



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

TxDMV Board Meeting

8:00 a.m.

Thursday, December 5, 2019

AGENDA
BOARD MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM
AUSTIN, TEXAS 78731
THURSDAY, DECEMBER 5, 2019
8:00 A.M.

All agenda items are subject to possible discussion, questions, consideration, and action by the Board of the Texas Department of Motor Vehicles (Board). Agenda item numbers are assigned for ease of reference only and do not necessarily reflect the order of their consideration by the Board. Presentations may be made by the identified staff or Board member or other staff as needed. The Board reserves the right to discuss any items in executive session where authorized by the Open Meetings Act.

PAGE

1. **Roll Call and Establishment of Quorum**
2. **Pledges of Allegiance - U.S. and Texas**
3. **Vice Chair's Report** - Vice Chair Bacarisse
#EndTheStreakTX Texas Department of Transportation Campaign
4. **Executive Director's Reports** - Whitney Brewster
 - A. Vehicle Titles and Registration Advisory Committee Update
 - B. Contracts Update
 - 7 C. **Awards, Recognition of Years of Service, and Announcements**
- Introduction of Deputy Chief Information Officer, Wendy Barron

CONTESTED CASE

- 9 5. **Denial of Renewal Application, Revocation of General Distinguishing Number, and Appeal to SOAH under Occupations Code, §§53.021-53.023, 2301.251(a), and 2301.651; Transportation Code, §503.038; and 43 Texas Administrative Code §§215.88(c), (i), (j), and 215.141.** MVD Docket Case No. 19-0001062.ENF, SOAH Docket No. 608-19-4209.ENF; *Texas Department of Motor Vehicles v. Flying A Auto, LLC* - Daniel Avitia and Brian Coats

RULES – ADOPTION

6. Chapter 215, Motor Vehicle Distribution - Daniel Avitia

Amendments, §215.133

Repeal, §215.102

New, §215.161

(Relating to:

- HB 1667, allowing independent motor vehicle general distinguishing number license holders to perform certain salvage related activities without holding a salvage dealer's license;
- HB 3842, requiring a separate general distinguishing number for most consignment locations; and
- SB 604, eliminating representative licenses and adding licensing education and training requirements for independent motor vehicle dealers.)

(Proposal Published August 23, 2019 - 44 Tex. Reg. 4462)

32 **7. Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders - Daniel Avitia**

Amendments, §§221.1, 221.2, 221.11, 221.13, 221.20, and 221.41

Repeal, §221.12

New, §221.54

(Relating to:

- [Sunset Advisory Commission's recommendations establishing a risk-based approach to salvage vehicle dealer inspections;](#)
- [SB 604, eliminating salvage endorsements and salvage agent licenses; authority to set salvage license terms, and prorate fees; and](#)
- [HB 1667, allowing independent motor vehicle general distinguishing number license holders to perform certain salvage related activities without holding a salvage dealer's license.\)](#)

(Proposal Published August 23, 2019 - 44 Tex. Reg. 4468)

48 **8. Chapter 215, Motor Vehicle Distribution - Daniel Avitia**

Amendments, §215.83

Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders

Amendments, §221.17

[\(Relating to SB 1200, authority of certain military spouses to engage in a business or occupation in this state.\)](#)

(Proposals Published August 23, 2019 - 44 Tex. Reg. 4460 and 44 Tex. Reg. 4472)

9. Chapter 217, Vehicle Titles and Registration - Jeremiah Kuntz

Amendments, §§217.2, 217.45, and 217.46

(Relating to:

- HB 1548, establishing procedure for issuance of license plates to golf carts and off-highway vehicles, charging a fee, and updating statutory citations;

- HB 1755, classification and operation of sand rails;
 - HB 3068, use of certain license plates on classic motor vehicles and travel trailers, custom vehicles, street rods, and certain exhibition vehicles; use of embossed disabled veterans' license plates on certain vehicles; and
 - HB 3171, classification and operation of mopeds.)
- (Proposal Published August 30, 2019 - 44 Tex. Reg. 4467)*

65 **10. Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz
New, §217.15
(Relating to HB 2315, evidence of ownership of temporary housing provided by a government agency in response to a natural disaster or other declared emergency; and automatic issuance of title to travel trailer owned by government agency in certain circumstances.)
(Proposal Published August 30, 2019 - 44 Tex. Reg. 4678)

11. Chapter 217, Vehicle Titles and Registration - Jeremiah Kuntz
Amendments, §217.40
New, §217.16
(Relating to HB 3842, new Transportation Code, §501.0236, Issuance of Title and Permits When Dealer Goes Out of Business; waiving certain fees.)
(Proposal Published August 30, 2019 - 44 Tex. Reg. 4680)

70 **12. Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz
Amendments, §217.27
(Relating to HB 1262, the extended registration of certain trailers not subject to inspection.)
(Proposal Published August 30, 2019 - 44 Tex. Reg. 4684)

78 **13. Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz
Amendments, §217.41
(Relating to HB 643, expanding the county locations at which an application for a disabled parking placard may be submitted.)
(Proposal Published August 30, 2019 - 44 Tex. Reg. 4686)

RULES - PROPOSAL

85 **14. Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz
Amendments, §§217.3 and 217.141-217.143
New Subchapter L, §§217.401-217.407
(Relating to:

- HB 1755, title and registration for assembled vehicles;
- HB 3171, motor driven cycles; and
- Transportation Code, §501.036 and §501.037, farm trailers, farm semitrailers, trailers, semitrailers, and house trailers.)

BRIEFING AND ACTION ITEMS

- 124 **15. Specialty Plate Designs** - Jeremiah Kuntz
- A. Texas A&M Maroon, Redesign proposed by My Plates under Transportation Code, §504.851
 - B. Texas A&M Classic, Crossover Redesign proposed by My Plates under Transportation Code, §504.851
- 127 **16. Finance and Audit**
- A. [Delegation of Authority to the Executive Director for the Approval and Execution of the Innovative Technology Deployment \(ITD\) Commercial Vehicle Information Exchange Window \(CVIEW\) Services Contract](#) - Jimmy Archer
 - 129 B. [Internal Audit Division Status Report](#) - Sandra Menjivar-Suddeath (BRIEFING ONLY)

EXECUTIVE SESSION

- 17. The Board may enter into closed session under one or more of the following provisions of the Texas Open Meetings Act, Government Code, Chapter 551:**
- **Section 551.071** - Consultation with and advice from legal counsel regarding:
 - pending or contemplated litigation, or a settlement offer;
 - a matter in which the duty of the attorney to the government body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code, Chapter 551; or
 - any item on this agenda.
 - **Section 551.074** - Personnel matters.
 - Discussion relating to the appointment, employment, evaluation, reassignment, duties, discipline, and dismissal of personnel.
 - Discussion relating to TxDMV dispute resolution process and recent EEOC complaints and internal Civil Rights Office complaints.
 - **Section 551.076** - Deliberation Regarding Security Devices or Security Audits; Closed Meeting.
 - the deployment, or specific occasions for implementation, of security personnel or devices; or
 - a security audit.
 - **Section 551.089** - Deliberation Regarding Security Devices or Security Audits; Closed Meeting.
 - security assessments or deployments relating to information resources technology;
 - network security information as described by Section 2059.055(b); or
 - the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

18. Action Items from Executive Session

19. Public Comment

20. Adjournment

The Board will allow an open comment period to receive public comment on any agenda item or other matter that is under the jurisdiction of the Board. No action will be taken on matters that are not part of the agenda for the meeting. For subjects that are not otherwise part of the agenda for the meeting, Board members may respond in accordance with Government Code, Section 551.042 and consider the feasibility of placing the matter on the agenda for a future meeting. In accordance with 43 Texas Administrative Code §206.22, any person wishing to address the Board must complete a speaker's form at the registration table prior to the agenda item being taken up by the Board. Public comment will only be accepted in person. Each speaker will be limited to three minutes and time allotted to one speaker may not be reassigned to another speaker.

Agenda items may be presented by the named presenters or other TxDMV staff.

