

(3) an exempt registration under Transportation Code, §502.451;

(4) a vehicle transit permit under Transportation Code, §502.492;

(5) a replacement license plate under Transportation Code, §504.007;

(6) a registration correction receipt, duplicate receipt, or inquiry receipt;

(7) an inspection fee receipt; or

(8) an exchange of license plate for which no registration fees are collected.

§217.185. Allocation of Processing and Handling Fee.

(a) For registrations that expire on or after January 1, 2017, except for temporary permit transactions under Transportation Code, §502.094 or §502.095, the fee amount established in §217.183 of this title (relating to Fee Amount) shall be allocated as follows:

(1) If the registration transaction was processed in person at the office of the county tax assessor-collector:

(A) the county tax assessor-collector may retain \$2.30;
and

(B) the remaining amount shall be remitted to the department.

(2) If the registration transaction was mailed to office of the county tax assessor-collector:

(A) the county tax assessor-collector may retain \$2.30;
and

(B) the remaining amount shall be remitted to the department.

(3) If the registration transaction was processed through the department's online registration portal, the fee established in §217.183 is discounted by \$1.25:

(A) Texas Online receives the amount set pursuant to Government Code, §2054.2591, Fees;

(B) the county tax assessor-collector may retain \$.25;
and

(C) the remaining amount shall be remitted to the department.

(4) If the registration transaction was processed by a deputy appointed by the county tax assessor-collector in accordance with Subchapter H of this chapter (relating to Deputies):

(A) the deputy may retain:

(i) the amount specified in §217.168(c) of this title (relating to Deputy Fee Amounts). The deputy must remit the remainder of the processing and handling fee to the county tax assessor-collector; and

(ii) the convenience fee established in §217.168, if the registration transaction is processed by a full service deputy;

(B) the county tax assessor-collector may retain \$1.30;
and

(C) the county tax assessor-collector must remit the remaining amount to the department.

(b) For temporary permit transactions under Transportation Code, §502.094 or §502.095, the entity receiving the application and

processing the transaction collects and retains the entire processing and handling fee established in §217.183. A full service deputy processing a temporary permit transaction may not charge a convenience fee for that transaction.

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

Earliest possible date of adoption: May 22, 2016

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



SUBCHAPTER H. DEPUTIES

43 TAC §§217.161 - 217.168

The Texas Department of Motor Vehicles (department) proposes amendments to §217.161, Deputies. The department also proposes new sections §217.162, Definitions; §217.163, Full Service Deputies; §217.164, Limited Service Deputies; §217.165, Inspection Deputies; §217.166, Dealer Deputies; §217.167, Bonding Requirements; and §217.168, Deputy Fee Amounts.

EXPLANATION OF PROPOSED AMENDMENTS AND NEW SECTIONS

House Bill 2741 and House Bill 2202, 83rd Legislature, Regular Session, 2013, added Transportation Code, §520.0071 and repealed Transportation Code, §§520.008, 520.009, 520.0091, and 520.0092. As a result, the legislature directed the department to prescribe rules governing deputies performing titling and registration duties. The legislature authorized deputies to continue to perform services under §§520.008, 520.009, 520.0091, and 520.0092 until the effective date of the rules adopted by the board of the Texas Department of Motor Vehicles (board) regarding the types of deputies authorized to perform titling and registration duties under §520.0071. The proposed amendments and new sections are intended to fill the void created by the repeal of the former Transportation Code sections describing deputies and their duties and obligations, and to implement the legislative directive of House Bills 2202 and 2741.

As required by Transportation Code, §520.0071, the proposed rules establish the classification types of deputies performing titling and registration duties, the duties and obligations of deputies, the type and amount of any bonds that may be required by a county tax assessor-collector for deputies to perform titling and registration duties, and the fees that may be charged or retained by deputies. The rules authorize deputies to continue to operate under the repealed statutes, as prescribed by current §217.161, through December 31, 2016. Beginning January 1, 2017, all deputies must be deputized in accordance with and comply with Subchapter H in full.

The purpose of these proposed rules is to support the department's mission to serve, protect, and advance the citizens and industries in this state with quality motor vehicle related services. To accomplish this mission, the department proposes rules that will ensure accountability and transparency in the pro-

vision of services, combat fraud, streamline and standardize processes across the state, set standards to enhance consumer confidence, allow additional funding to go toward transportation, establish structures that allow for cost-savings in the future, and modernize services to bring them in line with the needs of today's and tomorrow's consumers.

The board initially proposed rules as authorized by Transportation Code, §520.0071 on May 23, 2014, which were published in the *Texas Register* (39 TexReg 3974). Due to the great number of comments from the public expressing concern about the proposed rules, the board adopted only one rule, §217.111, which was published in the October 3, 2014, issue of the *Texas Register* (39 TexReg 7962). New §217.111 maintained the status quo for deputies that existed in statute, making clear that existing and newly appointed deputies would continue to provide the services authorized under the former statutory provisions of Transportation Code, §§520.008, 520.009, 520.0091, and 520.0092.

