

(a) Authority authorized to issue permits. The authority may issue a permit and collect a fee for the movement within the territory of the authority ~~[on the roads designated by Transportation Code, §623.322]~~ of a vehicle or vehicle combination that exceeds the vehicle size or weight limits specified by Transportation Code, Chapter 621, Subchapters B and C, but does not exceed loaded dimensions of 12 feet wide, 16 feet high, and 110 feet long, and does not exceed 125,000 pounds gross weight ~~for travel on~~[-:]

(1) the roads designated by Transportation Code, §623.322;

(2) US 281/Military Highway from Spur 29 to FM 1015;

(3) FM 1015 from US 281/Military Highway, south to the Progreso International Bridge;

(4) FM 2557 from US 281/Military Highway to Interstate 2; FM 3072 from Veteran Boulevard ("I" Road) to Cesar Chavez Road; and

(5) US 281 (Cage Boulevard) from Spur 600 to Anaya Road.

(b) Surety bond. The department may require the authority to post a surety bond in the amount of \$500,000 for the reimbursement of the department for actual maintenance costs of roads identified in subsection (a) of this section ~~[designated by Transportation Code, §623.322]~~ if revenue collected from permits issued under this subchapter is insufficient to pay for those costs and the authority fails to reimburse the department for those costs.

(c) Verification of permits. The authority shall provide law enforcement and department personnel access to any of the authority's property to verify compliance with this subchapter by the authority or another person.

(d) Training. The authority shall provide or obtain any training necessary for personnel to issue permits under this subchapter. The department may provide assistance with training on request by the authority.

(e) Accounting. The department shall develop accounting procedures related to permits issued under this subchapter with which the authority must comply for revenue collections and any payment made to the department under subsection (i) of this section.

(f) Audits. The department may conduct audits annually or at the direction of the executive director of all permit issuance activities of the authority. To insure compliance with applicable law, audits at a minimum will include a review of all permits issued, financial transaction records related to permit issuance and vehicle scale weight tickets, and the monitoring of personnel issuing permits under this subchapter.

(g) Revocation of authority to issue permits. If the department determines as a result of an audit that the authority is not complying with this subchapter or other applicable law, the executive director will issue a notice to the authority allowing 30 days for the authority to correct any non-compliance issue. If the department determines that, after that 30-day period, the authority has not corrected the issue, the executive director may revoke the authority's authority to issue permits under this subchapter. The authority may appeal to the commission in writing the revocation of its authority under this subsection. If the authority appeals the revocation, the authority's authority to issue permits under this subchapter remains in effect until the commission makes a final decision on the appeal.

(h) Fees. Fees under this subchapter may be collected, deposited, and used only as provided by Transportation Code, §623.323. The authority may determine acceptable methods of payment. All fees

transmitted to the department must be in U.S. currency. On revocation of the authority's authority to issue permits, termination of the maintenance contract entered into under subsection (i) of this section, or expiration of this subchapter, the authority shall pay to the department all permit fees collected by the authority, less allowable administrative costs.

(i) Maintenance contract. The authority shall enter into a contract with the department for the maintenance of roads identified in subsection (a) of this section ~~[designated by Transportation Code, §623.322]~~ for which a permit may be issued under this subchapter. The contract will cover routine maintenance, preventive maintenance, and total reconstruction of the roadway and bridge structures, as determined by the department to maintain the current level of service, and may include other types of maintenance.

(j) Reporting. The authority shall provide monthly and annual reports to the department's Finance Division regarding all permits issued and all fees collected during the period covered by the report. The report must be in a format approved by the department.

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

Filed with the Office of the Secretary of State on September 22, 2014.

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Joanne Wright

Deputy General Counsel

Texas Department of Transportation

Earliest possible date of adoption: November 2, 2014

For further information, please call: (512) 463-8683



## PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

### CHAPTER 217. VEHICLE TITLES AND REGISTRATION

#### SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

##### 43 TAC §217.44

The Texas Department of Motor Vehicles (department) proposes amendments to §217.44, Registration Reciprocity Agreements. The department simultaneously withdraws the proposed amendments to §217.44, which were published in the May 30, 2014, issue of the *Texas Register* (39 TexReg 4225).

