

SUBCHAPTER E. FIRE EXTINGUISHER RULES
28 TAC §34.524

SUBCHAPTER F. FIRE ALARM RULES
28 TAC §34.631

SUBCHAPTER G. FIRE SPRINKLER RULES
28 TAC §34.726

SUBCHAPTER H. STORAGE AND SALE OF FIREWORKS
28 TAC §34.833

INTRODUCTION. The Texas Department of Insurance proposes to amend 28 TAC §§34.524, 34.631, 34.726, and 34.833, relating to licensing requirements for military spouses. Amendments to these sections implement Senate Bill 1200, 86th Legislature, Regular Session (2019), which amended Occupations Code §55.0041.

EXPLANATION. SB 1200 amended Occupations Code §55.0041 as it addresses authority of military spouses to engage in a business or occupation in this state. These amendments impact TDI's licensing rules, which necessitates revisions to 28 TAC §§34.524, 34.631, 34.726, and 34.833, as well as changes in other chapters of Title 28 of the Texas Administrative Code addressed in separate rule proposals.

Section 34.524. Currently, §34.524 allows for an exemption from licensure requirements and sets forth requirements for military service members, military veterans, or military spouses. Occupations Code §55.0041, as amended by SB 1200, clarifies that a military spouse may act under this provisional license for up to three years. New §34.524(e) addresses the new requirements for military spouses imposed by §55.0041.

Section 34.631. Currently, §34.631 allows for an exemption from licensure requirements for military service members, military veterans, or military spouses and sets forth requirements for a provisional license. Occupations Code §55.0041, as amended by

SB 1200, clarifies that a military spouse may act under this provisional for license up to three years. New §34.631(e) addresses the requirements for military spouses imposed by §55.0041.

Section 34.726. Currently, §34.726 allows for an exemption from licensure requirements for military service members, military veterans, or military spouses and sets forth requirements for a provisional license. Occupations Code §55.0041, as amended by SB 1200, clarifies that a military spouse may only act under this provisional for license up to three years. New §34.726(e) addresses the requirements for military spouses imposed by §55.0041.

Section 34.833. Currently, §34.833 allows for an exemption from licensure requirements for military service members, military veterans, or military spouses and sets forth requirements for a provisional license. Occupations Code §55.0041, as amended by SB 1200, clarifies that a military spouse may only act under this provisional for license up to three years. New §34.833(a)(3) addresses the requirements for military spouses imposed by §55.0041.

In addition, the proposed amendments include nonsubstantive editorial and formatting changes to conform the sections to the agency's current style and to improve the rule's clarity.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Chris Herrick, deputy commissioner of the Office of Customer Operations has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering the sections, other than that imposed by the statute. This determination was made because the proposed amendments do not add to or decrease state revenues or expenditures,

and because local governments are not involved in enforcing or complying with the proposed amendments.

Mr. Herrick does not anticipate a measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed amendments are in effect, Mr. Herrick expects that administering the proposed amendments will have the public benefits of ensuring that TDI's rules conform to Occupations Code §55.0041.

Mr. Herrick expects that the proposed amendments will not increase the cost of compliance with §55.0041 because they do not impose requirements beyond those in the statute. Occupations Code §55.0041 requires TDI to implement rules that execute the statute. Any costs that result from this implementation come from the statute itself. As a result, the cost associated with the rule do not result from the enforcement or administration of the proposed amendments.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. TDI has determined that the proposed amendments will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities. TDI does not anticipate a significant increase in applications that would qualify for this exemption. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045. TDI has determined that this proposal does not impose a possible cost on regulated persons, and no additional rule amendments are required under Government Code §2001.0045

because the proposed amendments to §§34.524, 34.631, 34.726, and 34.833 are necessary to implement legislation. The proposed rule implements Occupations Code §55.0041, as added by SB 1200 Legislature, 86th Legislature, 2019.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that for each year of the first five years that the proposed amendments are in effect the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;
- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will not expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not positively or adversely affect the Texas economy.

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

REQUEST FOR PUBLIC COMMENT. TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on December 9,

2019. TDI. Send your comments to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. To request a public hearing on the proposal, submit a request before the end of the comment period, and separate from any comments, to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, MC 112-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m. Central time on December 9, 2019. If TDI holds a public hearing, TDI will consider written and oral comments presented at the hearing.

