

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(d) A person authorized under subsection (b) of this section may have their authorization to use webDEALER revoked, rescinded, or cancelled at any time, with no notice, at the discretion of a county tax assessor-collector or the department.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

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Texas Department of Motor Vehicles

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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

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 amendments do 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 (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, §730.014, which provides that the department may adopt rules to implement and administer Chapter 730, Motor Vehicle Records Disclosure Act.

CROSS REFERENCE TO STATUTE

Government Code, §552.130; Transportation Code, Chapter 730; and 18 U.S.C. §2721 et seq.

§217.123. Access to Motor Vehicle Records.

(a) Request for records. A person seeking motor vehicle record information shall submit a written request on the form required by the department. Information will be released in accordance with Title 18 U.S.C. §2721 et seq., Transportation Code, Chapter 730, and Government Code, §552.130. A completed and properly executed form must include, at a minimum:

- (1) the name and address of the requestor;
- (2) the Texas license number, title or document number, or vehicle identification number of the motor vehicle about which information is requested;
- (3) a photocopy of the requestor's identification;
- (4) a statement that the requested information may only be released if the requestor is the subject of the record, if the requestor has written authorization for release from the subject of the record, or if the intended use is for a permitted use as indicated on the form;
- (5) a certification that the statements made on the form are true and correct; and
- (6) the signature of the requestor.

(b) Identification required. A person may not apply for receipt of personal information unless the person presents current photo identification containing a unique identification number. The identification document must be a:

- (1) driver's license or state identification certificate issued by a state or territory of the United States;
- (2) United States or foreign passport;
- (3) United States military identification card;
- (4) United States Department of Homeland Security, United States Citizenship and Immigration Services, or United States Department of State identification document; ~~or~~

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

(6) copy of current law enforcement credentials if the requestor is a law enforcement officer.

(c) Electronic access. The department may make motor vehicle record information available under the terms of a written service agreement.

(1) Agreement with business or individuals. The written service agreement with a business or individual must contain:

(A) the specified purpose of the agreement;

(B) an adjustable account, if applicable, in which an initial deposit and minimum balance is maintained in accordance with §217.124 of this title (relating to Cost of Motor Vehicle Records); [the amount of:]

~~[(i) \$200 for an on-line access account; or]~~

~~[(ii) \$1,000 for a prepaid account for batch purchase of motor vehicle record information;]~~

(C) termination and default provisions;

~~[(D) service hours for access to motor vehicle records for on-line access;]~~

(D) ~~[(E)]~~ the contractor's signature;

(E) ~~[(F)]~~ a statement that the use of motor vehicle record information obtained by virtue of a service agreement is conditional upon its being used:

(i) in accordance with 18 U.S.C. §2721 et seq. and Transportation Code, Chapter 730; and

(ii) only for the purposes defined in the agreement; and

(F) ~~[(G)]~~ the statements required by subsection (a) of this section.

(2) Agreements with Texas governmental entities ~~[agencies]~~.

(A) The written service agreement with a Texas governmental entity ~~[an agency]~~ must contain:

(i) the specified purpose of the agreement;

~~[(ii) method of payment;]~~

~~[(iii) notification regarding the charges;]~~

(ii) ~~[(iv)]~~ a statement that the use of motor vehicle record information obtained by virtue of a service agreement is conditional upon its being used in accordance with 18 U.S.C. §2721 et seq. and Transportation Code, Chapter 730, and only for the purposes defined in the agreement;

~~[(iii) [(v)] the statements required by subsection (a) of this section;~~

~~[(iv) [(vi)] the signature of an authorized official; and~~

~~[(v) [(vii)] an attached statement citing the entity's [agency's] authority to obtain social security number information, if applicable.~~

(B) Texas governmental entities, as defined in Government Code, §2252.001, and including the Texas Law Enforcement Telecommunication System and toll project entities, as defined by

Transportation Code, §372.001, are [access is] exempt from the payment of fees, except as provided by §217.124(e) of this title.