In addition, as a result of a rule review conducted pursuant to Government Code, §2001.039, §217.111 was renumbered as §217.161 with no changes to the text.

In concert with this proposal, but in a separate proposal, the department is proposing rules related to the processing and handling fee authorized by Transportation Code, §502.1911. The proposed rules related to the processing and handling fee reference the fee amounts that may be retained by deputies.

SECTION BY SECTION ANALYSIS

The proposed amendments to §217.161, Deputies, change the section title to "Purpose and Scope," and state the intention to prescribe the classification types, duties, and obligations of deputies, the type and amount of bonds that deputies may be required to post, and the additional fees deputies may be authorized to charge, pursuant to Transportation Code, §520.0071.

Proposed new §217.162, Definitions, defines the different types of deputies and provides other definitions to clarify language in the new sections.

Proposed new §217.163, Full Service Deputies, prescribes the duties, obligations, and requirements of persons authorized to offer vehicle registration, registration renewal, and titling services in the same manner as a county tax assessor-collector. Full service deputies offer an alternative to obtaining titling and registration services from the county tax assessors. This section provides that the county tax assessor-collector, with approval of the commissioners court, may deputize a person as a full service deputy, and requires full service deputies to offer and provide titling and registration services to the general public. This section also requires full service deputies to enter into a three-party agreement with the department and the county in which the full service deputy provides services beginning January 1, 2017. The department anticipates negotiating these agreements with the counties and existing full service deputies after the effective date of the rule, but prior to January 1, 2017, so that the agreements may be finalized by January 1, 2017. The agreement will outline the terms and conditions of the full service deputy's access to and use of the department's registration and titling system. The agreement may contain additional terms and conditions specified by the county, and must be approved by the department. Key terms and conditions that will be reflected in the agreement include: (1) the full service deputy's agreement to cooperate with law enforcement in any investigation; (2) the understanding that the department will suspend the full service deputy's access to the

registration and title system if the deputy or an employee of the deputy is the subject of a criminal investigation involving a crime of moral turpitude (generally, a crime involving conduct that is considered contrary to community standards of justice, honesty, ethics or good morals, including crimes involving dishonesty, fraud, deceit, misrepresentation, deliberate violence); and (3) certain audit rights for the county and the department to enable the county and department to ensure inventory is properly accounted for and to allow the department to determine if the fees being charged and collected are in compliance with rule and statute, among other contractual terms set forth in this rule.

Proposed new §217.164, Limited Service Deputies, prescribes the duties, obligations and requirements of persons authorized to accept and process registration renewals, but who do not offer titling services. This section provides that the county tax assessor-collector, with approval of the commissioners court, may deputize a person as a limited service deputy, to provide registration renewals to the general public; for example, a supermarket business counter where customers may pay utility bills, obtain fishing licenses, or buy concert tickets may also provide registration renewal services. Alternately, limited service deputies may be authorized to provide registration renewal services restricted to itself or its customers only; for example, a business or an agency or subdivision of a governmental jurisdiction of the State of Texas that maintains a large fleet of vehicles may be authorized to process its own registrations. The scope of any such restriction must be determined when the limited service deputy is authorized.

Proposed new §217.165, Inspection Deputies, provides that the county tax assessor-collector, with approval of the commissioners court, may deputize a person as an inspection deputy to accept and process registration renewals as a limited service deputy, with additional requirements and limitations.

Proposed new §217.166, Dealer Deputies, provides that the county tax assessor-collector, with approval of the commissioners court, may deputize a motor vehicle dealer as a dealer deputy to provide motor vehicle titling and registration services, with limitations.

Proposed new §217.167, Bonding Requirements, provides that the county tax assessor-collector shall determine the amount of the surety bond that a deputy must post, subject to the minimum and maximum limits provided by this section. For full service deputies and dealer deputies, the minimum bond amount is \$100,000 and the maximum is \$2,000,000. For limited service deputies and inspection deputies, the minimum bond amount is \$2,500 and the maximum is \$1,000,000. This section also exempts an agency or subdivision of a governmental jurisdiction of the State of Texas from the bonding requirement, unless the county tax assessor-collector determines that a bond is appropriate. The proposed minimum and maximum limits of the bonds may change depending upon comments received after publication of these proposed rules.