Pursuant to Sections 30.06 and 30.07, Penal Code (trespass by license holder with a concealed or openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun or a handgun that is carried openly.

Any individual with a disability who plans to attend this meeting and requires auxiliary aids or services should notify the department as far in advance as possible, but no less than two days in advance, so that appropriate arrangements can be made. Contact Carrie Fortner by telephone at (512) 465-3044.

I certify that I have reviewed this document and that it conforms to all applicable Texas Register filing requirements.

CERTIFYING OFFICIAL: Tracey Beaver, General Counsel, (512) 465-5665.

Board Meeting Date: 12/5/2019

BRIEFING

To: Texas Department of Motor Vehicles Board
From: Whitney Brewster, Executive Director
Agenda Item: 4.C
Subject: Executive Director's Report – Recognition of Years of Service

RECOMMENDATION

Board Chair and members offer congratulations to employees receiving recognition for an award, reaching a state service milestone, or retirement.

PURPOSE AND EXECUTIVE SUMMARY

The Executive Director announces the name of individuals who retired from the agency and recognizes employees who have reached a state service milestone of 20 years and every five-year increment thereafter. Recognition at the December 5, 2019, Board Meeting for retirements and state service awards include:

- Dawn Burton in Enforcement Division reached 20 years of state service.
- Lenora Blakes in Motor Carrier Division reached 20 years of state service.
- Jennifer Robbins in Finance & Administrative Services Division reached 25 years of state service.
- Diane Kenny in Motor Carrier Division reached 35 years of state service.

And, the following individuals recently retired from the agency:

- Sylvia Cantu – Vehicle Titles & Registration Division
- Doug Scott – Information Technology Services Division
- Vanessa Williams – Motor Carrier Division

FINANCIAL IMPACT

No financial impact.

BACKGROUND AND DISCUSSION

No additional background and discussion.

Wendy Barron
Deputy Chief Information Officer

Wendy Barron is an experienced Information Technology leader with a background in managing IT projects and operations at government organizations. Prior to joining the Texas Department of Motor Vehicles, Wendy served as the IT Director and Information Resources Manager at both the State Office of Administrative Hearings and the Texas Water Development Board. Other positions at the Texas Water Development Board included leading the Water Supply and Strategy Analysis Team, project manager, and systems analyst.

Wendy has a bachelor's degree in Computer Information Systems and a Master of Public Administration degree from Texas State University. When not at work, Wendy enjoys spending time with her husband and son and helping her parents manage their cattle ranch in the Texas Hill Country.



Board Meeting Date: 12/5/2019

ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Motor Vehicle Division Director
Agenda Item: 5
Subject: Denial of Renewal Application, Revocation of General Distinguishing Number, and Appeal to SOAH under Occupations Code, §§ 53.021-.023 and §§ 2301.251(a), and 2301.651; Transportation Code, § 503.038; and 43 Texas Administrative Code §§ 215.88 (c), (i), (j), and 215.141. MVD Docket Case No. 19-0001062.ENF, SOAH Docket No. 608-19-4209.ENF. *Texas Department of Motor Vehicles v. Flying A Auto, LLC.*

RECOMMENDATION

Staff recommends the Board adopt the Findings of Fact, Conclusions of Law, and proposed sanction in the Administrative Law Judge's (ALJ) Proposal for Decision (PFD), and enter an order denying Flying A Auto, LLC's renewal application for a wholesale General Distinguishing Number (GDN) and revoking its existing GDN.

PURPOSE AND EXECUTIVE SUMMARY

The State Office of Administrative Hearings (SOAH) issued a PFD for consideration by the Board of the Texas Department of Motor Vehicles. The Board may now consider and approve a Final Order.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

Flying A Auto, LLC applied to renew its wholesale General Distinguishing Number (GDN) on July 6, 2018. Less than four months earlier on March 26, 2018, Brad Johnson, a 50% owner of Flying A Auto, LLC, plead guilty and received deferred adjudication for the crime of Misapplication of Fiduciary Duty - \$30,000 or More but Less Than \$150,000, a third-degree felony.

Mr. Johnson's crime involved funds misappropriation from other automotive dealerships of which Mr. Johnson was part-owner. Mr. Johnson was 40 years old at the time of the criminal activity which occurred between September 9, 2015, and March 2016.

The crime occurred less than five years before the application was filed, so the deferred adjudication may be considered a conviction under TEX. OCC. CODE § 53.021(d)(1)(B)(i). The department may deny the license application if the crime directly relates to the occupation being licensed and after considering the factors specified in TEX. OCC. CODE § 53.022-.023.

The Motor Vehicle Division (MVD) Licensing Committee denied the renewal license application after reviewing the circumstances including the mitigating facts and information provided by Mr. Johnson. Key factors for considering the applicant as unfit and denying licensure include the following:

1. The nature and seriousness of the crime which involved misappropriation of funds from an automobile dealership;
2. The crime was recent and the criminal actions occurred over several months;
3. Mr. Johnson's age (40 years) at the time of the crime; and
4. The lack of rehabilitative evidence provided by Mr. Johnson.

MVD referred the denied application to the Enforcement Division, and Flying A Auto, LLC was sent the Notice of Department Decision (NODD) recommending revocation of GDN P136696W on April 2, 2019. The Enforcement Division referred the contested case matter to SOAH on or about April 25, 2019. The hearing on the merits was on July 30, 2019, and the record closed on August 1, 2019. The PFD was issued on September 30, 2019.

The ALJ found that Mr. Johnson was convicted of a crime that directly relates to the occupation of wholesale motor vehicle dealer and after weighing the additional factors specified in TEX. OCC. CODE § 53.022-.023, recommended the Board deny Flying A Auto, LLC's license renewal application.

The Enforcement Division filed exceptions only to add additional citations to Conclusion of Law No. 5. The respondent did not file exceptions. In response to the Enforcement Division's exceptions on October 28, 2019, the ALJ issued a letter modifying Conclusion of Law No. 5 adding the requested citations to the department's fitness rules.

Key Event Timeline Summary

- | | |
|------------|--|
| March 2018 | Brad Johnson plead guilty to 3 rd degree felony involving funds misappropriation from an automobile dealership in which he was a partner. |
| July 2018 | Brad Johnson applies to renew a wholesale GDN as a 50% owner |

The following documents are attached to this Executive Summary for consideration by the Board:

1. Notice of Department's Decision, April 2, 2019;
2. Proposal for Decision, September 30, 2019;
3. Exceptions Letter (ALJ), October 28, 2019, and
4. Proposed Final Order for Board Consideration.



ENFORCEMENT DIVISION
(512) 465-4204
(512) 465-5650 FAX

April 2, 2019

Flying A Auto LLC
122 County Road 326
Baird, Texas 79504
VIA CERT. MAIL

RE: IN THE MATTER OF THE LICENSE OF
Flying A Auto LLC
WHEN RESPONDING, PLEASE REFER TO MVD CASE No. 19-0001062.ENF

Dear Licensee:

In accordance with the notice provisions of Texas Administrative Procedure Act (TEX. GOV'T CODE §§ 2001.001 et seq.) and 43 TEX. ADMIN. CODE § 215.500, enclosed is a Notice of Department Decision ("Decision") prepared by the Texas Department of Motor Vehicles ("Department") recommending that the license application you filed with the Department be denied for the reasons stated therein.

If there are circumstances surrounding the allegations that you believe should mitigate any sanction imposed by the Decision you can discuss an informal settlement with the undersigned enforcement attorney. To discuss an informal settlement of the case you **must first request an administrative hearing** as explained in the Decision within twenty-six (26) days from the date of the Decision. **For your convenience, you may use the request for hearing form included in this packet.**

The undersigned attorney can be contacted at (512) 465-4204 or by writing using the address above.

If this case is set for hearing before an Administrative Law Judge ("ALJ") at the State Office of Administrative Hearings ("SOAH") you are entitled to receive a Notice of Hearing. Hearings in these matters are conducted under the rules of the Department and SOAH.

