

(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-

or permanently disabled persons and to the transporters of permanently disabled persons. A person who has been issued a windshield identification placard shall hang the placard from a vehicle's rearview mirror when the vehicle is parked in a disabled person parking space or shall display the placard on the center portion of the dashboard if the vehicle does not have a rearview mirror.

(c) Renewal of Disabled Person license plates. Disabled Person license plates are valid for a period of 12 months from the date of issuance, and are renewable as specified in §217.28 of this title (relating to Vehicle Registration Renewal).

(d) Replacement.

(1) License plates. If Disabled Person license plates are lost, stolen, or mutilated, the owner may obtain replacement license plates by applying with a county tax assessor-collector.

(A) Accompanying documentation. To replace permanently Disabled Person license plates, the owner must present the current year's registration receipt and personal identification acceptable to the county tax assessor-collector.

(B) Absence of accompanying documentation. If the current year's registration receipt is not available and the county cannot verify that the Disabled Person license plates were issued to the owner, the owner must reapply in accordance with this section.

(2) Disabled Person identification placards. If a Disabled Person identification placard becomes lost, stolen, or mutilated, the owner may obtain a new identification placard in accordance with this section.

(e) Transfer of Disabled Person license plates and identification placards.

(1) License plates.

(A) Transfer between persons. Disabled Person license plates may not be transferred between persons. An owner who sells or trades a vehicle to which Disabled Person license plates have been issued shall remove the Disabled Person license plates from the vehicle. The owner shall return the license plates to the department and shall obtain appropriate replacement license plates to place on the vehicle prior to any transfer of ownership.

(B) Transfer between vehicles. Disabled Person license plates may be transferred between vehicles if the county or the department can verify the plate ownership and the owner of the vehicle is the disabled person or the vehicle is used to transport the disabled person.

(i) Plate ownership verification may include:

(I) a Registration and Title System (RTS) inquiry;

(II) a copy of the department Application for Disabled Person license plates; or

(III) the owner's current registration receipt.

(ii) An owner who sells or trades a vehicle with Disabled Person license plates must remove the plates from the vehicle.

(2) Identification placards.

(A) Transfer between vehicles. Disabled Person identification placards may be displayed in any vehicle driven by the disabled person or in which the disabled person is a passenger.

(B) Transfer between persons. Disabled Person identification placards may not be transferred between persons.

(f) Seizure and revocation of placard.

(1) If ~~[After]~~ a law enforcement officer seizes and destroys a placard under Transportation Code, §681.012, the officer shall notify the department by email. ~~[not later than the fifth day after the date of the seizure, the officer shall destroy the placard and provide the department with the following items:]~~

~~[(A) a notice that the placard was destroyed;]~~

~~[(B) a copy of the citation issued under Transportation Code, §681.011(a) or (d); and]~~

~~[(C) a brief summary of the events giving rise to the citation.]~~

(2) The person to whom the seized placard was issued may apply for a new placard by submitting an application to the county tax assessor-collector of the county in which the person with the disability resides or in which the applicant is seeking medical treatment if the applicant is not a resident of this state. ~~[petition for a hearing under Chapter 206, Subchapter D of this title (relating to Procedures in Contested Cases).]~~

~~[(A) If the department has not received the items specified in paragraph (1) of this subsection, the department will advise the petitioner to obtain a replacement placard from the county tax assessor-collector.]~~

~~[(B) If the department determines from written evidence that the citation was dismissed or withdrawn, the department will advise the petitioner to obtain a replacement placard from the county tax assessor-collector.]~~

~~[(C) If the department has received the items specified in paragraph (1) of this subsection and if the citation has not been dismissed or withdrawn, the department may negotiate a settlement providing for issuance of a replacement placard, including an agreement by the petitioner to abide by all laws regarding placards. If a settlement is not reached, the department will refer the matter to the State Office of Administrative Hearings for a hearing.]~~

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-201705008

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



SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS

43 TAC §§217.71 - 271.74

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 217, Vehicle Titles and Registration, Subchapter C, Registration and Title System, §217.71, Automated Vehicle Registration and Title System; §217.72, Automated Equipment; and §217.73, Agreement. The department also proposes new §217.74, Access to and Use of webDEALER.

EXPLANATION OF PROPOSED AMENDMENTS AND NEW SECTION

Proposed amendments to Chapter 217, Subchapter C, amend the subchapter heading by changing "System" to "Systems." The proposed amendments will make clear that the subchapter applies to both the Registration and Title System (RTS) and webDEALER.

Proposed amendments to §217.71 rename the section Automated and Web-Based Vehicle Registration and Title Systems. Proposed amendments to §217.71(a)(2) clarify the purpose of the subchapter, which is to prescribe the policies and procedures under which the department may make automated equipment for use of RTS available to a county tax assessor-collector and for users who opt to use webDEALER.

Proposed amendments to §217.71(b) add a definition for title application and webDEALER and correct a grammatical error.