##### EXPLANATION OF PROPOSED AMENDMENTS

The proposed amendments to §217.44 are necessary to implement the department's decision to issue two license plates to certain vehicles under the International Registration Plan (IRP). Currently, §217.44 says the department will issue one license plate, which shall be placed on the front of a power unit and on the rear of a trailer. Peace officers are stopping the drivers of some of the power units that are not drawing a trailer or semi-trailer because the peace officers are accustomed to seeing the license plate on the rear of these types of power units. To address this issue, the department will issue two license plates to the power units that are not designed and used primarily for

drawing other vehicles. In addition, a proposed amendment to §217.44 tells the vehicle owner where to place the second license plate.

The proposed amendments to §217.44 are also necessary to adopt by reference the current edition of the IRP and the IRP Audit Procedures Manual, as well as future amendments to the IRP. A proposed amendment deletes the definition of the word "distance" because the IRP already addresses the issue of distance and how the registration fees are calculated.

The other changes to §217.44 are necessary to correct references to statutes, rules, and language in statutes, rules and the IRP. The proposed amendments also correct grammatical errors, change punctuation for clarity, provide a definition for the department's Regional Service Centers, and address internal changes within the department.

#### FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the amendments as proposed are in effect, there will be minor fiscal implications for state or local governments as a result of enforcing or administering the amendments. The department pays approximately \$1.61 per license plate for these vehicles. Since the department will issue two license plates for certain vehicles, the department's costs will increase. It is estimated that approximately 32,305 vehicles will receive two apportioned license plates, instead of one.

Jimmy Archer, Director of the Motor Carrier Division, has certified that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the amendments.

#### PUBLIC BENEFIT AND COST

Mr. Archer has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing or administering the amendments will be more clarity in §217.44. In addition, the operators of certain apportioned vehicles will be issued a second license plate to place on the rear of the vehicle because peace officers are accustomed to seeing a license plate on the rear of these types of vehicles. There are no anticipated economic costs for persons required to comply with the amendments as proposed. There will be no adverse economic effect on small businesses or micro-businesses.

#### TAKINGS IMPACT ASSESSMENT

The department has determined that this proposal affects no private real property interests and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action, and so does not constitute a taking or require a takings impact assessment under Government Code, §2007.043.

#### SUBMITTAL OF COMMENTS

Written comments on the proposed amendments may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, by mail at 4000 Jackson Avenue, Austin, Texas 78731, or by email to [rules@txdmv.gov](mailto:rules@txdmv.gov). The deadline for receipt of comments is 5:00 p.m. on November 3, 2014.

#### STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are

necessary and appropriate to implement the powers and duties of the department under the Transportation Code; and more specifically, Transportation Code, §502.091, which authorizes the department to adopt rules to carry out the IRP; and Transportation Code, §504.010, which authorizes the board to adopt rules regarding the placement of license plates for a motor vehicle.

#### CROSS REFERENCE TO STATUTE

Transportation Code, §§502.091, 504.010, and 504.943.

#### *§217.44. Registration Reciprocity Agreements.*

(a) Purpose. To promote and encourage the fullest possible use of the highway system and contribute to the economic development and growth of the State of Texas and its residents, the department is authorized by Transportation Code, §502.091 [~~§502.054~~] to enter into agreements with duly authorized officials of other jurisdictions, including any state of the United States, the District of Columbia, a foreign country, a state or province of a foreign country, or a territory or possession of either the United States or of a foreign country, and to provide for the registration of vehicles by Texas residents and nonresidents on an allocation or distance apportionment basis, and to grant exemptions from the payment of registration fees by nonresidents if the grants are reciprocal to Texas residents.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:~~[-]~~

(1) Cab card--The apportioned vehicle registration receipt that contains, but is not limited to, the vehicle description and the registered weight at which the vehicle may operate in each jurisdiction.

(2) Department--The Texas Department of Motor Vehicles.

(3) Director--The director of the Motor Carrier Division, [~~Vehicle Titles and Registration Division,~~] Texas Department of Motor Vehicles.

~~[(4) Distance--The distance an apportioned motor vehicle is:]~~

~~[(A) expected to travel in a member jurisdiction during a registration year as reported by an applicant; or]~~

~~[(B) actually operated in a member jurisdiction during a reporting period.]~~

(4) ~~[(5)]~~ Executive director--The chief executive officer of the department.

(5) Regional Service Center--A department office which provides specific services to the public, including replacement titles, bonded title rejection letters, and apportioned registration under the International Registration Plan (IRP).

