

Tim Rutland
Executive Director
Texas Commission on Fire Protection
Effective date: January 1, 2017
Proposal publication date: June 3, 2016
For further information, please call: (512) 936-3812



CHAPTER 451. FIRE OFFICER

The Texas Commission on Fire Protection (the commission) adopts new sections to Chapter 451, Fire Officer, Subchapter C, Minimum Standards For Fire Officer III, §451.307, International Fire Service Accreditation Congress (IFSAC) Seal; and Subchapter D, Minimum Standards For Fire Officer IV, §451.407, International Fire Service Accreditation Congress (IFSAC) Seal. The new sections are adopted with changes to the text as proposed in the June 3, 2016, *Texas Register* (41 TexReg 3991). The changes from the proposed text consists of added language requiring an individual to have a current examination on file in order to qualify for an IFSAC seal and to submit an application for that seal prior to the expiration of their examination.

The proposal is adopted to add language and new requirements for the issuance of IFSAC seals for Fire Officer III and Fire Officer IV.

The adopted new sections will assure that individuals seeking to acquire IFSAC seals are in compliance with the requirements of the International Fire Service Accreditation Congress.

No comments from the public were received regarding the adoption of the new sections.

SUBCHAPTER C. MINIMUM STANDARDS FOR FIRE OFFICER III

37 TAC §451.307

The new section is adopted under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to adopt rules for the administration of its powers and duties; and §419.032, which allows the commission to establish qualifications for certifying individuals as fire protection personnel.

§451.307. International Fire Service Accreditation Congress (IFSAC) Seal.

(a) Individuals holding a current commission Fire Officer III certification that was issued from a commission examination and received prior to September 1, 2016, may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Fire Officer III by making application to the commission for the IFSAC seal and paying applicable fees. This subsection will expire on August 31, 2017.

(b) Individuals completing a commission approved Fire Officer III program; documenting IFSAC seals for Fire Fighter II, Instructor II and Fire Officer II; and passing the applicable state examination, may be granted an IFSAC seal as a Fire Officer III by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 20, 2016.

TRD-201603599
Tim Rutland
Executive Director
Texas Commission on Fire Protection
Effective date: August 9, 2016
Proposal publication date: June 3, 2016
For further information, please call: (512) 936-3812



SUBCHAPTER D. MINIMUM STANDARDS FOR FIRE OFFICER IV

37 TAC §451.407

The new section is adopted under Texas Government Code, Chapter 419, §419.008, which provides the commission the authority to adopt rules for the administration of its powers and duties; and §419.032, which allows the commission to establish qualifications for certifying individuals as fire protection personnel.

§451.407. International Fire Service Accreditation Congress (IFSAC) Seal.

(a) Individuals holding a current commission Fire Officer IV certification that was issued from a commission examination and received prior to September 1, 2016, may be granted an International Fire Service Accreditation Congress (IFSAC) seal as a Fire Officer IV by making application to the commission for the IFSAC seal and paying applicable fees. This subsection will expire on August 31, 2017.

(b) Individuals completing a commission approved Fire Officer IV program; documenting IFSAC seals for Fire Fighter II, Instructor II and Fire Officer III; and passing the applicable state examination, may be granted an IFSAC seal as a Fire Officer IV by making application to the commission for the IFSAC seal and paying applicable fees. In order to qualify for an IFSAC seal, an individual must submit the application for the seal prior to the expiration of the examination.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 20, 2016.

TRD-201603600
Tim Rutland
Executive Director
Texas Commission on Fire Protection
Effective date: August 9, 2016
Proposal publication date: June 3, 2016
For further information, please call: (512) 936-3812



TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 217. VEHICLE TITLES AND REGISTRATION

The Texas Department of Motor Vehicles (department) adopts amendments to Chapter 217, Subchapter A, §217.2, Defini-

tions; §217.3, Motor Vehicle Titles; §217.4, Initial Application for Title; §217.5, Evidence of Motor Vehicle Ownership; §217.7, Replacement of Title; Subchapter B, §217.26, Identification Required; §217.33, Commercial Farm Motor Vehicles, Farm Trailers, and Farm Semitrailers; §217.40, Special Registration Permits; §217.43, Military Specialty License Plates; §217.45, Specialty License Plates, Symbols, Tabs, and Other Devices; §217.46, Commercial Vehicle Registration; §217.54, Registration of Fleet Vehicles; §217.55, Exempt and Alias Vehicle Registration; Subchapter D, §217.88, Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle; and Subchapter F, §217.123, Access to Motor Vehicle Records. The amendments to §§217.3, 217.33, 217.40, 217.43, 217.45, 217.46, and 217.54 are adopted without changes to the proposed text as published in the April 22, 2016, issue of the *Texas Register* (41 TexReg 2895) and will not be republished. The amendments to §§217.2, 217.4, 217.5, 217.7, 217.26, 217.55, 217.88, and 217.123 are adopted with changes to the proposed text and will be republished. Changes in the adopted amendments respond to public comments or otherwise reflect nonsubstantive variations from the proposed amendments.

Several bills from the 84th Legislature, Regular Session, 2015, amended sections of the Transportation Code. Because of these statutory changes, several rules required amendment to maintain consistency with the amended statutes. Amendments throughout Chapter 217, Subchapters A, B, D, and F reflect the statutory changes and correct statutory citations; delete unnecessary language, including language that repeats statute; and update and clarify various requirements and procedures.

COMMENT

The following individuals or entities furnished written comments opposed to the proposed amendment to §217.4 prescribing requirements applicable to "even trade" title transactions: Linda Bridge, Bee County Tax Assessor-Collector (TAC); Sharon Long, Bell County TAC; Ro'Vin Garrett, Brazoria County TAC; Jackie Moore, Carson County TAC; Becky Watson Fant, Cass County TAC; Cathy C. Talcott, Comal County TAC; Michelle French, Denton County TAC; Gaye Whitehead, Gray County TAC; Bruce Stidham, Grayson County TAC; Linda Cummings, Hansford County TAC; Debra L. Ford, Hemphill County TAC; Mary Ann Lovelady, Jones County TAC; Deborah A. Sevcik, Lavaca County TAC; Ronnie Keister, Lubbock County TAC; Karen M. Lane, Madison County TAC; Randy Riggs, McLennan County TAC; Karen Hood, Midland County TAC; Tammy McRae, Montgomery County TAC; Nikki McDonald, Moore County TAC; Gail Smith, Navarro County TAC; Linda Brown, Oldham County TAC; Sherri Aylor, Potter County TAC; Tonya Martin, Red River County TAC; Ida M. Turner, Refugio County TAC; Dalia Sanchez, San Patricio County TAC; Patrick L. Kubala, Wharton County TAC; Deborah M. Hunt, Williamson County TAC; Monte S. Shaw, Wise County TAC; and Thelma "Midget" Sherman, President, Tax Assessor-Collectors Association of Texas (TACA).

