

PART III. IMPACT STATEMENTS

Randy Townsend, Chief Financial Officer, has determined that for each year of the first five years the rules will be in effect, the following statements will apply:

There are no additional estimated costs to the state and to local governments expected as a result of enforcing or administering the rules.

There are no estimated cost reductions to the state and to local governments as a result of enforcing or administering the rules.

There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rules.

There are no foreseeable implications relating to costs or revenue of the state or local governments as a result of enforcing or administering the rules.

There are no anticipated economic costs to persons required to comply with the rules.

There is no anticipated adverse economic impact on small businesses, microbusinesses, or rural communities as a result of enforcing or administering the rules.

Based on the analyses required by Texas Government Code §2001.024, the TWC has determined that the requirement to repeal or amend a rule as required by HB 1290 passed by the 85th Legislature (to be codified at Texas Government Code §2001.0045), does not apply to this rulemaking.

Economic Impact Statement and Regulatory Flexibility Analysis

TWC has determined that the proposed rules will not have an adverse economic impact on small businesses or rural communities, as these proposed rules place no requirements on small businesses or rural communities.

Doyle Fuchs, Director of Labor Market and Career Information, has determined that there is no significant negative impact upon employment conditions in the state as a result of the rules.

Paul Carmona, Director of the Regulatory Integrity Division, has determined that for each year of the first five years the rules are in effect, the public benefit anticipated as a result of enforcing the proposed rules will be to better serve Texas workers alleging unpaid wages by offering an electronic option for the submission of claims for such wages under the Act.

PART IV. COORDINATION ACTIVITIES

Comments on the proposed rules may be submitted to TWC Policy Comments, Workforce Policy and Service Delivery, attn: Workforce Editing, 101 East 15th Street, Room 440T, Austin, Texas 78778; faxed to (512) 475-3577; or emailed to TWCPolicyComments@twc.state.tx.us. Comments must be received or postmarked no later than 30 days from the date this proposal is published in the *Texas Register*.

The amendments are proposed under Texas Labor Code §61.002 and §301.0015 which provide TWC with the authority to adopt, amend, or repeal such rules as it deems necessary for the effective administration of TWC services and activities.

The proposed rules affect Texas Labor Code, Chapter 61.

§821.41. *Validity of Claim/Filing and Investigative Procedures.*

(a) A wage claim may be filed in person at an office of the Commission, by mailing the claim to an address designated by the

Commission, [or] by faxing the claim to a fax number designated by the Commission, or by electronic submission by way of web-based submission points identified through the Commission's Internet pages related to filing a wage claim.

(b) A wage claim must be filled out completely, legibly, and sufficiently to identify and allow the Commission to attempt contact with the employer.

§821.42. *Timeliness.*

(a) The Commission shall determine the filing date of a wage claim as the date delivered in person to the Commission, the date faxed to and received by the Commission at a fax number designated by the Commission, the date received by the Commission through electronic submission, or the date of a mailed wage claim based on the following:

(1) The postmark date of a wage claim properly addressed shall establish by a rebuttable presumption, the date upon which the wage claim was filed unless the party opposing this presumption presents evidence to establish some other filing date.

(2) Absent a postmark or evidence establishing some other filing date, the date of receipt by the Commission shall control.

(b) The Commission shall suspend the time limit for filing a wage claim only for those reasons required by law including, but not limited to, bankruptcy stays.

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 August 24, 2017.

TRD-201703307

Patricia Gonzalez

Deputy Director, Workforce Development Division Programs

Texas Workforce Commission

Earliest possible date of adoption: October 8, 2017

For further information, please call: (512) 680-1655



TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 217. VEHICLE TITLES AND REGISTRATION

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 217, Vehicle Titles and Registration, Subchapter A, Motor Vehicle Titles, §217.3, Motor Vehicle Titles, and §217.4, Initial Application for Title; and Subchapter D, Non-repairable and Salvage Motor Vehicles, §217.82, Definitions, and §217.84, Application for Non-repairable or Salvage Vehicle Title.