(6) Temporary cab card--A temporary registration permit authorized by the department that allows the operation of a vehicle for 30 days subject to all rights and privileges afforded to a vehicle displaying apportioned registration.

(c) Multilateral agreements.

(1) Authority. The executive director may on behalf of the department enter into a multilateral agreement with the duly authorized officials of two or more other jurisdictions to carry out the purpose of this section.

(2) International Registration Plan.

(A) Applicability. The IRP [International Registration Plan] is a registration reciprocity agreement among states of the United

States and other jurisdictions providing for payment of registration fees on the basis of fleet distance operated in various jurisdictions. Its purpose is to promote and encourage the fullest possible use of the highway system by authorizing apportioned registration for commercial motor vehicles and payment of appropriate vehicle registration fees and thus contributing to the economic development and growth of the member jurisdictions.

(B) Adoption. The department adopts by reference the January 1, 2014, edition of the IRP. Effective January 1, 2015, the department adopts by reference the amendments to the IRP with an effective date of January 1, 2015. Effective July 1, 2016, the department adopts by reference the amendment to the IRP with an effective date of July 1, 2016. The department further adopts by reference the July 1, 2013, edition of the IRP Audit Procedures Manual. In the event of a conflict between this section and the IRP or the IRP Audit Procedures Manual, the IRP and the IRP Audit Procedures Manual control. Copies of the documents are available for review in the Motor Carrier Division, Texas Department of Motor Vehicles. ~~[most currently adopted edition of the International Registration Plan (IRP). This document will be periodically amended by its members. Copies of the document are available for review in the Vehicle Titles and Registration Division, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin.]~~ Copies are also available on request. The following words and terms, when used in the IRP or in paragraph (2) of this subsection, ~~[this subparagraph.]~~ shall have the following meanings, unless the context clearly indicates otherwise.

(i) Apportionable vehicle--Any vehicle--~~[.]~~except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, buses used in transportation of chartered parties, and government-owned vehicles--~~[.]~~ used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and used either for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property and:

(I) is a power unit having two axles and a gross vehicle weight or registered gross vehicle weight in excess of 26,000 pounds (11,793.401 kilograms); ~~[or 11,793.401 kilograms;]~~

(II) is a power unit having three or more axles, regardless of weight;

(III) is used in combination, when the weight of such combination exceeds 26,000 pounds (11,793.401 kilograms) ~~[or 11,793.401 kilograms]~~ gross vehicle weight; or

(IV) at the option of the registrant, trucks, truck tractors, or ~~[and truck tractors, and]~~ combinations of vehicles having a gross vehicle weight of 26,000 pounds (11,793.401 kilograms) or less; or ~~[or 11,793.401 kilograms or less and]~~ buses used in transportation of chartered parties.

(ii) Commercial vehicle--A vehicle or combination of vehicles designed and used for the transportation of persons or property in furtherance of any commercial enterprise, for hire or not for hire.

(iii) Erroneous issuance--Apportioned registration issued based on erroneous information provided to the department.

(iv) Established place of business--A physical structure owned or leased within the state of Texas by the applicant or fleet registrant and maintained in accordance with the provisions of the IRP. ~~[International Registration Plan.]~~

(v) Fleet distance--All distance operated by an apportionable vehicle or vehicles used to calculate registration fees for the various jurisdictions.

(C) Application.

(i) An applicant must submit an application to the department on a form prescribed by the director, along [together] with additional documentation as required by the director.

(ii) Upon approval of the application, the department will compute the appropriate registration fees and notify the registrant.

(D) Fees. Upon receipt of the applicable fees in the form as provided by §209.23 of this title (relating to Methods of Payment), the department will issue one or two license plates and a cab card for each vehicle registered. [in the form of a check, cashier's check, money order, or electronic funds transfer through an automated clearinghouse (ACH) made payable in United States funds, the department will issue one license plate and cab card for each vehicle registered.]

(E) Display.

(i) The department will issue one license plate for a tractor, truck tractor, trailer, and semi-trailer. The license plate issued to a tractor or a truck tractor shall be installed on the front of the tractor or truck tractor, and the license plate issued for a trailer or semi-trailer shall be installed on the rear of the trailer or semi-trailer. [The license plate issued to a power unit shall be installed on the front of the vehicle, and the license plate issued for a trailer shall be installed on the rear of the vehicle.]