The TACs for Bee, Brazoria, Grayson, Hemphill, Hansford, Madison, Red River, San Patricio, Wharton, and Williamson Counties, and TACA commented that the amendment was too onerous, too burdensome a process for the public, and would create a hardship for individuals wishing to conduct an "even trade."

RESPONSE

While the proposed amendment related to even trade transactions may create a more onerous or burdensome process for the

public, the department does not agree that this is a compelling reason not to adopt the amendment. Even trade transactions are more susceptible to fraud since no sales taxes are paid. The proposed rules had the potential to more effectively deter fraudulent actors from committing a crime.

COMMENT

The TACs for Bee, Bell, Brazoria, Denton, Potter, San Patricio, Wharton, and Wise Counties and TACA commented that the amendment did not provide any guidance for motor vehicle dealers.

RESPONSE

The department disagrees that guidance is necessary for motor vehicle dealers. Dealers are expressly authorized to deduct the trade-in value of a vehicle from the purchase price for the purposes of calculating sales tax owed. If a dealer accepts a vehicle as a trade-in for a new or used motor vehicle, a sale has still occurred, and consideration has passed from the buyer to the dealer for that vehicle. An "even trade," as defined by proposed amended §217.2, is a "transaction involving the even exchange of two automobiles with comparable standard presumptive value."

COMMENT

The TACs for Bee, Bell, Brazoria, Carson, Cass, Gray, Jones, Madison, Moore, Oldham, Potter, Red River, Refugio, San Patricio and Wharton Counties, and TACA commented that the proposed amendment could be a violation of the Health Insurance Portability and Accountability Act (HIPAA).

RESPONSE

HIPAA protects individuals' identifiable health information held by covered entities and their business associates (called "protected health information" or "PHI"). Covered entities under HIPAA are health care clearinghouses, health plans, and most health care providers. Business associates generally are persons or entities that perform functions or activities on behalf of, or provide certain services to, a covered entity that involve access to PHI. See generally <http://www.hhs.gov/hipaa/for-professionals/privacy/guidance/index.html>. As such, the department disagrees that a TAC is a covered entity or a business associate under HIPAA and disagrees that a TAC is covered by the HIPAA privacy rule.

COMMENT

The Jones County TAC also commented that the amendment would be a violation of privacy.

RESPONSE

The department would point out that the proposed amendment does not require detailed medical information, but rather documentation from the applicant's physician attesting that the applicant is unable to be physically present.

COMMENT

The TACs from Bee, Bell, Brazoria, Cass, Comal, Denton, Hansford, Lavaca, Madison, Montgomery, Refugio, San Patricio, Wharton and Williamson County suggested that instead of adopting the amendments for an even trade transaction, the process should be similar to the "gift affidavit" process.

RESPONSE

The department notes that the "gift affidavit" statement is specifically authorized by Tax Code, §152.062(b-2) and is applicable only to the transfer of ownership of a motor vehicle as the result of a gift. As such, the "gift affidavit" may not be used for an even trade.

COMMENT

The TACs from Bee, Bell, Brazoria, Carson, Cass, Denton, Gray, Hansford, Hemphill, Lavaca, Lubbock, McLennan, Midland, Montgomery, Moore, Navarro, Potter, Red River, Wharton, Williamson, and Wise Counties and TACA commented that the proposed amendment is a sales tax issue, and that the Comptroller of the State of Texas should be consulted.

RESPONSE

The department responds that while the issue does relate to the proper payment of sales tax, it involves the transfer of ownership of motor vehicles, and, as such, is within the department's statutory authority to "adopt rules to administer the Certificate of Title Act, Chapter 501 of the Texas Transportation Code." See Transportation Code, §501.0041.

Despite the above responses to comments, the department has determined that the proposed definition for "even trade" and the requirements applicable to an even trade transaction will not be added to Chapter 217, Subtitle A, at this time. The department intends to either propose a similar rule in the future, or pursue other avenues for addressing the risks associated with even trade transactions. As such, proposed amendments to §217.2 and §217.4 related to even trade transactions will not be adopted.

COMMENT

Insurance Auto Auctions (IAA) commented on §217.88, Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle, recommending that the section be further amended to comply with Transportation Code, §501.095 by eliminating the limitations on sales by insurance companies, including a reference to electronic titling, and including out-of-state documents.

RESPONSE

Having reviewed the comment and Transportation Code, §501.095, the department agrees that the rule and statute are not consistent, and amended the rule to align with the language of the Transportation Code.

Lastly, proposed amendments to §217.5, Evidence of Motor Vehicle Ownership; §217.7, Replacement of Title; §217.26, Identification Required; and §217.123, Access to Motor Vehicle Records, added a concealed handgun license issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H as an acceptable form of identification to support an application for a title, replacement title, initial registration, or a request for personal information. House Bill 910, 84th Legislature, Regular Session, 2015, amended Government Code, Chapter 411, Subchapter H, to change the term "concealed handgun license" to "license to carry a handgun" in most sections. To maintain consistency with statute, the department is adding "license to carry a handgun" to the proposed rule text, in addition to "concealed handgun license." This change is nonsubstantive and made only to align with the Government Code.

SUBCHAPTER A. MOTOR VEHICLE TITLES

43 TAC §§217.2 - 217.5, 217.7

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) 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 Chapter 501, Certificate of Title Act; Transportation Code, §502.0021, which provides the department may adopt rules to administer Chapter 502, Registration of Vehicles; and Transportation Code, §504.0011, which provides the department may adopt rules to implement and administer Chapter 504, License Plates. More specifically, amendments are also adopted under Transportation Code, §501.0235, which provides the department may require an applicant for a title to provide current personal identification as determined by department rule.

CROSS REFERENCE TO STATUTE

Transportation Code, §§501.022, 501.023, 502.095, 502.453, 502.456, and 504.202.

§217.2. Definitions.

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

(1) **Alias**--The name of a vehicle owner reflected on a title, when the name on the title is different from the name of the legal owner of the vehicle.

(2) **Alias title**--A title document issued by the department for a vehicle that is used by an exempt law enforcement agency in covert criminal investigations.

