

(c) Services are provided in accordance with VR as listed on the customer's individualized plan for employment.

§856.87. Customer Participation and Comparable Services and Benefits.

For information about customer participation and comparable benefits, refer to §856.59, relating to Purpose of Customer Participation, and §856.71, relating to Comparable Services and Benefits.

§856.88. Payment of Shift Differentials.

(a) The Agency's VR Division (VRD) director is authorized to pay a shift differential to eligible VR employees. The shift differential is paid in addition to the employee's regular base pay, exclusive of longevity and benefit replacement pay.

(b) The VRD director is authorized to determine the VR positions that are eligible to receive shift differential payments. The rate of payment is a percentage of the employee's monthly regular base pay, not to exceed the maximum allowed by state law, in relation to the number of hours the employee regularly works outside the work hours of Monday through Friday, 8:00 a.m. to 5:00 p.m.

(c) This section does not apply to employees whose work hours have been adjusted according to Agency policies that concern staggered work hours.

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 April 18, 2018.

TRD-201801693

Jason Vaden

Director, Workforce Program Policy

Texas Workforce Commission

Earliest possible date of adoption: June 3, 2018

For further information, please call: (512) 475-0829



TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 217. VEHICLE TITLES AND REGISTRATION

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §217.27

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 217, Vehicle Titles and Registration, Subchapter B, Motor Vehicle Registration, §217.27, Vehicle Registration Insignia.

EXPLANATION OF PROPOSED AMENDMENTS

Proposed amendments to §217.27 clarify requirements and procedures for the approval or denial of personalized license plates, and make the rule consistent with current practice.

The proposed amendments identify the director of the Vehicle Titles and Registration Division, or the director's designee, as the initial decision maker. The proposed amendments clarify that the

director may approve or deny an application for a personalized plate, and may recall and cancel a previously issued personalized plate. The proposed amendments identify and clarify the criteria that the director considers in evaluating plate patterns. More specifically, the proposed amendments establish criteria for identifying personalized plates that may be viewed as indecent, vulgar, or derogatory. Criteria are added to identify plates that contain references to gangs, violence, drugs, or the military.

The proposed amendments add an appeal mechanism for rejections and revocation of personalized license plates. A decision of the director may be appealed to the executive director or the executive director's designee within 20 days of cancellation notification or non-issuance. The decision of the executive director or the executive director's designee is final and may not be appealed.

A person whose vanity plate registration has not been issued or has been recalled shall elect to receive either a refund or a credit of the special vanity plate service fee for the prorated remaining registration period.

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 anticipated as a result of enforcing or administering the amendments will be to clarify the procedures and requirements for the approval or rejection of personalized license plates under §217.27. There are no anticipated economic costs for persons required to comply with the amendments as proposed. 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 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 June 4, 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 provides that the board may adopt rules to implement and administer Chapter 504, License Plates.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 504.

§217.27. *Vehicle Registration Insignia.*

(a) On receipt of a complete initial application for registration with the accompanying documents and fees, the department will issue vehicle registration insignia to be displayed on the vehicle for which the registration was issued for the current registration period.

(1) If the vehicle has a windshield, the symbol, tab, or other device prescribed by and issued by the department shall be attached to the inside lower left corner of the vehicle's front windshield in a manner that will not obstruct the vision of the driver.

(2) If the vehicle has no windshield, the symbol, tab, or other device prescribed by and issued by the department shall be attached to the rear license plate, except that registration receipts, retained inside the vehicle, may provide the record of registration for vehicles with permanent trailer plates.

(3) If the vehicle is registered as a former military vehicle as prescribed by Transportation Code, §504.502, the vehicle's registration number shall be displayed instead of displaying a symbol, tab, or license plate.

(A) Former military vehicle registration numbers shall be displayed on a prominent location on the vehicle in numbers and letters of at least two inches in height.

(B) To the extent possible, the location and design of the former military vehicle registration number must conform to the vehicle's original military registration number.