Proposed new §217.168, Deputy Fee Amounts, provides that a county tax assessor-collector may allow a deputy to charge or retain certain fee amounts for providing the titling or registration service according to the type of deputy and transaction type. Proposed new §217.168 provides for some fees to be charged and retained by the deputy and other fees to be retained from the processing and handling fee established in proposed new §217.183 (part of a separate proposal). Specifically, proposed new §217.168 authorizes full service deputies and dealer deputies to charge customers up to \$15 for title transactions and

retain that entire fee amount. Proposed new §217.168 authorizes all deputies to retain \$1 from the processing and handling fee for each registration and registration renewal transaction. In addition, a full service deputy may charge a \$4 convenience fee for each registration or registration renewal transaction and retain that entire fee amount. The convenience fee is subject to exclusions identified in proposed new §217.184 (part of a separate proposal). Proposed §217.168 also clarifies that the proposed new section does not limit a full service deputy's ability to charge and collect fees for other services provided by the full service deputy that are related to titles or registrations, but are not transactions that must be performed through the department's automated vehicle registration and title system. Proposed new §217.168 also requires full service deputies to prominently post a fee list at the physical location and on the full service deputy's website. Lastly, proposed new §217.168 clarifies that this section does not preclude or limit the ability of a county to provide additional compensation to a deputy from county funds. The proposed fee amounts may change depending upon comments received after publication of these proposed rules.

FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the amendments and new sections as proposed are in effect, there will be no foreseeable economic implications relating to costs or revenues of the state or local governments as a result of enforcing or administering the amendments and new sections. If a tax assessor-collector elects not to authorize deputies in the county, these rules will have no impact on the county. If a tax assessor-collector chooses to authorize only limited service and/or dealer deputies in the county, there are no foreseeable economic implications relating to costs or revenues of local governments, specifically counties, as the proposed compensation for such deputies is consistent with current statutorily authorized compensation for the deputies. As such, there is no anticipated change in the number of transactions processed through deputies after the effective date of these rules. Lastly, if a tax assessor-collector chooses to authorize full service deputies in the county, there are no foreseeable economic implications to the counties. The department is aware that at present, only six counties authorize full service deputies to provide titling and registration services. Some of these counties have informed the department that if the deputies were to cease providing services in the county, the counties would be required to absorb an increased number of title and registration transactions, hire additional employees, and potentially increase office space. However, the vast majority of counties provide services to the motoring public without utilizing full service deputies. In addition, the compensation proposed for full service deputies, as more thoroughly discussed below, is consistent with the charges previously authorized by statute and is sufficient to cover the costs to process the transactions based on data provided. Currently, there is no specific authorized amount for deputies to charge for titling services, whereas this proposed rule specifically authorizes a \$15 convenience fee. As such, there should be no significant change in the number of customers a full service deputy serves and, therefore, no foreseeable impact on the counties.

Jeremiah Kuntz, Director of the Vehicle Titles and Registration Division, has determined that there will be no anticipated impact on local economies or overall employment as a result of enforcing or administering the amendments and new sections.

PUBLIC BENEFIT AND COST

Mr. Kuntz has also determined that for each year of the first five years the proposed amendments and new sections are in effect, the public benefit anticipated as a result of enforcing or administering the sections will be the standardization of fees for delivering titling and registration services to the public when the customer chooses a deputy for such services; and an increase in consumer confidence in the services provided by deputies by ensuring appropriate oversight of deputies by the counties and the department. Mr. Kuntz has also determined that for each of the first five years the proposed amendments and new sections are in effect, there are no anticipated significant economic costs for persons required to comply with the amendments and new sections as proposed. The cost of the convenience fee that a full service deputy may charge for registration is consistent with the amount currently allowed by statute, and the public may choose to avoid this fee by performing transactions online or dealing directly with a county tax assessor-collector or limited service deputy.

SMALL AND MICRO-BUSINESS IMPACT ASSESSMENT

Under the provisions of Government Code, Chapter 2006, a state agency must prepare an economic impact statement and a regulatory flexibility analysis for a rule that may have an adverse economic effect on small businesses and micro-businesses. The department has been alerted that some or all of the 30 full service deputies in the state fit the definition of small or micro-businesses. For other categories of deputies potentially affected by the rules, the department has determined that either they are not small or micro-businesses, or there will be no adverse impact to these entities from the proposed rules.

Although the proposed rules establish specific compensation amounts for full service deputies, the amounts are consistent with what statute authorized the deputies to charge for registration-related transactions and what some full service deputies actually charge for title transactions, based on data reviewed and as discussed in more detail below. The department has therefore determined that there will be no adverse impact to small or micro-businesses operating in compliance with statute prior to these proposed rules. Accordingly, the department has not prepared a regulatory flexibility analysis under Government Code, Chapter 2006.

The department set the amount a full service deputy may charge for title transactions at an amount similar to what full service deputies currently charge, according to the data provided. Currently, there is no specific authorized amount for deputies to charge for titling services, whereas this proposed rule specifically authorizes a \$15 convenience fee. As such, the department does not anticipate an adverse impact due to the full service deputy compensation amount for title transactions.

The fee structure proposed in the rule places the full service deputy compensation for registration and registration renewal transactions at a rate equal to what these deputies were allowed to charge under former Transportation Code, §520.009. As such, the impact will be neutral to positive, in that deputies across the state will operate on a level playing field and with a clear understanding of their duties and obligations and the rates they may charge. To the extent any full service deputies have been charging more than what was allowed by statute, any adverse economic impact would not be a result of the rule, since the rule establishes a fee that is the same as was allowed by statute.