(3) **Bond release letter**--Written notification from the United States Department of Transportation authorizing United States Customs to release the bond posted for a motor vehicle imported into the United States to ensure compliance with federal motor vehicle safety standards.

(4) **Title application**--A form prescribed by the division director that reflects the information required by the department to create a motor vehicle title record.

(5) **Date of sale**--The date of the transfer of possession of a specific vehicle from a seller to a purchaser.

(6) **Division director**--The director of the department's Vehicle Titles and Registration Division.

(7) **Executive administrator**--The director of a federal agency, the director of a Texas state agency, the sheriff of a Texas county, or the chief of police of a Texas city who by law possesses the authority to conduct covert criminal investigations.

(8) **Exempt agency**--A governmental body exempt by law from paying title or registration fees for motor vehicles.

(9) **Federal motor vehicle safety standards**--Motor vehicle safety requirements promulgated by the United States Department of Transportation, National Highway Traffic Safety Administration, set forth in Title 49, Code of Federal Regulations.

(10) **House moving dolly**--An apparatus consisting of metal beams and axles used to move houses. House moving dollies, by nature of their construction and use, actually form large semitrailers.

(11) Identification certificate--A form issued by an inspector of an authorized safety inspection station in accordance with Transportation Code, Chapter 548.

(12) Implements of husbandry--Farm implements, machinery, and tools used in tilling the soil, including self-propelled machinery specifically designed or especially adapted for applying plant food materials or agricultural chemicals. This term does not include an implement unless it is designed or adapted for the sole purpose of transporting farm materials or chemicals. This term does not include any passenger car or truck. This term does include a towed vehicle that transports to the field and spreads fertilizer or agricultural chemicals; or a motor vehicle designed and adapted to deliver feed to livestock.

(13) Manufacturer's certificate of origin--A form prescribed by the department showing the original transfer of a new motor vehicle from the manufacturer to the original purchaser, whether importer, distributor, dealer, or owner, and when presented with an application for title, showing, on appropriate forms prescribed by the department, each subsequent transfer between distributor and dealer, dealer and dealer, and dealer and owner.

(14) Moped--A motor driven cycle whose attainable speed is not more than 30 miles per hour and that is equipped with a motor that produces not more than two-brake horsepower. If an internal combustion engine is used, the piston displacement may not exceed 50 cubic centimeters and the power drive system may not require the operator to shift gears.

(15) Motor vehicle importation form--A declaration form prescribed by the United States Department of Transportation and certified by United States Customs that relates to any motor vehicle being brought into the United States and the motor vehicle's compliance with federal motor vehicle safety standards.

(16) Non United States standard motor vehicle--A motor vehicle not manufactured in compliance with federal motor vehicle safety standards.

(17) Obligor--An individual who is required to make payments under the terms of a support order for a child.

(18) Person--An individual, firm, corporation, company, partnership, or other entity.

(19) Safety certification label--A label placed on a motor vehicle by a manufacturer certifying that the motor vehicle complies with all federal motor vehicle safety standards.

(20) Statement of fact--A written declaration that supports an application for a title, that is executed by an involved party to a transaction involving a motor vehicle, and that clarifies an error made on a title or other negotiable evidence of ownership. An involved party is the seller or an agent of the seller involved in the motor vehicle transaction. When a written declaration is necessary to correct an odometer disclosure error, the signatures of both the seller and buyer when the error occurred are required.

(21) Verifiable proof--Additional documentation required of a vehicle owner, lienholder, or agent executing an application for a certified copy of a title.

(A) Individual applicant. If the applicant is an individual, verifiable proof consists of a copy of a current photo identification issued by this state or by the United States or foreign passport.

(B) Business applicant. If the applicant is a business, verifiable proof consists of an original or copy of a letter of signature authority on letterhead, a business card, or employee identification and

a copy of current photo identification issued by this state or by the United States or foreign passport.

(C) Power of attorney. If the applicant is a person in whose favor a power of attorney has been executed by the owner or lienholder, verifiable proof consists of the documentation required under subparagraph (A) or (B) of this paragraph both for the owner or lienholder and for the person in whose favor the power of attorney is executed.

§217.4. *Initial Application for Title.*

(a) Time for application. A person must apply for the title not later than the 30th day after the date of assignment, except:

(1) in a seller-financed sale, the title must be applied for not later than the 45th day after the date the motor vehicle is delivered to the purchaser;

(2) a member of the armed forces or a member of a reserve component of the United States, a member of the Texas National Guard or of the National Guard of another state serving on active duty, must apply not later than the 60th day after the date of assignment of ownership; or

(3) as otherwise provided by Transportation Code, Chapter 501.

(b) Place of application. When motor vehicle ownership is transferred, a title application must be filed with the county tax assessor-collector in the county in which the applicant resides or in the county in which the motor vehicle was purchased or encumbered, as selected by the applicant, except:

(1) as provided by Transportation Code, Chapters 501 and 502 and by §217.84(a) of this title (relating to Application for Non-repairable or Salvage Vehicle Title);

(2) if a county has been declared a disaster area, the resident may apply at the closest unaffected county if the affected county tax assessor-collector estimates the county offices will be inoperable for a protracted period; or

(3) if the county tax assessor-collector office in the county in which the owner resides is closed for more than one week, the resident may apply to the county tax assessor-collector in a county that borders the closed county if the adjacent county agrees to accept the application.

(c) Information to be included on application. An applicant for an initial title must file an application on a form prescribed by the department. The form will at a minimum require the:

(1) motor vehicle description including, but not limited to, the motor vehicle:

- (A) year;
- (B) make;
- (C) identification number;
- (D) body style; and
- (E) empty weight;

(2) license plate number, if the motor vehicle is subject to registration under Transportation Code, Chapter 502;

(3) odometer reading and brand, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements;

(4) previous owner's legal name and complete mailing address, if available;

(5) legal name as stated on the identification presented and complete address of the applicant;

(6) name and mailing address of any lienholder and the date of lien, if applicable;

(7) signature of the seller of the motor vehicle or the seller's authorized agent and the date the title application was signed; and

(8) signature of the applicant or the applicant's authorized agent and the date the title application was signed.

