

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §217.41

The Texas Department of Motor Vehicles (department) proposes amendments to §217.41, Disabled Person License Plates and Identification Placards.

EXPLANATION OF PROPOSED AMENDMENTS

House Bill (HB) 1790, 85th Legislature, Regular Session, 2017, amended Transportation Code, §681.012(b), eliminating the requirement that the department conduct a hearing to determine whether the revocation of a disabled parking placard should continue or be rescinded. The amended statute allows a person from whom a placard has been seized to apply for a new application by submitting an application under Transportation Code, §681.003.

Amendments are necessary to implement the changes made by HB 1790. Specifically, amendments are proposed to §217.41 to eliminate the requirement for a hearing and clarify that a person 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 is seeking medical treatment if the person is not a resident of this state. Amendments are also proposed to delete the requirement that a law enforcement officer who has seized and destroyed a placard must provide the department with a notice that the placard was destroyed, a copy of the citation issued, and a brief summary of events giving rise to the citation. Instead, the proposed amendment would require a law enforcement officer who seizes and destroys a placard to notify the department by email.

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 significant fiscal implications for state or local governments as a result of enforcing or administering the proposed amendments.

Jeremiah Kuntz, Director of the Title 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 a simplified process for both law enforcement and persons seeking a replacement placard. 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 (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, §504.0011, which authorizes the board to adopt rules to implement and administer Transportation Code, Chapter 504; and Transportation Code, §681.002, which requires the department to provide for the issuance of a disabled parking placard to a person with a disability.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 504 and 681.

§217.41. *Disabled Person License Plates and Identification Placards.*

(a) Purpose. Transportation Code, Chapters 504 and 681, charge the department with the responsibility for issuing specially designed license plates and identification placards for disabled persons. For the department to perform these duties efficiently and effectively, this section prescribes the policies and procedures for the application, issuance, and renewal of Disabled Person license plates and placards.

(b) Issuance.

(1) Disabled Person license plates.

(A) Eligibility. In accordance with Transportation Code, §504.201, the department will issue specially designed license plates displaying the international symbol of access to permanently disabled persons or their transporters instead of regular motor vehicle license plates.

(B) Specialty license plates. The department will issue Disabled Person insignia on those specialty license plates that can accommodate the identifying insignia and that are issued in accordance with §217.45 of this title (relating to Specialty License Plates, Symbols, Tabs, and Other Devices).

(C) License plate number. Disabled Person license plates will bear a license plate number assigned by the department or will bear a personalized license plate number issued in accordance with §217.45.

(2) Windshield identification placards. The department will issue removable windshield identification placards to temporarily

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.

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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.