The proposed rules do not impact any fees a full service deputy may charge for any service that is not performed through the department's automated registration and titling system. For example, the department is aware that full service deputies often offer a wide variety of services in addition to processing title and registration transactions--services including notary, insurance, title pick-up and delivery to and from dealerships, surety bonds, and other services and products to ensure a sufficient volume of business to generate an adequate return on investment. The proposed amendment and new rules do not impact the fees that may be charged for any such service or product.

In developing the proposed fee amounts, the department considered information gathered over the past two years from multiple meetings with stakeholders, including county tax assessor-collectors, full and limited service deputies and their representatives, representatives of motor vehicle dealers, and state government leadership. The department also contracted with Texas A&M Transportation Institute (TTI) to conduct research regarding costs associated with processing vehicle registration and title transactions. In conducting its research, TTI requested information from, and met with and observed, full service deputies to determine costs associated with processing registration and title transactions. TTI's research noted that full service deputy operations are currently based on a business model that includes profit. TTI also determined that the estimated cost for full service deputies to process vehicle registration and title transactions using an average transaction time is \$4.06 for walk-in registration transactions and \$12.88 for title transactions. The amount that full service deputies are authorized to charge and retain for title and registration transactions under the proposed rules is more than the estimated cost of those transactions, and thus should be sufficient to account for fluctuations across the state. The TTI report, available on the department's website, is the most recent and comprehensive collection and analysis of data available to the department regarding costs associated with processing registration and title transactions. The TTI report is available on the department's website at http://www.txdmv.gov/reports-and-data/doc_download/5121-estimating-the-cost-to-process-vehicle-registration-and-title-transactions-in-texas-counties and is hereby incorporated by reference into this preamble.

Lastly, former Transportation Code, §520.0091 required full service deputies to post a bond payable to the county tax assessor-collector in an amount determined by the assessor-collector. The proposed new rule keeps this bond requirement, but establishes a minimum and maximum amount that is consistent with bond amounts previously required of full service deputies and deemed sufficient by county tax assessor-collectors. The bond amounts previously considered in an earlier draft of the proposed rules was based on a percentage of the deputy's net collections of motor vehicle sales and use taxes and motor vehicle registration and title fees during a calendar year. During a stakeholder meeting, full service deputies expressed concern that such bond amounts would create substantial hardship for the businesses. After due consideration and in response to these concerns, the department changed the proposed required bond amounts and believes the proposed amounts will not result in a negative fiscal impact to the deputies. This conclusion was based on the department's review of known current bond amounts of existing deputies.

The amendments to the Transportation Code by House Bill 2741 and House Bill 2202 were specifically intended by the Texas Legislature to allow the department to prescribe the type and

amounts of bonds the deputies must obtain and the fees a deputy may charge or retain. To the extent any of the small or micro-businesses who operate as full service deputies contend there is an adverse economic impact, an alternative regulatory method could not achieve the purpose of the proposed rule while minimizing any adverse effects and thus would not be consistent with the health, safety, and environmental and economic welfare of the state. There are no new substantive compliance or reporting requirements as a result of the proposed rules, there are no performance standards or design standards required of small businesses or micro-businesses as a result of the proposed rules, and if businesses were exempt from any provision of the proposed rules, those businesses would not have authority to serve as full service deputies. The legislature mandated that the department prescribe the classification types of deputies and the duties and obligations of those deputies. As such, the authority to serve as a deputy is through compliance with the department's rules establishing such deputy. Any exemption from these rules would render a business ineligible from operating as a deputy.

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 and new sections may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Building 1, Austin, Texas 78731 or by email to rules@txdmv.gov. If any commenter submits written comments disagreeing with the department's position regarding economic impact, the department strongly recommends including documentation to support any stated negative financial, revenue, or cost implications. Such documentation will aid in the board's decision-making process and could include detailed financial statements, business plans, budgets, or other items necessary to demonstrate the stated impact. If a commenter considers any such information confidential, the information should be clearly marked "CONFIDENTIAL." If the department receives a request for this information, the department will comply with the requirements of the Public Information Act, Chapter 552 of the Texas Government Code, and request a ruling from the Office of the Attorney General for any information marked "CONFIDENTIAL."

The deadline for receipt of comments is 5:00 p.m. on May 23, 2016.

STATUTORY AUTHORITY

The amendments and new sections are proposed under Transportation Code, §1002.001, which provides the board with the authority to adopt rules necessary and appropriate to implement the powers and the duties of the department under the Transportation Code; Transportation Code, §501.0041, which provides the department may adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act; Transportation Code, §502.0021, which provides the department may adopt rules to administer Transportation Code, Chapter 502, Registration of Vehicles; Transportation Code, §520.003, which provides the department may adopt rules to

administer Chapter 520, Miscellaneous Provisions; and more specifically, Transportation Code, §520.004, which provides the department by rule shall establish standards for uniformity and service quality for counties and dealers; and Transportation Code, §520.0071, which provides the board by rule shall prescribe the classification types of deputies performing titling and registration duties, the duties and obligations of deputies, the type and amount of any bonds that may be required by a county tax assessor-collector for a deputy to perform titling and registration duties, and the fees that may be charged or retained by deputies.