(d) Accompanying documentation. The title application must be supported by, at a minimum, the following documents:

(1) evidence of vehicle ownership, as described in §217.5 of this title (relating to Evidence of Motor Vehicle Ownership);

(2) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if applicable;

(3) proof of financial responsibility in the applicant's name, as required by Transportation Code, §502.046, unless otherwise exempted by law;

(4) an identification certificate if required by Transportation Code, Chapter 548, and Transportation Code, §501.030, and if the vehicle is being titled and registered, or registered only;

(5) a release of any liens, provided that if any liens are not released, they will be carried forward on the new title application with the following limitations:

(A) A lien recorded on out-of-state evidence as described in §217.5 cannot be carried forward to a Texas title when there is a transfer of ownership, unless a release of lien or authorization from the lienholder is attached; and

(B) A lien recorded on out-of-state evidence as described in §217.5 is not required to be released when there is no transfer of ownership from an out-of-state title and the same lienholder is being recorded on the Texas application as is recorded on the out-of-state title; and

(6) any documents required by §217.9 of this title (relating to Bonded Titles).

§217.5. *Evidence of Motor Vehicle Ownership.*

(a) Evidence of motor vehicle ownership properly assigned to the applicant must accompany the title application. Evidence must include, but is not limited to, the following documents.

(1) New motor vehicles. A manufacturer's certificate of origin assigned by the manufacturer or the manufacturer's representative or distributor to the original purchaser is required for a new motor vehicle that is sold or offered for sale.

(A) The manufacturer's certificate of origin must be in the form prescribed by the department and must contain, at a minimum, the following information:

(i) motor vehicle description including, but not limited to, the motor vehicle year, make, identification number, and body style;

(ii) the empty or shipping weight;

(iii) the gross vehicle weight when the manufacturer's certificate of origin is invoiced to a licensed Texas motor vehicle dealer and is issued for commercial motor vehicles as that term is defined in Transportation Code, Chapter 502;

(iv) a statement identifying a motor vehicle designed by the manufacturer for off-highway use only; and

(v) if the vehicle is a "neighborhood electric vehicle," a statement that the vehicle meets Federal Motor Vehicle Safety Standard 500 (49 C.F.R. §571.500) for low-speed vehicles.

(B) When a motor vehicle manufactured in another country is sold directly to a person other than a manufacturer's representative or distributor, the manufacturer's certificate of origin must be assigned to the purchaser by the seller.

(2) Used motor vehicles. A title issued by the department, a title issued by another state if the motor vehicle was last registered and titled in another state, or other evidence of ownership must be relinquished in support of the title application for any used motor vehicle. A registration receipt is required from a vehicle owner coming from a state that no longer titles vehicles after a certain period of time.

(3) Motor vehicles brought into the United States. An application for title for a motor vehicle last registered or titled in a foreign country must be supported by documents including, but not limited to, the following:

(A) the motor vehicle registration certificate or other verification issued by a foreign country reflecting the name of the applicant as the motor vehicle owner, or reflecting that legal evidence of ownership has been legally assigned to the applicant;

(B) unless the applicant is an active duty member of the U.S. Armed Forces or is from the immediate family of such a member returning to Texas with proof of the active duty status of the family member, verification of the vehicle identification number of the vehicle, on a form prescribed by the department, executed by a member of:

(i) the National Insurance Crime Bureau;

(ii) the Federal Bureau of Investigation; or

(iii) a law enforcement auto theft unit; and

(C) for motor vehicles that are less than 25 years old, proof of compliance with United States Department of Transportation (USDOT) regulations including, but not limited to, the following documents:

(i) the original bond release letter with all attachments advising that the motor vehicle meets federal motor vehicle safety requirements or a letter issued by the USDOT, National Highway Traffic Safety Administration, verifying the issuance of the original bond release letter;

(ii) a legible copy of the motor vehicle importation form validated with an original United States Customs stamp, date, and signature as filed with the USDOT confirming the exemption from the bond release letter required in clause (i) of this subparagraph, or a copy thereof certified by United States Customs;

(iii) a verification of motor vehicle inspection by United States Customs certified on its letterhead and signed by its agent verifying that the motor vehicle complies with USDOT regulations;

(iv) a written confirmation that a physical inspection of the safety certification label has been made by the department and that the motor vehicle meets United States motor vehicle safety standards;

(v) the original bond release letter, verification thereof, or written confirmation from the previous state verifying that a bond release letter issued by the USDOT was relinquished to that jurisdiction, if the non United States standard motor vehicle was last titled or registered in another state for one year or less; or

(vi) verification from the vehicle manufacturer on its letterhead stationery.

(b) Alterations to documentation. An alteration to a registration receipt, title, manufacturer's certificate, or other evidence of ownership constitutes a valid reason for the rejection of any transaction to which altered evidence is attached.

(1) Altered lien information on any surrendered evidence of ownership requires a release from the original lienholder or a statement from the proper authority of the state in which the lien originated. The statement must verify the correct lien information.

(2) A strikeover that leaves any doubt about the legibility of any digit in any document will not be accepted.

(3) A corrected manufacturer's certificate of origin will be required if the manufacturer's certificate of origin contains an:

(A) incomplete or altered vehicle identification number;

(B) alteration or strikeover of the vehicle's model year;

(C) alteration or strikeover to the body style, or omitted body style on the manufacturer's certificate of origin; or

(D) alteration or strikeover to the weight.

(4) A Statement of Fact may be requested to explain errors, corrections, or conditions from which doubt does or could arise concerning the legality of any instrument. A Statement of Fact will be required in all cases:

(A) in which the date of sale on an assignment has been erased or altered in any manner; or

(B) of alteration or erasure on a Dealer's Reassignment of Title.

(c) Rights of survivorship. A signed "rights of survivorship" agreement may be executed by a natural person acting in an individual capacity in accordance with Transportation Code, §501.031.

(d) Identification required.

(1) An application for title is not acceptable unless the applicant presents a current photo identification of the owner containing a unique identification number and expiration date. The identification document must be a:

(A) driver's license or state identification certificate issued by a state or territory of the United States;

(B) United States or foreign passport;

(C) United States military identification card;

(D) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement;

(E) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document; or

(F) concealed handgun license or license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H.

