

(4) Obtaining a forensic analyst license for the individuals engaged in the testing in question would be so burdensome as to restrict the out-of-state laboratory's ability to offer forensic analyses in Texas.

(b) A blanket license granted under this section shall apply to all forensic analyses performed by up to 10 (ten) forensic analysts in the laboratory per year.

(c) The laboratory shall submit an application for a blanket license to the Commission, pay the requisite blanket license fee as set forth in this subchapter, and submit a certification on a form provided by the Commission, stating laboratory employees performing forensic analyses for Texas cases have:

(1) reviewed the Code of Professional Responsibility in this subchapter; and

(2) completed all training materials related to *Brady v. Maryland* discovery obligations and the Michael Morton Act (Tex. Code Crim. Proc. art. 39.14) as provided by the Commission.

(d) A blanket license granted under this section shall expire one (1) year from the date of issuance.

(e) The Licensing Advisory Committee and/or the Commission Director or Designee shall review each blanket license application and make a determination regarding whether to grant a license under this section based on the criteria set forth in (a)(1) - (4) of this section. Any laboratory that is denied a request for blanket license may appeal the decision to the full Commission.

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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Texas Forensic Science Commission

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TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 217. VEHICLE TITLES AND REGISTRATION

SUBCHAPTER D. NONREPAIRABLE AND SALVAGE MOTOR VEHICLES

43 TAC §217.84

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 217, Vehicle Titles and Registration, Subchapter D, Nonrepairable and Salvage Motor Vehicles, §217.84, Application for Nonrepairable or Salvage Vehicle Title.

EXPLANATION OF PROPOSED AMENDMENTS

The proposed amendments to §217.84 delete requirements for applications for nonrepairable or salvage vehicle titles to make

the rule consistent with Transportation Code, §501.097, and lessen the burden on insurance companies making application under §501.0925.

The proposed amendments delete certain required statements when making application for a nonrepairable or salvage title. Specifically, the amendment deletes the requirement to state that a vehicle was: subject to a total loss claim paid by an insurance company; or an export only motor vehicle; or sold, transferred, or released to the former owner of the vehicle; or sold, transferred, or released to a buyer at a casual sale by a salvage vehicle dealer, insurance company, or salvage pool operator. These specific requirements, formerly a part of Transportation Code, §501.097 were removed by the Texas legislature in House Bill 2357, 82nd Regular Session, effective January 12, 2012.

The proposed amendments simplify the application process for insurance companies making application under Transportation Code §501.0925, by replacing the requirement for an insurance company to produce documents evidencing payment of a loss claim, such as an electronic check, cancelled check, or screen shot of payment from an insurance company's database, with a certification that the insurance company paid a loss claim for the vehicle that was accepted.

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 amendment will be streamlining the requirements for insurance companies applying for a nonrepairable or salvage title and ensuring the rule is consistent with the Transportation Code. There are no anticipated economic costs for persons required to comply with the proposed amendments. 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 Sarah Swanson, Interim 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 November 26, 2018.

STATUTORY AUTHORITY

The amendments are 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 §501.0041, which provides the department may adopt rules to administer Transportation Code, Chapter 501, Certificate of Title Act.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 501.

§217.84. Application for Nonrepairable or Salvage Vehicle Title.

(a) Place of application. The owner of a nonrepairable or salvage motor vehicle who is required to obtain or voluntarily chooses to obtain a nonrepairable or salvage vehicle title, as provided by §217.83 of this title (relating to Requirement for Non-repairable or Salvage Vehicle Title), shall apply for a nonrepairable or salvage vehicle title by submitting an application, the required accompanying documentation, and the statutory fee to the department.

(b) Information on application. An applicant for a nonrepairable or salvage vehicle title shall submit an application on a form prescribed by the department. A completed form, in addition to any other information required by the department, must include:

- (1) the name and current address of the owner;
- (2) a description of the motor vehicle, including the model year, make, body style, and vehicle identification number;
- (3) a statement describing whether the motor vehicle is a nonrepairable or salvage motor vehicle; ~~and~~

~~[(A) was the subject of a total loss claim paid by an insurance company under Transportation Code, §501.1001 or §501.1002;]~~

~~[(B) is a self-insured motor vehicle under Transportation Code, §501.091;]~~

~~[(C) is an export-only motor vehicle under Transportation Code, §501.099;]~~

~~[(D) was sold, transferred, or released to the owner or former owner of the motor vehicle; or]~~

~~[(E) was sold, transferred, or released to a buyer at casual sale by a salvage vehicle dealer, insurance company, or salvage pool operator;]~~

- (4) whether the damage was caused exclusively by flood;
- (5) a description of the damage to the motor vehicle;
- (6) the odometer reading and brand, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements, if the motor vehicle is a salvage motor vehicle;

(7) the name and mailing address of any lienholder and the date of lien, as provided by subsection (e) of this section; and

(8) the signature of the applicant or the applicant's authorized agent and the date the certificate of title application was signed.

(c) Accompanying documentation. A nonrepairable or salvage vehicle title application must be supported, at a minimum, by:

(1) evidence of ownership, as described by subsection (d)(1) or (3) of this section, if the applicant is an insurance company that is unable to locate one or more of the owners;

(2) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if the motor vehicle is less than 10 model years old and the motor vehicle is a salvage motor vehicle; and

(3) a release of any liens.

(d) Evidence of nonrepairable or salvage motor vehicle ownership.