ATENCIÓN: Este es un documento legal importante que puede influir negativamente en su licencia para operar como concesionario de vehículos de motor en Texas. Se le ha acusado de violar la ley. Si dentro de los 26 días de esta carta no recibimos de usted una solicitud por escrito para una audiencia en este asunto una orden final será emitida por el DMV que puede imponer sanciones contra usted, incluyendo una multa civil y/o revocación de su distribuidor de vehículos de motor licencia. Instamos enérgicamente a ponerse en contacto inmediatamente con un abogado privado o el abogado del DMV que suscribe con respecto a este documento legal. Si lo desea, alguien con el DMV puede discutir este documento con usted en el idioma Español.

If you do not request an administrative hearing within twenty-six (26) days from the date of the Decision, the terms and any sanctions contained therein become final.

Sincerely,
Brian Coats
Brian Coats,

Attorney, Enforcement Division
(512) 465-4009

cc: Flying A Auto LLC
9585 S Us Highway 283
Albany, Texas 76430
VIA CERT. MAIL

Jason Danowsky
FosterLaw
904 West Ave. Ste. 107
Austin, Texas 78701
VIA CERT. MAIL

**MOTOR VEHICLE DIVISION
TEXAS DEPARTMENT OF MOTOR VEHICLES**

**IN THE MATTER OF THE LICENSE OF
Flying A Auto LLC**

MVD Case NO. 19-0001062.ENF

NOTICE OF DEPARTMENT DECISION

The Texas Department of Motor Vehicles, (hereinafter, "Department" or "Petitioner"), is the state agency with authority to administer and enforce Texas Occupations Code Chapter 2301; Texas Transportation Code Chapters 501, 502 and 503; and 43 Texas Administrative Code Chapter 215. An investigation was conducted in the review of your application for a license with the Department. As a result of that investigation, the Department determined that you, Flying A Auto LLC, (hereinafter "Respondent"), an applicant for a license, violated certain provisions of Texas Occupations Code Chapter 2301; and/or Texas Transportation Code Chapters 501, 502 and 503 and/or 43 Texas Administrative Code Chapter 215. The Department alleges that Respondent committed the following violations:

1. On or about 7/6/2018, Respondent submitted an application to renew their wholesale dealer license (General Distinguishing Number P136696W).
2. At all times material, Brad Johnson has been a 50% owner and officer for Respondent.
3. Brad Johnson has the following recent criminal history: On or about 3/26/2018, in the 91st District Court for Eastland County, Texas, the Court entered an Order of Deferral of Adjudication of Guilt and Supervision ("Order") in regard to Respondent for the felony offense of Misapplication of Fiduciary Duty - \$30,000 or more but less than \$150,000 (Tex. Pen. Code Section 32.45(c)(5) in Case No. 24563. The Order provided a period of five years community supervision and included payment of restitution and court costs.
4. TEX. OCC. CODE § 53.021(d)(1)(B)(i) provides that a deferred adjudication for a criminal offense can be considered by a licensing authority as a criminal conviction where the person has not completed the period of supervision.
5. 43 TEX. ADMIN. CODE § 215.188(b) provides that applicant, for purposes of criminal history, includes any person holding 50% or more ownership interest in a business entity licensed by the department.
6. The Order for the criminal offense in this matter is a conviction per TEX. OCC. CODE § 53.021(d)(1)(B)(i) and is also an offense that directly relates to the duties and responsibilities of the licensed occupation per TEX. OCC. CODE §§ 53.021 and 53.022 and TEX. ADMIN. CODE § 215.88(j) and also is an offense that occurred within less than five years from the date of the application for a license per TEX. OCC. CODE § 53.021. As such, the application for a wholesale dealer license is subject to denial per TEX. ADMIN. CODE § 215.88(i), TEX. ADMIN. CODE § 215.89(b) and TEX. OCC. CODE § 53.021.

The Department is authorized to deny an application for a license, revoke or suspend a license, under Texas Occupations Code § 2301.651; Texas Transportation Code § 503.038; and 43 Texas Administrative Code § 215.141(a). Further, Texas Transportation Code § 503.095 allows for a civil penalty of up to \$1,000.00 for each violation of, or per day for a continuing violation, of Chapter 503, or a rule or order adopted under the chapter. Texas Occupations Code § 2301.801 allows for a civil penalty of up to \$10,000.00 for each violation of, or per day for a continuing violation, of Chapter 2301, or a rule or order adopted under the chapter.

Based on the aforementioned investigation and allegations, the Department recommends the denial of your application to renew your wholesale dealer license (Dealer General Distinguishing Number License No. P136696W) and/or the revocation of such license.

If you wish to contest the allegations, recommended civil penalty, or other sanction you must first request an administrative hearing in writing. You may send your own request for hearing or use the Request For Administrative Hearing form included in this packet. Send your request for hearing to the following address:

Brian Coats
Attorney, Enforcement Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731
(512) 465-4009
(512) 465-5650 Fax

You must include your name and the MVD Case Number appearing in the heading of this Decision in your hearing request. The Department must receive your written hearing request not later than the 26th day after the date of this Decision.

If you timely submitted a written request for a hearing, the Department may enter into an informal settlement agreement with you regarding these violations and enforcement action at any time before a final decision is rendered in this case.

If a timely written hearing request is received and no settlement is reached, an administrative hearing will be scheduled before the State Office of Administrative Hearings (SOAH). You will be notified of the hearing date and time. Hearings will be held at SOAH's

offices located at 300 W. 15th St., Austin, Texas 78701. Increased penalties or other sanctions may be recommended by the Department at the hearing.

If you do not request a hearing by the 26th day from the date of this notice, the Department Decision becomes final. After that date the Department may issue a Final Order implementing the Decision.

Should this case be set for hearing, Petitioner prays that it be found that Respondent has violated the statutes and implementing rules alleged above; and, that, as appropriate, Respondent's application for a license be denied or that Respondent's license be revoked, canceled or suspended or that Respondent be placed on probation, or reprimanded; that civil penalties be imposed; and that the conduct alleged above be ceased and not resumed.

If you have any questions regarding this Decision, please contact me at (512) 465-4009.

DATE OF DECISION: April 2, 2019

Respectfully Submitted,

Brian Coats

Brian Coats

Attorney – Enforcement Division

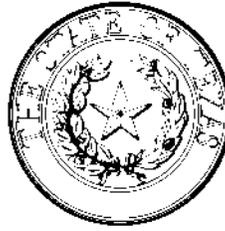
Bar Card 24072999

4000 Jackson Avenue

Austin, Texas 78731

(512) 465-4009

(512) 465-5650 Fax



State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

September 30, 2019

Daniel Avitia, Director
Motor Vehicle Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731

VIA INTERAGENCY MAIL

RE: **Docket No. 608-19-4209.ENF; MVD Docket No. 19-0001062.ENF / *The Matter of the License(s) of Flying A Auto, LLC***

Dear Mr. Avitia:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 Tex. Admin. Code § 155.507, a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

A handwritten signature in black ink, appearing to read "HDC", is written over a faint, larger signature.

Henry D. Card
Administrative Law Judge

HDC/rmc
Enclosure

cc: John Danowsky, Foster Danowaky LLP 904 West Ave, Suite 107, Austin, TX 78701 - **VIA REGULAR MAIL**

P. Brian Coats, Attorney, Enforcement Division, Texas Department of Motor Vehicles, Motor Vehicle Division, 400 Jackson Ave., Austin, TX 78731 - **VIA REGULAR MAIL**

Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA INTERAGENCY MAIL** (with 1 hearing CD; Certified Exhibits)

P.O. Box 13025 Austin, Texas 78711-3025 | 300 W. 15th Street Austin, Texas 78701
Phone: 512-475-4993 | Fax: 512-475-4994
www.soah.texas.gov

**SOAH DOCKET NO. 608-19-4209.ENF
TDMV CASE NO. 19-0001062.ENF**

IN THE MATTER OF	§	BEFORE THE STATE OFFICE
	§	
THE LICENSE(S) OF	§	OF
	§	
FLYING A AUTO, LLC	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

This case concerns the denial of a wholesale dealer license renewal application for Flying A Auto, LLC (Flying A) by the staff of the Texas Department of Motor Vehicles (Staff/TDMV). TDMV denied the license renewal application because the partial owner of Flying A, Brad Johnson,¹ received five years' deferred adjudication, with community service, on March 26, 2018, for the third degree felony of Misapplication of Fiduciary Duty - \$30,000 or More but Less Than \$150,000. Flying A does not dispute that deferred adjudication was ordered or that the subject matter of the crime is directly related to the occupation of wholesale automobile dealer. Instead, it argues that the application nevertheless should be granted after consideration of the circumstances of the crime and the factors set out in Texas Occupations Code (Code) chapter 53.