(2) If the motor vehicle is titled in:

(A) more than one name, then the identification of one owner must be presented;

(B) the name of a leasing company, then:

(i) proof of the Federal Employer Identification Number/Employee Identification Number (FEIN/EIN) of the leasing company must be submitted, written on the application, and can be entered into the department's titling system. The number must correspond to the name of the leasing company in which the vehicle is being titled; and

(ii) the leasing company may submit:

(I) a government issued photo identification, required under paragraph (1) of this subsection, of the lessee listed as the registrant; or

(II) a government issued photo identification, required under paragraph (1) of this subsection, of the employee or authorized agent who signed the application for the leasing company, and the employee's or authorized agent's employee identification, letter of authorization written on the lessor's letterhead, or a printed business card. The printed business card, employee identification, or letter of authorization written on the lessor's letterhead must contain the name of the lessor, and the employee's or authorized agent's name must match the name on the government issued photo identification;

(C) the name of a trust, then a government issued photo identification, required under paragraph (1) of this subsection, of a trustee must be presented; or

(D) the name of a business, government entity, or organization, then:

(i) proof of the Federal Employer Identification Number/Employee Identification Number (FEIN/EIN) of the business, government entity, or organization must be submitted, written on the application, and can be entered into the department's titling system. The number must correspond to the name of the business, government entity, or organization in which the vehicle is being titled;

(ii) the employee or authorized agent must present a government issued photo identification, required under paragraph (1) of this subsection; and

(iii) the employee's or authorized agent's employee identification; letter of authorization written on the business', government entity's, or organization's letterhead; or a printed business card. The printed business card, employee identification, or letter of authorization written on the business', government entity's, or organization's letterhead must contain the name of the business, governmental entity, or organization, and the employee's or authorized agent's name must match the name on the government issued photo identification.

(3) In addition to the requirements of paragraphs (1) and (2) of this subsection, if a power of attorney is being used to apply for a title, then the applicant must show:

(A) identification, required under paragraph (1) of this subsection, matching the person named as power of attorney; or

(B) identification, required under paragraph (1) of this subsection, and employee identification or a printed business card or authorization written on the letterhead of the entity named as power of attorney that matches the identification of the employee if the power of attorney names an entity.

(4) Within this subchapter, "current" is defined as not to exceed 12 months after the expiration date, except that a state-issued personal identification certificate issued to a qualifying person is considered current if the identification states that it has no expiration.

(5) Within this subsection, an identification document such as a printed business card, letter of authorization, or power of attorney, may be an original or a photocopy.

(6) A person who holds a general distinguishing number issued under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301 is exempt from submitting to the county tax assessor-collector, but must retain:

(A) the owner's identification, as required under paragraph (1) of this subsection; and

(B) authorization to sign, as required under paragraph (2) of this subsection.

(7) A person who holds a general distinguishing number issued under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, is not required to submit photo identification or authorization for an employee or agent signing a title assignment with a secure power of attorney.

§217.7. *Replacement of Title.*

(a) Lost or destroyed title. If a title is lost or destroyed, the department will issue a certified copy of the title to the owner, the lienholder, or a verified agent of the owner or lienholder in accordance with Transportation Code, Chapter 501, on proper application and payment of the appropriate fee to the department.

(b) Identification required.

(1) An owner or lienholder may not apply for a certified copy of title unless the applicant presents a current photo identification of the owner or lienholder containing a unique identification number and expiration date. The identification document must be a:

(A) driver's license or state identification certificate issued by a state or territory of the United States;

(B) United States or foreign passport;

(C) United States military identification card;

(D) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement;

(E) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document; or

(F) concealed handgun license or license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H.

(2) If the motor vehicle is titled in:

(A) more than one name, then the identification for each owner must be presented;

(B) the name of a leasing company, then the lessor's employee or authorized agent who signed the application for the leasing company must present:

(i) a government issued photo identification, required under paragraph (1) of this subsection; and

(ii) employee identification, letter of authorization written on the lessor's letterhead, or a printed business card. The printed business card, employee identification, or letter of authorization written on the lessor's letterhead must contain the name of the lessor, and the employee's or authorized agent's name must match the name on the government issued photo identification;

(C) the name of a trust, then a government issued photo identification, required under paragraph (1) of this subsection, of a trustee must be presented; or

(D) the name of a business, government entity, or organization, then:

(i) the employee or authorized agent must present a government issued photo identification, required under paragraph (1) of this subsection; and

(ii) the employee's or authorized agent's employee identification; letter of authorization written on the business', government entity's, or organization's letterhead; or a printed business card. The printed business card, employee identification, or letter of authorization written on the business', government entity's, or organization's letterhead must contain the name of the business, governmental entity, or organization, and the employee's or authorized agent's name must match the name on the government issued photo identification.

(3) In addition to the requirements of paragraphs (1) and (2) of this subsection, if a power of attorney is being used to apply for a certified copy of title, then the applicant must show:

(A) identification, required under paragraph (1) of this subsection, matching the person named as power of attorney;

(B) identification, required under paragraph (1) of this subsection, and employee identification or a printed business card or authorization written on the letterhead of the entity named as power of attorney that matches the identification of the employee if the power of attorney names an entity; or

(C) identification, required under paragraph (1) of this subsection, of the owner or lienholder.

(4) Within this subchapter, "current" is defined as within 12 months after the expiration date, except that a state-issued personal identification certificate issued to a qualifying person is considered current if the identification states that it has no expiration.

(5) Within this subsection, an identification document, such as a printed business card, letter of authorization, or power of attorney, may be an original or a photocopy.

(c) Issuance. An application for a certified copy must be properly executed and supported by appropriate verifiable proof of the vehicle owner, lienholder, or agent regardless of whether the application is submitted in person or by mail. A certified copy will not be issued until after the 14th day that the original title was issued.

(d) Denial. If issuance of a certified copy is denied, the applicant may resubmit the request with the required verifiable proof or may pursue the privileges available in accordance with Transportation Code, §501.052 and §501.053.

(e) Additional copies. An additional certified copy will not be issued until 30 days after issuance of the previous certified copy.

(f) Fees. The fee for obtaining a certified copy of a title is \$2 if the application is submitted to the department by mail and \$5.45 if the application is submitted in person for expedited processing at one of the department's regional offices.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 19, 2016.

TRD-201603562

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Effective date: August 8, 2016

Proposal publication date: April 22, 2016

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

◆ ◆ ◆

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

**43 TAC §§217.26, 217.33, 217.40, 217.43, 217.45, 217.46,
217.54, 217.55**

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) 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 Chapter 501, Certificate of Title Act; Transportation Code, §502.0021, which provides the department may adopt rules to administer Chapter 502, Registration of Vehicles; and Transportation Code, §504.0011, which provides the department may adopt rules to implement and administer Chapter 504, License Plates. More specifically, amendments are also adopted under Transportation Code, §501.0235, which provides the department may require an applicant for a title to provide current personal identification as determined by department rule.

CROSS REFERENCE TO STATUTE

Transportation Code, §§501.022, 501.023, 502.095, 502.453, 502.456, and 504.202.

§217.26. *Identification Required.*

(a) An application for initial registration is not acceptable unless the applicant presents a current photo identification of the owner containing a unique identification number and expiration date. The identification document must be a:

- (1) driver's license or state identification certificate issued by a state or territory of the United States;
- (2) United States or foreign passport;
- (3) United States military identification card;
- (4) North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement;
- (5) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document; or
- (6) concealed handgun license or license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H.

