.</p> <p>(1) Home study and equivalency exam passage shall be set at a minimum 80 percent passing score.</p> <p>(2) A person who fails the exam may retake it one time at least 24 hours after the time of first completion.</p> <p>(e) The department shall:</p> <p>(1) train and certify boater education instructors upon completion of an application, game warden interview and proof of student and instructor course completion;</p> <p>(2) administer all records of certifications; and</p> <p>(3) approve the standard form for a boater education identification to be issued to a person who successfully completes a boater education course or equivalency exam.</p> <p><b>Rule §55.703. Boater Education Requirements</b></p> <p>Minimum age for certification is 12 years of age.</p> <p><b>Rule §55.705. Boater Education Exemptions</b></p> <p>In addition to those exemptions established in Parks and Wildlife Code, §31.110, and authorized in §31.108(b), persons who have successfully completed a "voluntary boater education course" previously administered or approved by the department are exempt from the requirements established in this subchapter.</p> <p><b>Rule §55.707. Effective Date</b></p> <p>The effective date of this action shall be March 1,</p> |
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|  | <p>1998.</p> <p><b>§31.121. Enforcement Officers</b></p> <p>(a) In this section:</p> <p>(1) "Game warden" means a person who is commissioned as a game warden by the commission.</p> <p>(2) "State military forces" has the meaning assigned by Section 437.001, Government Code.</p> <p>(a-1) All peace officers of this state and game wardens must be certified as marine safety enforcement officers by the department to enforce the provisions of this chapter by arresting and taking into custody any person who commits any act or offense prohibited by this chapter or who violates any provision of this chapter.</p> <p>(a-1) Game wardens commissioned by the commission are the primary enforcement officers responsible for enforcing the provisions of this chapter related to water safety.</p> <p>(b) The commission by rule shall establish standards for training and certifying marine safety enforcement officers under this section.</p> <p>(c) The commission by rule may create exemptions for peace officers from marine safety enforcement officer training and certification requirements imposed by statute.</p> <p>(d) The commission by rule shall establish and collect a fee to recover the administrative costs associated with the certification of marine safety enforcement officers. The commission shall require the applicant for certification or the applicant's employer to pay the fee required under this section.</p> <p>(e) State military forces may assist game wardens in the search for and rescue of victims of water-oriented accidents.</p> <p><b>§31.1211 Jurisdictional of Municipal Peace Officers</b></p> <p>(a) Notwithstanding any other law limiting the</p> |
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|                                             | <p>enforcement jurisdiction of a peace officer, a peace officer of a municipality who is certified as a marine safety enforcement officer under Section 31.121 may enforce the provisions of this chapter within an area of a lake that is outside the enforcement jurisdiction of the peace officer if:</p> <p>(1) any portion of the lake is contained in the corporate limits or extraterritorial jurisdiction of the municipality; and</p> <p>(2) the municipality has entered into a memorandum of understanding with the governmental entity having enforcement jurisdiction in that area granting the peace officer enforcement jurisdiction in the area.</p> <p>(b) The memorandum of understanding under Subsection (a)(2) must:</p> <p>(1) designate the jurisdiction that has the authority to conduct any prosecution or ongoing investigation of a violation resulting from an enforcement action under this section; and</p> <p>(2) be approved by the Parks and Wildlife Department.</p> |
| 2. <u>Lights.</u>                           | <p><b>§31.122. Water Safety Vessels: Lights</b></p> <p>Only the department and police water safety vessels may use rotating or flashing blue beacon lights.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 3. <u>Response to Water Safety Vessels.</u> | <p><b>§31.123. Required Response To Police Water Safety Vessel</b></p> <p>The operator of a vessel underway, on sighting a rotating or flashing blue beacon light, shall reduce power immediately and bring the vessel to a no-wake speed and subsequent stop until the intention of the water safety vessel is</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