Several of the Chapter 53 factors weigh in favor of Flying A and Mr. Johnson. The Administrative Law Judge (ALJ) concludes, however, that the application should be denied based on the nature of the crime and the other Chapter 53 factors.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Jurisdiction and notice are not in dispute and are discussed only in the Findings of Fact and Conclusions of Law. The hearing was held July 30, 2019, before ALJ Henry D. Card at the State Office of Administrative Hearings (SOAH) in Austin, Texas. Attorney P. Brian Coats appeared on behalf of TMDV; attorney Jason Danowsky appeared on behalf of Flying A. Antonia Knight,

¹ Mr. Johnson is a 50 percent partner in Flying A.

TMDV's Manager of Licensing and Enforcement, testified at the hearing for that agency, as did Mr. Johnson on behalf of Flying A and himself. The hearing was adjourned that day. The record closed on August 1, 2019, with the filing of TMDV's response to Flying A's supplement to the record. The supplement showed that Mr. Johnson was released from community supervision, and the indictment against him dismissed, on July 29, 2019.²

II. DISCUSSION

A. Evidence Presented

Mr. Johnson's crime involved misappropriation from other automotive dealerships of which he was part-owner. Although Mr. Johnson has been released from community supervision and the indictment has been dismissed, those matters occurred less than five years before the application was filed. Therefore, the agency may consider Mr. Johnson to have been convicted of the crime in question.³

Ms. Knight testified regarding the Chapter 53 factors.⁴ The relevant portions of Chapter 53 provide:

§53.022. FACTORS IN DETERMINING WHETHER CONVICTION RELATES TO OCCUPATION. In determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

² TMDV did not object to the admission of that supplemental information, and it is hereby admitted as Flying A's Exhibit 8.

³ Tex. Occ. Code § 53.021(d)(1)(B)(i).

⁴ The Chapter 53 factors cited are those in effect at the time of the application and hearing. The Chapter 53 factors have been amended effective September 1, 2019. Those amendments apply only to applications filed on or after that date.

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;
- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

Sec. 53.023. ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER.

- (a) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to the factors listed in Section 53.022:
 - (1) the extent and nature of the person's past criminal activity;
 - (2) the age of the person when the crime was committed;
 - (3) the amount of time that has elapsed since the person's last criminal activity;
 - (4) the conduct and work activity of the person before and after the criminal activity;
 - (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release; and
 - (6) other evidence of the person's fitness, including letters of recommendation from:
 - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;

- (B) the sheriff or chief of police in the community where the person resides; and
 - (C) any other person in contact with the convicted person.
- (b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by Subsection (a)(6).
- (c) In addition to fulfilling the requirements of Subsection (b), the applicant shall furnish proof in the form required by the licensing authority that the applicant has:
- (1) maintained a record of steady employment;
 - (2) supported the applicant's dependents;
 - (3) maintained a record of good conduct; and
 - (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

Although Mr. Johnson's plea was entered in 2018, the crime itself occurred between September 9, 2015 and March 2016.⁵ Mr. Johnson was 40 years old at that time. Ms. Knight testified that the recentness of the crime and Mr. Johnson's age at the time were factors that weighed against the application. She testified that Mr. Johnson has no previous (or subsequent) criminal history. She did not believe that Mr. Johnson had taken responsibility for his crime or had undergone any rehabilitative efforts. Although Mr. Johnson provided a list of civic accomplishments, Ms. Knight did not consider those to be evidence of rehabilitation.

⁵ TDMV Ex. 1.

On the other hand, Ms. Knight acknowledged that Mr. Johnson has shown a record of steady employment and has supported his dependents. She generally considered Mr. Johnson's letters of recommendation as neutral because they did not discuss the details of his crime, although she regarded positively a letter from Christy King of the Callahan County Sheriff's Posse.⁶

In general, although she recognized some positives in Mr. Johnson's record, Ms. Knight considered the nature of the crime—misappropriation from an automotive dealership—to present a very high bar to the granting of the application. In her opinion, Mr. Johnson had not cleared that bar.

Mr. Johnson testified that he has been in the automotive business since 2005. In 2009, he became a partner with Blake Fulenwider in four car dealerships in West Texas, two of which were managed by Mr. Johnson and two of which were managed by Mr. Fulenwider. Mr. Johnson testified that the partnerships had no problems until an economic downturn in 2015, after which the revenues of the dealerships declined from about \$2 million per year per dealership to about \$900,000 per year. At that point, Mr. Fulenwider began questioning the amounts of Mr. Johnson's dealerships' contributions to charitable organizations, which led eventually to the criminal indictment and Mr. Johnson's plea agreement. Mr. Johnson stated that he did not have the financial resources to fight the criminal indictment; thus the plea agreement. Mr. Johnson testified that the amounts in question were all charitable donations. There was no evidence that the money was diverted to Mr. Johnson's personal use.

Mr. Johnson testified that he had made full restitution and had complied with the community service requirements of his deferred adjudication. That point is confirmed by the early dismissal of the indictment. He stated he has never before had any administrative action or criminal case brought against him, which Staff does not dispute.

⁶ The letters of recommendation are discussed in more detail below.

In addition to receiving commendations for his work in the automotive industry, Mr. Johnson has been an officer of the Callahan County Sheriff's Posse since 2010 and the President of that organization since 2014. The Sheriff's Posse, which had a bank balance of approximately \$50,000 at the time of the hearing, conducts civic projects in Callahan County, most notably the restoration and maintenance of the Baird, Texas rodeo grounds.⁷ Mr. Johnson is also the President of the Callahan County Predator Control group, which is responsible for obtaining grants for the control of feral hogs in that county, and has a balance between \$0 and \$50,000.

Mr. Johnson presented letters of recommendation from Michael L. Parker, an attorney in Baird; Christy King of the Callahan County Sheriff's Posse; Kyle Bryan, a long-time customer; Troyce E. and David Williams, long-time friends and mentors; and Ryan Sims, his criminal attorney.⁸ All attested to his honesty and reliability. Mr. Johnson testified that all were aware of his criminal situation.

B. Analysis

The ALJ finds Mr. Johnson's letters of recommendation to weigh in Mr. Johnson's favor, especially since all the letter writers were aware of Mr. Johnson's criminal situation. Although there was no direct evidence of rehabilitation *per se*, Mr. Johnson's long and continued participation in civic organizations, including the stewardship of those organizations' finances, also weighs in his favor. Mr. Johnson has engaged in no previous or subsequent criminal activity. In addition, Mr. Johnson fulfilled his restitution and community service obligations very quickly, so that the indictment against him has been dismissed.

DMV Staff correctly observes, however, that Mr. Johnson's criminal activity is relatively recent and occurred over a period of time. Mr. Johnson's criminal activity was not a youthful

⁷ Baird is the county seat of Callahan County.

⁸ The exhibits presented by TDMV also included a letter of recommendation from the Vice President of Spike Dike Ford. The ALJ could not decipher the signature on the letter, which was not discussed in the testimony.

indiscretion. Most important is the nature of that criminal activity—misappropriation of a significant amount of money from an automotive dealership. Whatever Mr. Johnson's reasons, the fact remains that he pleaded guilty to that crime, which is very serious. Few offenses could relate more directly to the occupation in question. Given those facts, the ALJ concludes that Flying A's application should be denied. With continued good behavior and the passage of more time, a subsequent application might be decided differently.