(b) If the motor vehicle is titled in:

- (1) more than one name, then the identification of one owner must be presented;
- (2) the name of a leasing company, then:
 - (A) proof of the Federal Employer Identification Number/Employee Identification Number (FEIN/EIN) of the leasing company must be submitted, written on the application, and can be entered into the department's titling system. The number must correspond to the name of the leasing company in which the vehicle is being titled; and

(B) the leasing company may submit:

(i) a government issued photo identification, required under this section, of the lessee listed as the registrant; or

(ii) a government issued photo identification, required under this section, of the employee or authorized agent who signed the application for the leasing company, and the employee's or authorized agent's employee identification, letter of authorization written on the lessor's letterhead, or a printed business card. The printed business card, employee identification, or letter of authorization written on the lessor's letterhead must contain the name of the lessor, and the employee's or authorized agent's name must match the name on the government issued photo identification;

(3) the name of a trust, then a government issued photo identification, required under this section, of a trustee must be presented; or

(4) the name of a business, government entity, or organization, then:

(A) proof of the Federal Employer Identification Number/Employee Identification Number (FEIN/EIN) of the business, government entity, or organization must be submitted, written on the application, and can be entered into the department's titling system. The number must correspond to the name of the business, government entity, or organization in which the vehicle is being titled;

(B) the employee or authorized agent must present a government issued photo identification, required under this section; and

(C) the employee's or authorized agent's employee identification; letter of authorization written on the business', government entity's, or organization's letterhead; or a printed business card. The printed business card, employee identification, or letter of authorization written on the business', government entity's, or organization's letterhead must contain the name of the business, governmental entity, or organization, and the employee's or authorized agent's name must match the name on the government issued photo identification.

(c) Within this section, "current" is defined as not to exceed 12 months after the expiration date, except that a state-issued personal identification certificate issued to a qualifying person is considered current if the identification states that it has no expiration.

(d) Within this section, an identification document such as a printed business card, letter of authorization, or power of attorney, may be an original or photocopy.

(e) A person who holds a general distinguishing number issued under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, is exempt from submitting to the county tax assessor-collector, but must retain:

(1) the owner's identification, as required under this section; and

(2) authorization to sign, as required under this section.

(f) A person who holds a general distinguishing number issued under Transportation Code, Chapter 503 or Occupations Code, Chapter 2301, is not required to submit photo identification or authorization for an employee or agent signing a title assignment with a secure power of attorney.

(g) This section does not apply to non-titled vehicles.

§217.55. *Exempt and Alias Vehicle Registration.*

(a) Exempt plate registration.

(1) Issuance. Pursuant to Transportation Code, §502.453 or §502.456, certain vehicles owned by and used exclusively in the

service of a governmental agency, owned by a commercial transportation company and used exclusively for public school transportation services, designed and used for fire-fighting or owned by a volunteer fire department and used in the conduct of department business, privately owned and used in volunteer county marine law enforcement activities, used by law enforcement under an alias for covert criminal investigations, owned by units of the United States Coast Guard Auxiliary headquartered in Texas and used exclusively for conduct of United States Coast Guard or Coast Guard Auxiliary business and operations, or owned or leased by a non-profit emergency medical service provider is exempt from payment of a registration fee and is eligible for exempt plates.

(2) Application for exempt registration.

(A) Application. An application for exempt plates shall be made to the county tax assessor-collector, shall be made on a form prescribed by the department, and shall contain the following information:

(i) vehicle description;

(ii) name of the exempt agency;

(iii) an affidavit executed by an authorized person stating that the vehicle is owned or under the control of and will be operated by the exempt agency; and

(iv) a certification that each vehicle listed on the application has the name of the exempt agency printed on each side of the vehicle in letters that are at least two inches high or in an emblem that is at least 100 square inches in size and of a color sufficiently different from the body of the vehicle as to be clearly legible from a distance of 100 feet.

(B) Emergency medical service vehicle.

(i) The application for exempt registration must contain the vehicle description, the name of the emergency medical service provider, and a statement signed by an officer of the emergency medical service provider stating that the vehicle is used exclusively as an emergency response vehicle and qualifies for registration under Transportation Code, §502.456.

(ii) A copy of an emergency medical service provider license issued by the Department of State Health Services must accompany the application.

(C) Fire-fighting vehicle. The application for exempt registration of a fire-fighting vehicle or vehicle owned privately by a volunteer fire department and used exclusively in the conduct of department business must contain the vehicle description, including a description of any fire-fighting equipment mounted on the vehicle if the vehicle is a fire-fighting vehicle. The affidavit must be executed by the person who has the proper authority and shall state either:

(i) the vehicle is designed and used exclusively for fire-fighting; or

(ii) the vehicle is owned by a volunteer fire department and is used exclusively in the conduct of its business.

(D) County marine law enforcement vehicle. The application for exempt registration of a privately owned vehicle used by a volunteer exclusively in county marine law enforcement activities, including rescue operations, under the direction of the sheriff's department must include a statement signed by a person having the authority to act for a sheriff's department verifying that fact.

(E) United States Coast Guard Auxiliary vehicle. The application for exempt registration of a vehicle owned by units of the

United States Coast Guard Auxiliary headquartered in Texas and used exclusively for conduct of United States Coast Guard or Coast Guard Auxiliary business and operation, including search and rescue, emergency communications, and disaster operations, must include a statement by a person having authority to act for the United States Coast Guard Auxiliary that the vehicle or trailer is used exclusively in fulfillment of an authorized mission of the United States Coast Guard or Coast Guard Auxiliary, including search and rescue, emergency communications, or disaster operations.

(3) Exception. A vehicle may be exempt from payment of a registration fee, but display license plates other than exempt plates if the vehicle is not registered under subsection (b) of this section.

(A) If the applicant is a law enforcement office, the applicant must present a certification that each vehicle listed on the application will be dedicated to law enforcement activities.

(B) If the applicant is exempt from the inscription requirements under Transportation Code, §721.003, the applicant must present a certification that each vehicle listed on the application is exempt from inscription requirements under Transportation Code, §721.003. The applicant must also provide a citation to the section that exempts the vehicle.

(C) If the applicant is exempt from the inscription requirements under Transportation Code, §721.005 the applicant must present a certification that each vehicle listed on the application is exempt from inscription requirements under Transportation Code, §721.005. The applicant must also provide a copy of the order or ordinance that exempts the vehicle.

