

(C) task illumination;

(D) communication system such as a telephone or intercom to the main staff station of the facility; and

(E) storage for resident records such as a lockable metal cabinet or storage closet.

(7) Two remote exits must be provided in order to meet NFPA 101 [Life Safety Code] requirements.

(8) Corridor control doors, if used for security of the residents, must be similar to smoke doors, that is, be 44 inches in width each leaf, and must swing in opposite directions. A latch or other fastening device on a door must be provided with a knob, handle, panic bar, or other simple type of releasing device, the method of operation of which is obvious, even in darkness.

(9) Locking devices may be used on the control doors provided the following criteria are met.

(A) The building must have a complete sprinkler system and [~~and/or~~] a complete fire alarm system including a corridor smoke detection system or smoke detectors located in each resident bedroom, which are interconnected into the fire alarm system.

(B) The locking device must be electronic and must be released when the following occurs:

(i) activation of the fire alarm or sprinkler systems;

(ii) power failure to the facility; and

(iii) pressing a button located at the main staff station and at the monitoring station.

(C) Key pad or buttons may be located at the control doors for routine use by staff for service.

(D) Upon loss of primary power, the control doors must not automatically reset on emergency power, but must be reset by manual means only. An exception is when the control doors are not in an exit access, they may automatically reset on emergency power. There must be at least two remote exits [~~(~~on each side of the control doors~~)~~] which meet all of the requirements for exits, such as proper width of egress and proper size of exterior doors, according to the NFPA 101. [1985 Life Safety Code.]

(E) Staff must be trained in the methods of releasing the locking device.

(10) The exit doors [~~door(s)~~] may be equipped with a locking device provided one of the following methods is met:

(A) the locking arrangement meets the requirements for Delayed Egress Locking Systems in NFPA 101 [Section 5-2.1.6 of the Life Safety Code], or

(B) the following criteria which have been approved by CMS: [the Health Care Financing Administration (HCFA):]

(i) The building must have a complete fire alarm system including a corridor smoke detection system or smoke detectors located in each resident bedroom and [~~and/or~~] a complete sprinkler system which are interconnected to the fire alarm system.

(ii) The locking device must be electro-magnetic; that is, no type of throw-bolt is to be used.

(iii) The device must release when the following occurs [~~occurs~~(s)]:

(I) activation of the fire alarm or sprinkler system;

(II) power failure to the facility; and

(III) activating a switch located at the main staff station and at the monitoring station.

(iv) Upon loss of primary power, the exit doors [~~door(s)~~] must not automatically reset on emergency power, but must be reset by manual means only.

(v) A manual fire alarm pull must be located within 5'0" of the exit door with a sign stating, "Pull to release door in an emergency."

(vi) A key pad, card, control button, or other electronic device may be located at the exit door for routine use by staff.

(vii) Staff must [~~are to~~] be trained in the methods of releasing the locking device.

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 December 8, 2017.

TRD-201705015

Karen Ray

Chief Counsel

Department of Aging and Disability Services

Earliest possible date of adoption: January 21, 2018

For further information, please call: (512) 438-3334



TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 215. MOTOR VEHICLE DISTRIBUTION

SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

43 TAC §215.144

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 215, Motor Vehicle Distribution, Subchapter E, General Distinguishing Numbers, §215.144, Records.

EXPLANATION OF PROPOSED AMENDMENTS

Proposed amendments add an exception to the general requirement in §215.144(k) that a license holder may maintain records in electronic format. The exception, proposed §215.144(l), requires a license holder utilizing webDEALER to comply with proposed §217.74 (relating to Access to and Use of webDEALER), which includes a requirement that a physical document be retained at least four calendar years from date of submission. The proposed amendment clarifies that original hard copy titles need not be maintained at the licensed location, but must be made available to the department on request.

Proposed amendments also correct a punctuation error in §215.144(d).

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, Director of the Enforcement Division, has determined that there will be no significant 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 amendment will be security in back-up documentation to support transactions processed through webDEALER. 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.

GOVERNMENT GROWTH IMPACT STATEMENT

The department has determined that during the first five years the proposed amendments are in effect, no government program would be created or eliminated. Implementation of the proposed amendments would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. Additionally, the proposed amendments do not create a new regulation, or expand, limit, or repeal an existing regulation. The proposed amendment does not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

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 January 22, 2018.

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; and more specifically, Transportation Code, §501.0041, which authorizes the department to adopt rules to administer Transportation Code, Chapter 501.

CROSS REFERENCE TO STATUTE

Transportation Code, §501.0234.

§215.144. *Records.*

(a) Purchases and sales records. A dealer must maintain a complete record of all vehicle purchases and sales for a minimum pe-

riod of 48 months and make the record available for inspection and copying by a representative of the department during business hours.

