

(b) A buyer referral service, program, plan, club, or any other entity that accepts a fee for arranging a transaction involving the sale of a used motor vehicle is required to meet the requirements for and obtain a GDN, unless the referral service, program, plan, or club is operated in the following manner.

(1) There is no exclusive market area offered to a dealer by the program. All dealers are allowed to participate in the program on equal terms.

(2) Participation by a dealer in the program is not restricted by conditions, such as limiting the number of line-makes or discrimination by size of dealership or location. The total number of participants in the program may be restricted if the program is offered to all dealers at the same time, with no regard to the line-make.

(3) All participants pay the same fee for participation in the program. The program fee shall be a weekly, monthly, or annual fee, regardless of the size, location, or line-makes sold by the dealer.

(4) A person is not to be charged a fee on a per referral fee basis or any other basis that could be considered a transaction-related fee.

(5) The program does not set or suggest to the dealer any price of a motor vehicle or a trade-in.

(6) The program does not advertise or promote its plan in a manner that implies that the buyer, as a customer of that program, receives a special discounted price that cannot be obtained unless the customer is referred through that program.

(c) All programs must comply with Subchapter H of this chapter (relating to Advertising).

(d) A licensed dealer holding a GDN pursuant to Transportation Code, §503.029(a)(6)(B), may pay a referral fee in cash or value to an individual who has purchased a vehicle from the licensed dealer within the four-year period preceding the referral. The fee may be paid contingent upon either the new referred individual:

(1) purchasing a vehicle from the independent motor vehicle dealer; or

(2) the referral of a new potential purchaser.

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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David D. Duncan

General Counsel

Texas Department of Motor Vehicles

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



CHAPTER 217. VEHICLE TITLES AND
REGISTRATION
SUBCHAPTER B. MOTOR VEHICLE
REGISTRATION
43 TAC §217.27

The Texas Department of Motor Vehicles (department) adopts amendments to Chapter 217, Vehicle Titles and Registration, Subchapter B, Motor Vehicle Registration, §217.27, Vehicle Registration Insignia, with changes to the proposed text as published in the May 4, 2018, issue of the *Texas Register* (43 TexReg 2737). The rule will be republished. The changes correct references to obsolete language and improve clarity and consistency.

EXPLANATION OF AMENDMENTS

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 amendments identify the director of the Vehicle Titles and Registration Division, or the director's designee, as the initial decision maker. The amendments clarify that the director may approve or deny an application for a personalized plate, and may cancel a previously issued personalized plate. The amendments identify and clarify the criteria that the director considers in evaluating plate patterns. More specifically, the 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 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.

The amendments add that a person whose personalized 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.

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 (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 may cancel any personalized alpha-numeric pattern 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 alpha-numeric pattern, the department need not consider the applicant's subjective intent or declared meaning. The department will not issue any license plate containing an alpha-numeric pattern that meets one or more of the following criteria.

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

(2) The director of the department's Vehicle Titles and Registration Division or the director's designee finds that the personalized alpha-numeric pattern, including plate patterns that feature foreign

or slang words or phrases, use phonetic, numeric or reverse spelling, acronyms, patterns viewed in mirror image, or use 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 act, 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 that is demeaning to, belittles, or disparages any person, group, race, ethnicity, nationality, gender, sexual orientation, or refers to an organization that advocates such expressions);

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

(E) a reference to gangs, illegal activities, violence, 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) a representation of, or reference to, law enforcement, military branches, or other governmental entities and their titles, including any reference to public office or position, 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 personalized alpha-numeric pattern 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. All appeals must be in writing and the requesting party may include any 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) The provisions of subsection (a) of this section do not apply to vehicles registered with annual license plates issued by the department.

(g) A 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.

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David D. Duncan
General Counsel
Texas Department of Motor Vehicles
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