(D) If the applicant is exempt from the inscription requirements under Education Code, §51.932, the applicant must present a certification that each vehicle listed on the application is exempt from the inscription requirements under Education Code, §51.932. Exempt plates will be marked with the replacement year.

(b) Affidavit for issuance of exempt registration under an alias.

(1) On receipt of an affidavit for alias exempt registration, approved by the executive administrator of an exempt law enforcement agency, the department will issue alias exempt license plates for a vehicle and register the vehicle under an alias for the law enforcement agency's use in covert criminal investigations.

(2) The affidavit for alias exempt registration must be in a form prescribed by the director and must include the vehicle description, a sworn statement that the vehicle will be used in covert criminal investigations, and the signature of the executive administrator or the executive administrator's designee as provided in paragraph (3) of this subsection. The vehicle registration insignia of any vehicles no longer used in covert criminal investigations shall be surrendered immediately to the department.

(3) The executive administrator, by annually filing an authorization with the director, may appoint a staff designee to execute the affidavit. A new authorization must be filed when a new executive administrator takes office.

(4) The letter of authorization must contain a sworn statement delegating the authority to sign the affidavit to a designee, the name of the designee, and the name and the signature of the executive administrator.

(5) The affidavit for alias exempt registration must be accompanied by a title application under §217.103 of this title (relating to Restitution Liens). The application must contain the information required by the department to create the alias record of vehicle registration and title.

(c) Replacement of exempt registration.

(1) If an exempt plate is lost, stolen, or mutilated, a properly executed application for exempt plates must be submitted to the county tax assessor-collector.

(2) An application for replacement exempt plates must contain the vehicle description, original license number, and the sworn statement that the license plates furnished for the vehicle have been lost, stolen, or mutilated and will not be used on any other vehicle.

(d) Title requirements. Unless exempted by statute, a vehicle must be titled at the time the exempt registration is issued.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 19, 2016.

TRD-201603563

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Effective date: August 8, 2016

Proposal publication date: April 22, 2016

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



SUBCHAPTER D. NON-REPAIRABLE AND SALVAGE MOTOR VEHICLES

43 TAC §217.88

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) 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 Chapter 501, Certificate of Title Act; Transportation Code, §502.0021, which provides the department may adopt rules to administer Chapter 502, Registration of Vehicles; and Transportation Code, §504.0011, which provides the department may adopt rules to implement and administer Chapter 504, License Plates. More specifically, amendments are also adopted under Transportation Code, §501.0235, which provides the department may require an applicant for a title to provide current personal identification as determined by department rule.

CROSS REFERENCE TO STATUTE

Transportation Code, §§501.022, 501.023, 502.095, 502.453, 502.456, and 504.202.

§217.88. Sale, Transfer, or Release of Ownership of a Non-repairable or Salvage Motor Vehicle.

(a) With a non-repairable or salvage motor vehicle title. The ownership of a motor vehicle for which a non-repairable vehicle title, non-repairable record of title, salvage vehicle title, salvage record of title, or a comparable out-of-state ownership document has been issued, including a motor vehicle that has a "Flood Damage" notation on the title, may be sold, transferred, or released to anyone.

(b) Without a non-repairable or salvage motor vehicle title. If a non-repairable vehicle title, non-repairable record of title, salvage

vehicle title, salvage record of title, or a comparable out-of-state ownership document has not been issued for a non-repairable or salvage motor vehicle, only a salvage vehicle dealer, used automotive parts recycler, metal recycler, insurance company, or governmental entity may sell, transfer, or otherwise release ownership of the motor vehicle. Such person may only sell, transfer, or otherwise release ownership of a motor vehicle to which this subsection applies to:

- (1) a salvage vehicle dealer;
- (2) a used automotive parts recycler;
- (3) a metal recycler;
- (4) a governmental entity; or
- (5) an insurance company.

(c) Sale of self-insured non-repairable or salvage motor vehicle. The owner of a self-insured non-repairable or salvage motor vehicle that has been damaged and removed from normal operation shall obtain a non-repairable or salvage vehicle title before selling or otherwise transferring ownership of the motor vehicle.

(d) Casual sales. A salvage vehicle dealer, salvage pool operator, or insurance company may sell up to five non-repairable or salvage motor vehicles, for which non-repairable or salvage vehicle titles have been issued, to a person in a casual sale during a calendar year.

(e) Records of casual sales.

(1) A salvage vehicle dealer, salvage pool operator, or insurance company must maintain records of each casual sale made during the previous 36 months, in accordance with Transportation Code, §501.108, that at a minimum contain:

- (A) the date of sale;
- (B) the sales price;
- (C) the name and address of the purchaser;
- (D) a legible photocopy of the purchaser's government-issued photo identification;
- (E) the form of identification provided, the identification document number, and the name of the jurisdiction that issued the identification document;
- (F) the description of the motor vehicle, including the vehicle identification number, model year, make, body style, and model;
- (G) a photocopy of the front and back of the properly assigned ownership document provided to the purchaser; and
- (H) the purchaser's certification, on a form provided by the department, that the purchase of motor vehicles in a casual sale is not intended to circumvent the provisions of Transportation Code, Chapter 501 (relating to Certificates of Title) and Occupations Code, Chapter 2302 (relating to Salvage Vehicle Dealers).

(2) Records may be maintained on a form provided by the department or in an electronic format.

(3) Records must be maintained on the business premises of the seller, and shall be made available for inspection upon request.

(f) Export-only sales.

(1) In accordance with Transportation Code, §501.099, only a licensed salvage vehicle dealer, including a salvage pool operator acting as agent for an insurance company, or governmental entity may sell a non-repairable or salvage motor vehicle to a person who resides outside the United States, and only:

(A) when a non-repairable or salvage vehicle title has been issued for the motor vehicle prior to offering it for export-only sale; and

(B) prior to the sale, the seller obtains a legible photocopy of a government-issued photo identification of the purchaser that can be verified by law enforcement, issued by the jurisdiction in which the purchaser resides that may consist of:

- (i) a passport;
- (ii) a driver's license;
- (iii) consular identity document;
- (iv) national identification certificate or identity

document; or

(v) other government-issued identification that includes the name of the jurisdiction issuing the document, the purchaser's full name, foreign address, date of birth, photograph, and signature.

(2) The seller must obtain the purchaser's certification, on a form prescribed by the department, that the purchaser will remove the motor vehicle from the United States and will not return the motor vehicle to any state of the United States as a motor vehicle titled or registered under its manufacturer's vehicle identification number.

(3) The seller must provide the buyer with a properly assigned non-repairable or salvage vehicle title.