III. FINDINGS OF FACT

1. On July 6, 2018, Flying A Auto, LLC (Flying A) filed an application with the Texas Department of Motor Vehicles (TDMV) for renewal of its wholesale automotive dealer license.
2. TDMV's Staff denied the license renewal application.
3. Flying A filed a timely request for a hearing.
4. Notice of the hearing was sent to Flying A on April 25, 2019.
5. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted, or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
6. The hearing was held July 30, 2019, before Administrative Law Judge Henry D. Card at the State Office of Administrative Hearings (SOAH) in Austin, Texas. Attorney P. Brian Coats appeared on behalf of TMDV; attorney Jason Danowsky appeared on behalf of Flying A. The hearing was adjourned that day. The record closed on August 1, 2019, with the filing of TMDV's response to Flying A's supplement to the record.
7. Brad Johnson is a 50 percent owner of Flying A.

DOCKET NO. 608-19-4209.ENF**PROPOSAL FOR DECISION****PAGE 8**

8. On March 26, 2018, Mr. Johnson pleaded guilty to and received five years deferred adjudication with community service for the third-degree felony of Misapplication of Fiduciary Duty - \$30,000 or More but Less Than \$150,000.
9. Mr. Johnson was released from community supervision, and the indictment against him dismissed, on July 29, 2019.
10. Mr. Johnson's crime involved misappropriation from other automotive dealerships of which Mr. Johnson was part-owner.
11. Although Mr. Johnson's plea was made in 2018, the crime itself occurred between September 9, 2015 and March 2016.
12. Mr. Johnson was 40 years old at the time of the criminal activity.
13. Mr. Johnson has no previous (or subsequent) criminal history or administrative actions against him.
14. Mr. Johnson has shown a record of steady employment and has supported his dependents.
15. Mr. Johnson has been in the automotive business since 2005.
16. In 2009, Mr. Johnson became a partner with Blake Fulenwider in four car dealerships in West Texas, two of which were managed by Mr. Johnson and two of which were managed by Mr. Fulenwider.
17. After an economic downturn in 2015, Mr. Fulenwider began questioning the amounts of Mr. Johnson's dealerships' contributions to charitable organizations, which led eventually to the criminal indictment and Mr. Johnson's plea agreement.
18. There was no evidence that the money at issue in the criminal case was diverted to Mr. Johnson's personal use.
19. Mr. Johnson has made full restitution and had complied with the community service requirements of his deferred adjudication.
20. In addition to receiving commendations for his work in the automotive industry, Mr. Johnson has been an officer of the Callahan County Sheriff's Posse since 2010 and the President of that organization since 2014. Mr. Johnson is also President of the Callahan County Predator Control group. Mr. Johnson has financial responsibilities in both organizations.
21. Letters of recommendation from Michael L. Parker, an attorney in Baird; Christy King of the Callahan County Sheriff's Posse; Kyle Bryan, a long-time customer; Troyce E. and

DOCKET NO. 608-19-4209.ENF

PROPOSAL FOR DECISION

PAGE 9

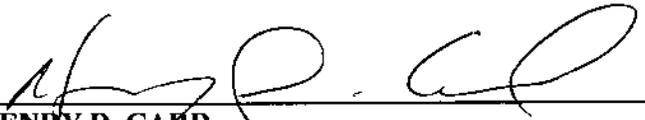
David Williams, long-time friends and mentors; and Ryan Sims, his criminal attorney attested to Mr. Johnson's honesty and reliability. The letter writers were aware of his criminal involvement.

22. The letters of recommendation weigh in Mr. Johnson's favor.
23. Although there was no direct evidence of rehabilitation of Mr. Johnson *per se*, Mr. Johnson's long and continued participation in civic organizations, including the stewardship of those organizations' finances, also weighs in his favor.
24. Mr. Johnson's criminal activity is relatively recent, occurred over a period of time, and was not a youthful indiscretion.
25. The nature of Mr. Johnson's criminal activity—misappropriation of a significant amount of money from an automotive dealership—is very serious and relates very directly to the occupation in question.

IV. CONCLUSIONS OF LAW

1. TDMV has jurisdiction over this matter pursuant to chapter 2301 of the Texas Occupations Code (Code).
2. Timely and adequate notice of the hearing was provided in accordance with Texas Government Code §§ 2001.051-.052.
3. TDMV may consider Mr. Johnson to have been convicted of the crime in question pursuant to Code § 53.021(d)(1)(B)(i).
4. Mr. Johnson's crime directly relates to the occupation of wholesale automotive dealer pursuant to Code § 53.022.
5. After consideration of the factors set out in Code §§ 53.022-.023, TDMV should deny Flying A's application to renew its wholesale automotive dealer license pursuant to Code chapter 2301.

SIGNED September 30, 2019.


HENRY D. CARD
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

AUSTIN OFFICE
300 West 15th Street Suite 504
Austin, Texas 78701
Phone: (512) 475-4993
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DATE: 10/28/2019
NUMBER OF PAGES INCLUDING THIS COVER SHEET: 3
REGARDING: EXCEPTIONS LETTER (BY ALJ)
DOCKET NUMBER: 608-19-4209.ENF
JUDGE HENRY D CARD

<u>FAX TO:</u>	<u>FAX TO:</u>
JASON DANOWSKY	(512) 697-0058
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Docket Clerk TDMV (Texas Department of Motor Vehicles)	(512) 465-5650

Docket Clerk, Fax Number 512/465-5650

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State Office of Administrative Hearings

Kristofer Monson
Chief Administrative Law Judge

October 28, 2019

Daniel Avitia, Director
Motor Vehicle Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731

VIA FASIMILE

RE: **Docket No. 608-19-4209.ENF; MVD Docket No. 19-0001062.ENF / *The Matter of the License(s) of Flying A Auto, LLC***

Dear Mr. Avitia:

On October 7, 2019, Staff requested that an amendment be made to Conclusion of Law Number 5 in the Proposal for Decision in this case. I agree and recommend that Conclusion of Law Number 5 be amended to read as follows:

After consideration of the factors set out in Code §§ 53.022-.023, TDMV should deny Flying A's application to renew its wholesale automotive dealer license pursuant to Code chapter 2301; 43 TEX. ADMIN. CODE §215.88(i); and 43 TEX. ADMIN. CODE §215.89(b).

Sincerely,



Henry D. Card
Administrative Law Judge

HDC/rmc

cc: Jason A. Danowsky, Foster Danowaky LLP 904 West Ave, Suite 107, Austin, TX 78701 -

VIA FASIMILE

P. Brian Coats, Attorney, Enforcement Division, Texas Department of Motor Vehicles, Motor Vehicle Division, 4000 Jackson Ave., Austin, TX 78731 - **VIA FASIMILE**

Melinda Moreno, Docket Clerk, Texas Department of Motor Vehicle, 4000 Jackson Avenue, Austin, Texas 78731 - **VIA INTERAGENCY MAIL** (with 1 hearing CD)

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SERVICE LIST

AGENCY: Motor Vehicles, Texas Department of (TDMV)
STYLE/CASE: FLYING A AUTO LLC
SOAH DOCKET NUMBER: 608-19-4209.ENF
REFERRING AGENCY CASE: 19-0001062.ENF

**STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

ADMINISTRATIVE LAW JUDGE
ALJ HENRY D. CARD

REPRESENTATIVE / ADDRESS

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TEXAS DEPARTMENT OF MOTOR VEHICLES

Rhonda McKinzie

From: XMediusFAX@soah.state.tx.us
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To: Rhonda McKinzie
Subject: Broadcast Completed: EXCEPTIONS LETTER 608-19-4209.ENF

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Nb of Failed Items : 1

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Error message: Cannot reach destination.						
Success	Monday, October 28, 2019 1:58:47 PM Central	3	75	15126970058	5126970058	0
Success	Monday, October 28, 2019 1:58:59 PM Central	3	87	Texas Dept Motor Veh	5124655650	0

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Nb of Success Items : 0
Nb of Failed Items : 1

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Error message: Cannot reach destination.						