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| <p>4. <u>Inspection.</u></p> | <p>understood.</p> <p><b>§31.124. Inspection Of Vessels</b></p> <p>(a) In order to enforce the provisions of this chapter, an enforcement officer may stop and board any vessel subject to this chapter and may inspect the boat to determine compliance with applicable provisions.</p> <p>(b) An officer boarding a vessel shall first identify himself by presenting proper credentials.</p> <p>(c) The operator of a vessel required by this chapter to hold a certificate of number aboard the vessel shall show the certificate to the officer on demand, and failure to do so constitutes a violation of this chapter.</p> <p>(d) No person operating a boat on the water of this state may refuse to obey the directions of an enforcement officer when the officer is acting under the provisions of this chapter.</p> <p>(e) The safety of the vessel shall always be the paramount consideration of an arresting officer.</p> |
| <p>5. <u>Violations.</u></p> | <p><b>§31.125. Violations; Notice To Appear</b></p> <p>(a) An enforcement officer who arrests a person for a violation of this chapter may deliver to the alleged violator a written notice to appear within 15 days after the date of the violation before the justice court having jurisdiction of the offense.</p> <p>(b) The person arrested shall sign the notice to appear promising to make his appearance in accordance with the</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

requirements set forth in the notice. After signing the notice the person may be released. Failure to appear before the court in the county having jurisdiction constitutes a violation of the chapter. A warrant for the arrest of the person failing to appear may be issued.

**§31.126. Venue**

(a) Venue for an alleged violation or offense under the provisions of this chapter is in the justice court, county court or municipal court having jurisdiction where the violation or offense was committed.

(b) For an offense under the provisions of this chapter, there is a presumption that the offense was committed in the justice precinct and county where the dam containing the body of water is located.

**§31.127. Penalties**

(a) A person who violates or fails to comply with any provision of this chapter, or who violates or fails to comply with a proclamation of the commission entered under this chapter or a city ordinance or order of a commissioners court or a political subdivision of the state made or entered under this chapter, commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) A person who violates Section 31.043(c) or 31.096 commits an offense that is a Class B Parks and Wildlife Code misdemeanor. A person who violates Section 31.043 ( ) commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

(c) Except as provided in subsection (f), a person who operates a vessel in violation of Section 31.021(b) or 31.095 commits an offense punishable by a fine of not less than \$100 or more than \$500.

6. Penalties.

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|                               | <p>(d) The operator of a vessel who is involved in a collision, accident, or other casualty that results in death or serious bodily injury to another person and fails to comply with Section 31.104 commits an offense that is a Parks and Wildlife Code felony.</p> <p>(e) Except as provided by Subsection (d), the operator of a vessel who is involved in a collision, accident, or other casualty and fails to comply with Section 31.104 commits an offense that is a Class A Parks and Wildlife Code misdemeanor.</p> <p>(f) A court may dismiss a charge of operating a vessel with an expired certificate of number under Section 31.021 if:</p> <p>(1) the defendant remedies the defect no later than the 10<sup>th</sup> working day after the date of the offense and pays an administrative fee not to exceed \$10; and</p> <p>(2) the certificate of number has not been expired for more than 60 days.</p> |
| 7. <u>Sewage Regulations.</u> | <p><b>§31.129. Violation and Enforcement Of Sewage Disposal Regulations</b></p> <p>(a) A person who violates or fails to comply with a rule of the Texas Commission on Environmental Quality concerning the disposal of sewage from boats commits an offense that is a Class C Parks and Wildlife Code misdemeanor. A separate offense is committed each day a violation continues.</p> <p>(b) The enforcement provisions of this subchapter apply to violations punishable by this section.</p> <p>(c) A game warden or peace officer who is certified as a marine safety enforcement officer under Section 31.121 may enforce a rule of the Texas Commission on Environmental Quality concerning the disposal of sewage from boats.</p>                                                                                                                                                                                   |



(d) A marine safety enforcement officer who reasonably suspects that a boat is discharging sewage in an area where discharge is prohibited may, if the owner or operator is aboard, board the boat for the purpose of inspecting the marine sanitation device for proper operation and testing the sanitation and holding devices, including placing a dye tablet in the holding tank.

**\$26044. Disposal of Boat Sewage**

(a) In this section:

(1) "Boat" means any vessel or other watercraft moved by oars, paddles, sails, or other power mechanism, inboard or outboard, or any other vessel or structure floating on surface water in the state, whether or not capable of self-locomotion, including but not limited to cabin cruisers, houseboats, barges, marinas, and similar floating objects. The term does not include a vessel subject to inspection under 46 U.S.C. Section 3301.

(2) "Boat pump-out station" means any private or public shoreside, mobile, or floating installation either independent of or in addition to an organized waste collection, treatment, and disposal system used to receive boat sewage.

(3) "Shoreside, mobile, or floating installation" means marinas and other installations servicing boats on surface water in the state.