Proposed amendments to §217.72 rename the section Automated Equipment for the Registration and Title System and make a minor wording change in subsection (d)(2), clarifying that automated equipment may be located at sites other than the county tax assessor-collector's office at the discretion, as opposed to election, of a county tax assessor-collector.

Proposed amendments to §217.73 rename the section Agreement Related to Automated Equipment.

Proposed new §217.74, Access to and Use of webDEALER, and provide that at the discretion of a county tax assessor-collector, the county may request access to, and accept title applications submitted through, webDEALER. The proposed new section provides that a person who wishes to become a user of webDEALER must receive authorization from each entity to whom they submit title applications, that a deputy appointed by a county tax assessor-collector may be authorized to use webDEALER, and that a person authorized to use webDEALER may have their authorization revoked, rescinded, or cancelled at any time at the discretion of a county tax assessor-collector or the department. Finally, the proposed new section establishes the requirements for submitting a title application through webDEALER, including a requirement that the user must retain the title document or other ownership evidence pertaining to the transaction for a minimum of four calendar years.

Finally, proposed amendments add county to tax assessor-collector throughout.

FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the amendments and new section 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 and new section.

Jeremiah Kuntz, Director of the Vehicle Titles and Registration 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 and new section.

PUBLIC BENEFIT AND COST

Mr. Kuntz has also determined that for each year of the first five years the amendments and new section are in effect, the public benefit anticipated as a result of enforcing or administering the amendments and new section will be consistent use of the systems and decreased transaction processing time. There are

no significant anticipated economic costs for persons required to comply with the proposed amendments and new section. There will be no adverse economic effect on small businesses, micro-businesses, or rural communities.

GOVERNMENT GROWTH IMPACT STATEMENT

The department has determined that during the first five years the proposed amendments and new section are in effect, no government program would be created or eliminated. Implementation of the proposed amendments and new section 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 and new section do not create a new regulation, or expand, limit, or repeal an existing regulation. The proposed amendments and new section do not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

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 and new section 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 and new section 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, Chapters 501; and §502.0021, which authorizes the department to adopt rules to administer Transportation Code, Chapter 502.

CROSS REFERENCE TO STATUTE

Transportation Code, §§501.022, 501.023, and 501.0234.

§217.71. Automated and Web-Based Vehicle Registration and Title Systems [System].

(a) Purpose.

(1) Transportation Code, Chapters 501 and 502, charge the department with the responsibility for issuing titles and registering vehicles operating on the roads, streets, and highways of the state.

(2) To provide a more efficient, cost-effective system for registering and titling vehicles, submitting title and registration records to county tax assessor-collectors and the department, maintaining records, improving inventory control of accountable items, and collecting and reporting of applicable fees consistent with those statutes, the department has designed:

(A) an automated system known as the registration and title system. This system expedites registration and titling processes,

provides a superior level of customer service to the owners and operators of vehicles, and facilitates availability of the department's motor vehicle records for official law enforcement needs. Automated equipment compatible with the registration and title system is indispensable to the operational integrity of the system; and[-]

(B) a web-based system known as webDEALER. This system expedites registration and titling processes, provides a superior level of customer service to the owners and operators of vehicles, and facilitates availability of the department's motor vehicle records for official law enforcement needs.

(3) This subchapter prescribes the policies and procedures under which the department may make the automated [that] equipment available to a county tax assessor-collector as designated agent of the state for processing title and vehicle registration documents and the policies and procedures for users who opt to use webDEALER.

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

(1) Automated equipment--Equipment associated with the operation of the registration and titling system, including, but not limited to, microcomputers, printers, software, and cables.

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

(3) Executive director--The executive director of the Texas Department of Motor Vehicles.

(4) Fair share allocation--The amount of automated equipment determined by the department to be effective at providing a reasonable level of service to the public. This amount will be determined on transaction volumes, number of county substations, and other factors relating to a particular county's need.

(5) RTS--The department's registration and title system.

(6) Title application--A form as defined by §217.2 of this title (relating to Definitions), and includes the electronic process provided by the department that captures the information required by the department to create a motor vehicle title record.

(7) webDEALER--The department's web-based titling and registration system used to submit title applications to county tax assessor-collectors and the department. This term includes any other web-based system which facilitates electronic submission of title applications, including webSALVAGE and webLIEN.

§217.72. Automated Equipment for the Registration and Title System.

(a) Initial allocation of automated equipment. When requested by resolution of the commissioners court of a county, and subject to the terms and conditions specified in subsection (d) of this section, the department will:

(1) make a fair share allocation of automated equipment available to that county to be used by its county tax assessor-collector in implementing and operating RTS;

(2) provide the county tax assessor-collector with computer programs and personnel training; and

(3) furnish official automated forms and, for the initial start-up of the system, automated equipment supplies.

(b) Additional automated equipment. At the request of the county tax assessor-collector of a county, subject to the terms and conditions specified in subsection (d) of this section, and for an amount of consideration that will cover the department's costs, the department will enter into an agreement with the commissioners court of that county under which the department will lease automated equipment to that

county in addition to the fair share allocation for that county. Leased equipment will remain the property of the department and will be used primarily for RTS.

