

of that state, when the person buys a vehicle from, sells a vehicle to, or exchanges vehicles with a person who:

(A) holds a current valid general distinguishing number issued by the department, if the transaction is not intended to avoid the terms of Transportation Code, §503.001 et seq.; or

(B) is a domiciliary of another state if the person holds a valid dealer license and bond, if applicable, issued by that state, and if the transaction is not intended to avoid the terms of Transportation Code, §503.001 et seq.

(c) Application for a general distinguishing number shall be on a form prescribed by the department properly completed by the applicant showing all information requested thereon and shall be submitted to the department accompanied by the following:

(1) proof of a \$25,000 surety bond as provided in §215.137 of this title (relating to Surety Bond);

(2) the fee for the general distinguishing number as prescribed by law for each type of license requested;

(3) the fee as prescribed by law for each metal dealer plate requested as prescribed by law;

(4) a copy of each assumed name certificate on file with the Office of the Secretary of State or county clerk; and

(5) a photocopy of at least one of the following documents for the owner, president, or managing partner of the dealership:

(A) current driver's license;

(B) current Department of Public Safety identification;

(C) current concealed handgun license or license to carry a handgun issued by the Texas Department of Public Safety under Government Code, Chapter 411, Subchapter H;

(D) current passport; or

(E) current United States armed forces identification.

(d) A person who applies for a general distinguishing number and will operate as a dealer under a name other than the name of that person shall use the name under which that person is authorized to do business, as filed with the Office of the Secretary of State or county clerk, and the assumed name of such legal entity shall be recorded on the application using the letters "DBA."

(e) If the general distinguishing number is issued to a corporation, the dealer's name and assumed name used by the dealer, as on file with the Office of the Secretary of State, shall be recorded on the application.

(f) A wholesale dealer license holder may buy, sell, or exchange vehicles with licensed dealers. A wholesale dealer license holder may not sell or exchange vehicles at retail.

(g) An independent mobility motor vehicle dealer shall retain and produce for inspection all records relating to the license requirements under Occupations Code, §2301.002(17-a) and all information and records required under Transportation Code, §503.0295.

(h) An application for a general distinguishing number may be denied if an applicant for such license has committed any act that could result in license cancellation or revocation under Transportation Code, §503.001 et seq.; Occupations Code, §2301.001 et seq.; or any rule or regulation of the department.

(i) Upon request by the department, the applicant shall submit documents demonstrating that the applicant owns the real property on

which the business is situated or has a written lease for the property that has a term of not less than the term of the license.

(j) A person holding an independent motor vehicle general distinguishing number license does not have to hold a salvage dealer license to:

(1) act as a salvage vehicle dealer or rebuilder, or

(2) store or display a motor vehicle as an agent or escrow agent of an insurance company.

(k) To be eligible for an independent motor vehicle general distinguishing number license, a person must complete licensing training specified by the department, except as provided herein:

(1) once a person has completed the required training, the person will not have to retake the training for subsequent license renewals, but may be required to provide proof of training completion as part of the license renewal process; and

(2) a person holding an independent motor vehicle general distinguishing number license for at least 10 years as of September 1, 2019, is exempt from the licensing training requirement.

§215.161. Licensing Education Course Requirements.

(a) A motor vehicle dealer licensing education course provider must be a Texas institution of higher education, as defined by Education Code, §61.003, or a motor vehicle trade association domiciled in this state.

(b) The licensing education course must be approved by the department and must include information on the laws and rules applicable to motor vehicle dealers and the consequences of violating those laws and rules.

(c) The licensing education course must consist of at least six hours of online instruction.

(d) The cost for the licensing education course must not exceed \$150 per person. A trade association course provider may not charge a different rate to a nonmember.

(e) The course provider must issue a certificate of completion to each person who successfully completes the licensing education course.