(b) Unless otherwise prescribed by law, each vehicle registered under this subchapter:

(1) must display two license plates, one at the exterior front and one at the exterior rear of the vehicle that are securely fastened at the exterior front and rear of the vehicle in a horizontal position of not less than 12 inches from the ground, measuring from the bottom, except that a vehicle described by Transportation Code, §621.2061 may place the rear plate so that it is clearly visible; or

(2) must display one plate that is securely fastened at or as close as practical to the exterior rear of the vehicle in a position not less than 12 inches from the ground, measuring from the bottom if the vehicle is a road tractor, motorcycle, trailer or semitrailer.

(c) Each vehicle registered under this subchapter must display license plates:

(1) assigned by the department for the period; or

(2) validated by a registration insignia issued by the department for a registration period consisting of 12 consecutive months at the time of application for registration. Vehicles may be registered for 24 consecutive months only in accordance with Transportation Code, §548.102. However, the vehicle must be registered for 24 consecutive months and all fees must be paid for each year of registration, regardless of the number of months remaining on the inspection at the time of registration, if both of the following occur:

(A) the vehicle receives a two-year inspection under §548.102; and

(B) the application for registration is made in the name of the purchaser under Transportation Code, §501.0234.

(d) The department will ~~cancel or~~ not issue any license plate containing an alpha-numeric pattern that meets one or more of the following criteria. The department may recall and cancel any personalized license plate that was issued if the department subsequently determines or discovers that the personalized license plate was not in compliance with these guidelines when issued, or if due to changing language usage, meaning or interpretation, the personalized license plate has become non-compliant with these guidelines. When reviewing a personalized plate pattern, the department need not consider the applicant's subjective intent or declared meaning.

(1) The alpha-numeric pattern conflicts with the department's current or proposed regular license plate numbering system.

(2) The ~~executive~~ director of the department's Vehicle Titles and Registration Division or the director's designee finds that the alpha-numeric pattern, including plate patterns that would do so by means of foreign or slang words or phrases, by use of phonetic, numeric or reverse spelling, acronyms, by being viewed in mirror image, or in a code which only a small segment of the community may be able to readily decipher, that may be considered objectionable or misleading, including that the pattern may be viewed as, directly or indirectly:

(A) indecent (defined as including a reference or connotation to a sexual [sex] act, [an excretory function or material], or sexual body parts, excrement, or bodily fluids or functions. Additionally, "69" formats are prohibited unless used in combination with the vehicle make, for example, "69 CHEV".);

(B) a vulgarity (defined as profane, swear, or curse words);

(C) derogatory (defined as an expression ~~of hate directed toward people or groups~~ that is demeaning to, belittles, or disparages any person, group, race, ethnicity, nationality, gender, sexual orientation, or refers to ~~people or groups, or associated with~~ an organization that advocates such expressions);

(D) a reference to race, ethnicity, gender or sexual orientation whether the reference is derogatory or not;

(E) ~~[(D)]~~ a reference to gangs, illegal activities, violence, [or substances, or] implied threats of harm, or expressions that describe, advertise, advocate, promote, encourage, glorify, or condone violence, crime or unlawful conduct;

(F) a reference to illegal drugs, controlled substances, the physiological state produced by such substances, intoxicated states, or references that may express, describe, advertise, advocate, promote, encourage, glorify such items or states;

(G) ~~[(E)]~~ a representation ~~[misrepresentation]~~ of, or reference to, law enforcement, military branches, or other governmental entities and their titles, including any reference to public office or po-

sition, military or law enforcement rank or status, or any other official government position or status; or[-]

(H) deceptively similar to a military, restricted distribution, or other specialty plate.

(3) The alpha-numeric pattern is currently issued to another owner.