EXPLANATION OF PROPOSED AMENDMENTS

Amendments are proposed to §217.3 to update the maximum width and length for a travel trailer as authorized by Senate Bill (SB) 2076, 85th Legislature, Regular Session, 2017, which is effective September 1, 2017. An amendment is also proposed to clarify that if a trailer or semitrailer having a gross weight of 4,000 pounds or less has been titled previously, it must be titled by any subsequent owner.

Amendments are proposed to §217.4 to implement a portion of SB 2076 regarding a place of application when motor vehicle ownership is transferred and the county tax assessor-collector's office of the county in which the owner resides is closed or may be closed for a protracted period of time as defined by the department.

Proposed amendments to §217.82(13) amend the definition for nonrepairable motor vehicle to refer to the statutory definition.

Amendments to §217.84(b)(2) implement a portion of SB 2076 regarding the description of a motor vehicle included in an application for a nonrepairable or salvage vehicle title. Amendments to §217.84(b) also delete the paragraph (7) language because the information is no longer necessary in an application for a nonrepairable or salvage vehicle title and renumber the remaining paragraphs accordingly.

Other amendments update the references to "Nonrepairable" motor vehicles to be consistent with statute by deleting the unnecessary hyphen.

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 proposed amendments.

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

PUBLIC BENEFIT AND COST

Mr. Kuntz 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 clarity and consistency in the rules related to titling of trailers, semitrailers, and house trailers; place of application for a title; and application for nonrepairable or salvage vehicle title. 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 October 9, 2017.

SUBCHAPTER A. MOTOR VEHICLE TITLES

43 TAC §217.3, §217.4

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 adopt rules that are necessary and appropriate to implement the powers and the duties of the department under the Transportation Code; and more specifically, Transportation Code, §501.0041, which provides the department may adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 501.

§217.3. Motor Vehicle Titles.

Unless otherwise exempted by law or this chapter, the owner of any motor vehicle that is required to be registered in accordance with Transportation Code, Chapter 502, shall apply for a Texas title in accordance with Transportation Code, Chapter 501.

(1) Motorcycles, motor-driven cycles, autocycles, and mopeds.

(A) The title requirements of a motorcycle, motor-driven cycle, autocycle, and moped are the same requirements prescribed for any motor vehicle.

(B) A vehicle that meets the criteria for a moped and has been certified as a moped by the Department of Public Safety will be registered and titled as a moped. If the vehicle does not appear on the list of certified mopeds published by that agency, the vehicle will be treated as a motorcycle for title and registration purposes.

(2) Farm vehicles.

(A) The term "motor vehicle" does not apply to implements of husbandry, which may not be titled.

(B) Farm tractors owned by agencies exempt from registration fees in accordance with Transportation Code, §502.453, are required to be titled and registered with "Exempt" license plates issued in accordance with Transportation Code, §502.451.

(C) Farm tractors used as road tractors to mow rights of way or used to move commodities over the highway for hire are required to be registered and titled.

(D) Farm semitrailers with a gross weight of more than 4,000 pounds that are registered in accordance with Transportation Code, §502.146, may be issued a Texas title.

(3) Neighborhood electric vehicles. The title requirements of a neighborhood electric vehicle (NEV) are the same requirements prescribed for any motor vehicle.

(4) Trailers, semitrailers, and house trailers. Owners of trailers and semitrailers shall apply for and receive a Texas title for any stand alone (full) trailer, including homemade or shopmade full trailers, or any semitrailer having a gross weight in excess of 4,000 pounds. Owners of trailers and semitrailers having a gross weight of 4,000 pounds or less may apply for and receive a Texas title. If a trailer or semitrailer having a gross weight of 4,000 pounds or less has been titled previously, any subsequent owner shall apply for a Texas title for the trailer or semitrailer. House trailer-type vehicles must meet the criteria outlined in subparagraph (C) of this paragraph to be titled.

(A) The rated carrying capacity will not be less than one-third of its empty weight.

(B) Mobile office trailers, mobile oil field laboratories, and mobile oil field bunkhouses are not designed as dwellings, but are classified as commercial semitrailers and must be registered and titled as commercial semitrailers if operated on the public streets and highways.

(C) House trailer-type vehicles and camper trailers must meet the following criteria in order to be titled.

(i) A house trailer-type vehicle designed for living quarters and that is eight [body] feet six inches or more in width and 45 [40] feet or more in length (not including the hitch), is classified as a manufactured home or mobile home and is not eligible for a Texas title under Transportation Code, Chapter 501.

(ii) A house trailer-type vehicle that is less than eight feet six inches in width or less than 45 [40] feet in length is classified as a travel trailer and shall be registered and titled.

(iii) A camper trailer shall be titled as a house trailer and shall be registered with travel trailer license plates.

(iv) A recreational park model type trailer that is primarily designed as temporary living quarters for recreational, camping or seasonal use, is built on a single chassis, and is 400 square feet or less when measured at the largest horizontal projection when in the set up mode shall be titled as a house trailer and may be issued travel trailer license plates.

(5) Assembled vehicles.

(A) An assembled vehicle is a vehicle assembled from the three basic component parts (motor, frame, and body), except that a motorcycle must have a frame and motor, and a trailer or travel trailer will have no motor, and that is:

(i) assembled from new or used materials and parts by someone not regulated as a motor vehicle manufacturer;

(ii) altered or modified to the extent that it no longer reflects the original manufacturer's configuration; or

(iii) assembled from a kit even if a Manufacturer's Certificate of Origin or Manufacturer's Statement of Origin is provided.

(B) A newly assembled vehicle, for which a title has never been issued in this jurisdiction or any other, may be titled if:

(i) it is assembled and completed with a body, motor, and frame, except that a motorcycle must have a frame and motor, and a trailer or travel trailer will have no motor;

(ii) it is not created from different vehicle classes, (as established by the Federal Highway Administration, except as provided by subparagraph (C) of this paragraph), that were never engineered or manufactured to be combined with one another;

(iii) it has all safety components required by federal law during the year of assembly, unless the vehicle qualifies and is registered as a custom vehicle or street rod in accordance with Transportation Code, §504.501;

(iv) it is not a vehicle described by paragraph (6) of this section;

(v) for a vehicle assembled with a body, motor, and frame, the applicant provides proof, on a form prescribed by the department, of a safety inspection performed by an Automotive Service Excellence (ASE) technician with valid certification as a Certified Master Automobile and Light Truck Technician, certifying that the vehicle:

(I) is structurally stable;

(II) meets the necessary conditions to be operated safely on the roadway; and

(III) is equipped and operational with all equipment required by statute or rule as a condition of sale during the year

the vehicle was assembled unless it is being inspected pursuant to Subchapter G of this chapter;

(vi) for a vehicle assembled with a body, motor, and frame, the applicant submits a copy of the Certified Master Automobile and Light Truck Technician's ASE certification;

(vii) the applicant submits a Rebuilt Vehicle Statement; and

(viii) the applicant submits the following to establish the vehicle's vehicle identification number:

(I) an Application for Assigned or Reassigned Number, and Notice of Assigned Number or Installation of Reassigned Vehicle Identification Number, on forms prescribed by the department; or

(II) acceptable proof, as established by the department, of a vehicle identification number assigned by the manufacturer of the component part by which the vehicle will be identified.

(C) Component parts from the following vehicle classes may be interchanged with one another or used in the creation of an assembled vehicle:

(i) 2-axle, 4-tire passenger cars;

(ii) 2-axle, 4 tire pickups, panels and vans;

(iii) 6-tire dually pickups, of which the rear tires are dual tires.

(D) The ASE inspection for a newly assembled vehicle required under subparagraph (B) of this paragraph is in addition to the inspection required by Transportation Code, Chapter 548, except a vehicle that qualifies and is registered as a custom vehicle or street rod in accordance with Transportation Code, §504.501, is exempt from the inspection required under Transportation Code, Chapter 548, for the duration the vehicle is registered as such.

