

December 18, 2015

## Registration and Title Bulletin # 010-15 Policy and Procedure

**TO:** All County Tax Assessor-Collectors and Motor Vehicle Dealers

**SUBJECT:** Reinforcement on Appropriate Use of Powers of Attorney by Dealers

### PURPOSE

To serve as a reinforcement on the appropriate use of both the *Power of Attorney to Transfer Motor Vehicle*, **Form VTR-271**, and the *Power of Attorney for Transfer of Ownership to a Motor Vehicle*, **Form VTR-271-A**, for completion of odometer disclosure statements in dealer transactions.

### DETAILS

During standard title examinations, the department has observed improper use of the *Power of Attorney to Transfer Motor Vehicle*, **Form VTR-271**, and *Power of Attorney for Transfer of Ownership to a Motor Vehicle*, **Form VTR-271-A**, in dealer transactions.

Federal law specifies a motor vehicle is subject to odometer disclosure when it is self-propelled, less than 10 years old, and has a gross vehicle weight of 16,000 pounds or less. Part 580, Code of Federal Regulations, provides the rules relative to the Truth in Mileage Act, which dictates when use of a power of attorney is permissible in conjunction with odometer disclosure. Further, federal law requires the odometer disclosure for used vehicles to be made on a certificate of title or a secure power of attorney (**Form VTR-271-A**). Federal law specifies use of a power of attorney is strictly limited to when the title is lost or held by a lienholder, and the only acceptable power of attorney is **Form VTR-271-A**.

Proper use of **Form VTR-271-A** consists of dealers completing Part A when obtaining a motor vehicle on trade, and the title is lost or held by a lienholder. Further, proper use consists of using Parts B and C only if the motor vehicle is transferred and the certificate of title is still held by a lienholder. A dealer may not sell a vehicle without having possession of the vehicle's title unless the title is held by a lienholder. A certified copy of title (CCO) must be obtained prior to subsequent transfer if the title is lost at the time the dealer takes possession of the vehicle. A subsequent purchaser is required to acknowledge the odometer on the CCO.

A limited power of attorney gives someone else the power to act on behalf of another individual for a very limited purpose, such as transferring a motor vehicle. Use of any limited power of attorney, including **Form VTR-271**, cannot be used to complete the odometer disclosure for any vehicle that is subject to odometer disclosure requirements. A limited power of attorney, including **Form VTR-271**, may not be used to complete the **Form VTR-271-A**. A dealer may not facilitate the appointment of a limited power of attorney, nor may the dealer, anyone associated with the dealer, or anyone performing work on behalf of the dealer be appointed grantee in a limited power of attorney.

A general power of attorney, including if it remains effective after the grantor becomes incapacitated known as a durable power of attorney, is the written authority for one person to act in all business and legal capacities for another person and generally requires notarization. An owner of record, or purchaser, of a motor vehicle subject to odometer disclosure may only appoint an agent to complete the odometer disclosure on a title or on the **Form VTR-271-A** through a general power of attorney. A dealer may not facilitate the appointment of any power of attorney unless using the **Form VTR-271-A** under the appropriate situations detailed above.

However, federal law permits states to petition the National Highway Traffic Safety Administration for approval of alternate odometer disclosure consistent with the purposes of federal law. The department

made such a petition in 2009, which was approved and subsequently developed as the electronic buyer acknowledgment feature in webDEALER. This electronic buyer acknowledgment feature is the only acceptable alternative to completing the odometer disclosure on a certificate of title or **Form VTR-271-A**, as applicable, for vehicles subject to odometer disclosure.

In an effort to provide clarity and guidance on the acceptable use, a revised **Form VTR-271** (rev. 12/15) is available for use and attached. It has now been renamed to *Limited Power of Attorney for Eligible Motor Vehicle Transactions*, **Form VTR-271**. Effective February 1, 2016, any transactions submitted with **Form VTR-271** with a revision date prior to 12/15 will be rejected. Additionally, the department is in the process of reviewing **Form VTR-271-A**, and we will provide revisions as necessary.

Effective February 1, 2016, the department will begin a stringent effort to increase title examinations for improper use of **Form VTR-271**.

### **COUNTY ACTION**

Please ensure dealers use **Form VTR-271-A** appropriately and do not use any limited power of attorney, including **Form VTR-271**, to complete odometer disclosure statements for vehicles subject to odometer disclosure. As previously mentioned, the department will begin a stringent effort to increase title examinations on February 1, 2016.

A vehicle sold by a dealer subject to odometer disclosure must use **Form VTR-271-A**, but only when the title is lost or held by a lienholder. Part A of **Form VTR-271-A** may only be used if the transaction is accompanied by a:

- Certificate of title (or CCO) with a lien release after the date of sale,
- Texas Certificates of Title starting with a 286 document number and an E-TITLE PRINT DATE in RTS after the date of sale, or
- Certified copy of title with an issue date after the date of sale.

If the title is held by a lienholder and the vehicle is transferred prior to receiving the certificate of title, the purchaser must complete Part B, and the dealer must complete Part C of **Form VTR-271-A**. In these situations, the transaction must be accompanied by a:

- Certificate of title (or CCO) with a lien release after the subsequent date of sale, or
- Texas Certificates of Title starting with a 286 document number and an E-TITLE PRINT DATE in RTS after the subsequent date of sale.

Under no circumstances may the same individual or entity (including different individuals from the same entity) sign as both the purchaser and seller except with proper completion of Parts A, B, and C on **Form VTR-271-A**.

Effective February 1, 2016, any transactions submitted with **Form VTR-271** with a revision date prior to 12/15 must be rejected.

### **CONTACT**

If you have any questions, please contact your local TxDMV Regional Service Center.

Sincerely,



Jeremiah Kuntz, Director  
Vehicle Titles and Registration Division

JK:TT:EG

Attachment