

will be initiated by the department and will be conducted in accordance with Chapter 206, Subchapter D of this title (relating to Procedures in Contested Cases). Assessment, cancellation, or revocation is abated unless and until affirmed or disaffirmed by order of the Board of the Texas Department of Motor Vehicles or its designee.

(K) Reinstatement.

(i) The director or the director's designee will reinstate apportioned registration to a previously canceled or revoked registrant if all applicable fees and assessments due on the previously canceled or revoked apportioned account have been paid and the applicant provides proof of an acceptable recordkeeping system for a period of no less than 60 days.

(ii) The application for the following registration year will be processed in accordance with the provisions of the IRP.

(L) Denial of apportioned registration for safety reasons. The department will comply with the requirements of the Performance and Registration Information Systems Management program (PRISM) administered by the Federal Motor Carrier Safety Administration (FMCSA).

(i) Denial or suspension of apportioned registration. Upon notification from the FMCSA that a carrier has been placed out of service for safety violations, the department will:

(I) deny initial issuance of apportioned registration;

(II) deny authorization for a temporary cab card, as provided for in subparagraph (M) of this paragraph;

(III) deny renewal of apportioned registration; or

(IV) suspend current apportioned registration.

(ii) Issuance after denial of registration or reinstatement of suspended registration. The director or the director's designee will reinstate or accept an initial or renewal application for apportioned registration from a registrant who was suspended or denied registration under clause (i) of this subparagraph upon presentation of a Certificate of Compliance from FMCSA, in addition to all other required documentation and payment of fees.

(M) Temporary cab card.

(i) Application. The department may authorize issuance of a temporary cab card to a motor carrier with an established Texas apportioned account for a vehicle upon proper submission of all required documentation, a completed application, and all fees for either:

(I) Texas title as prescribed by Transportation Code, Chapter 501 and Subchapter A of this chapter (relating to Motor Vehicle Titles); or

(II) registration receipt to evidence title for registration purposes only (Registration Purposes Only) as provided for in Transportation Code, §501.029 and §217.24 of this title (relating to Vehicle Last Registered in Another Jurisdiction).

(ii) Title application. A registrant who is applying for a Texas title as provided for in clause (i)(I) of this subparagraph and is requesting authorization for a temporary cab card, must submit to a Regional Service Center [by email, fax, overnight mail, or in person] a photocopy of the title application receipt issued by the county tax assessor-collector's office.

(iii) Registration Purposes Only. A registrant who is applying for Registration Purposes Only under clause (i)(II) of this

subparagraph and is requesting authorization for a temporary cab card, must submit an application and all additional original documents or copies of original documents required by the director to a Regional Service Center [by email, fax, or overnight mail or in person].

(iv) Department approval. On department approval of the submitted documents, the department will send notice to the registrant to finalize the transaction and make payment of applicable registration fees.

(v) Finalization and payment of fees. To finalize the transaction and print the temporary cab card, the registrant may compute the registration fees through the department's apportioned registration software application, TxIRP system, and:

(I) make payment of the applicable registration fees to the department as provided by §209.23 of this title [~~related to Methods of Payment~~]; and

(II) afterwards, mail or deliver payment of the title application fee in the form of a check, certified cashier's check, or money order payable to the county tax assessor-collector in the registrant's county of residency and originals of all copied documents previously submitted.

(vi) Deadline. The original documents and payment must be received by the Regional Service Center within 72-hours after the time that the office notified the registrant of the approval to print a temporary cab card as provided in clause (iv) of this subparagraph.

(vii) Failure to meet deadline. If the registrant fails to submit the original documents and required payment within the time prescribed by clause (vi) of this subparagraph, the registrant's privilege to use this expedited process to obtain a temporary cab card will be denied by the department for a period of six months from the date of approval to print the temporary cab card.

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



SUBCHAPTER K. ELECTRONIC SIGNATURES

43 TAC §§217.301 - 217.303

The Texas Department of Motor Vehicles (department) proposes new Chapter 217, Vehicle Titles and Registration, Subchapter K, Electronic Signatures, §217.301, Purpose and Scope; §217.302, Definitions; and §217.303, Process for Accepting Electronic Signatures.

EXPLANATION OF PROPOSED NEW SUBCHAPTER

Senate Bill 1062, 85th Legislature, Regular Session, 2017, amended Transportation Code, §501.174, directing the department by rule to establish a process to accept electronic signatures on secure documents that have been electronically signed through a system not controlled by the department.

The proposed new subchapter establishes that process for electronic signatures on secure documents and non-secure documents.

Proposed new §217.301, Purpose and Scope, establishes that the new rules prescribe the policies and procedures for the acceptance of electronic signatures on secure documents and the use and acceptance of electronic signatures on non-secure documents.

Proposed new §217.302, Definitions, defines key terms used in the proposed new subchapter, including department, electronic signature, secure document, and webDEALER. Electronic signature is defined by reference to Transportation Code, §501.172; secure document is defined as a document that incorporates features that can be used to identify and authenticate a document as original, printed by a secure printing process, and provided by the department or an equivalent department in another jurisdiction; and webDEALER is defined by reference to §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems).

Proposed new §217.303, Process for Accepting Electronic Signatures, authorizes persons to use electronic signatures for records submitted to the department if the requirements of the subchapter are met. New §217.303(b) clarifies that electronic signatures may not be used for any purpose other than the purpose indicated by the signer on the document and that the electronic signatures must be linked to their respective electronic records and match the signer's printed name.

New §217.303(c) provides that the department does not certify or approve an electronic signature process or vendor. An entity offering an electronic signature process assumes responsibility for the accuracy of the signature.

New §217.303(d) provides that a secure document with an electronic signature may only be submitted through webDEALER and requires a county tax assessor-collector to accept a secure document with an electronic signature submitted in compliance with the subchapter.

