

(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.

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TRD-201700149

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: February 26, 2017

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.

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 §§221.16, 221.53, and 221.73 to add a 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. Other amendments renumber divisions within the rules, reorganize existing rule language, and improve the grammar within the rules.

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 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 rules that comply with Business and Commerce Code, §506.001. 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.

SUBCHAPTER B. LICENSING

43 TAC §221.16

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) 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; and more specifically, Occupations Code, §2302.051, which requires the board to adopt rules as necessary to administer Chapter 2302; and Occupations Code, §2302.204(1), which requires the board to adopt rules as necessary to regulate casual sales

by salvage vehicle dealers, insurance companies, and salvage pool operators.

CROSS REFERENCE TO STATUTE

Business and Commerce Code, §506.001.

§221.16. *Required Attachments to the License Application.*

(a) If the applicant is a sole proprietor or general partnership, in addition to the information required by §221.15 of this title (relating to Required License Application Information), the applicant must submit a legible copy of one of the following types of identification that is valid and active at the time of application for the sole proprietor and each of the general partners [~~partner's current~~]:

(1) driver's license, Department of Public Safety identification, or state identification certificate issued by a state or territory of the United States;

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

(3) [(2)] United States or foreign passport;

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

(5) [(3)] United States military identification card; or

(6) [(4)] North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement.[: or]

[(5) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State Identification document.]

(b) If the applicant is a limited partnership, limited liability company, or a corporation, the applicant must submit a legible copy of one of the following current types of identification that is valid and active at the time of application for each partner of the limited partnership, each member of the limited liability company, and for each officer of the corporation:

(1) driver's license, Department of Public Safety identification, or state identification certificate issued by a state or territory of the United States;

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

(3) [(2)] United States or foreign passport;

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

(5) [(3)] United States military identification card; or

(6) [(4)] North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement.[: or]

[(5) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State Identification document.]

(c) If the applicant is a corporation, the applicant must submit a copy of the certificate of incorporation issued by the secretary of state or a certificate issued by the jurisdiction where the applicant is incorporated, and a verification that, at the time the application is submitted, all business franchise taxes of the corporation have been paid.

(d) If the applicant is a limited partnership, the applicant must submit a copy of the certificate of partnership issued by the secretary of state or a certificate issued by the jurisdiction where the applicant is formed, and verification that, at the time the application is submitted, all business franchise taxes of the limited partnership have been paid.

(e) Upon request by the department, the applicant shall submit documents demonstrating that the applicant owns the real property on which the business is situated or has a written lease for the property that has a term of not less than the term of the license.

(f) If the applicant is a sole proprietor or general partnership, in addition to the information required by §221.15, the applicant must submit a legible copy of the Assumed Name Certificate (DBA) issued by the county clerk in which the business is located.

(g) If the applicant is a limited partnership, limited liability company, or a corporation, the applicant must submit a legible copy of the Assumed Name Certificate (DBA) as registered with the Texas Secretary of State's office.

(h) If the applicant is a sole proprietor or general partnership, in addition to the information required by §221.15, the applicant must submit a legible copy of the Texas Sales and Use Tax Permit.

(i) If the applicant is a limited partnership, limited liability company, or a corporation, the applicant must submit a legible copy of the Texas Sales and Use Tax Permit.

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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Texas Department of Motor Vehicles
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For further information, please call: (512) 465-5665



SUBCHAPTER C. LICENSED OPERATIONS

43 TAC §221.53

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles (board) 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; and more specifically, Occupations Code, §2302.051, which requires the board to adopt rules as necessary to administer Chapter 2302; and Occupations Code, §2302.204(1), which requires the board to adopt rules as necessary to regulate casual sales by salvage vehicle dealers, insurance companies, and salvage pool operators.

CROSS REFERENCE TO STATUTE

Business and Commerce Code, §506.001.

§221.53. *Casual Sales.*

(a) A license holder may not make more than five (5) casual sales of salvage motor vehicles or non-repairable motor vehicles during a calendar year to the same person.

(b) A license holder must maintain records of each casual sale made during the previous 36 months, as provided by §221.72 of this title (relating to Record Retention). Such records must contain the following information regarding each casual sale:

(1) the complete name, address and phone number of the purchaser;

(2) a copy of one of the following current photo identification documents for the purchaser:

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

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

(C) ~~[(B)]~~ United States or foreign passport;

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

(E) ~~[(C)]~~ United States military identification card; or

(F) ~~[(D)]~~ North Atlantic Treaty Organization identification or identification issued under a Status of Forces Agreement; and ~~[or]~~

~~[(E)] United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State Identification document; and]~~

(3) the year, make, model, color and vehicle identification number for the salvage motor vehicle or non-repairable motor vehicle.

(c) A person who ~~[that]~~ purchases a salvage motor vehicle or a non-repairable motor vehicle through a casual sale may not sell that salvage motor vehicle or non-repairable motor vehicle until the salvage vehicle title, salvage record or title, non-repairable vehicle title or non-repairable record of title, as applicable, is in the person's name.

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
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SUBCHAPTER D. RECORDS

43 TAC §221.73

STATUTORY AUTHORITY

The amendments are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department

of Motor Vehicles (board) 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; and more specifically, Occupations Code, §2302.051, which requires the board to adopt rules as necessary to administer Chapter 2302; and Occupations Code, §2302.204(1), which requires the board to adopt rules as necessary to regulate casual sales by salvage vehicle dealers, insurance companies, and salvage pool operators.

CROSS REFERENCE TO STATUTE

Business and Commerce Code, §506.001.

§221.73. *Content of Records.*

(a) The records of a salvage vehicle dealer for purchases and sales shall include:

(1) the date of purchase of the salvage motor vehicle, or non-repairable motor vehicle;

(2) the name and address of the person who [~~that~~] sold the salvage motor vehicle or non-repairable motor vehicle to the salvage vehicle dealer;

(3) if the person who [~~that~~] sold the salvage motor vehicle or non-repairable motor vehicle to the salvage motor vehicle dealer is not an insurance company or a salvage pool operator, a photocopy of one of the following current photo identification documents of the person who [~~that~~] sold the salvage motor vehicle or non-repairable motor vehicle to the salvage vehicle dealer:

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

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

(C) [~~(B)~~] United States or foreign passport;

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

(E) [~~(C)~~] United States military identification card; or

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

~~[(E) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State Identification document;]~~

(4) a description of the salvage motor vehicle or non-repairable motor vehicle, including the model, year, make, and vehicle identification number, if applicable;

(5) the ownership document number and state of issuance of the salvage motor vehicle or non-repairable motor vehicle ownership document, if applicable;

(6) a copy of the salvage record of title or non-repairable record of title, if applicable, or a copy of the front and back of the ownership document for the salvage motor vehicle or non-repairable motor vehicle;

(7) a copy of the form if the ownership document has been surrendered to the department; and

(8) any evidence indicating that the motor vehicle was scrapped or destroyed.

(b) If the salvage motor vehicle has been rebuilt, repaired, or reconstructed by the salvage vehicle dealer the salvage vehicle dealer's records must also include a form prescribed by the department for "Rebuilt Vehicle Statement," listing all repairs made to the motor vehicle, and, when required to be completed, a form prescribed by the department for "Component Part(s) Bill of Sale."

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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General Counsel

Texas Department of Motor Vehicles

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