(4) The seller must stamp FOR EXPORT ONLY and the seller's salvage vehicle dealer license number or the governmental entity's name, whichever applies, on the face of the title and on any unused reassignments on the back of the title.

(g) Records of export-only sales.

(1) A salvage vehicle dealer or governmental entity that sells a non-repairable or salvage motor vehicle for export-only must maintain records of all export-only sales.

(2) Records of each sale must include:

(A) a legible copy of the stamped and properly assigned non-repairable or salvage vehicle title;

(B) the buyer's certified statement required by subsection (f)(2) of this section;

(C) a legible copy of the buyer's photo identification document;

(D) a legible copy of any other documents related to the sale of the motor vehicle; and

(E) a listing of each motor vehicle sold for export-only that states the:

- (i) date of sale;
- (ii) name and address of the seller;
- (iii) name and address of the purchaser;
- (iv) purchaser's identification document number;
- (v) name of the country that issued the identification

document;

(vi) the form of identification provided by the purchaser; and

(vii) description of the motor vehicle that includes the year, make, model, and vehicle identification number of the motor vehicle.

(3) The listing required by paragraph (2)(E) of this subsection must be maintained either on a form provided by the department or in an electronic format approved by the department.

(4) The salvage vehicle dealer or governmental entity shall submit the listing prescribed by paragraph (2)(E) of this subsection to the department within 30 days from the date of sale.

(5) Upon receipt of the listing prescribed by paragraph (2)(E) of this subsection, the department will place an appropriate notation on the motor vehicle record to identify it as a motor vehicle sold for export-only that may not be operated, retitled, or registered in this state.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 19, 2016.

TRD-201603564

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Effective date: August 8, 2016

Proposal publication date: April 22, 2016

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



SUBCHAPTER F. MOTOR VEHICLE RECORD INFORMATION

43 TAC §217.123

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) 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 Chapter 501, Certificate of Title Act; Transportation Code, §502.0021, which provides the department may adopt rules to administer Chapter 502, Registration of Vehicles; and Transportation Code, §504.0011, which provides the department may adopt rules to implement and administer Chapter 504, License Plates. More specifically, amendments are also adopted under Transportation Code, §501.0235, which provides the department may require an applicant for a title to provide current personal identification as determined by department rule.

CROSS REFERENCE TO STATUTE

Transportation Code, §§501.022, 501.023, 502.095, 502.453, 502.456, and 504.202.

§217.123. *Access to Motor Vehicle Records.*

(a) Request for records. A person seeking motor vehicle record information shall submit a written request on the form required by the department. Information will be released in accordance with Title 18 U.S.C. §2721 et seq., Transportation Code, Chapter 730, and

Government Code, §552.130. A completed and properly executed form must include, at a minimum:

- (1) the name and address of the requestor;
- (2) the Texas license number, title or document number, or vehicle identification number of the motor vehicle about which information is requested;
- (3) a photocopy of the requestor's identification;
- (4) a statement that the requested information may only be released if the requestor is the subject of the record, if the requestor has written authorization for release from the subject of the record, or if the intended use is for a permitted use as indicated on the form;
- (5) a certification that the statements made on the form are true and correct; and
- (6) the signature of the requestor.

(b) Identification required. A person may not apply for receipt of personal information unless the person presents current photo identification containing a unique identification number. The identification document must be a:

- (1) driver's license or state identification certificate issued by a state or territory of the United States;
- (2) United States or foreign passport;
- (3) United States military identification card;
- (4) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document; or
- (5) concealed handgun license or license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H.

(c) Electronic access. The department may make motor vehicle record information available under the terms of a written service agreement.

(1) Agreement with business or individuals. The written service agreement with a business or individual must contain:

- (A) the specified purpose of the agreement;
 - (B) an adjustable account, if applicable, in which an initial deposit and minimum balance is maintained in the amount of:
 - (i) \$200 for an on-line access account; or
 - (ii) \$1,000 for a prepaid account for batch purchase of motor vehicle record information;
 - (C) termination and default provisions;
 - (D) service hours for access to motor vehicle records for on-line access;
 - (E) the contractor's signature;
 - (F) a statement that the use of motor vehicle record information obtained by virtue of a service agreement is conditional upon its being used:
 - (i) in accordance with 18 U.S.C. §2721 et seq. and Transportation Code, Chapter 730; and
 - (ii) only for the purposes defined in the agreement;
- and
- (G) the statements required by subsection (a) of this section.

(2) Agreements with governmental agencies.

- (A) The written service agreement with an agency must contain:
- (i) the specified purpose of the agreement;
 - (ii) method of payment;
 - (iii) notification regarding the charges;
 - (iv) a statement that the use of motor vehicle record information obtained by virtue of a service agreement is conditional upon its being used in accordance with 18 U.S.C. §2721 et seq. and Transportation Code, Chapter 730, and only for the purposes defined in the agreement;
 - (v) the statements required by subsection (a) of this section;
 - (vi) the signature of an authorized official; and
 - (vii) an attached statement citing the agency's authority to obtain social security number information, if applicable.

(B) Texas Law Enforcement Telecommunication System access is exempt from the payment of fees.

(d) Ineligibility to receive personal information. The department may prohibit a person, business, or agency from receiving personal information if the department finds a violation of a term or condition of the agreement entered into in accordance with subsection (c) of this section.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on July 19, 2016.

TRD-201603565

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Effective date: August 8, 2016

Proposal publication date: April 22, 2016

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



CHAPTER 217. VEHICLE TITLES AND REGISTRATION

The Texas Department of Motor Vehicles (department) adopts amendments to §217.23, Initial Application for Vehicle Registration; §217.24, Vehicle Last Registered in Another Jurisdiction; §217.29, Vehicle Registration Renewal via Internet; §217.32, Replacement of License Plates, Symbols, Tabs, and Other Devices; §217.52, Marketing of Specialty License Plates through a Private Vendor; §217.53, Removal of License Plates and Registration Insignia upon Sale of Motor Vehicle; and §217.72, Automated Equipment. The department also adopts new Subchapter I, Fees; §217.181, Purpose and Scope; §217.182, Registration Transaction; §217.183, Fee Amount; §217.184, Exclusions; and §217.185, Allocation of Processing and Handling Fee. In addition, the department adopts the repeal of §217.31, License Plate Reissuance Program. The amendments to §217.29 and §217.52, and new §§217.183 - 217.185 are adopted with changes to the proposed text as published in the April 22, 2016, issue of the *Texas Register* (41 TexReg 2920). The amendments