CROSS REFERENCE TO STATUTE

Finance Code, §348.005 and §353.006; and Transportation Code, §§501.076, 502.191, 502.1911, 502.197, and 520.007.

§217.161. *Purpose and Scope [Deputies].*

Pursuant to Transportation Code, §520.0071, a county tax assessor-collector, with the approval of the commissioners court of the county, may appoint deputies to perform designated motor vehicle titling and registration services. This subchapter prescribes the classification types, duties, and obligations of deputies; the type and amount of any bonds that deputies may be required to post; and the fees that deputies may be authorized to charge or retain. A deputy appointed under Transportation Code, §520.0071, on or before December 31, 2016, may continue to perform services authorized under former Transportation Code, §§520.008, 520.009, 520.0091, and 520.0092, as amended by Acts 2011, 82nd Leg., ch. 1296 (H.B. 2357). Beginning January 1, 2017, all deputies must be deputized in accordance with and comply with the provisions of this subchapter.

{(a) A county assessor-collector with the approval of the commissioners court of the county may deputize a person to perform services authorized under former Transportation Code, §§520.008, 520.009, 520.0091, and 520.0092, as amended by Acts 2011, 82nd Leg., ch. 1296 (H.B. 2357), effective January 1, 2012.}

{(b) A deputy appointed under Transportation Code, §520.0091, may perform the services authorized under former Transportation Code, §§520.008, 520.009, 520.0091, and 520.0092, as amended by Acts 2011, 82nd Leg., ch. 1296 (H.B. 2357), effective January 1, 2012.}

§217.162. *Definitions.*

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) Board--Board of the Texas Department of Motor Vehicles.

(2) Dealer deputy--A motor vehicle dealer, as defined by Transportation Code, §503.001(4), who is deputized to process motor vehicle titling and registration transactions, and who may be authorized to provide registration renewal services. Dealer deputy includes an individual, who is not himself or herself appointed as a deputy, employed, hired, or otherwise engaged by the dealer deputy to serve as the deputy's agent in performing motor vehicle titling, registration or registration renewal services.

(3) Department--Texas Department of Motor Vehicles.

(4) Deputy--A person appointed to serve in an official government capacity to perform, under the provisions of this subchapter, designated motor vehicle titling, registration, and registration renewal services as a deputy assessor-collector. The term "deputy" does not include an employee of a county tax assessor-collector.

(5) Full service deputy--A deputy appointed to accept and process applications for motor vehicle title transfers and initial registrations, and process registration renewals and other transactions related to titling and registration. Full service deputy includes an individual, who is not himself or herself appointed as a deputy, employed, hired, or otherwise engaged by the full service deputy to serve as the deputy's agent in performing motor vehicle titling, registration or registration renewal services.

(6) Inspection deputy--A limited service deputy who is also a certified inspection station providing motor vehicle inspection services under Transportation Code, Chapter 548.

(7) Limited service deputy--A deputy appointed to accept and process motor vehicle registration renewals. Limited service deputy includes an individual, who is not himself or herself appointed as a deputy, employed, hired, or otherwise engaged by the limited service deputy to serve as the deputy's agent in performing motor vehicle registration renewals.

(8) Person--An individual, business organization, governmental subdivision or agency, or any other legal entity.

§217.163. *Full Service Deputies.*

(a) A county tax assessor-collector, with the approval of the commissioners court of the county, may deputize a person to act as a full service deputy in the same manner and with the same authority as though done in the office of the county tax assessor-collector, subject to the criteria and limitations of this section, including entering into the agreement specified in subsection (j) of this section.

(b) A full service deputy must offer and provide titling and registration services to the general public, and must accept any application for registration, registration renewal, or title transfer that the county tax assessor-collector would accept and process, unless otherwise limited by the county.

(c) The county tax assessor-collector may impose reasonable obligations or requirements upon a full service deputy in addition to those set forth in this section. The additional obligations or requirements must be reflected in the agreement specified in subsection (j) of this section.

(d) To be eligible to serve as a full service deputy, a person must be trained, as approved by the county tax assessor-collector, to perform motor vehicle titling, registration, and registration renewal services, or otherwise be deemed competent by the county tax assessor-collector to perform such services.

(e) To be eligible to serve as a full service deputy, a person must post a bond payable to the county tax assessor-collector consistent with §217.167 of this title (relating to Bonding Requirements) with the bond conditioned on the person's proper accounting and remittance of the fees the person collects.

(f) A person applying to be a full service deputy must complete the application process as specified by the county tax assessor-collector. The application process may include satisfaction of any bonding requirements and completion of any additional required documentation or training of the deputy before the processing of any title, registration, or registration renewal applications may occur.