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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CHAPTER 217. VEHICLE TITLES AND REGISTRATION

SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS

43 TAC §217.75

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes new section 43 TAC §217.75 concerning required training for a person performing registration or titling services through the department's registration and title system (RTS). This new section is necessary to implement Transportation Code, §520.023 as added by Senate Bill 604, 86th Legislature (2019), which requires the department to implement a training program regarding the department's automated registration and titling system and the identification of fraudulent activity. Senate Bill 604 requires the department to adopt rules to implement the training program required under Transportation Code, §520.023 by December 1, 2019.

EXPLANATION OF PROPOSED NEW SECTION.

Proposed new §217.75(a) establishes the requirement that a department employee, department contractor, county tax assessor-collector employee, or full service deputy as defined by §217.162(6) must complete training regarding transactions performed in RTS and identification of fraudulent activity related to motor vehicle registration and titling. The definition of full service deputy includes an individual who is employed, hired, or otherwise engaged by the full service deputy to serve as the deputy's agent in performing motor vehicle titling, registration, or registration renewal services. Proposed new §217.75(b) specifies that the department will make the training available for county tax assessor-collector employees or full service deputies through the department's online training system. Proposed new §217.75(c) clarifies how a county tax assessor-collector employee or full service deputy may satisfy the training regarding RTS. Specifically, a county tax assessor-collector employee or full service deputy must pass each training course associated with the permissions the person is assigned in RTS. To accomplish this, the county employee or official with an administrative role in RTS, whether that person is the county tax assessor-collector or county tax assessor-collector system administrator, must create accounts for and assign RTS permissions to each employee or full service deputy who will be given access to RTS based on that person's job duties. The department will assign training content for specific permissions in RTS. A person must take the required training using the person's assigned training identifier for the department's online training system. The department will enable a permission once the required training for the assigned permission has been completed. This process will ensure verification of training before a person is able to access RTS. The system administrator does not need to complete the required training to create accounts and assign permissions; however, if the system administrator wants access to RTS, the system administrator must complete the training required by this section.

A person who is processing transactions on or before the effective date of the rule will have until August 31, 2020, to complete the required training. This will allow existing staff approximately eight months to complete training depending on the effective date of the rule. Similarly, a person who is processing transactions when new training is made available after August 31, 2020, will have 90 days to complete new required training. The proposed subsection also provides a limited exception to the 90-day time-limit to complete new training. For any new training made available after August 31, 2020, a county employee may have an extended period of time to take the new training if the county tax assessor-collector at the place of employment determines that: 1. The employee is on leave the date the new training is made available, is on leave for at least 90 contiguous days thereafter and misses the window to take the new train-

ing prior to their access being turned off, and is on leave due to circumstances beyond the employee's control. The county tax assessor-collector must make the determination that all of the factors in §217.75(c)(6) are met prior to giving access to the employee when they return from leave for the additional contiguous 14 days. These deadlines should provide sufficient time for existing staff to complete training without unduly interfering with that person's workload. A person who is assigned permissions after the effective date of the rule or after new training is created must complete all required training before the permissions are enabled. This requirement is reasonable because a new employee will likely have no experience with RTS and will have more time available to dedicate to training. Finally, proposed new §217.75(d) provides that the department will disable a permission if a person fails to complete the training required for that permission.

In conjunction with this rule, the department is also reconfiguring its internal systems to conform to the new requirements under the proposed rule. Therefore, the effective date of the rule may be extended to correspond with completion of the programming necessary to fully implement the rule.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Linda M. Flores, Chief Financial Officer, has determined that for each year of the first five years the new section will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal, other than any imposed by the statute. The required training currently exists and is provided to counties through the department's online training system. The required training is provided free of cost to the counties. While the department may incur nominal additional costs verifying training and enabling permissions, the department anticipates it will be able to absorb these costs. Any change in revenue or expenditures is the result of the amended statute and not the rule. Jeremiah Kuntz, Director of the Vehicle Titles and Registration Division, has determined that there will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Mr. Kuntz has also determined that, for each year of the first five years the new section is in effect, the public benefits anticipated include ensuring all people who perform registration and titling transactions in RTS will be trained consistently on how to use the system and identify fraud, in turn leading to greater efficiency and accuracy for consumers; an increased ability to detect and prevent fraudulent transactions; and greater assurance that RTS is used appropriately as well as that records are accurate.