**MOTOR VEHICLE DIVISION
TEXAS DEPARTMENT OF MOTOR VEHICLES**

**TEXAS DEPARTMENT OF MOTOR
VEHICLES v. FLYING A AUTO, LLC**

§ **MVD DOCKET NO. 19-0001062.ENF**
 § **SOAH DOCKET NO. 608-19-4209.ENF**
 §
 §

PROPOSED FINAL ORDER

The referenced contested case matter is before the Board of the Texas Department of Motor Vehicles (TxDMV) in the form of a Proposal for Decision (PFD) from the State Office of Administrative Hearings (SOAH) and involves denial of a renewal application and revocation of the general distinguishing number of Flying A Auto, LLC (Respondent).

The Board adopts the Administrative Law Judge's (ALJ) September 30, 2019, PFD as changed by the ALJ's October 28, 2019, letter modifying Conclusion of Law No. 5 to add additional citations to the TxDMV's fitness rules.

ACCORDINGLY, IT IS ORDERED:

1. That the Findings of Fact (FOF) 1 – 25 and Conclusions of Law (COL) 1 – 5 are hereby adopted;
2. That Respondent's General Distinguishing Number P136696W is hereby revoked; and
3. That all remaining motions, exceptions, or objections, of any party, if any, are hereby denied.

Date: _____

Guillermo "Memo" Treviño, Chair
Board of Texas Department of Motor Vehicles

Board Meeting Date: 12/5/2019
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Motor Vehicle Division Director
Agenda Item: 7
Subject: Adoption of Rules under Title 43, Texas Administrative Code
Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders
Amendments, §§221.1, 221.2, 221.11, 221.13, 221.20, and 221.41
Repeal, §221.12
New, §221.54
(Relating to HB 1667, allowing independent motor vehicle general distinguishing number license holders to perform certain salvage related activities without holding a salvage dealer’s license; HB 3842, requiring a separate general distinguishing number for most consignment locations; SB 604, eliminating representative licenses and adding licensing education and training requirements for independent motor vehicle dealers.)

RECOMMENDATION

Approval to publish the adoption of rules in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The adopted rule changes implement Sunset Advisory Commission recommendations and Senate Bill 604 and House Bill 1667, 86th Legislature, Regular Session (2019).

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

The changes include:

- §221.1 - eliminates references to salvage vehicle dealer license endorsements and salvage vehicle agent license;
- §221.2 - eliminates references to salvage vehicle dealer license endorsements, corrects the spelling of nonrepairable, and eliminates references to salvage vehicle agent;
- §221.11 - eliminates references to salvage vehicle dealer license endorsements. The rule is further amended to describe those activities that require a salvage vehicle dealer license or independent motor vehicle dealer general distinguishing number, and to correct the spelling of nonrepairable;
- §221.13 - changes the term for a salvage vehicle dealer license to two years, changes the fee to \$190, and eliminates references to salvage vehicle dealer license endorsements;
- §221.20 - eliminates references to endorsements and salvage vehicle agent license, changes the renewal period to two years, updates the renewal and late fees, and deletes unnecessary language; deleted requirement that an expiration notice for salvage agent licenses be sent to the authorizing salvage vehicle dealer's mailing address and replaced with email because the applicants agree to receive electronic communications when applying through the department licensing system;
- §221.41 - eliminates references to salvage vehicle dealer license endorsements and corrects a reference to a salvage vehicle dealer;



- §221.54 – (new) implements a Sunset Advisory Commission recommendation by providing criteria for when the department may schedule site visits to licensed salvage dealer locations. A site visit may be conducted if a salvage vehicle dealer fails to respond to a records request, fails to operate from the licensed location, or has an enforcement history that reveals failed compliance inspections or multiple complaints received with administrative sanctions imposed; and
- §221.12 – repeals the salvage vehicle agent rule to implement SB 604.

The proposal was published in the *Texas Register* for public comment on August 23, 2019. The comment period closed on September 23, 2019. No comments were received.

If the board adopts the amendments during its December 5, 2019, open meeting, staff anticipates:

- publication in the December 27, 2019, issue of the *Texas Register*; and
- an effective date of January 2, 2020.

TITLE 43. TRANSPORTATION

Repealed and Adopted Sections

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers, Salvage Pool

Operators and Salvage Vehicle Rebuilders

1

ADOPTION OF

2

SUBCHAPTER A. GENERAL PROVISIONS

3

43 TAC §221.1 AND §221.2

4

SUBCHAPTER B. LICENSING

5

43 TAC §§221.11, 221.13, AND 221.20

6

REPEAL OF

7

43 TAC §221.12

8

ADOPTION OF

9

SUBCHAPTER C. LICENSED OPERATIONS

10

43 TAC §221.41 AND §221.54

11

INTRODUCTION. The Texas Department of Motor Vehicles adopts new §221.54, Criteria for Site Visits; and repeal of §221.12, Salvage Vehicle Agent. The department adopts amendments to §221.1, Purpose and Scope; §221.2, Definitions; §221.11, License and Endorsement Required; §221.13, License Terms and Fees; §221.20, License Renewal; and §221.41, Location Requirements. The department adopts amendments §§ 221.1, 221.2, 221.11, 221.13, 221.20, 221.41, new §221.54, and repeal of §221.12 without changes to the proposed text as published in the August 23, 2019 issue of the *Texas Register* (44 TexReg 4468).

19

REASONED JUSTIFICATION. These amendments, new section, and repeal are necessary to implement Senate Bill (SB) 604 and House Bill 1667, 86th Legislature, Regular Session (2019). Senate Bill 604 amended Occupations Code §2302.103 to remove the endorsements that an applicant may apply for under a salvage dealer license. Senate Bill 604 also amended Occupations Code §2302.351(b) to remove

TITLE 43. TRANSPORTATION

Repealed and Adopted Sections

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers, Salvage Pool

Operators and Salvage Vehicle Rebuilders

1 references to a salvage vehicle agent operating under a dealer's license. Additionally, Section 2.16 of SB
2 604 provides that on the effective date of the Act, a salvage vehicle agent license issued under former
3 Occupations Code §2302.107 expires.

4 Amendments to Chapter 221 make conforming changes to SB 604 by removing references to
5 salvage pool operators, salvage pool rebuilders, salvage vehicle agents and salvage vehicle dealer
6 endorsements.

7 Amendments to §221.1 eliminate references to salvage vehicle dealer license endorsements and
8 the salvage vehicle agent license.

9 Amendments to §221.2 eliminate references to salvage vehicle dealer license endorsements,
10 correct the spelling of "nonrepairable", and eliminate references to salvage vehicle agent.

11 Amendments to §221.11 implement HB 1667. House Bill 1667 added Occupations Code
12 §2302.009 and amended §2302.101 to provide that a person holding an independent motor vehicle GDN
13 is exempt from the requirement that the person also hold a salvage dealer license to act as a salvage
14 vehicle dealer or rebuilder, and store or display a motor vehicle as an agent or escrow agent of an
15 insurance company. Conforming changes to the title remove the reference to "endorsements" and to the
16 rule text to eliminate references to "salvage vehicle dealer license endorsements. Amendments to
17 §221.11 also describe those activities that require a salvage vehicle dealer license to implement HB 1667
18 and correct the spelling of "nonrepairable."

19 Amendments to §221.13 increase the term for a salvage vehicle dealer license from twelve
20 months to two years, make conforming changes to the fee of \$190, and eliminate references to salvage
21 vehicle dealer license endorsements.

22 Amendments to §221.20 eliminate references to endorsements and salvage vehicle agent
23 licenses, change the renewal period to two years, and make conforming changes to the renewal late fees.

