

## STATUTORY AUTHORITY

The amendments are adopted 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## CHAPTER 217. VEHICLE TITLES AND REGISTRATION

### SUBCHAPTER A. MOTOR VEHICLE TITLES

#### 43 TAC §217.2

The Texas Department of Motor Vehicles (department) adopts amendments to §217.2, Definitions, without changes to the proposed text as published in the December 22, 2017, issue of the *Texas Register* (42 TexReg 7369). The rule will not be republished.

#### EXPLANATION OF ADOPTED AMENDMENTS

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.

#### COMMENTS

No comments on the proposed amendments were received.

#### STATUTORY AUTHORITY

The amendments are adopted 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.

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## SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

#### 43 TAC §217.41

The Texas Department of Motor Vehicles (department) adopts amendments to §217.41, Disabled Person License Plates and Identification Placards, without changes to the proposed text as published in the December 22, 2017, issue of the *Texas Register* (42 TexReg 7371). The rule will not be republished.

#### EXPLANATION OF ADOPTED 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.

The amendments are necessary to implement the changes made by HB 1790. Specifically, amendments are adopted 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 adopted 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 adopted amendment would require a law enforcement officer who seizes and destroys a placard to notify the department by electronic mail.

#### COMMENT

No comments were received on the proposed amendments.

#### STATUTORY AUTHORITY

The amendments are adopted 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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#### 43 TAC §217.54

The Texas Department of Motor Vehicles (department) adopts amendments to §217.54, Registration of Fleet Vehicles, without changes to the proposed text as published in the November 10, 2017, issue of the *Texas Register* (42 TexReg 6349). The rule will not be republished.

#### EXPLANATION OF ADOPTED AMENDMENTS

Amendments to §217.54 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 to §217.54 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.

#### COMMENT

The department received a comment from Mr. Ruben P. Gonzalez, County Tax Assessor-Collector, County of El Paso, in which he made statements and asked questions regarding extended registration of commercial fleet vehicles under Transportation Code, §502.0023. Mr. Gonzalez made the following statements and asked the following questions regarding his assertion that once a fleet account is established, it places counties at a disadvantage:

- 1) Counties will lose a P&H (processing and handling) fee for up to seven years of plate renewals per fleet.
- 2) Will counties be credited for their local fees for every year after their first year of a fleet registration under Transportation Code, §502.198? Section 502.198 needs to be revised for a fairer equity in collections for this formula to support our counties.
- 3) Fleets will have the potential to abuse the program, since plates can be interchanged without any law enforcement regulations at the local and state level.

4) This statute hampers fleets that fluctuate gross vehicle weights during the registration year. This is a loss of revenue to the state and a big procedural change for the department, which does not know how to calculate maximum legal weights that are changed during the registration year.

5) Will the department provide counties with relevant information on increases or decreases in revenue (local fees) under this program so we can forecast budget requirements each year within the county?

#### RESPONSE TO COMMENT

Government Code, §2001.024(a)(7) requires the department to request comments on proposed amendments to rules. The comment from Mr. Gonzalez does not pertain to the amendments to §217.54, and he does not state whether he is for or against the adoption of the amendments. Therefore, the department will not respond to the substance of the comment in this document, other than to explain why the comment does not pertain to the amendments to §217.54.

The amendments do not impact the counties financially because the \$10 fee is not a local fee. Transportation Code, §502.0023(c-1) says the \$10 fee shall be deposited to the credit of the Texas Department of Motor Vehicles fund. Also, the \$10 fee does not pertain to the processing and handling fee, which is addressed in Transportation Code, §502.1191 and in Chapter 217, Subchapter I. Further, the following are not comments under Government Code, §2001.024(a)(7): 1) the request for a statutory change; 2) questions regarding the extended registration of commercial fleet vehicles; and 3) statements regarding statutes and the department.

#### STATUTORY AUTHORITY

The amendments are adopted 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS

### 43 TAC §§217.71 - 217.74

The Texas Department of Motor Vehicles (department) adopts amendments to §217.71, Automated Vehicle Registration and Title System; §217.72, Automated Equipment; and §217.73, Agreement; and new §217.74, Access to and Use of web-DEALER, without changes to the proposed text as published in the December 22, 2017, issue of the *Texas Register* (42 TexReg 7372). The rules will not be republished.

#### EXPLANATION OF ADOPTED AMENDMENTS AND NEW SECTION

Adopted amendments to Chapter 217, Subchapter C, amend the subchapter heading by changing "System" to "Systems." The adopted amendments will make clear that the subchapter applies to both the Registration and Title System (RTS) and web-DEALER.

Adopted amendments to §217.71 rename the section Automated and Web-Based Vehicle Registration and Title Systems. Adopted 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.

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

Adopted 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.

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

Adopted 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 adopted new section provides that a person who wishes to become a user of web-DEALER 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 adopted 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, adopted amendments add county to tax assessor-collector throughout.

#### COMMENTS

No comments were received on the proposed amendments and new section.

#### STATUTORY AUTHORITY

The amendments and new section are adopted 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.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## 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) adopts amendments to §221.72, Record Retention, without changes to the proposed text as published in the December 22, 2017, issue of the *Texas Register* (42 TexReg 7377). The rule will not be republished.

#### EXPLANATION OF ADOPTED AMENDMENTS

Adopted 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 adopted 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 adopted amendments, the department is also adopting related amendments in Chapter 217, Subchapter C, Registration and Title Systems. One adopted amendment is a definition of webDEALER, which is defined broadly to include any other web-based system which facilitates electronic submission of title applications, including webSALVAGE.

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

#### COMMENTS

No comments were received on the proposed amendments.

#### STATUTORY AUTHORITY