(4) "Surface water in the state" means all lakes, bays, ponds, impounding reservoirs, springs, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Gulf of Mexico out three nautical miles into the Gulf, and all other bodies of surface water, natural or artificial inland or coastal, fresh or salt, navigable or nonnavigable, and including the beds and banks of all watercourses and bodies of surface water, that are wholly or partially inside or bordering the state or inside the

jurisdiction of the state, except waters beyond three nautical miles of any shore in the state.

(b) The commission shall issue rules concerning the disposal of sewage from boats located or operated on surface water in the state. The rules of the commission shall include provisions for the establishment of standards for sewage disposal devices, the certification of sewage disposal devices, including shoreline and mobile boat pump-out stations, and the visible and conspicuous display of evidence of certification of sewage disposal devices on each boat equipped with such device and on each shoreline and mobile pump-out device.

(c) The commission may delegate the administration and performance of the certification function to the executive director or to another governmental entity. The commission or delegated authority shall collect the following fees from applicants for certification:

Boat Pump-out Station (biennial):

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| Initial Certificates for Pump-out          | \$35 |
| Pump-out Renewal                           | \$25 |
| Marine Sanitation Device (biennial):       |      |
| Boat over 26 Feet or Houseboat             | \$15 |
| Boat 26 Feet or less with Permanent Device | \$15 |

All certification fees shall be paid to the commission or delegated authority performing the certification function. All fees collected by any state agency shall be deposited to the credit of the water resource management account for use by the commission or delegated authority.

(d) Before issuing any rules under Subsection (b), the commission or any person authorized by it under Section 26.021 on request may hold hearings on those rules in Austin and in five other locations in the state in order to provide the best opportunity for all citizens of the State to appear and

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|                                             | <p>present evidence to the commission.</p> <p>(e) Notice of the hearing in Austin shall be published at least once in one or more newspapers having general circulation in the state. Notice of each of the other hearings shall be published at least once in one or more newspapers having general circulation in the region in which each hearing is to be held.</p> <p>(f) Copies of each rule issued by the commission under this section shall be filed in the offices of the commission in Austin, in the office of the Secretary of State in Austin, and posted on the commission's Internet website. The commission shall provide for publication of notice of each rule issued under this section in at least one newspaper of general circulation in each county of the state and shall furnish the county judge of each county of the state a copy of the rules.</p> |
| <p>8. <u>Boater Education vs. Fine.</u></p> | <p><b>§31.130. Boater Education Course Permitted In Lieu Of</b></p> <p>(a) Except as provided by Section 31.131, this section applies to a person who violates for the first time a provision of this chapter relating to the operation of a vessel.</p> <p>(b) A justice may defer imposition of a fine and place a defendant on probation for a period not to exceed 60 days if the defendant:</p> <ul style="list-style-type: none"> <li>(1) pleads guilty or nolo contendere or is found guilty; and</li> <li>(2) requests permission from the court to attend a boater education course.</li> </ul>                                                                                                                                                                                                                                                                         |

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| <p>9. <u>Boater Education Required.</u></p> | <p>(c) The justice shall require the defendant to successfully complete a boater education course approved by the department during the probation period.</p> <p>(d) If the defendant presents satisfactory evidence that the defendant has successfully completed the boater education course, the justice shall waive imposition of a fine. If the defendant fails to successfully complete the boater education course, the justice shall impose a fine for the violation.</p> <p><b>§31.131. Boater Education Course Required For Certain</b></p> <p>(a) A justice shall require a person who is adjudged guilty of an offense resulting from the violation of a provision of Sections 31.094-31.103 or 31.106 to:</p> <p>(1) pay any fine imposed for the violation; and</p> <p>(2) successfully complete a boater education course approved by the department not later than the 90th day after the date the person is adjudged guilty.</p> <p>(b) If the person fails to successfully complete the boater education course, the person commits an offense that is a Class A Parks and Wildlife Code misdemeanor.</p> |
| <p>10. <u>Reporting Procedures</u></p>      | <p><b>§ 31.132. Reporting Procedures for Enforcement Officers.</b></p> <p>A marine safety enforcement officer shall provide to the department on a form prescribed by the department a report of any incident that officer investigates that involves a boating accident, water fatality, or person who allegedly operates a boat while intoxicated. The officer shall provide the report not later than the 15<sup>th</sup> day after the date the officer initially became aware of the incident.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |