

adopt the commission's rules under §2161.002, Commission Administration; Comptroller Assistance, as the agency's own rules.

#### CROSS REFERENCE TO STATUTE

Government Code, Chapter 2161.

§210.22. *Program.*

The board of the Texas Department of Motor Vehicles adopts the rules of the Comptroller of Public Accounts relating to the Historically Underutilized Business (HUB) Program at 34 TAC, Part 1, Chapter 20, Subchapter D, Division 1 [B].

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 October 25, 2017.

TRD-201704333

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: December 10, 2017

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



## CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

### SUBCHAPTER G. WARRANTY PERFORMANCE OBLIGATIONS

#### 43 TAC §215.210

The Texas Department of Motor Vehicles (department) proposes amendments to §215.210, Compliance with Order Granting Relief.

#### EXPLANATION OF PROPOSED AMENDMENTS

Amendments are proposed to §215.210 to make it consistent with Occupations Code, §2301.610 and to replace the acronym "OEM" with "original equipment manufacturer" because "OEM" is not defined in Chapter 215.

#### 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.

Corrie Thompson, Interim Director of the Enforcement 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

Ms. Thompson 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 a rule that is consistent with the statute. There are no anticipated economic costs for persons required to comply with the proposed amendments. There will be no adverse economic

effect on small businesses, micro-businesses, or rural communities.

#### 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](mailto:rules@txdmv.gov). The deadline for receipt of comments is 5:00 p.m. on December 11, 2017.

#### 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 adopt rules that are necessary and appropriate to implement the powers and the duties of the department under the Transportation Code and Occupation Code; and more specifically, Occupations Code, §2301.602(b), which requires the board to adopt rules for the enforcement and implementation of Subchapter M, Warranties: Rights of Vehicle Owners.

#### CROSS REFERENCE TO STATUTE

Occupations Code, §2301.610.

§215.210. *Compliance with Order Granting Relief.*

(a) Compliance with an order issued by the final order authority will be monitored by the department.

(b) A complainant is not bound by a final decision and order.

(c) If a complainant does not accept the final decision, the proceeding before the final order authority will be deemed concluded and the complaint file closed.

(d) If the complainant accepts the final decision, then the manufacturer, converter, or distributor, and the dealer to the extent of the dealer's responsibility, if any, shall immediately take such action as is necessary to implement the final decision and order.

(e) If a manufacturer, converter, or distributor replaces or repurchases a motor vehicle pursuant to an order issued by the final order authority, [~~reacquires a vehicle to settle a complaint filed under Occupations Code, §2301.204 or §§2301.601 - 2301.613, or brings a motor vehicle into the State of Texas that has been reacquired to resolve a warranty claim in another jurisdiction,~~] then the manufacturer, converter, or distributor shall, prior to the resale of such motor vehicle, retitle the vehicle in Texas and shall:

(1) issue a disclosure statement on a form provided by or approved by the department; and

(2) affix a department-approved disclosure label in a conspicuous location in or on the motor vehicle.

(f) The disclosure statement and disclosure label required under subsection (e) of this section shall accompany the motor vehicle through the first retail purchase. No person or entity holding a license or GDN issued by the department under Occupations Code, Chapter 2301 or Transportation Code, Chapter 503 shall remove or cause the

removal of the disclosure label until delivery of the motor vehicle to the first retail purchaser.

(g) A manufacturer, converter, or distributor shall provide to the department the name, address, and telephone number of the transferee to whom the manufacturer, distributor, or converter transfers the motor vehicle on the disclosure statement within 60 days of each transfer. The selling dealer shall return the completed disclosure statement to the department within 60 days of the retail sale of a reacquired motor vehicle.

(h) The manufacturer, converter, or distributor must repair the defect or condition in the motor vehicle that resulted in the vehicle being reacquired and issue a basic warranty excluding non-original equipment manufacturer [non-OEM] items or accessories, for a minimum of 12 months or 12,000 miles, whichever comes first. The warranty shall be provided to the first retail purchaser of the motor vehicle.

(i) In the event this section conflicts with the terms contained in a cease and desist order, the terms of the cease and desist order shall prevail.

(j) The failure of any manufacturer, converter, distributor, or dealer to comply with a final order issued by the final order authority within the time period prescribed in the order may subject the manufacturer, converter, distributor, or dealer to formal action by the department, including the assessment of civil penalties or other sanctions prescribed by Occupations Code, Chapter 2301, for the failure to comply with an order issued by the final order authority.

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 October 25, 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 217. VEHICLE TITLES AND REGISTRATION

### SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

#### 43 TAC §217.54

The Texas Department of Motor Vehicles (department) proposes amendments to §217.54, Registration of Fleet Vehicles.

#### EXPLANATION OF PROPOSED AMENDMENTS

Amendments are proposed to §217.54 to implement House Bill 1793, 85th Legislature, Regular Session, which amended Transportation Code, §548.203 to require the payment of an inspection fee, regardless of whether the inspection occurred in Texas. Amendments are also proposed to §217.54 to clarify the situations in which the one-time fee of \$10 per vehicle is due under Transportation Code, §502.0023(c)(1), as amended by Senate Bill 2075, 85th Legislature, Regular Session.

#### 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.

Jimmy Archer, Director of the Motor Carrier 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. Archer 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 a rule that is consistent with the statutes. There are no anticipated economic costs for persons required to comply with the proposed amendments. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

#### 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](mailto:rules@txdmv.gov). The deadline for receipt of comments is 5:00 p.m. on December 11, 2017.

#### 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 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, §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502, Registration of Vehicles.

#### CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 502 and 548.

#### §217.54. Registration of Fleet Vehicles.

(a) Scope. A registrant may consolidate the registration of multiple motor vehicles, including trailers and semitrailers, in a fleet instead of registering each vehicle separately. This section prescribes the policies and procedures for fleet registration.

(b) Eligibility. A fleet must meet the following requirements to be eligible for fleet registration.

- (1) No fewer than 25 vehicles will be registered as a fleet;
- (2) Vehicles may be registered in annual increments for up to eight years;
- (3) All vehicles in a fleet must be owned by or leased to the same business entity;
- (4) All vehicles must be vehicles that are not registered under the International Registration Plan; and