TITLE 43. TRANSPORTATION

Repealed and Adopted Sections

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers, Salvage Pool

Operators and Salvage Vehicle Rebuilders

1 The requirement that an expiration notice for salvage vehicle agent licenses be sent to the authorizing
2 salvage vehicle dealer's mailing address was deleted and replaced with email because the applicants agree
3 to receive electronic communications when applying through the department licensing system under
4 Business and Commerce Code Chapter 322.

5 Amendments to §220.20(e) change the renewal fee from the current \$85 for a one-year term
6 license to \$170 for the new two-year term license to ensure that the implementation of the amendments
7 is cost neutral. Under Occupations Code §2302.153, a person must pay a renewal fee to the department
8 on or before the expiration of the license.

9 Amendments to §221.20(f) change the late renewal fee from \$42.50 for the current one-year
10 license term to \$85 for the new two-year license term for renewal applications that are 1-90 days late to
11 ensure that the implementation of the amendments is cost neutral. Under Occupations Code §2302.153,
12 a person whose license has been expired 90 days or fewer may renew the license by paying the
13 department a renewal fee that is equal to 1-1/2 times the normal required renewal fee.

14 Amendments to §221.20(g) change the late renewal fee from \$85 for the current one-year license
15 term to \$170 for the two-year license term for renewal applications that are 91-364 days late to ensure
16 that the implementation of the amendments is cost neutral. Under Occupations Code §2302.153, a
17 person whose license has been expired for more than 90 days but less than a year may renew the license
18 by paying the department a renewal fee that is equal to two times the normally required renewal fee.

19 Amendments to §221.41 eliminate references to salvage vehicle dealer license endorsements and
20 correct a reference to a salvage vehicle dealer.

21 New §221.54 implements a Sunset Advisory Commission recommendation to identify risk-based
22 criteria for determining when the department will consider visiting the business location of a licensed
23 salvage dealer. This new rule identifies three criteria for determining when a site visit may be scheduled:

TITLE 43. TRANSPORTATION

Repealed and Adopted Sections

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers, Salvage Pool

Operators and Salvage Vehicle Rebuilders

1 if a salvage vehicle dealer fails to respond to a records request, fails to operate from the licensed location,
2 or has an enforcement history that reveals failed compliance inspections or multiple complaints received
3 with administrative sanctions imposed.

4 The repeal of §221.12, Salvage Vehicle Agent, implements SB 604 by eliminating reference to
5 salvage vehicle agent.

7 SUMMARY OF COMMENTS.

8 No comments on the proposed amendments were received.

10 **STATUTORY AUTHORITY.** The amendments, new section, and repeal are adopted under Transportation
11 Code, §503.002, which authorizes the board of the Texas Department of Motor Vehicles (board) to adopt
12 rules for the administration of Transportation Code; Transportation Code, §1002.001, which authorizes
13 the board to adopt rules necessary and appropriate to implement the powers and duties of the
14 department under the Transportation Code and other Texas laws; Occupations Code, §2302.051, which
15 authorizes the board to adopt rules necessary to administer Chapter 2302.

16 **CROSS REFERENCE TO STATUTE.** Transportation Code, Chapter 1002.

18 TEXT.

19 **CHAPTER 221. SALVAGE VEHICLE DEALERS [~~SALVAGE POOL OPERATORS AND SALVAGE VEHICLE~~**

20 **REBUILDERS]**

21 **SUBCHAPTER A. GENERAL PROVISIONS**

22 **43 TAC §221.1 AND §221.2**

23 §221.1. Purpose and Scope.

TITLE 43. TRANSPORTATION

Repealed and Adopted Sections

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers, Salvage Pool

Operators and Salvage Vehicle Rebuilders

1 Transportation Code, §1001.002, provides that the department shall administer and enforce Occupations
2 Code, Chapter 2302. Chapter 2302 provides that a person may not act as a salvage vehicle dealer, [salvage
3 vehicle agent, or rebuilder, including storing or displaying vehicles as an agent or escrow agent of an
4 insurance company,] unless the department issues that person a license. [Chapter 2302 further describes
5 types of salvage business activities that require an endorsement or endorsements on the salvage vehicle
6 dealer license for that person to engage in those activities.] This chapter describes the procedures by
7 which a person obtains a salvage vehicle dealer license [and the endorsement(s) necessary to engage in
8 the business activities by the salvage vehicle dealer; the procedures to obtain a salvage vehicle agent
9 license;] and the rules governing how a [these] license holder [holders] must operate, and the procedures
10 by which the department will administer and enforce Occupations Code, Chapter 2302 and this chapter.

11 §221.2. Definitions.

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

14 (1) Board--The Board of the Texas Department of Motor Vehicles.

15 (2) Casual sale--A sale as defined by Transportation Code, §501.091.

16 (3) Component part--As defined by Occupations Code, §2302.251.

17 (4) Corporation--A business entity, including a corporation, or limited liability company,
18 but not a sole proprietorship or general partnership, which has filed a certificate of formation or
19 registration with the Texas Secretary of State.

20 (5) Department--The Texas Department of Motor Vehicles.

21 (6) Final order authority--The person with authority under Occupations Code, Chapter
22 2302, or board rules to issue a final order.

23 (7) License holder--A person that holds a salvage vehicle dealer license issued by the

TITLE 43. TRANSPORTATION

Repealed and Adopted Sections

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers, Salvage Pool

Operators and Salvage Vehicle Rebuilders

1 department [~~endorsed in one or more of the classifications listed in Occupations Code, §2302.103~~].

2 (8) Major component part--As defined by Transportation Code, §501.091.

3 (9) Metal recycler--As defined by Transportation Code, §501.091.

4 (10) Minor component part--As defined by Occupations Code, §2302.251.

5 [~~(11) New automobile dealer endorsement--An endorsement on the salvage vehicle~~
6 ~~dealer license issued by the department that allows the license holder to buy and sell salvage motor~~
7 ~~vehicles and non-repairable motor vehicles that have not been the subject of a retail sale.]~~

8 (11) ~~(12)~~ Nonrepairable [~~Non-repairable~~] motor vehicle--As defined by Transportation
9 Code, §501.091.

10 (12) ~~(13)~~ Nonrepairable [~~Non-repairable~~] record of title--As defined by Transportation
11 Code, §501.091.

12 (13) ~~(14)~~ Nonrepairable [~~Non-repairable~~] vehicle title--As defined by Transportation
13 Code, §501.091.

14 (14) ~~(15)~~ Out-of-state buyer--As defined by Transportation Code, §501.091.

15 (15) ~~(16)~~ Out-of-state ownership document--As defined by Transportation Code,
16 §501.091.

17 (16) ~~(17)~~ Person--A natural person, partnership, corporation, trust, association, estate,
18 or any other legal entity.

19 (17) ~~(18)~~ Public highway--As defined by Transportation Code, §502.001.

20 (18) ~~(19)~~ Retail sale--As defined by Occupations Code, §2301.002.

21 (19) ~~(20)~~ Salvage motor vehicle--As defined by Transportation Code, §501.091.

22 [~~(21) Salvage pool operator endorsement--An endorsement on the salvage dealer~~
23 ~~license that allows a person to engage in the business of selling non-repairable motor vehicles or salvage~~

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1 motor vehicles at auction, including wholesale auction, or otherwise.]

2 (20) [(22)] Salvage record of title--As defined by Transportation Code, §501.091.

3 [(23) Salvage vehicle agent--As defined by Occupations Code, §2302.001.]

4 [(24) Salvage vehicle broker endorsement--An endorsement on the salvage vehicle

5 dealer license issued by the department to a license holder, other than a salvage vehicle dealer holding a

6 used automobile dealer endorsement, new automobile dealer endorsement, salvage vehicle rebuilder

7 endorsement, or a salvage pool operator endorsement, that allows the license holder to:]

8 [(A) offer to sell or buy, or negotiate to sell or buy, salvage motor vehicles or

9 non-repairable motor vehicles owned by a license holder and to be purchased or sold by another license

10 holder; or]

11 [(B) act as the agent or representative of a license holder in performing an act

12 described by subparagraph (A) of this paragraph.]

13 (21) [(25)] Salvage vehicle dealer--As defined by Transportation Code, §501.091.

