



## 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 an amendment to Chapter 217, Vehicle Titles and Registration, Subchapter B, Motor Vehicle Registration, §217.27, Vehicle Registration Insignia.

##### EXPLANATION OF PROPOSED AMENDMENT

With the proposed amendment to add §217.27(d)(4), the department is clarifying when it may approve and issue a license plate pattern that references certain publicly and privately funded entities. Namely, the department may approve a plate pattern which does not violate §217.27(d) and references publicly and privately funded institutions of higher learning, including military academies.

##### FISCAL NOTE

Linda M. Flores, Chief Financial Officer, has determined that for each of the first five years the amendment 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 amendment.

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

##### PUBLIC BENEFIT AND COST

Mr. Kuntz has also determined that for each year of the first five years the amendment is in effect, the public benefit anticipated as a result of enforcing or administering the amendment will be to clarify when the department may issue a license plate pattern. There are no anticipated economic costs for persons required to comply with the proposed amendment. 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 amendment is in effect, no government program would be created or eliminated. Implementation of the proposed amendment 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 amendment does 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 amendment may be submitted to Sarah Swanson, Interim General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email to [rules@txdmv.gov](mailto:rules@txdmv.gov). The deadline for receipt of comments is 5:00 p.m. on November 19, 2018.

##### STATUTORY AUTHORITY

The amendment 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, §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.

(4) Notwithstanding the limitations on issuance of plate patterns in this subsection, the department may issue patterns that refer to publicly and privately funded institutions of higher education, including military academies, whether funded by state or federal sources, or both.

(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.

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 October 8, 2018.

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Sarah Swanson

Interim General Counsel

Texas Department of Motor Vehicles

Earliest possible date of adoption: November 18, 2018

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