(e) A decision to cancel or not issue a plate under subsection (d) of this section may be appealed to the executive director of the department or the executive director's designee within 20 days of notification of the cancellation or non-issuance. The requesting party may submit written arguments, but shall not be entitled to a contested case hearing. The executive director or the executive director's designee will consider the requesting party's arguments and issue a decision no later than 30 days after the submission of the appeal, unless additional information is sought from the requestor, in which case the time for decision is tolled until the additional information is provided. The decision of the executive director or the executive director's designee is final and may not be appealed. An appeal is denied by operation of law 31 days from the submission of the appeal, or if the requestor does not provide additional requested information within ten days of the request.

(f) [(e)] The provisions of subsection (a) of this section do not apply to vehicles registered with annual license plates issued by the department.

(g) Any person whose initial application has been denied may either receive a refund or select a new alpha-numeric pattern. If an existing personalized alpha-numeric pattern has been cancelled, the person may choose a new personalized alpha numeric pattern which will be valid for the remainder of the term or will forfeit the remaining term purchased.

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 April 23, 2018.

TRD-201801771

David D. Duncan

General Counsel

Texas Department of Motor Vehicles

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



CHAPTER 219. OVERSIZE AND OVERWEIGHT VEHICLES AND LOADS SUBCHAPTER E. PERMITS FOR OVERSIZE AND OVERWEIGHT UNLADEN LIFT EQUIPMENT MOTOR VEHICLES

43 TAC §§219.60 - 219.64

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter E, Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles, §219.60, Purpose and Scope; §219.61, General Requirements for Permits for Oversize and Overweight Unladen Lift Equipment Motor Vehicles; §219.62, Single Trip Mileage Permits; §219.63, Quarterly Hubometer Permits; and §219.64, Annual Permits.

EXPLANATION OF PROPOSED AMENDMENTS

Proposed amendments authorize a crane that is permitted under Chapter 219, Subchapter E, to travel with properly secured equipment in accordance with manufacturer's specifications to the extent the equipment is necessary for the crane to perform its intended function. For example, counterweights are necessary at the job site to stabilize the crane. The Federal Highway Administration authorizes the states to determine whether such equipment should travel with the crane or be removed for transport on a separate vehicle. Other states authorize properly secured equipment to be transported with the crane in accordance with the manufacturer's specifications.

Industry representatives asked the department to consider amending our rules because the Texas rules are not consistent with the laws and rules of other states. Industry is required to comply with different standards when they cross the state line into Texas. The department proposes these amendments to allow properly secured equipment to be transported with the crane in accordance with the definition of a "nondivisible vehicle" in §219.2.

The department proposes other amendments because it received calls from industry and law enforcement after drivers were stopped by law enforcement for traveling at nighttime without a front and rear escort vehicle when the permitted crane (annual permit) was overweight, but did not exceed legal size limits under Transportation Code, Chapter 621, Subchapter C. Except as otherwise specified in Chapter 219, Subchapter E, proposed amendments authorize a permitted crane to travel at nighttime without a front or rear escort vehicle if the crane is overweight, but does not exceed legal size limits under Transportation Code, Chapter 621, Subchapter C. These proposed amendments are consistent with the language in §219.11(1)(2)(A)(i), as well as the information on the department's webpage regarding single-trip mileage permits for cranes.

Unlike a crane that exceeds legal size, a front and rear escort vehicle is not required to protect the safety of the traveling public or to protect the roadways from an overweight crane, except as otherwise specified in Chapter 219, Subchapter E. The language in §219.62 and §219.63 currently requires a crane that exceeds 175,000 pounds gross weight to have a front and rear escort vehicle to prevent traffic from traveling beside the crane as it crosses a bridge.

A front and rear escort vehicle is needed to protect the safety of the traveling public when the permitted crane is traveling at nighttime and exceeds any of the legal size limits under Transportation Code, Chapter 621, Subchapter C. Proposed amendments provide uniform requirements for permitted cranes to travel at nighttime, including existing requirements that were previously only listed on the department's website.

Other proposed amendments improve the terminology, correct errors, modify the language for consistency with other rules in Chapter 219, delete language that duplicates language in Chapter 219 or in statute, make the rules consistent with current practice, and restructure portions of Chapter 219 due to deletions.

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.