(b) Independent mobility motor vehicle dealers. An independent mobility motor vehicle dealer must keep a complete written record of each vehicle purchase, vehicle sale, and any adaptive work performed on each vehicle for a minimum period of 36 months after the date the adaptive work is performed on the vehicle.

(c) Location of records. A dealer's record reflecting purchases and sales for the preceding 13 months must be maintained at the dealer's licensed location. Original titles are not required to be kept at the licensed location, but must be made available to the agency upon reasonable request. A dealer's record for prior time periods may be kept off-site.

(d) Request for records. Within 15 days of receipt of a request sent by mail or electronic document transfer from a representative of the department, a dealer must deliver a copy of the specified records to the address listed in the request. If a dealer has a concern about the origin of a records request, the dealer may verify that request with the division prior to submitting its records.

(e) Content of records. A dealer's complete record for each vehicle purchase or vehicle sale must contain:

- (1) the date of the purchase;
- (2) the date of the sale;
- (3) the VIN;
- (4) the name and address of the person selling the vehicle to the dealer;
- (5) the name and address of the person purchasing the vehicle from the dealer;
- (6) the name and address of the consignor if the vehicle is offered for sale by consignment;
- (7) except for a purchase or sale where the Tax Code does not require payment of motor vehicle sales tax, a copy of the receipt, titled "Tax Collector's Receipt for Texas Title Application/Registration/Motor Vehicle Tax";
- (8) a copy of all documents, forms, and agreements applicable to a particular sale, including a copy of:
 - (A) the title application;
 - (B) the work-up sheet;
 - (C) the front and back of manufacturer's certificate of origin or manufacturer's statement of origin, unless the title is obtained through the electronic title system;
 - (D) the front and back of the title, unless the title is obtained through the electronic title system;
 - (E) the factory invoice;
 - (F) the sales contract;
 - (G) the retail installment agreement;
 - (H) the buyer's order;
 - (I) the bill of sale;
 - (J) any waiver;
 - (K) any other agreement between the seller and purchaser; and

(L) Form VTR-136, relating to County of Title Issuance, completed and signed by the buyer;

(9) the original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for motor vehicles offered for sale by a dealer, and a properly stamped original manufacturer's certificate of origin, original manufacturer's statement of origin, or original title for motor vehicles sold by a dealer if the title transaction is entered into the electronic system by the dealer;

(10) the dealer's monthly Motor Vehicle Seller Financed Sales Returns, if any; and

(11) if the vehicle sold is a motor home or a towable recreational vehicle subject to inspection under Transportation Code, Chapter 548, a copy of the written notice provided to the buyer at the time of the sale, notifying the buyer that the vehicle is subject to inspection requirements.

(f) Title assignments.

(1) For each vehicle a dealer acquires or offers for sale, the dealer must properly take assignment in the dealer's name of any:

- (A) title;
- (B) manufacturer's statement of origin;
- (C) manufacturer's certificate of origin; or
- (D) other evidence of ownership.

(2) A dealer must apply in the name of the purchaser of a vehicle for the registration of the vehicle with the appropriate county tax assessor-collector as selected by the purchaser.

(3) To comply with Transportation Code, §501.0234(f), a registration is considered filed within a reasonable time if the registration is filed within:

(A) 20 working days of the date of sale of the vehicle for a vehicle registered in Texas; or

(B) 45 days of the date of sale of the vehicle for a dealer-financed transaction involving a vehicle that is registered in Texas.

(4) The dealer is required to provide to the purchaser the receipt for the registration application.

(5) The dealer is required to maintain a copy of the receipt for the registration application in the dealer's sales file.

(g) Out of state sales. For a sales transaction involving a vehicle to be transferred out of state, the dealer must:

(1) within 20 working days of the date of sale, either file the application for certificate of title on behalf of the purchaser or deliver the properly assigned evidence of ownership to the purchaser; and

(2) maintain in the dealer's record at the dealer's licensed location a photocopy of the completed sales tax exemption form for out of state sales approved by the Texas Comptroller of Public Accounts.

(h) Consignment sales. A dealer offering a vehicle for sale by consignment shall have a written consignment agreement or a power of attorney for the vehicle, and shall, after the sale of the vehicle, take assignment of the vehicle in the dealer's name and, pursuant to subsection (f), apply in the name of the purchaser for transfer of title and registration, if the vehicle is to be registered, with the appropriate county tax assessor-collector as selected by the purchaser. The dealer must, for a minimum of 48 months, maintain a record of each vehicle offered for sale by consignment, including the VIN and the name of the owner of the vehicle offered for sale by consignment.