(g) A full service deputy must provide the physical address at which services will be offered, the mailing address, the phone number, and the hours of service. This information may be published on the department's website and may be published by the county if the county publishes a list of deputy locations.

(h) A full service deputy shall keep a separate accounting of the fees collected and remitted to the county and a record of daily receipts.

(i) A full service deputy may charge or retain fees consistent with the provisions of §217.168 of this title (relating to Deputy Fee Amounts).

(j) Beginning January 1, 2017, a person may not serve as a full service deputy unless the person has entered into and executed an agreement with the county and the department. An agreement described by this subsection is required for each location at which the full service deputy operates. The agreement will have an effective date no earlier than January 1, 2017, and will outline the terms and conditions of the full service deputy's access to and use of the department's registration and titling system. The agreement must be approved by the department, and must include, at a minimum, the following terms and conditions:

(1) The full service deputy must identify all owners, regardless of ownership percentage, including contact information, and must notify the county and the department of any change in ownership within 30 days of the change.

(2) The full service deputy must identify all personnel who will access the registration and titling system. If an individual who has been given access to the registration and titling system is no longer associated with the full service deputy, the full service deputy must notify the county and department in order to terminate that individual's access. The full service deputy must request access for new or additional personnel in writing to the county and department.

(3) The full service deputy agrees to cooperate with any investigation by law enforcement.

(4) If the full service deputy is the subject of a criminal investigation involving a crime of moral turpitude, the full service deputy's access to the registration and titling system will be suspended until such time as the investigation has concluded and the full service deputy is cleared of any allegations or upon the county's written request to the department, but only if the department approves the request.

(5) A full service deputy must reject any transaction that appears irregular on its face and report any such transaction to the county and the department within 72 hours of presentation of the transaction. The full service deputy must cooperate with the county's or department's reasonable requests for information related to any irregular transaction.

(6) The county must conduct an inventory of license plates, secure paper, and any other accountable items provided to the full service deputy at least once per month and provide a copy of the inventory report to the department within 30 days of the report's completion.

(7) The full service deputy understands and agrees that the department may conduct an inventory of state assets and accountable items provided by the state via the county.

(8) The full service deputy understands and agrees that the department may conduct an audit of the full service deputy's operations. The full service deputy must maintain and retain all documentation pertaining to operations as a full service deputy for a period of four years following the transaction date and provide the department with prompt access to requested records during normal business hours.

(9) The full service deputy must make its audited financial statement available to the department for review only on request.

(10) The agreement must be for an initial term of five years, and may be renewed for additional five-year periods.

(11) The agreement may be terminated for cause by the county or the department at any time. Cause for termination includes violation of any term of the agreement or any department rule, including, but not limited to, Chapter 217, Subchapters H and I. The agreement may be terminated for convenience by the full service deputy or the county on 30 days written notice to the other two parties.

§217.164. Limited Service Deputies.

(a) A county tax assessor-collector, with the approval of the commissioners court of the county, may deputize a person to act as a limited service deputy. A limited service deputy may only process registration renewals, except as limited by this section, and may not prepare or accept an application for title transfer or initial registration.

(b) A limited service deputy offering registration renewal services to the general public must accept and process any proper application for registration renewal that the county tax assessor-collector would accept and process.

(c) The county tax assessor-collector may impose reasonable obligations or requirements upon a limited service deputy in addition to those set forth in this section. The county tax assessor-collector may, at the time of deputation or upon renewal of deputation, impose specified restrictions or limitations on a limited service deputy's authority to provide registration renewal services.

(d) A limited service deputy may be authorized by the county tax assessor-collector to provide registration renewal services only for the members, officers, employees, affiliates and customers of the deputy, and not to the public generally. If a limited service deputy does not provide services to the general public, the scope of the deputy's authority to provide registration renewal services to itself and its members, officers, employees, affiliates, and customers must be defined by the county tax assessor-collector as part of the authorization to act as a limited service deputy.

(e) To be eligible to serve as a limited service deputy, a person must be trained to accept and process registration renewals, as approved by the county tax assessor-collector, or otherwise be deemed competent by the county tax assessor-collector to perform such services.

(f) To be eligible to serve as a limited service deputy, a person must post a bond payable to the county tax assessor-collector consistent with §217.167 of this title (relating to Bonding Requirements) with the bond conditioned on the person's proper accounting and remittance of the fees the person collects.

(g) A person applying to be a limited service deputy must complete the application process as specified by the county tax assessor-collector. The application process may include satisfaction of any bonding requirements and completion of any additional required documentation or training of the deputy before the processing of any registration renewals may occur.

(h) If a limited service deputy offers services to the general public, the deputy must provide the physical address at which services will be offered, the mailing address, the phone number, and the hours of service. This information may be published on the department's website and may be published by the county if the county publishes a list of deputy locations.