(c) Automated Registration and Titling System fee. The department will collect an additional fee of \$.50 for each registration for the purposes set forth in Transportation Code, §502.356. The fee shall be deposited into a subaccount in the Texas Department of Motor Vehicles fund.

(d) Conditions of availability.

(1) A county must:

(A) meet electrical power supply criteria specified by the department prior to installation of the automated equipment;

(B) bear all costs incurred for 24-hour per day electrical power consumption for operation of the equipment;

(C) provide for the physical security and protection of the equipment and shall indemnify the department for any loss or damages to the equipment while in the custody and control of the county;

(D) provide the department's maintenance personnel access to the equipment during business hours of the involved county office; and

(E) notify the department not less than 30 working days prior to relocating or adding automation equipment, or of the closing or remodeling of an office, that may affect automated equipment operations.

(2) At the discretion [election] of a county tax assessor-collector, automated equipment may be located at sites other than those of the county tax assessor-collector, including privately owned, for-profit enterprises performing registration and title functions for the county tax office. With regard to equipment located at sites other than those of the county tax assessor-collector, the department's responsibility will be limited to ensuring that the equipment remains operational. The county will be responsible for all training, user support, forms, supplies, user policy and procedures, and other support associated with this equipment.

(3) Automated equipment made available to a county pursuant to this section shall remain the property of the department and must be used by the county tax assessor-collector for operation of RTS; provided, however, that while not in RTS usage, the equipment may be utilized for another statutory duty or function of that office.

§217.73. Agreement Related to Automated Equipment.

(a) Prior to receiving automated equipment pursuant to §217.72 of this title (relating to Automated Equipment for the Registration and Title System), a county must enter a written agreement with the department.

(b) The agreement shall:

(1) be in a form prescribed by the department;

(2) include at a minimum each of the terms and conditions specified in §217.72;

(3) be executed on behalf of the department by the executive director or the director's designee not below the level of Director of the Vehicle Titles and Registration Division; and

(4) be approved by resolution or order of the commissioners court and executed on behalf of the county by the county judge and the county tax assessor-collector.

§217.74. Access to and Use of webDEALER.

(a) At the discretion of a county tax assessor-collector, the county may request access to, and accept title applications submitted through, webDEALER. A county tax assessor-collector must utilize webDEALER in order to accept a title application in the county as provided by subsection (b) of this section.

(b) A person who wishes to become a user of webDEALER must contact each entity to whom they submit title applications for authorization to utilize webDEALER. A user must receive authorization from each entity, including each county tax assessor-collector, to whom the user submits title applications. Title applications submitted to the department require the authorization by the department.

(c) A county tax assessor-collector may authorize a deputy appointed by the county tax assessor-collector in accordance with Subchapter H of this chapter (relating to Deputies) to utilize webDEALER.

(d) A person authorized under subsection (b) of this section may have their authorization to use webDEALER revoked, rescinded, or cancelled at any time, with no notice, at the discretion of a county tax assessor-collector or the department.

(e) When submitting a title application through webDEALER, a user must:

(1) stamp the word "SURRENDERED" across the front, face and the next open assignment or reassignment space of any secure title document or other acceptable ownership evidence as determined by the department in:

(A) arial font;

(B) black ink; and

(C) a size of 1/4" height x 2 1/4" length;

(2) retain the physical document described in paragraph (1) of this subsection for a minimum of four calendar years from the date of submitting a scanned copy of the stamped title document using the webDEALER system; and

(3) submit any documents required to be submitted with the title application with a scanned resolution of at least 200 dots per inch (DPI).

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-201705011

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



SUBCHAPTER F. MOTOR VEHICLE RECORD INFORMATION

43 TAC §217.123, §217.124

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 217, Vehicle Titles and Registration, Subchapter F, Motor Vehicle Record Information, §217.123, Ac-

cess to Motor Vehicle Records, and §217.124, Cost of Motor Vehicle Records.

EXPLANATION OF PROPOSED AMENDMENTS

Amendments are proposed to §217.123 and §217.124 to clarify procedures for and access to motor vehicle records and associated cost of records.

The changes to §217.123 add a requirement that law enforcement officers seeking to access personal information provide a copy of current law enforcement credentials. The changes expand the scope of public entities that are exempt from certain fees to include all Texas governmental entities and Texas toll project entities. Also, amendments throughout §217.123 change "agency" to "Texas governmental entity" and renumber paragraphs as necessary.

The amendments to §217.124 provide for law enforcement access to certain records at no cost. In addition, deposit, minimum balance and fee information has been reorganized and simplified to better inform department customers. The amendments to §217.124 add a new subsection (f) to address department reciprocity agreements with other governmental entities for records access.

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 minor positive fiscal implications for state or local governments and toll project entities as a result of enforcing or administering the proposed amendments. Texas state and local governmental entities and toll entities that regularly access motor vehicle record information will have access to certain records at no cost resulting in savings for those entities.

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 to clarify who has access to motor vehicle records and the associated costs for copies of the records. 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, or 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