(1) Evidence of nonrepairable or salvage motor vehicle ownership properly assigned to the applicant must accompany the application for a nonrepairable or salvage vehicle title, except as provided by paragraph (2) of this subsection. Evidence must include documentation sufficient to show ownership to the nonrepairable or salvage motor vehicle, such as:

(A) a Texas Certificate of Title;

(B) a certified copy of a Texas Certificate of Title;

(C) a manufacturer's certificate of origin;

(D) a Texas Salvage Certificate;

(E) a nonrepairable vehicle title;

(F) a salvage vehicle title;

(G) a comparable ownership document issued by another jurisdiction, except that if the applicant is an insurance company, evidence must be provided indicating that the insurance company is:

(i) licensed to do business in Texas; or

(ii) not licensed to do business in Texas, but has paid a loss claim for the motor vehicle in this state; or

(H) a photocopy of the inventory receipt or a title and registration verification evidencing surrender to the department of the negotiable evidence of ownership for a motor vehicle as provided by §217.86 of this title (relating to Dismantling, Scrapping, or Destruction of Motor Vehicles), and if the evidence of ownership surrendered was from another jurisdiction, a photocopy of the front and back of the surrendered evidence of ownership.

(2) An insurance company that acquires ownership or possession of a nonrepairable or salvage motor vehicle through payment of a claim may apply for a nonrepairable or salvage vehicle title to be issued in the insurance company's name without obtaining an ownership document or if it received an ownership document without the proper assignment of the owner if the company is unable to obtain a title from the owner, in accordance with paragraph (1) of this subsection, and the application is not made earlier than the 30th day after the date of payment of the claim. The application must also include:

(A) a statement that the insurance company has provided at least two written notices to the owner and any lienholder attempting to obtain the title or proper assignment of title for the motor vehicle;

(B) a statement that the insurance company paid a loss claim for the vehicle that was accepted; and

~~[(B) a copy of a document:]~~

~~[(i) indicating that payment has been made, including an electronic check, canceled check, or screen print from the insurance company's database that identifies the type of payment method; and]~~

~~[(ii) reflecting the vehicle identification number, vehicle owner names, name of the person to whom payment was made if different from vehicle owners, payment amount, and date payment was issued; and]~~

(C) any unassigned or improperly assigned title in the insurance company's possession.

(3) An insurance company that acquires, through payment of a claim, ownership or possession of a salvage motor vehicle or non-repairable motor vehicle covered by an out-of-state ownership document may obtain a salvage vehicle title or nonrepairable vehicle title in accordance with paragraph (1) or (2) of this subsection if:

(A) the motor vehicle was damaged, stolen, or recovered in this state; or

(B) the motor vehicle owner from whom the company acquired ownership resides in this state.

(4) A salvage pool operator may apply for title in the name of the salvage pool operator by providing to the department:

(A) documentation from the insurance company that:

(i) the salvage pool operator, on request of an insurance company, was asked to take possession of the motor vehicle subject to an insurance claim and the insurance company subsequently denied coverage or did not take ownership of the vehicle; and

(ii) the name and address of the owner of the motor vehicle and the lienholder, if any; and

(B) proof that the salvage pool operator, before the 31st day after receiving the information from the insurance company, sent a notice to the owner and any lienholder informing them that:

(i) the motor vehicle must be removed from the location specified in the notice not later than the 30th day after the date the notice is mailed; and

(ii) if the motor vehicle is not removed within the time specified in the notice, the salvage pool operator will sell the motor vehicle and retain from the proceeds any costs actually incurred by the operator in obtaining, handling, and disposing of the motor vehicle, except for charges:

(I) that have been or are subject to being reimbursed by a third party; and

(II) for storage or impoundment of the motor vehicle.

(5) Proof of notice under this subsection consists of:

(A) the validated receipts for registered or certified mail and return receipt or an electronic certified mail receipt, including signature receipt; and

(B) any unopened certified letters returned by the post office as unclaimed, undeliverable, or with no forwarding address.

(e) Recordation of lien on nonrepairable and salvage vehicle titles. If the motor vehicle is a salvage motor vehicle, a new lien or

a currently recorded lien may be recorded on the salvage vehicle title. If the motor vehicle is a nonrepairable motor vehicle, only a currently recorded lien may be recorded on the nonrepairable vehicle title.

(f) Issuance. Upon receipt of a completed nonrepairable or salvage vehicle title application, accompanied by the statutory application fee and the required documentation, the department will, before the sixth business day after the date of receipt, issue a nonrepairable or salvage vehicle title, as appropriate.

(1) If the condition of salvage is caused exclusively by flood, a "Flood Damage" notation will be reflected on the face of the document and will be carried forward upon subsequent title issuance.

(2) If a lien is recorded on a nonrepairable or salvage vehicle title, the vehicle title will be mailed to the lienholder. For proof of ownership purposes, the owner will be mailed a receipt or printout of the newly established motor vehicle record, indicating a lien has been recorded.

(3) A nonrepairable vehicle title will state on its face that the motor vehicle may:

(A) not be repaired, rebuilt, or reconstructed;

(B) not be issued a regular certificate of title or registered in this state;

(C) not be operated on a public highway; and

(D) may only be used as a source for used parts or scrap metal.

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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Sarah Swanson

Interim 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 G. RECORDS AND INSPECTIONS

43 TAC §219.101

The Texas Department of Motor Vehicles (department) proposes amendments to Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter G, Records and Inspections, §219.101, Investigations and Inspections of Records.

EXPLANATION OF PROPOSED AMENDMENTS

The department is conducting a rule review in compliance with Government Code, §2001.039. Notice of the department's intent to review Chapter 219 is published in the Review of Agency Rules section of this issue of the *Texas Register*.

As a result of the review, the department has determined that §219.101 should be amended. Proposed amendments make