(i) A limited service deputy shall keep a separate accounting of the fees collected and remitted to the county, and a record of daily receipts.

(j) A limited service deputy may retain fees consistent with the provisions of §217.168 of this title (relating to Deputy Fee Amounts).

§217.165. Inspection Deputies.

(a) A county tax assessor-collector, with the approval of the commissioners court of the county, may deputize a person to act as an inspection deputy. An inspection deputy must meet all of the requirements of a limited service deputy, as outlined in §217.164 of this title (relating to Limited Service Deputies), and additional requirements as follows:

(1) an inspection deputy must maintain current certification as an inspection station under Transportation Code, Chapter 548, and rules adopted by the Texas Department of Public Safety regarding inspection stations; and

(2) any additional requirements of the county tax assessor-collector.

(b) An inspection deputy is considered a limited service deputy for compensation purposes, and may retain fees consistent with the provisions of §217.168(c)(2) of this title (relating to Deputy Fee Amounts).

§217.166. Dealer Deputies.

(a) A county tax assessor-collector, with the approval of the commissioners court of the county, may deputize a motor vehicle dealer to act as a dealer deputy to provide motor vehicle titling and registration services in the same manner and with the same authority as though done in the office of the county tax assessor-collector, except as limited by this section.

(b) A dealer deputy must hold a valid general distinguishing number (GDN) under Transportation Code, Chapter 503, Subchapter B, and may act as a dealer deputy only for a type of motor vehicle for which the dealer holds a GDN. A dealer may not continue to act as a dealer deputy if the GDN is cancelled or suspended.

(c) A county tax assessor-collector may impose reasonable obligations or requirements upon a dealer deputy in addition to those set forth in this section. The county tax assessor-collector may, at the time of deputation or upon renewal of deputation, impose specified restrictions or limitations on a dealer deputy's authority to provide certain titling or registration services.

(d) Upon the transfer of ownership of motor vehicles purchased, sold or exchanged by the dealer deputy, the dealer deputy may process titling transactions in the same manner and with the same authority as though done in the office of the county tax assessor-collector. The dealer deputy may not otherwise provide titling services to the general public.

(e) Upon the transfer of ownership of a motor vehicle purchased, sold or exchanged by the dealer deputy, the dealer deputy may process initial registration transactions in the same manner and with the same authority as though done in the office of the county tax assessor-collector. The dealer deputy may not otherwise offer initial registration services to the general public.

(f) The county tax assessor-collector may authorize a dealer deputy to provide motor vehicle registration renewal services. A dealer deputy offering registration renewal services must offer such services to the general public, and must accept and process any proper application for registration renewal that the county tax assessor-collector would accept and process.

(g) To be eligible to serve as a dealer deputy, a person must be trained to perform motor vehicle titling and registration services, as approved by the county tax assessor-collector, or otherwise be deemed

competent by the county tax assessor-collector to perform such services.

(h) To be eligible to serve as a dealer deputy, a person must post a bond payable to the county tax assessor-collector consistent with §217.167 of this title (relating to Bonding Requirements) with the bond conditioned on the person's proper accounting and remittance of the fees the person collects.

(i) A person applying to be a dealer deputy must complete the application process as specified by the county tax assessor-collector. The application process may include satisfaction of any bonding requirements and completion of any additional required documentation or training of the deputy before the processing of any title or registration transactions may occur.

(j) If a dealer deputy offers registration renewal services to the general public, the deputy must provide the physical address at which services will be offered, the mailing address, the phone number, and the hours of service. This information may be published on the department's website and may be published by the county if the county publishes a list of deputy locations.

(k) A dealer deputy shall keep a separate accounting of the fees collected and remitted to the county, and a record of daily receipts.

(l) A dealer deputy may charge or retain fees consistent with the provisions of §217.168 of this title (relating to Deputy Fee Amounts).

(m) This section does not prevent a county tax assessor-collector from deputizing a dealer as a full service deputy under §217.163 of this title (relating to Full Service Deputies), a limited service deputy under §217.164 of this title (relating to Limited Service Deputies), or an inspection deputy under §217.165 of this title (relating to Inspection Deputies) instead of a dealer deputy under this section.

§217.167. Bonding Requirements.

(a) A deputy appointed under this subchapter shall post a surety bond payable to the county tax assessor-collector.

(b) A deputy is required to post a single bond for a county in which the deputy performs titling, registration, or registration renewal services, regardless of the number of locations in that county from which that deputy may provide these services.

(c) A full service deputy or dealer deputy must post a bond in an amount between \$100,000 and \$2,000,000, as determined by the county tax assessor-collector.

(d) A limited service deputy or inspection deputy must post a bond in an amount between \$2,500 and \$1,000,000, as determined by the county tax assessor-collector.

(e) A deputy that is an agency or subdivision of a governmental jurisdiction of the State of Texas is not required to post a bond pursuant to this section, unless the county tax assessor-collector determines that a bond should be required in an amount consistent with subsection (d) of this section.