Anticipated Costs To Comply With The Proposal. Mr. Kuntz anticipates that there will be minimal costs to comply with this rule. Training currently exists and is provided to counties through the department's online training system at no cost to counties. The department currently updates existing training and creates new training as needed, so costs associated with this will be absorbed by the department. The department will continue to provide access to the training through the department's online training system at no cost to the counties. The time required to complete training varies by training module; however, it is self-paced and can be taken in a manner conducive to county operations. Counties are currently allocated one training account per RTS workstation assigned to the county. There are 254 counties with varying number of personnel and workstations per office. The cost associated with taking training will vary by county based on the number of employees that have not currently taken available

training. The department does not anticipate requests for additional training accounts as a result of this rule. Counties are in the best position to determine costs associated with taking training.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. The department has determined there will be no impact on small businesses, micro-business, or rural communities as a result of implementing this rule. Therefore, the department is not required to prepare a regulatory flexibility analysis as specified in Government Code, §2006.002.

TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal 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, therefore, does not constitute a taking or require a takings impact assessment under the Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that during the first five years the proposed new section is in effect, no government program would be created or eliminated. Implementation of the proposed new section 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. The proposed new section will create a new regulation in §217.75 to implement Senate Bill 604. The proposed new section does not affect the number of individuals subject to the rule's applicability and will not affect this state's economy.

REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on September 23, 2019. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

STATUTORY AUTHORITY. The new section 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, §520.021, which authorizes the department to adopt rules and policies for the maintenance and use of the department's automated registration and titling system; and Transportation Code, §520.023, which requires the department to implement a training program providing information on the department's automated registration and titling system and identification of fraudulent activity related to vehicle registration and titling.

CROSS REFERENCE TO STATUTE. Transportation Code, §520.021 and §520.023.

§217.75. Required Training on the Registration and Title System and Identification of Fraud.

(a) Required training. A person performing registration or titling services through RTS, including a department employee, department contractor, county tax assessor-collector employee, or full service deputy as defined by §217.162(6) of this title (relating to Definitions),

must complete a training program as prescribed by this section. Required training will include, at a minimum:

- (1) training regarding transactions performed in RTS; and
- (2) identification of fraudulent activity related to vehicle registration and titling.

(b) Online training. The department will make required training for county tax assessor-collector employees and full service deputies available through the department's online training system.

(c) Registration and Title System training for county tax assessor-collector staff and full service deputies. To satisfy the training requirements under subsection (a)(1) of this section, a county tax assessor-collector employee or full service deputy must pass each training course associated with the permissions that person is assigned in RTS.

(1) A county tax assessor-collector or county tax assessor-collector's system administrator must create accounts for and assign permissions in RTS to each employee or full service deputy who will be given access to RTS based on that person's job duties as determined by the county tax assessor-collector or the county tax assessor-collector's system administrator.

(2) The department will assign training content for specific permissions in RTS.

(3) A person must take required training using the person's individually assigned training identifier for the department's online training system.

(4) The department will enable a permission on completion of required training.

(5) A person with permissions in RTS on or before the effective date of this section must complete required training under this section by August 31, 2020. A person who has not been assigned permissions in RTS on or before the effective date of this section must complete all required training before permissions are enabled by the department.

(6) If new training is made available for a new or existing permission after August 31, 2020, a person with permissions enabled before the new training is made available must complete the required training within 90 days of the department's notification that the training is available. A county employee who is on leave on the date of the department's notification that the new training is available, for at least 90 days thereafter, and due to circumstances beyond that person's control, as determined by the county tax assessor-collector may have an additional 14 days upon returning to work to complete the new training.

(d) Failure to complete required training. The department will disable a permission if a person fails to complete required training for the permission within the timeframes required by this section.

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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