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TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 206. MANAGEMENT

SUBCHAPTER G. ELECTRONIC SIGNATURES

43 TAC §206.131

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 206, Subchapter G, §206.131, Digital Certificates.

EXPLANATION OF PROPOSED AMENDMENTS

House Bill 2739, 84th Legislature, Regular Session, 2015, added Business and Commerce Code, §506.001, which prohibits a person from denying the holder of a Texas concealed handgun license access to goods, services, or facilities because the holder presents a concealed handgun license, instead of a driver's license or other acceptable form of personal identification.

An amendment is proposed to §206.131 to add an unexpired concealed handgun license and a license to carry a handgun issued under Government Code, Chapter 411, Subchapter H, to the list of documents the department may use to verify the identity of an individual regarding a digital certificate.

An amendment modifies §206.131 to be consistent with other department rules which state that a Texas driver's license or identification certificate must not be expired if the individual chooses to use one of these forms of identification. Other amendments renumber some of the subparagraphs and modify the language in §206.131 for internal consistency.

FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the amendments as proposed are in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the amendments.

David D. Duncan, General Counsel, has determined that there will be no anticipated impact on local economies or overall employment as a result of enforcing or administering the amendments as proposed.

PUBLIC BENEFIT AND COST

Mr. Duncan has also determined that for each year of the first five years the amendments are in effect, the public benefit anticipated as a result of enforcing or administering the amendments will be: 1) a rule that complies with Business and Commerce Code, §506.001; 2) a rule that is internally consistent; and 3) a rule that helps to protect the department and the public from potential fraud by requiring a current Texas driver's license or identification certificate to verify an individual's identity before granting a digital certificate. There are no anticipated economic costs for

persons required to comply with the amendments as proposed. There will be no adverse economic effect on small businesses or micro-businesses.

TAKINGS IMPACT ASSESSMENT

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

SUBMITTAL OF COMMENTS

Written comments on the proposed amendments may be submitted to David D. Duncan, General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to rules@txdmv.gov. The deadline for receipt of comments is 5:00 p.m. on February 27, 2017.

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to establish rules to implement the powers and duties of the department under the Transportation Code and other laws of this state.

CROSS REFERENCE TO STATUTE

Business and Commerce Code, §506.001.

§206.131. *Digital Certificates.*

(a) General. This section prescribes the requirements that govern the issuance, use, and revocation of digital certificates issued by the Texas Department of Motor Vehicles (department) for electronic commerce in eligible department programs. The provisions of 1 TAC Chapter 203, Subchapter B govern this section in the event of a conflict between that subchapter and a provision of this section.

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

(1) Business entity--An entity recognized by law through which business is conducted with the department, including a sole proprietorship, partnership, limited liability company, corporation, joint venture, educational institution, governmental agency, or non-profit organization.

(2) Certificate holder--An individual to whom a digital certificate is issued.

(3) Digital certificate--A certificate, as defined by 1 TAC §203.1, issued by the department for purposes of electronic commerce.

(4) Digital signature--Has the same meaning assigned by 1 TAC §203.1.

(5) Division director--The chief administrative officer of a division of the department.

(c) Program authorization. A division director may authorize the use of digital signatures for a particular program based on whether the applicable industries or organizations are using such technology, the frequency of document submission, and the appropriateness for the program. The solicitation documentation for eligible programs will include the information that digital signatures may be used.

(d) Application and issuance of digital certificate.

(1) A request for a digital certificate shall be in writing and shall be signed by the individual authorized by the business entity to request a digital certificate.

(2) The department may request information necessary to verify the identity of the individual requestor or the identity of the individual to whom the certificate is to be issued. [~~business entity that has authorized the request.~~] To verify identity under this paragraph a person shall present:

(A) an unexpired [a] Texas driver's license or identification certificate with a photograph;

(B) an unexpired 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) [~~B~~] an unexpired United States passport;

(D) [~~C~~] a United States citizenship (naturalization) certificate with identifiable photograph;

(E) [~~D~~] an unexpired United States Bureau of Citizenship and Immigration Services document that:

(i) was issued for a period of at least one year;

(ii) is valid for not less than six months from the date it is presented to the department with a completed application; and

(iii) contains verifiable data and an identifiable photograph;

(F) [~~E~~] an unexpired United States military identification card for active duty, reserve, or retired personnel with an identifiable photograph; or

(G) [~~F~~] a foreign passport with a valid or expired visa issued by the United States Department of State with an unexpired United States Bureau of Citizenship and Immigration Services Form I-94:

(i) that was issued for a period of at least one year, is marked valid for a fixed duration, and is valid for not less than six months from the date it is presented to the department with a completed application; or

(ii) that is marked valid for the duration of the person's stay and is accompanied by appropriate documentation.

(3) The department may take actions necessary to confirm that the individual who signed the request is authorized to act on behalf of the business entity, including requiring the individual requestor or the person authorizing the request to personally appear at the department location responsible for the issuing of the certificate.

(4) The department shall issue a digital certificate only to an individual. Information identifying the business entity that authorized the issuance of the certificate may be embedded in the digital certificate.

(e) Refusal to issue a digital certificate. The department shall not issue a digital certificate if the identity of the individual to whom the certificate is to be issued, or the identity of the individual requesting the certificate on behalf of a business entity, cannot be established. The department will not issue a digital certificate if the business entity on whose behalf the request is allegedly being made does not authorize its issuance.

(f) Responsibilities of certificate holder. A certificate holder shall:

(1) maintain the security of the digital certificate;

(2) use the certificate solely for the purpose for which it was issued; and

(3) renew the certificate in a timely manner, if continued use is intended.

(g) Responsibilities of business entity. A business entity is responsible for:

(1) determining what individual may request a certificate for the business entity;

(2) determining to what individual a certificate is to be issued; and

(3) requesting within a reasonable time the revocation of the business entity's certificate if the security of the certificate has been compromised or if the business entity is changing its certificate holder.

(h) Revocation of certificate. The department shall revoke a digital certificate:

(1) upon receipt of a written request for revocation of the business entity's certificate, signed by an individual authorized to act on behalf of the business entity for which it was issued;

(2) for suspension or debarment of the individual or business entity; or

(3) if the department has reason to believe that continued use of the digital certificate would present a security risk.

(i) Use of digital certificate.

(1) A digital signature issued by the department shall only be used for the purpose of digitally signing electronic documents filed with the department. A digital signature is binding on the individual to whom the certificate was issued and the represented business entity, as if the document were signed manually.

(2) The department may use the digital certificate to identify the certificate holder when granting or verifying access to secure computer systems used for electronic commerce.

(j) Forms. The department may prescribe forms to request, modify, or revoke a digital certificate.

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

Filed with the Office of the Secretary of State on January 11, 2017.

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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



CHAPTER 221. SALVAGE VEHICLE DEALERS, SALVAGE POOL OPERATORS AND SALVAGE VEHICLE REBUILDERS

The Texas Department of Motor Vehicles (department) proposes amendments to §221.16, Required Attachments to the License Application; §221.53, Casual Sales; and §221.73, Content of Records.