§217.168. Deputy Fee Amounts.

(a) Fees. A county tax assessor-collector may authorize a deputy to charge or retain the fee amounts prescribed by this section according to the type of deputy and transaction type.

(b) Title transactions. For each motor vehicle title transaction processed:

(1) A full service deputy may charge the customer a fee of up to \$15, as determined by the full service deputy and approved by

the tax assessor-collector. The full service deputy retains the entire fee charged to the customer.

(2) A dealer deputy may charge the customer a fee of up to \$15, as determined by the dealer deputy and approved by the tax assessor-collector. The dealer deputy retains the entire fee charged to the customer. This section does not preclude a dealer deputy from charging a documentary fee authorized by Finance Code, §348.006.

(c) Registration and registration renewals. For each registration transaction processed:

(1) A full service deputy may:

(A) retain \$1 from the processing and handling fee established by §217.183 of this title (relating to Fee Amount); and

(B) charge a convenience fee of \$4, except as limited by §217.184 of this title (relating to Exclusions).

(2) A limited service deputy may retain \$1 from the processing and handling fee established by §217.183.

(3) A dealer deputy may retain \$1 from the processing and handling fee established by §217.183. This section does not preclude a dealer deputy from charging a documentary fee authorized by Finance Code, §348.006.

(d) Temporary permit transactions under Transportation Code, §502.094 or §502.095. For each temporary permit transaction processed by a full service deputy, the full service deputy may retain the entire processing and handling fee established by §217.183.

(e) Full service deputy convenience fee. The convenience fee authorized by this section is collected by the full service deputy directly from the customer and is in addition to the processing and handling fee established by §217.183. A full service deputy may not charge any additional fee for a registration or registration renewal transaction.

(f) Related transactions by a full service deputy. The limitations of subsections (b), (c), (d), and (e) of this section do not apply to other services that a full service deputy may perform that are related to titles or registrations, but are not transactions that must be performed through the department's automated vehicle registration and title system. Services that are not transactions performed through the department's automated vehicle registration and title system include, but are not limited to, the additional fees a full service deputy may charge for copying, faxing, or transporting documents required to obtain or correct a motor vehicle title or registration. However, the additional fees that a full service deputy may charge for these other services may be limited by the terms of the county tax assessor-collector's authorization to act as deputy.

(g) Posting of fees. At each location where a full service deputy provides titling or registration services, the deputy must prominently post a list stating all fees charged for each service related to titling or registration. The fee list must specifically state each service, including the additional fee charged for that service, that is subject to subsections (b), (c), (d), or (e) of this section. The fee list must also state that each service subject to an additional fee under subsection (b), (c), (d), or (e) of this section may be obtained from the county tax assessor-collector without the additional fee. If the full service deputy maintains a website advertising or offering titling or registration services, the deputy must post the fee list described by this subsection on the website.

(h) Additional compensation. The fee amounts set forth in this section do not preclude or limit the ability of a county to provide additional compensation to a deputy out of county funds.

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



SUBCHAPTER J. PERFORMANCE QUALITY RECOGNITION PROGRAM

43 TAC §§217.201 - 217.207

The Texas Department of Motor Vehicles (department) proposes new Subchapter J, Performance Quality Recognition Program: §217.201, Purpose and Scope; §217.202, Definitions; §217.203, Recognition Criteria; §217.204, Applications; §217.205, Department Decision to Award, Deny, Revoke, or Demote a Recognition Level; §217.206, Term of Recognition Level; and §217.207, Review Process.

EXPLANATION OF PROPOSED NEW SUBCHAPTER

Transportation Code, §520.004 requires the department to establish standards for uniformity and service quality for county tax assessor-collectors regarding vehicle titles and registration. The proposed new Subchapter J prescribes the procedures and general criteria the department will use to establish and administer a voluntary program called the Performance Quality Recognition Program (Recognition Program).

The department will use the Recognition Program to recognize county tax assessor-collectors and their offices for outstanding performance and efficiency in processing title and registration transactions. The recognition criteria contain the standards for uniformity and service quality, such as processing transactions in a timely fashion and consistently applying statutes, rules, and policies governing motor vehicle transactions.

Proposed new §217.203, Recognition Criteria, states the department will establish criteria for multiple levels of recognition for performance. Proposed new §217.206, Term of Recognition Level, establishes the length or term for a recognition level, including triggers that will cause the recognition level to terminate or expire.

FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the new subchapter as proposed is in effect, there will be no major fiscal implications for state or local governments as a result of administering the proposed new subchapter. To the extent the administration of the proposed new subchapter causes county tax assessor-collectors to timely remit registration fee collections, motor sales tax, and penalties to the state, there may be a minor positive fiscal impact for the state; however, the deadlines for these remittances are provided by statute, rather than the proposed new subchapter. Since the program is voluntary, the proposed new Subchapter J will not cause a negative fiscal impact to the counties.