(E) An assembled vehicle which has previously been titled and/or registered in this or any other jurisdiction is subject to subparagraph (B)(i) - (iv) of this paragraph, but is not subject to subparagraph (B)(v) - (viii); however, it is subject to the inspection required by Transportation Code, Chapter 548, except a vehicle that qualifies and is registered as a custom vehicle or street rod in accordance with Transportation Code, §504.501.

(F) An assembled vehicle will be titled using the year it was assembled as the model year and "ASSEMBLED" or "ASVE" as the make of the vehicle unless the body of the vehicle is established to the department's satisfaction to be an original body from a particular year and make. An assembled vehicle utilizing an original body may be titled by the year and the make of the original body but must reflect a "RECONSTRUCTED" remark. An assembled vehicle not utilizing an original body may obtain a title with a "REPLICA" remark featuring the year and make of the replica if the vehicle resembles a prior model year vehicle. This subparagraph applies regardless of how the vehicle's model year or make was previously identified in this or any other jurisdiction.

(6) Not Eligible for Title. The following are not eligible for a Texas title regardless of the vehicle's previous title and/or registration in this or any other jurisdiction:

(A) vehicles that are missing or are stripped of their motor, frame, or body, to the extent that it materially alters the manufacturer's original design or makes the vehicle unsafe for on-road operation as determined by the department;

(B) vehicles designed or determined by the department to be a dune buggy;

(C) vehicles designed or determined by the department to be for on-track racing, unless such vehicles meet Federal Motor Vehicle Safety Standards (FMVSS) for on-road use and are reported to the National Highway Traffic Safety Administration;

(D) vehicles designed or determined by the department to be for off-road use only, unless specifically defined as a "motor vehicle" in Transportation Code, Chapter 501; or

(E) vehicles assembled, built, constructed, rebuilt, or reconstructed in any manner with:

(i) a body or frame from a vehicle which is a "nonrepairable motor vehicle" as that term is defined in Transportation Code, §501.091(9); or

(ii) a motor or engine from a vehicle which is flood damaged, water damaged, or any other term which may reasonably establish the vehicle from which the motor or engine was obtained is a loss due to a water related event.

§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. Except as otherwise provided by Transportation Code, Chapters 501 and 502, and by §217.84(a) of this title (relating to Application for Nonrepairable or Salvage Vehicle Title), when [When] motor vehicle ownership is transferred, a title application must be filed with:

(1) 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; ~~or;~~ ~~except:~~

(2) the county tax assessor-collector of a county who is willing to accept the application if the county tax assessor-collector's office of the county in which the owner resides is closed for more than one week or if the department is notified that the county tax assessor-collector's office may be closed for more than one week.

~~{(1) as provided by Transportation Code, Chapters 501 and 502 and by §217.84(a) of this title (relating to Application for Nonrepairable 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).

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 August 25, 2017.

TRD-201703335

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

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



SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

43 TAC §217.82, §217.84

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 adopt rules that are necessary and appropriate to implement the powers and the duties of the department under the Transportation Code; and more specifically, Transportation Code, §501.0041, which provides the department may adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 501.

§217.82. Definitions.

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

(1) Casual sale--The sale by a salvage vehicle dealer, insurance company, or salvage pool operator of not more than five nonrepairable [~~non-repairable~~] or salvage motor vehicles to the same person during a calendar year. The term does not include a sale to a salvage vehicle dealer or the sale of an export-only motor vehicle to a person who is not a resident of the United States.

(2) Certificate of title--A written instrument that may be issued solely by and under the authority of the department and that reflects the transferor, transferee, vehicle description, license plate and lien information, and rights of survivorship agreement as specified in Subchapter A of this chapter or as required by the department.

(3) Application for Title--A form prescribed by the director of the department's Vehicle Titles and Registration Division that reflects the information required by the department to create a motor vehicle title record.

(4) Damage--Sudden damage to a motor vehicle caused by the motor vehicle being wrecked, burned, flooded, or stripped of major component parts. The term does not include gradual damage from any cause, sudden damage caused by hail, or any damage caused only to the exterior paint of the motor vehicle.

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

(6) Department--The Texas Department of Motor Vehicles.

(7) Export-only sale--The sale of a nonrepairable [~~non-repairable~~] or salvage motor vehicle, by a salvage vehicle dealer, includ-

ing a salvage pool operator acting as agent for an insurance company, or a governmental entity, to a person who resides outside the United States.

(8) Flood damage--A title remark that is initially indicated on a nonrepairable [~~non-repairable~~] or salvage vehicle title to denote that the damage to the vehicle was caused exclusively by flood and that is carried forward on subsequent title issuance.

(9) Insurance company--A person authorized to write automobile insurance in this state or an out-of-state insurance company that pays a loss claim for a motor vehicle in this state.

(10) 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.

(11) Metal recycler--A person who:

(A) is predominately engaged in the business of obtaining ferrous or nonferrous metal that has served its original economic purpose to convert the metal, or sell the metal for conversion, into raw material products consisting of prepared grades and having an existing or potential economic value;

(B) has a facility to convert ferrous or nonferrous metal into raw material products consisting of prepared grades and having an existing or potential economic value, by a method other than the exclusive use of hand tools, including the processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the metal; and

(C) sells or purchases the ferrous or nonferrous metal solely for use as raw material in the production of new products.

(12) Motor vehicle--A vehicle described by Transportation Code, §501.002(17).

(13) Nonrepairable [~~Non-repairable~~] motor vehicle--A motor vehicle as defined by Transportation Code, §501.091(9),¹ regardless of the year model, that is wrecked, damaged, or burned to the extent that the only residual value of the motor vehicle is as a source of parts or scrap metal, or that comes into this state under a title or other ownership document that indicates that the motor vehicle is non-repairable, junked, or for parts or dismantling only.]

(14) Nonrepairable [~~Non-repairable~~] vehicle title--A document that evidences ownership of a nonrepairable [~~non-repairable~~] motor vehicle.

(15) Out-of-state buyer--A person licensed in an automotive business by another state or jurisdiction if the department has listed the holders of such a license as permitted purchasers of salvage motor vehicles or nonrepairable [~~non-repairable~~] motor vehicles based on substantially similar licensing requirements and on whether salvage vehicle dealers licensed in Texas are permitted to purchase salvage motor vehicles or nonrepairable [~~non-repairable~~] motor vehicles in the other state or jurisdiction.

(16) Out-of-state ownership document--A negotiable document issued by another jurisdiction that the department considers sufficient to prove ownership of a nonrepairable [~~non-repairable~~] or salvage motor vehicle and to support issuance of a comparable Texas certificate of title for the motor vehicle. The term does not include a title issued by the department, including a:

(A) regular certificate of title;

- (B) nonrepairable [~~non-repairable~~] vehicle title;
- (C) salvage vehicle title;
- (D) salvage certificate;
- (E) Certificate of Authority to Demolish a Motor Vehicle; or
- (F) any other ownership document issued by the department.

(17) Person--An individual, partnership, corporation, trust, association, or other private legal entity.

(18) Rebuilt salvage certificate of title--A regular certificate of title evidencing ownership of a nonrepairable [~~non-repairable~~] motor vehicle that was issued a nonrepairable [~~non-repairable~~] vehicle title prior to September 1, 2003, or salvage motor vehicle that has been rebuilt.

(19) Salvage motor vehicle--A motor vehicle, regardless of the year model:

(A) that is:

(i) damaged or is missing a major component part to the extent that the cost of repairs exceeds the actual cash value of the motor vehicle immediately before the damage; or

(ii) damaged and comes into this state under an out-of-state ownership document that states on its face "accident damage," "flood damage," "inoperable," "rebuildable," "salvageable," or similar notation, and is not an out-of-state ownership document with a "rebuilt," "prior salvage," or similar notation, or a nonrepairable [~~non-repairable~~] motor vehicle; and

(B) does not include:

(i) a motor vehicle for which an insurance company has paid a claim for repairing hail damage, or theft, unless the motor vehicle was damaged during the theft and before recovery to the extent that the cost of repair exceeds the actual cash value of the motor vehicle immediately before the damage;

(ii) the cost of materials or labor for repainting the motor vehicle; or

(iii) sales tax on the total cost of repairs.

(20) Salvage vehicle dealer--A person engaged in this state in the business of acquiring, selling, dismantling, repairing, rebuilding, reconstructing, or otherwise dealing in nonrepairable [~~non-repairable~~] motor vehicles or salvage motor vehicles or used parts, including a person who is in the business of a salvage vehicle dealer, regardless of whether the person holds a license issued by the department to engage in the business. The term does not include a person who casually repairs, rebuilds, or reconstructs fewer than three salvage motor vehicles in the same calendar year.

(21) Salvage vehicle title--A document issued by the department that evidences ownership of a salvage motor vehicle.

§217.84. Application for Nonrepairable [~~Non-repairable~~] or Salvage Vehicle Title.

(a) Place of application. The owner of a nonrepairable [~~non-repairable~~] or salvage motor vehicle who is required to obtain or voluntarily chooses to obtain a nonrepairable [~~non-repairable~~] or salvage vehicle title, as provided by §217.83 of this title (relating to Requirement for Non-repairable or Salvage Vehicle Title), shall apply for a nonrepairable [~~non-repairable~~] or salvage vehicle title by submitting an application, the required accompanying documentation, and the statutory fee to the department.

(b) Information on application. An applicant for a nonrepairable [~~non-repairable~~] or salvage vehicle title shall submit an application on a form prescribed by the department. A completed form, in addition to any other information required by the department, must include:

(1) the name and current address of the owner;

(2) a description of the motor vehicle, including the model year, make, body style, and vehicle identification number; [~~motor vehicle's model year, make, model, identification number, body style, manufacturer's rated carrying capacity in tons for commercial vehicles, and empty weight;~~]

(3) a statement describing whether the motor vehicle is a nonrepairable [~~non-repairable~~] or salvage motor vehicle; and

(A) was the subject of a total loss claim paid by an insurance company under Transportation Code, §501.1001 or §501.1002;

(B) is a self-insured motor vehicle under Transportation Code, §501.091;

(C) is an export-only motor vehicle under Transportation Code, §501.099;

(D) was sold, transferred, or released to the owner or former owner of the motor vehicle; or

(E) was sold, transferred, or released to a buyer at casual sale by a salvage vehicle dealer, insurance company, or salvage pool operator;

(4) whether the damage was caused exclusively by flood;

(5) a description of the damage to the motor vehicle;

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

~~{(7) the name, address, and city and state of residence of the previous owner;}~~

(7) ~~{(8)}~~ the name and mailing address of any lienholder and the date of lien, as provided by subsection (e) of this section; and

(8) ~~{(9)}~~ the signature of the applicant or the applicant's authorized agent and the date the certificate of title application was signed.

(c) Accompanying documentation. A nonrepairable [~~non-repairable~~] or salvage vehicle title application must be supported, at a minimum, by:

(1) evidence of ownership, as described by subsection (d)(1) or (3) of this section, if the applicant is an insurance company that is unable to locate one or more of the owners;

(2) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if the motor vehicle is less than 10 model years old and the motor vehicle is a salvage motor vehicle; and

(3) a release of any liens.

(d) Evidence of nonrepairable [~~non-repairable~~] or salvage motor vehicle ownership.

(1) Evidence of nonrepairable [~~non-repairable~~] or salvage motor vehicle ownership properly assigned to the applicant must accompany the application for a nonrepairable [~~non-repairable~~] or salvage vehicle title, except as provided by paragraph (2) of this subsection. Evidence must include documentation sufficient to show own-

ership to the nonrepairable [~~non-repairable~~] or salvage motor vehicle, such as:

- (A) a Texas Certificate of Title;
- (B) a certified copy of a Texas Certificate of Title;
- (C) a manufacturer's certificate of origin;
- (D) a Texas Salvage Certificate;
- (E) a nonrepairable [~~non-repairable~~] vehicle title;
- (F) a salvage vehicle title;

(G) a comparable ownership document issued by another jurisdiction, except that if the applicant is an insurance company, evidence must be provided indicating that the insurance company is:

(i) licensed to do business in Texas; or

(ii) not licensed to do business in Texas, but has paid a loss claim for the motor vehicle in this state; or

(H) a photocopy of the inventory receipt or a title and registration verification evidencing surrender to the department of the negotiable evidence of ownership for a motor vehicle as provided by §217.86 of this title (relating to Dismantling, Scrapping, or Destruction of Motor Vehicles), and if the evidence of ownership surrendered was from another jurisdiction, a photocopy of the front and back of the surrendered evidence of ownership.