(i) Public motor vehicle auctions.

(1) A GDN holder that acts as a public motor vehicle auction must comply with subsection (h) of this section.

(2) A public motor vehicle auction:

(A) is not required to take assignment of title of a vehicle it offers for sale;

(B) must take assignment of title of a vehicle from a consignor prior to making application for title on behalf of the buyer; and

(C) must make application for title on behalf of the purchaser and remit motor vehicle sales tax within 20 working days of the sale of the vehicle.

(3) A GDN holder may not sell another GDN holder's vehicle at a public motor vehicle auction.

(j) Wholesale motor vehicle auction records. A wholesale motor vehicle auction license holder must maintain, for a minimum of 48 months, a complete record of each vehicle purchase and sale occurring through the wholesale motor vehicle auction. The wholesale motor vehicle auction license holder shall make the record available for inspection and copying by a representative of the department during business hours.

(1) A wholesale motor vehicle auction license holder must maintain at the licensed location a record reflecting each purchase and sale for at least the preceding 24 months. Records for prior time periods may be kept off-site.

(2) Within 15 days of receipt of a request sent by mail or by electronic document transfer from a representative of the department, a wholesale motor vehicle auction license holder must deliver a copy of the specified records to the address listed in the request.

(3) A wholesale motor vehicle auction license holder's complete record of each vehicle purchase and sale shall, at a minimum, contain:

(A) the date of sale;

(B) the VIN;

(C) the name and address of the person selling the vehicle;

(D) the name and address of the person purchasing the vehicle;

(E) the dealer license number of both the selling dealer and the purchasing dealer, unless either is exempt from holding a license;

(F) all information necessary to comply with the Truth in Mileage Act;

(G) auction access documents, including the written authorization and revocation of authorization for an agent or employee, in accordance with §215.148 of this title (relating to Dealer Agents);

(H) invoices, bills of sale, checks, drafts, or other documents that identify the vehicle, the parties, or the purchase price;

(I) any information regarding the prior status of the vehicle such as the Reacquired Vehicle Disclosure Statement or other lemon law disclosures; and

(J) a copy of any written authorization allowing an agent of a dealer to enter the auction.

(k) Electronic records. A license holder may maintain a record in an electronic format if the license holder can print the record at the licensed location upon request by a representative of the department, except as provided by subsection (l) of this section. [A license holder does not have to maintain a copy of a vehicle title if the title is submitted through the electronic title system. Original hard copy titles are not required to be kept at the licensed location, but must be made available to the department upon request.]

(l) Use of webDEALER. A license holder utilizing the department's web-based title application known as webDEALER, as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems), must comply with §217.74 of this title (relating to Access to and Use of webDEALER). Original hard copy titles are not required to be kept at the licensed location, but must be made available to the department upon request.

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 December 8, 2017.

TRD-201705024

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: January 21, 2018

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



CHAPTER 217. VEHICLE TITLES AND REGISTRATION

SUBCHAPTER A. MOTOR VEHICLE TITLES

43 TAC §217.2

The Texas Department of Motor Vehicles (department) proposes amendments to §217.2, Definitions.

EXPLANATION OF PROPOSED AMENDMENTS

Proposed amendments to §217.2 add the definitions for an all-terrain vehicle (ATV) and a recreational off-highway vehicle (ROV) by reference to Transportation Code, §502.001. The amendments specify that an ATV and ROV are designed primarily for recreational use. Other amendments correct punctuation and rearrange the definitions to maintain alphabetical order. The paragraphs are renumbered accordingly.

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 antic-

ipated as a result of enforcing or administering the amendment will be greater clarity in the applicability of title requirements with respect to ATVs and ROVs. 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.

GOVERNMENT GROWTH IMPACT STATEMENT

The department has determined that during the first five years the proposed amendments are in effect, no government program would be created or eliminated. Implementation of the proposed amendments would not require the creation of new employee positions or elimination of existing employee positions. Implementation would not require an increase or decrease in future legislative appropriations to the department or an increase or decrease of fees paid to the department. Additionally, the proposed amendments do not create a new regulation, or expand, limit, or repeal an existing regulation. The proposed amendment does not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

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 January 22, 2018.

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; and more specifically, Transportation Code, §501.0041, which provides the department may adopt rules to administer Chapter 501.

CROSS REFERENCE TO STATUTE

Transportation Code, §§501.002, 502.001, and 663.001.

§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) All-terrain vehicle or ATV--A motor vehicle as defined by Transportation Code, §502.001, and designed primarily for recreational use. The term does not include a "utility vehicle" as defined by Transportation Code, §663.001, or a self-propelled, motor-driven vehi-