SUBCHAPTER E. FIRE EXTINGUISHER RULES **28 TAC §34.524**

STATUTORY AUTHORITY. TDI proposes amendments to 28 TAC §34.524 under Insurance Code §36.001 and Occupations Code §55.0041.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

Occupations Code §55.0041 addresses licensing of military spouses with out of state licenses. This section also grants rule-making authority to applicable state agencies.

CROSS-REFERENCE TO STATUTE. Section 34.524 implements Occupations Code §55.0041, amended by SB 1200, 86th Legislature, Regular Session (2019).

TEXT.

§34.524. Military Service Members, Military Veterans, or Military Spouses.

(a) Waiver of licensed application and examination fees. TDI ~~[The department]~~ will waive the license application and examination fees for an applicant who is:

(1) a military service member or military veteran whose military service, training, or education substantially meets all ~~[of]~~ the requirements for the license; or

(2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

(b) Apprentice requirements. Verified military service, training, or education that is relevant to the occupation will be credited toward the apprenticeship requirements for the license.

(c) Extension of license renewal deadlines. A military service member who holds a license is entitled to two years' additional time to complete any continuing education requirements and any other requirements related to the renewal of the military service member's license.

(d) Alternative licensing. The state fire marshal, after reviewing the applicant's credentials, may waive any prerequisite to obtaining a license for a military service member or military veteran who, ~~military veteran, military veteran, or military spouse that~~:

(1) holds a current license issued by another jurisdiction that has licensing requirements substantially equivalent to the requirements for the license in this state; or

(2) within the five years preceding the application date, held the license in this state.

(e) Alternative licensing for military spouses. A military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state is eligible for a license under this subsection for a period of three years. The military spouse must be married to a

military service member that is stationed at a military installation in Texas. The three-year period begins from the date the spouse receives confirmation from TDI that the following elements have been fulfilled. In order for the military spouse to obtain a license under this subsection, the military spouse must:

(1) submit an application notifying TDI of the military spouse's intent to engage under the specific license in Texas;

(2) submit proof of the military spouse's residency in Texas and a copy of the military identification card; and

(3) submit evidence of good standing from the jurisdiction with substantially equivalent requirements to the requirements of this state.

SUBCHAPTER F. FIRE ALARM RULES

28 TAC §34.631

STATUTORY AUTHORITY. TDI proposes amendments to 28 TAC §34.631 under Insurance Code §36.001 and Occupations Code §55.0041.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

Occupations Code §55.0041 addresses licensing of military spouses with out of state licenses. This section also grants rule making authority to applicable state agencies.

CROSS-REFERENCE TO STATUTE. Section 34.631(e) implements Occupations Code §55.0041, amended by SB 1200, 86th Legislature, Regular Session (2019).

TEXT.

§34.631. Military Service Members, Military Veterans, or Military Spouses.

(a) Waiver of licensed application and examination fees. TDI ~~[The department]~~ will waive the license application and examination fees for an applicant who is:

(1) a military service member or military veteran whose military service, training, or education substantially meets all ~~[of]~~ the requirements for the license; or

(2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

(b) Apprentice requirements. Verified military service, training, or education that is relevant to the occupation will be credited toward the apprenticeship requirements for the license.

(c) Extension of license renewal deadlines. A military service member who holds a license is entitled to two years' additional time to complete any continuing education requirements and any other requirements related to the renewal of the military service member's license.

(d) Alternative licensing. The state fire marshal, after reviewing the applicant's credentials, may waive any prerequisite to obtaining a license for a military service member or military veteran who ~~[, military veteran, or military spouse that]~~:

(1) holds a current license issued by another jurisdiction that has licensing requirements substantially equivalent to the requirements for the license in this state; or

(2) within the five years preceding the application date, held the license in this state.

(e) Alternative licensing for military spouses. A military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state is eligible for a license under this subsection for a period of three years. The military spouse must be married to a military service member that is stationed at a military installation in Texas. The three-year

period begins from the date the spouse receives confirmation from TDI that the following elements have been fulfilled. In order for the military spouse to obtain a license under this subsection, the military spouse must:

(1) submit an application notifying TDI of the military spouse's intent to engage under the specific license in Texas;

(2) submit proof of the military spouse's residency in Texas and a copy of the military identification card; and

(3) submit evidence of good standing from the jurisdiction with substantially equivalent requirements to the requirements of this state.