(ii) The department will issue two license plates for all other vehicles that are eligible to receive license plates under the IRP. Once the department issues two license plates for a vehicle listed in this clause, one plate shall be installed on the front of the vehicle, and one plate shall be installed on the rear of the vehicle.

(iii) ~~[(ii)]~~ The cab card shall be carried at all times in the vehicle in accordance with the IRP ~~[Transportation Code, §621.002].~~

(F) Audit. An audit of the registrant's vehicle operational records may be conducted by the department according to the IRP provisions and the IRP Audit Procedures Manual. Upon request, the registrant shall provide the operational records of each vehicle for audit in unit number order, in sequence by date, and including, but not limited to, a summary of distance traveled by each individual vehicle ~~[truck]~~ on a monthly, quarterly, and annual basis with distance totaled separately for each jurisdiction in which the vehicle traveled.

(G) Assessment. The department may assess additional registration fees of up to 100 percent of the Texas registration fees, if an audit conducted under subparagraph (F) of this paragraph reveals that:

(i) the operational records indicate that the vehicle did not generate interstate distance in two or more member jurisdictions for the distance reporting period supporting the application being audited, plus the six-month period immediately following that distance reporting period;

(ii) the registrant failed to provide complete operational records; or

(iii) the distance must be adjusted, and the adjustment results in a shortage of registration fees due Texas or any other IRP jurisdiction.

(H) Refunds. If an audit conducted under subparagraph (F) of this paragraph reveals an overpayment of fees to Texas or any other IRP jurisdiction, the department will refund the overpayment of registration fees in accordance with Transportation Code, §502.195 and the IRP. ~~[§502.183 and IRP guidelines.]~~ Any registration fees refunded

to a carrier for another jurisdiction will be deducted from registration fees collected and transmitted to that jurisdiction.

(I) Cancellation. The director or the director's designee may cancel a registrant's apportioned registration and all privileges provided by the IRP if the registrant:

(i) submits payment in the form of a check that is dishonored;

(ii) files or provides erroneous information to the department; or

(iii) fails to:

(I) remit appropriate fees due each jurisdiction in which the registrant is authorized to operate;

(II) meet the requirements of the IRP concerning established place of business;

(III) provide operational records in accordance with subparagraph (F) of this paragraph;

(IV) provide an acceptable source document as specified in the IRP; or

(V) pay an assessment pursuant to subparagraph (G) of this paragraph.

(J) Enforcement of cancelled registration.

(i) Notice. If a registrant is assessed additional registration fees, as provided in subparagraph (G) of this paragraph, and the additional fees are not paid by the due date provided in the notice or it is determined that a registrant's apportioned license plates and privileges should be canceled, as provided in subparagraph (I) of this paragraph, the director or the director's designee will mail a notice by certified mail to the last known address of the registrant. The notice will state the facts underlying the assessment or cancellation, the effective date of the assessment or cancellation, and the right of the registrant to request a conference as provided in clause (ii) of this subparagraph.

(ii) Conference. A registrant may request a conference upon receipt of a notice issued as provided by clause (i) of this subparagraph. The request must be made in writing to the director or the director's designee within 30 days of the date of the notice. If timely requested, the conference will be scheduled and conducted by the director or the director's designee at division headquarters in Austin and will serve to abate the assessment or cancellation unless and until that assessment or cancellation is affirmed or disaffirmed by the director or the director's designee. In the event matters are resolved in the registrant's favor, the director or the director's designee will mail the registrant a notice of withdrawal, notifying the registrant that the assessment or cancellation is withdrawn, and stating the basis for that action. In the event matters are not resolved in the registrant's favor, the director or the director's designee will issue a ruling reaffirming the department's assessment of additional registration fees or cancellation of apportioned license plates and privileges. The registrant has the right to appeal in accordance with clause (iii) of this subparagraph.

(iii) Appeal. If a conference held in accordance with clause (ii) of this subparagraph fails to resolve matters in the registrant's favor, the registrant may request an administrative hearing. The request must be in writing and must be received by the director no later than the 20th day following the date of the ruling issued under clause (ii) of this subparagraph. If requested within the designated period, the hearing will be initiated by the department and will be conducted in accordance with Chapter 206, Subchapter D of this title (relating to Procedures in Contested Cases). Assessment or cancellation is abated

unless and until affirmed or disaffirmed by order of the Board of the Texas Department of Motor Vehicles. [Board of Motor Vehicles.]