(d) Ineligibility to receive personal information. The department may prohibit a person, business, or Texas governmental entity [agency] from receiving personal information if the department finds a violation of a term or condition of the agreement entered into in accordance with subsection (c) of this section.

(e) Initial deposits and minimum balances. Notwithstanding §217.124 of this title, the department may modify initial deposit and minimum balance requirements on a case by case basis depending on customer usage.

§217.124. Cost of Motor Vehicle Records.

(a) Standard costs. The department will charge fees in accordance with Government Code, Chapter 552 and the cost rules promulgated by the Office of the Attorney General in 1 Texas Administrative Code, Chapter 70 (relating to Cost of Copies of Public Information).

(b) Law enforcement. An employee of a state, federal or local law enforcement entity is exempt from the payment of fees for motor vehicle records in subsection (c)(1) - (4) of this section if the records are necessary to carry out lawful functions of the law enforcement agency.

(c) Motor vehicle record costs. For new contracts and renewals, the costs are:

(1) Title history - \$5.75;

(2) Certified title history - \$6.75;

(3) Title and registration verification (record search) - \$2.30;

(4) Certified title and registration verification (record search) - \$3.30; and

(5) Duplicate registration receipt for current registration period - \$2.

(d) Electronic motor vehicle records and files.

(1) Master file of motor vehicle registration and title database - \$5,000 plus \$.38 per 1,000 records;

(2) Weekly updates to motor vehicle registration and title database - deposit of \$1,755 and \$135 per week;

(3) e-Tag file - deposit of \$845 and \$65 per week;

(4) Dealer supplemental file - deposit of \$1,235 and \$95 per week;

(5) Special plates file - deposit of \$1,235 and \$95 per week;

(6) Batch inquiry to motor vehicle registration and title database - deposit of \$1,000, minimum balance of \$750 and \$23 per run plus \$.12 per record;

(7) Online motor vehicle inquiry (MVInet) access - deposit of \$200, minimum balance of \$150 and \$23 per month plus \$.12 per record; and

(8) Scofflaw remarks (inquiry, addition or deletion) - deposit of \$500, minimum balance of \$350 and \$23 per run plus \$.12 per record.

(e) Exemption applicability. The exemption granted in §217.123(c)(2)(B) of this title (relating to Access to Motor Vehicle Records) does not apply to subsection (d)(1), (6), or (8) of this section.

(f) Reciprocity agreements. The department may enter into reciprocity agreements for records access with other governmental entities that may waive some or all of the fees established in this section.

(b) Motor vehicle record costs. The cost for motor vehicle information will be:

[(1) Title and registration verification (record search) - \$2.30;]

[(2) Title history - \$5.75;]

[(3) Online access to motor vehicle records database - \$23 per month plus \$.12 per record entry;]

[(4) Motor vehicle registration and title database - \$5,000 plus \$.38 per 1,000 records copied to media;]

[(5) Weekly updates to motor vehicle registration and title database, with media provided by the department - \$135; and]

[(6) Batch inquiry to motor vehicle records database - \$23 per computer run plus \$.12 per record searched.]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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



CHAPTER 221. SALVAGE VEHICLE DEALERS, SALVAGE POOL OPERATORS AND SALVAGE VEHICLE REBUILDERS

SUBCHAPTER D. RECORDS

43 TAC §221.72

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders, Subchapter D, Records, §221.72, Record Retention.

EXPLANATION OF PROPOSED AMENDMENTS

Proposed amendments to §221.72 add new §221.72(c) requiring salvage vehicle dealers who use the department's web-based title application known as webDEALER to comply with proposed §217.74 of this title (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. Simultaneous with these proposed amendments, the department is also proposing related amendments in Chapter 217, Subchapter C, Registration and Title Systems. One proposed amendment is a proposed definition of webDEALER, which includes any other web-based system which facilitates electronic submission of title applications, including webSALVAGE.

Other amendments correct the punctuation of "nonrepairable" motor vehicles to be consistent with statute by deleting the unnecessary hyphen.