(2) An insurance company that acquires ownership or possession of a nonrepairable [~~non-repairable~~] or salvage motor vehicle through payment of a claim may apply for a nonrepairable [~~non-repairable~~] or salvage vehicle title to be issued in the insurance company's name without obtaining an ownership document or if it received an ownership document without the proper assignment of the owner if the company is unable to obtain a title from the owner, in accordance with paragraph (1) of this subsection, and the application is not made earlier than the 30th day after the date of payment of the claim. The application must also include:

(A) a statement that the insurance company has provided at least two written notices to the owner and any lienholder attempting to obtain the title or proper assignment of title for the motor vehicle;

(B) a copy of a document:

(i) indicating that payment has been made, including an electronic check, canceled check, or screen print from the insurance company's database that identifies the type of payment method; and

(ii) reflecting the vehicle identification number, vehicle owner names, name of the person to whom payment was made if different from vehicle owners, payment amount, and date payment was issued; and

(C) any unassigned or improperly assigned title in the insurance company's possession.

(3) An insurance company that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or nonrepairable [~~non-repairable~~] motor vehicle covered by an out-of-state ownership document may obtain a salvage vehicle title or nonrepairable [~~non-repairable~~] vehicle title in accordance with paragraph (1) or (2) of this subsection if:

(A) the motor vehicle was damaged, stolen, or recovered in this state; or

(B) the motor vehicle owner from whom the company acquired ownership resides in this state.

(4) A salvage pool operator may apply for title in the name of the salvage pool operator by providing to the department:

(A) documentation from the insurance company that:

(i) the salvage pool operator, on request of an insurance company, was asked to take possession of the motor vehicle subject to an insurance claim and the insurance company subsequently denied coverage or did not take ownership of the vehicle; and

(ii) the name and address of the owner of the motor vehicle and the lienholder, if any; and

(B) proof that the salvage pool operator, before the 31st day after receiving the information from the insurance company, sent a notice to the owner and any lienholder informing them that:

(i) the motor vehicle must be removed from the location specified in the notice not later than the 30th day after the date the notice is mailed; and

(ii) if the motor vehicle is not removed within the time specified in the notice, the salvage pool operator will sell the motor vehicle and retain from the proceeds any costs actually incurred by the operator in obtaining, handling, and disposing of the motor vehicle, except for charges:

(I) that have been or are subject to being reimbursed by a third party; and

(II) for storage or impoundment of the motor vehicle.

(5) Proof of notice under this subsection consists of:

(A) the validated receipts for registered or certified mail and return receipt or an electronic certified mail receipt, including signature receipt; and

(B) any unopened certified letters returned by the post office as unclaimed, undeliverable, or with no forwarding address.

(e) Recordation of lien on nonrepairable [~~non-repairable~~] and salvage vehicle titles. If the motor vehicle is a salvage motor vehicle, a new lien or a currently recorded lien may be recorded on the salvage vehicle title. If the motor vehicle is a nonrepairable [~~non-repairable~~] motor vehicle, only a currently recorded lien may be recorded on the nonrepairable [~~non-repairable~~] vehicle title.

(f) Issuance. Upon receipt of a completed nonrepairable [~~non-repairable~~] or salvage vehicle title application, accompanied by the statutory application fee and the required documentation, the department will, before the sixth business day after the date of receipt, issue a nonrepairable [~~non-repairable~~] or salvage vehicle title, as appropriate.

(1) If the condition of salvage is caused exclusively by flood, a "Flood Damage" notation will be reflected on the face of the document and will be carried forward upon subsequent title issuance.

