

prioritize the use of advisory committees in rulemaking on significant or controversial issues of public policy. The department may form working groups to advise department staff. A working group is not a standing committee formed to advise the board, but a group formed by department staff on an as-needed basis.

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 Department of Motor Vehicles

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



43 TAC §206.94, §206.95

STATUTORY AUTHORITY

The repeals 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; and more specifically, Transportation Code, §1001.031, which provides that the board shall retain or establish one or more advisory committees to make recommendations to the board or the executive director.

CROSS REFERENCE TO STATUTE

Transportation Code, Chapter 1001.

§206.94. *Household Goods Rules Advisory Committee (HGRAC).*

§206.95. *Motor Vehicle License Advisory Committee (MVLAC).*

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CHAPTER 223. COMPLIANCE AND INVESTIGATIONS DIVISION

SUBCHAPTER A. FRAUD, WASTE, OR ABUSE

43 TAC §§223.1 - 223.3

The Texas Department of Motor Vehicles (department) proposes new Chapter 223, Compliance and Investigations Division, Sub-

chapter A, Fraud, Waste, or Abuse, §223.1, Purpose and Scope; §223.2, Definitions; and §223.3, Submission of Request.

EXPLANATION OF PROPOSED NEW CHAPTER

The new chapter implements the Sunset Advisory Commission's Recommendation 2.2, as stated in the Sunset Staff Report with Commission Decisions, 2018-2019, 86th Legislature. The recommendation requires the department to adopt rules to formalize the department's current "red flag" fraud warning system, further developing and implementing a clear and efficient path for county tax assessor-collectors to report suspected fraud, waste, or abuse of the registration and title system (RTS) by employees, dealers, and full service deputies; and to provide an option for a county to request action for suspected fraud or abuse, such as immediately suspending access to the RTS.

Section 223.1 outlines the purpose and scope of the subchapter, which is to prescribe the policies and procedures for county tax assessor-collectors to report suspected fraud, waste, or abuse related to motor vehicle title or registration to the department's Compliance and Investigations Division (CID).

Section 223.2 establishes definitions for the chapter.

Section 223.3 describes the general process for county tax assessor-collectors who wish to report suspected fraud, waste, or abuse to the CID. The rule explains that the CID will accept submissions for review related to public safety, public corruption, odometer fraud, and title fraud. The CID accepts submissions pertaining to other areas of concern on a case-by-case basis. The CID will maintain a policy that outlines the details of the submission process and make the policy available to county tax assessor-collectors in addition to posting the policy on the department website. The rule clarifies that in addition to a county tax assessor-collector's authority to suspend or terminate a county tax assessor-collector employee's or a full service deputy's access to the department's RTS, the county tax assessor-collector may request such action by the CID. The rule also clarifies that a request for investigation does not obligate the CID to conduct an investigation or to provide details of the investigation to the county tax assessor-collector.

FISCAL NOTE

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

Tim Menke, Director of the Compliance and Investigations 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 new chapter.

PUBLIC BENEFIT AND COST

Mr. Menke has also determined that for each year of the first five years the new chapter is in effect, the public benefit anticipated as a result of enforcing or administering the new chapter will be clarity for county tax assessor-collectors in knowing how to report suspected fraud, waste, or abuse to the CID. There are no anticipated economic costs for persons required to comply with the proposed new chapter. 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 chapter is in effect, no government program would be created or eliminated. Implementation of the proposed new chapter 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 chapter does not create a new regulation, or expand, limit, or repeal an existing regulation. The proposed new chapter does not affect the number of individuals subject to the chapter's applicability and will not affect this state's economy.

SUBMITTAL OF COMMENTS

Written comments on the proposed new chapter 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 April 1, 2019.

STATUTORY AUTHORITY

The new chapter 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, §501.0041, which provides the department may adopt rules to administer Chapter 501 (Certificate of Title Act); Transportation Code, §502.0021, which provides the department may adopt rules to administer Chapter 502 (Registration of Vehicles); and Transportation Code, §520.003, which provides the department may adopt rule to administer Chapter 520 (Miscellaneous Provisions).

CROSS REFERENCE TO STATUTE

Transportation Code, Chapters 501, 502, and 520.

§223.1. Purpose and Scope.

The CID assists county tax assessor-collectors with compliance and best practices to detect and prevent fraud, waste, and abuse and supports law enforcement with criminal investigations involving motor vehicle title and registration fraud. To provide clarity for county tax assessor-collectors who suspect fraud, waste, or abuse related to motor vehicle title or registration, this subchapter prescribes the policies and procedures for county tax assessor-collectors to report information to the CID.

§223.2. Definitions.

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

(1) CID--The Compliance and Investigations Division of the Texas Department of Motor Vehicles.

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

(3) Director--The director of the Compliance and Investigations Division of the Texas Department of Motor Vehicles.

(4) RTS--The department's registration and title system.

§223.3. Submission of Request.

(a) The CID will accept submissions by a county tax assessor-collector or representative of a county tax assessor-collector for review related to public safety, public corruption, odometer fraud, and title fraud. The director and CID lead investigator are authorized to accept submissions pertaining to other areas of concern on a case-by-case basis.

(b) A county tax assessor-collector or representative of a county tax assessor-collector who suspects possible fraudulent activity or public corruption may submit a request to the CID for investigation. If the CID does not have adequate resources to investigate a submission, the CID may forward the submission to an appropriate law enforcement entity.

(c) The CID will maintain a policy outlining the details of the submission process, and make that policy available to all county tax assessor-collectors. The policy will also be posted on the department website and will be updated as necessary.

(d) A submission that does not fall within the guidelines of the CID policy may be returned to the submitting county tax assessor-collector office for proper submission.

(e) A county tax assessor-collector may request immediate suspension of a county tax assessor-collector employee's or full service deputy's access to the RTS. Any such request must be in writing and directed to the director and CID lead investigator.

(f) A county tax assessor-collector's ability to suspend or terminate a county tax assessor-collector employee's or full service deputy's access to the RTS is not affected by submission of a request for investigation of suspected fraud, waste, or abuse to the CID.

(g) A submission for a request for investigation of suspected fraud, waste, or abuse does not bind the CID to conduct such investigation or provide details of the investigation to the county tax assessor-collector.

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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