New §217.303(e) provides that a non-secure document with an electronic signature may be submitted electronically through webDEALER or physically, and requires a county tax assessor-collector to accept a secure document with an electronic signature submitted in compliance with the subchapter.

New §217.303(f) requires a system used to electronically sign documents to capture and retain the signer's name, the date, and the electronic signature. New §217.303(g) requires an electronic signature physically printed or affixed on a document to indicate it is an electronic signature. New §217.303(h) requires that the electronic signature system verify the identity of the user and that the access be secure and utilize unique credentials for each user. This new subsection also establishes a retention period for information captured by an electronic signature system and requires that the information retained be provided to the department on request.

New §217.303(i) exempts an electronic signature captured by physical means, such as a stylus, pen pad, or mouse, from the requirements of §217.303(h) if the signer presents a current photo identification described by §217.5(d) of this title (relating to Evidence of Motor Vehicle Ownership); the identity of the signer is verified in person by the holder of a general distinguishing number issued under Transportation Code, Chapter 503, or

Occupations Code, Chapter 2301; and the photo identification is retained in accordance with §217.5(d).

FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the new subchapter as proposed is in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the proposed new subchapter.

Jeremiah Kuntz, Director of the Vehicle Titles and Registration, has determined that there will be no significant impact on local economies or overall employment as a result of enforcing or administering the proposed new subchapter.

PUBLIC BENEFIT AND COST

Mr. Kuntz has also determined that for each year of the first five years the new subchapter is in effect, the public benefit anticipated as a result of enforcing or administering the new subchapter will be increased efficiency, convenience, and security in the submission of title applications and other documents to the county tax assessor-collector and the department. There are no anticipated economic costs for persons required to comply with the proposed new subchapter as the use of electronic signatures is optional. 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 new subchapter is in effect, no government program would be created or eliminated. Implementation of the proposed new subchapter 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 new subchapter does not create a new regulation, or expand, limit, or repeal an existing regulation - it authorizes an additional method by which certain documents may be signed and submitted to county tax assessor-collectors and the department. The proposed new subchapter 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 new subchapter 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 October 1, 2018.

STATUTORY AUTHORITY

The new subchapter is 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, §501.174, and Business and Commerce Code, §322.017.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 501.

§217.301. Purpose and Scope.

Transportation Code, §501.174, requires the department to establish a process to accept electronic signatures on secure documents that have been electronically signed through a system not controlled by the department. 1 TAC §203.20 (relating to Guidelines) requires state government agencies that send and accept electronic records and electronic signatures to and from other persons and to state agencies that otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures to comply with Guidelines for the Management of Electronic Transactions and Signed Records. This subchapter prescribes the policies and procedures for the acceptance of electronic signatures on secure documents and the use and acceptance of electronic signatures on non-secure documents.

§217.302. Definitions.

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

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

(2) Electronic signature--An electronic signature as defined in Transportation Code, §501.172.

(3) Secure document--A document that incorporates features that can be used to identify and authenticate a document as original, printed by a secure printing process, and provided by the department or issued by an equivalent department in another jurisdiction.

(4) webDEALER--The department's web-based titling and registration system as defined in §217.71 of this title (relating to Automated and Web-Based Vehicle Registration and Title Systems).

§217.303. Process for Accepting Electronic Signatures.

(a) For records submitted to the department, persons may use electronic signatures in lieu of traditional signatures, as authorized by this subchapter, provided the requirements of this subchapter are met.

(b) Electronic signatures may not be used for any purpose other than the purpose indicated by the signer on the document, and:

(1) shall be linked to their respective electronic records to ensure that the signatures cannot be excised, copied, or otherwise transferred; and

(2) must match the signer's printed name on the form or application on which the signature is affixed.

(c) The department does not certify or approve an electronic signature process or vendor. An entity offering an electronic signature process under this subchapter assumes all responsibility for the accuracy of that signature.

(d) A secure document with an electronic signature may only be submitted to the county or department through webDEALER. A secure document with an electronic signature will not be accepted unless submitted through webDEALER. A secure document with an electronic signature submitted in compliance with this subchapter must be accepted by the county tax assessor-collector.

(e) A non-secure document with an electronic signature may be submitted to a county tax assessor-collector or the department electronically through webDEALER or physically if the electronic signature is printed on the document. A non-secure document with an electronic signature submitted in compliance with this subchapter must be accepted by the county tax assessor-collector.

(f) A system used to electronically sign documents, regardless of how the documents are submitted, must capture and retain the:

(1) name of the signer;

(2) date; and

(3) electronic signature of the signer.

(g) An electronic signature physically printed or electronically affixed on any document submitted to the department or a county must indicate the signature is an electronic signature.

(h) Unless exempted from this requirement by subsection (i) of this section, a system used by a person to apply or capture an electronic signature or electronically sign a document must verify the identity of the user accessing the system to execute the document with an electronic signature. Access to the system must be secure and utilize unique credentials for each user. The system must:

(1) be securely maintained;

(2) capture and retain the user information by providing the Internet Protocol address of the signer;

(3) indicate the area(s) electronically signed on any document; and

(4) retain all information provided to the system for a period of five years. This information must be made available to the department upon request.

(i) An electronic signature captured using a stylus, pen pad, mouse, or other physical means, is exempt from subsection (h) of this section and meets the requirements of this subchapter if the signer presents a current photo identification described by §217.5(d) of this title (relating to Evidence of Motor Vehicle Ownership); the identity of the signer is verified in person by a person who holds a general distinguishing number issued under Transportation Code, Chapter 503, or Occupations Code, Chapter 2301; and the photo identification presented is retained in accordance with §217.5(d).

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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General Counsel

Texas Department of Motor Vehicles

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