(2) If a lien is recorded on a nonrepairable [~~non-repairable~~] or salvage vehicle title, the vehicle title will be mailed to the lienholder. For proof of ownership purposes, the owner will be mailed a receipt or printout of the newly established motor vehicle record, indicating a lien has been recorded.

(3) A nonrepairable [~~non-repairable~~] vehicle title will state on its face that the motor vehicle may:

(A) not be repaired, rebuilt, or reconstructed;

(B) not be issued a regular certificate of title or registered in this state;

- (C) not be operated on a public highway; and
- (D) may only be used as a source for used parts or scrap metal.

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 August 25, 2017.

TRD-201703337

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: October 8, 2017

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



CHAPTER 217. VEHICLE TITLES AND REGISTRATION

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 217, Vehicle Titles and Registration, Subchapter B, Motor Vehicle Registration, §217.45, Specialty License Plates, Symbols, Tabs, and Other Devices; and Subchapter I, Fees, §217.182, Registration Transaction.

EXPLANATION OF PROPOSED AMENDMENTS

Amendments are proposed to §217.45 and §217.182 to implement House Bill 561, 85th Legislature, Regular Session, 2017, which added Transportation Code, §551.452, License Plates for Package Delivery Vehicles, authorizing the department to issue a license plate for a vehicle operated by a motor carrier for the purpose of picking up and delivering mail, parcels, and packages.

The proposed amendments add "Package Delivery" to §217.45(c)(3)(B) to the list of vehicles that are issued one plate.

The proposed amendments add §217.45(k), package delivery vehicle, to establish the procedure and requirements to issue a "Package Delivery" license plate. The proposed amendments include a department fee of \$25 for each plate issued.

The proposed amendments add §217.182(6) to include issuance of a package delivery plate to the list of transactions defined as a registration transaction for purposes of the processing and handling fee.

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 minimal fiscal implications for state or local governments as a result of enforcing or administering the proposed amendments. The department has determined that the fee for a package delivery plate should be \$25, based on the expected demand and the cost of producing the plate.

Jeremiah Kuntz, Director of the Vehicle Titles and Registration Division, has determined that there will be minimal impact on local economies or overall employment as a result of enforcing or administering the proposed amendments.

PUBLIC BENEFIT AND COST

Mr. Kuntz has also determined that for each year of the first five years the amendments are in effect, the public benefit antic-

ipated as a result of enforcing or administering the amendments will be a procedure to issue package delivery license plates. There will be minimal economic costs for persons required to comply with the proposed amendments. The fee for a package delivery license plate will be \$25. In addition, there will be a processing and handling fee of \$4.75. There will be minimal adverse economic effects on small businesses or micro-businesses to the extent they purchase any package delivery license plates.

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 October 9, 2017.

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §217.45

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 adopt rules that are necessary and appropriate to implement the powers and the duties of the department under the Transportation Code; and more specifically, Transportation Code, §504.0011, which authorizes the board to adopt rules to implement and administer Transportation Code, Chapter 504; and Transportation Code, §551.452(b), which requires the department by rule to establish a procedure to issue license plates to be used only for operation in accordance with Transportation Code, Chapter 551, Subchapter G, Package Delivery Vehicles. The amendment to §217.182 is authorized by Transportation Code, §502.1911, which directs the department to collect a fee to cover the expenses of collecting registration fees for issuance of a license plate.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 502, 551, and 663, and §643.001.

§217.45. *Specialty License Plates, Symbols, Tabs, and Other Devices.*

(a) Purpose and Scope. Transportation Code, Chapters 504 and 551 charge the department with providing specialty license plates, symbols, tabs, and other devices. For the department to perform these duties efficiently and effectively, this section prescribes the policies and procedures for the application, issuance, and renewal of specialty license plates, symbols, tabs, and other devices, through the county tax assessor-collectors, and establishes application fees, expiration dates, and registration periods for certain specialty license plates. This section does not apply to military license plates except as provided by §217.43 of this title (relating to Military Specialty License Plates).

(b) Initial application for specialty license plates, symbols, tabs, or other devices.