(K) Reinstatement.

(i) The director or the director's designee will reinstate apportioned registration to a previously canceled registrant if all applicable fees and assessments due on the previously canceled apportioned account have been paid and the applicant provides proof of an acceptable recordkeeping system for a period of no less than 60 days.

(ii) The application for the following registration year will be processed in accordance with the provisions of the IRP.

(L) Denial of apportioned registration for safety reasons. The department will comply with the requirements of the Performance and Registration Information Systems Management program (PRISM) administered by the Federal Motor Carrier Safety Administration (FMCSA).

(i) Denial or suspension of apportioned registration. Upon notification from the FMCSA that a carrier has been placed out of service for safety violations, the department will:

(I) deny initial issuance of apportioned registration;

(II) deny authorization for a temporary cab card, as provided for in subparagraph (M) of this paragraph;

(III) deny renewal of apportioned registration; or

(IV) suspend current apportioned registration.

(ii) Issuance after denial of registration or reinstatement of suspended registration. The director or the director's designee will reinstate or accept an initial or renewal application for apportioned registration from a registrant who was suspended or denied registration under clause (i) of this subparagraph upon presentation of a Certificate of Compliance from FMCSA, in addition to all other required documentation and payment of fees.

(M) Temporary cab card.

(i) Application. The department may authorize issuance of a temporary cab card to a motor carrier with an established Texas apportioned account for a vehicle upon proper submission of all required documentation, a completed application, and all fees for either:

(I) Texas title [Certificate of Title] as prescribed by Transportation Code, Chapter 501 and §217.3 of this title (relating to Motor Vehicle Titles); or [chapter (relating to Motor Vehicle Certificates of Title)]; or]

(II) registration receipt to evidence title for registration purposes only (Registration Purposes Only) [Registration Purposes Only] as provided for in Transportation Code, §501.029 and §217.22(b)(4) of this title [subchapter] (relating to Motor Vehicle Registration).

(ii) Title application. A registrant who is applying for a Texas title as provided for in clause (i)(I) of this subparagraph [certificate of title as provided for in subparagraph (L)(i)(I) of this paragraph] and is requesting authorization for a temporary cab card, must submit a photocopy of the title application receipt issued by the county tax assessor-collector's office to a Regional Service Center [assessor-collector's office to a Vehicle Titles and Registration Division Regional Office] by email, fax, overnight mail, or in person.

(iii) Registration Purposes Only. A registrant who is applying for Registration Purposes Only under clause (i)(II) of this

subparagraph and is requesting authorization for a temporary cab card, must submit an application and all additional original documents or copies of original documents required by the director to a Regional Service Center [~~Vehicle Titles and Registration Division Regional Office~~] by email, fax, or overnight mail or in person.

(iv) Department approval. On department approval of the submitted documents, the department will send notice to the registrant to finalize the transaction and make payment of applicable registration fees.

(v) Finalization and payment of fees. To finalize the transaction and print the temporary cab card, the registrant may compute the registration fees through the department's apportioned registration software application, TxIRP system, and:

(I) make payment of the applicable registration fees to the department as provided by §209.23; and [~~in the form of a check, cashier's check, money order, or electronic funds transfer through an automated clearinghouse (ACH) payable to the department in United States funds; and~~]

(II) afterwards, mail or deliver payment of the [~~certificate of~~] title application fee in the form of a check, certified cashier's check, or money order payable to the county tax assessor-collector [~~assessor collector~~] in the registrant's county of residency and originals of all copied documents previously submitted.

(vi) Deadline. The original documents and payment must be received by the Regional Service Center [~~Vehicle Titles and~~

~~Registration Division Regional Office~~] within 72-hours after the time that the office notified the registrant of the approval to print a temporary cab card as provided in clause (iv) of this subparagraph.

(vii) Failure to meet deadline. If the registrant fails to submit the original documents and required payment within the time prescribed by clause (vi) of this subparagraph, the registrant's privilege to use this expedited process to obtain a temporary cab card will be denied by the department for a period of six months from the date of approval to print the temporary cab card.

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

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David D. Duncan

General Counsel

Texas Department of Motor Vehicles

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

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