SUBCHAPTER G. FIRE SPRINKLER RULES

28 TAC §34.726

STATUTORY AUTHORITY. TDI proposes amendments to 28 TAC §34.726 under Insurance Code §36.001 and Occupations Code §55.0041.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

Occupations Code §55.0041 addresses licensing of military spouses with out of state licenses. This section also grants rule making authority to applicable state agencies.

CROSS-REFERENCE TO STATUTE. Section 34.726(e) implements Occupations Code §55.0041, amended by SB 1200, 86th Legislature, Regular Session (2019).

TEXT.

§34.726. Military Service Members, Military Veterans, or Military Spouses.

(a) Waiver of licensed application and examination fees. TDI ~~[The department]~~ will waive the license application and examination fees for an applicant who is:

(1) a military service member or military veteran whose military service, training, or education substantially meets all ~~[of]~~ the requirements for the license; or

(2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

(b) Apprentice requirements. Verified military service, training, or education that is relevant to the occupation will be credited toward the apprenticeship requirements for the license.

(c) Extension of license renewal deadlines. A military service member who holds a license is entitled to two years' additional time to complete any continuing education requirements and any other requirements related to the renewal of the military service member's license.

(d) Alternative licensing. The state fire marshal, after reviewing the applicant's credentials, may waive any prerequisite to obtaining a license for a military service member or military veteran who ~~[, military veteran, or military spouse that]~~:

(1) holds a current license issued by another jurisdiction that has licensing requirements substantially equivalent to the requirements for the license in this state; or

(2) within the five years preceding the application date, held the license in this state.

(e) Alternative licensing for military spouses. A military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state is eligible for a license under this subsection for a period of three years. The military spouse must be married to a military service member that is stationed at a military installation in Texas. The three-year

period begins from the date the spouse receives confirmation from TDI that the following elements have been fulfilled. In order for the military spouse to obtain a license under this subsection, the military spouse must:

(1) submit an application notifying TDI of the military spouse's intent to engage under the specific license in Texas;

(2) submit proof of the military spouse's residency in Texas and a copy of the military identification card; and

(3) submit evidence of good standing from the jurisdiction with substantially equivalent requirements to the requirements of this state.

SUBCHAPTER H. STORAGE AND SALE OF FIREWORKS

28 TAC §34.833

STATUTORY AUTHORITY. TDI proposes amendments to 28 TAC §34.833 under Insurance Code §36.001 and Occupations Code §55.0041.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

Occupations Code §55.0041 addresses licensing of military spouses with out of state licenses. This section also grants rule making authority to applicable state agencies.

CROSS-REFERENCE TO STATUTE. Section 34.833 implements Occupations Code §55.0041, amended by SB 1200, 86th Legislature, Regular Session (2019).

TEXT.

§34.833. Military Service Members, Military Veterans, or Military Spouses.

(a) Waiver of licensed application and examination fees. TDI ~~[The department]~~ will waive the license application and examination fees for an applicant who is:

(1) a military service member or military veteran whose military service, training, or education substantially meets all ~~[of]~~ the requirements for the license; or

(2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

(b) Apprentice requirements. Verified military service, training, or education that is relevant to the occupation will be credited toward the apprenticeship requirements for the license.

(c) Extension of license renewal deadlines. A military service member who holds a license is entitled to two years' additional time to complete any continuing education requirements and any other requirements related to the renewal of the military service member's license.

(d) Alternative licensing. The state fire marshal, after reviewing the applicant's credentials, may waive any prerequisite to obtaining a license for a military service member or military veteran who ~~[, military veteran, or military spouse that]~~:

(1) holds a current license issued by another jurisdiction that has licensing requirements substantially equivalent to the requirements for the license in this state; or

(2) within the five years preceding the application date, held the license in this state.

(e) Alternative licensing for military spouses. A military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state is eligible for a license under

this subsection for a period of three years. The military spouse must be married to a military service member that is stationed at a military installation in Texas. The three-year period begins from the date the spouse receives confirmation from TDI that the following elements have been fulfilled. In order for the military spouse to obtain a license under this subsection, the military spouse must:

(1) submit an application notifying TDI of the military spouse's intent to engage under the specific license in Texas;

(2) submit proof of the military spouse's residency in Texas and a copy of the military identification card; and

(3) submit evidence of good standing from the jurisdiction with substantially equivalent requirements to the requirements of this state.

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

Issued in Austin, Texas, on October 25, 2019.

/s/ James Person

James Person, General Counsel
Texas Department of Insurance