14 [(26) Salvage vehicle rebuilder--Defined as "rebuilder," in Transportation Code,

15 §501.091.]

16 [(27) Salvage vehicle rebuilder endorsement--An endorsement on the salvage dealer

17 license issued by the department that allows the license holder to acquire and repair, rebuild, or

18 reconstruct for operation on a public highway more than five salvage motor vehicles in a calendar year.]

19 (22) [(28)] Salvage vehicle title--As defined by Transportation Code, §501.091.

20 [(29) Used automobile dealer endorsement--An endorsement on the salvage vehicle

21 dealer license issued by the department that allows the license holder to buy or sell salvage motor

22 vehicles and non-repairable motor vehicles that have been the subject of a retail sale.]

23 (23) [(30)] Used part--As defined by Transportation Code, §501.091.

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1 ~~[(e) A person holding a salvage vehicle dealer license with a used automobile dealer endorsement~~
2 ~~may rebuild, repair or reconstruct no more than five (5) salvage motor vehicles during a calendar year.~~
3 ~~The person may sell those rebuilt vehicles, provided the salvage vehicle dealer also holds a general~~
4 ~~distinguishing number issued by the department under Transportation Code, Chapter 503.]~~

5 (c) ~~[(#)]~~ The provisions of this subchapter do not apply to:

6 (1) a person who purchases no more than five (5) nonrepairable ~~[non-repairable]~~ or
7 salvage motor vehicles at casual sale in a calendar year from:

8 (A) a salvage vehicle dealer;

9 ~~[(B) a salvage pool operator;]~~ or

10 (B) ~~[(C)]~~ an insurance company;

11 (2) a metal recycler, unless a motor vehicle is sold, transferred, released, or delivered to
12 the metal recycler for the purpose of reuse or resale as a motor vehicle, or as a source of used parts, and
13 is used for that purpose;

14 (3) a person who casually repairs, rebuilds, or reconstructs no more than five (5) salvage
15 motor vehicles in the same calendar year;

16 (4) a person who is a non-United States resident who purchases nonrepairable ~~[non-~~
17 ~~repairable]~~ or salvage motor vehicles for export only;

18 (5) an agency of the United States, an agency of this state, or a local government;

19 (6) a financial institution or other secured party that holds a security interest in a motor
20 vehicle and is selling that motor vehicle in the manner provided by law for the forced sale of a motor
21 vehicle;

22 (7) a receiver, trustee, administrator, executor, guardian, or other person appointed by
23 or acting pursuant to the order of a court;

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1 (8) a person selling an antique passenger car or truck that is at least 25 years old or a
2 collector selling a special interest motor vehicle as defined in Transportation Code, §683.077, if the special
3 interest vehicle is at least 12 years old; and

4 (9) a licensed auctioneer who, as a bid caller, sells or offers to sell property to the highest
5 bidder at a bona fide auction under the following conditions:

6 (A) neither legal nor equitable title passes to the auctioneer;

7 (B) the auction is not held for the purpose of avoiding a provision of Occupations
8 Code, Chapter 2302, or this subchapter; and

9 (C) the auction is conducted of motor vehicles owned, legally or equitably, by a
10 person who holds a salvage vehicle dealer's license and the auction is conducted at their licensed location
11 or at a location approved by the department.

12

13 §221.13. License Term and Fees.

14 (a) The term of a salvage vehicle dealer license [~~together with all endorsements on that license~~]
15 issued by the department under Occupations Code, Chapter 2302, and this chapter, is two years. [~~12~~
16 ~~months.~~] The fee for a salvage vehicle dealer license is \$190. [~~\$95. The fee for each endorsement is \$95~~
17 ~~for the license term.~~] The entire amount of the fee is due at the time of application for the license, [~~;~~
18 ~~including endorsement fees, or at the time the license is renewed.~~]

19 [~~(b) The fee for a salvage vehicle agent license is \$95 for the license term of the salvage vehicle~~
20 ~~dealer authorizing the salvage vehicle agent.~~]

21 [~~(c) The department may prorate the fee for an endorsement added to an existing salvage vehicle~~
22 ~~dealer license so that the endorsement expires on the same date as the salvage vehicle dealer license.~~]

23 (b) [~~(d)~~] The department may prorate the fee for a salvage vehicle dealer license to allow the

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1 salvage vehicle dealer license to expire on the same day as another license issued by the department
2 under Occupations Code, Chapter 2301; Chapter 2302; or Transportation Code, Chapter 503.

3

4 §221.20. License Renewal.

5 (a) A salvage vehicle dealer license expires ~~[together with its endorsements and any salvage~~
6 ~~vehicle agent licenses expire]~~ on the second anniversary of the date of issuance of the salvage vehicle
7 dealer license.

8 (b) The salvage vehicle dealer license ~~[, together with any endorsements and any salvage vehicle~~
9 ~~agent licenses,]~~ may be renewed for an additional period of two years ~~[12 months]~~ upon timely submission
10 of a renewal application on a form approved by the department with all required information, ~~[and]~~
11 attachments, ~~[if applicable,]~~ and ~~[the required]~~ fees. A renewal application is considered "timely"
12 submitted if the renewal application with all required information, ~~[and]~~ attachments, ~~[if applicable,]~~ and
13 required fees ~~[fee]~~ are received by the department on or before the expiration date of the existing license.

14 (c) The department will send a written notice of ~~[an]~~ expiration ~~[notice]~~ to a salvage vehicle
15 dealer's email address ~~[mailing address]~~ at least 30 days before expiration of a license. ~~[The expiration~~
16 ~~notice for salvage vehicle agent licenses will be sent to the authorizing salvage vehicle dealer's mailing~~
17 ~~address.]~~

18 (d) Failure by the department to send written notice under this section does not relieve a license
19 holder from timely renewing a license.

20 (e) The renewal fee for salvage vehicle dealer ~~[or salvage vehicle agent license]~~ is \$170 ~~[\$85]~~.

21 (f) A license holder may renew an expired license by submitting a renewal application and paying
22 a late renewal fee of \$85 ~~[\$42.50 for each endorsement]~~ in addition to the renewal fee, if 90 or fewer
23 days have elapsed since the license expired.

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1 (g) A license holder may renew an expired license by submitting a renewal application and paying
2 a late renewal fee of \$170 [~~\$85 for each endorsement,~~] in addition to the renewal fee, if more than 90
3 days but less than one year has elapsed since the license expired.

4 (h) If a license has been expired for a period of one year or longer and the department is not in
5 receipt of a renewal application with all required information and attachments [~~and the renewal fees for~~
6 ~~each endorsement~~], the license holder must apply for a new license in the same manner as an applicant
7 for an initial license.

8 (i) If the department is not in receipt of a renewal application with all required information and
9 attachments and the applicable renewal fee prior to the cancellation date of the license, a salvage vehicle
10 dealer [~~and any salvage vehicle agents~~] may not engage in the activities that require the license until the
11 license has been renewed by the department.

SUBCHAPTER C. LICENSED OPERATIONS**43 TAC §221.41 and §221.54**

14 §221.41. Location Requirements.

15 A salvage vehicle dealer [~~holding the new automobile dealer endorsement, used automobile dealer~~
16 ~~endorsement, salvage vehicle rebuilder endorsement or salvage pool operator endorsement~~] must meet
17 the following requirements at each licensed business location and must maintain the following
18 requirements during the entire term of the license.

19 (1) If the licensed business location is not owned by the license holder, the license holder
20 must maintain a lease that extends through the period for which the license will be issued. The lease
21 agreement must be on an executed lease contract containing at a minimum:

22 (A) the names of the lessor and lessee;

23 (B) the period of time for which the lease is valid; and

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1 (C) the street address or legal description of the property, provided that if only a
2 legal description of the property is provided, the license holder must attach a statement that the property
3 description in the lease agreement is the street address identified on the application.

4 (2) Any business location requirement in this subchapter are in addition to any
5 requirements by city ordinance, county rule, or state law.

6 §221.54. Criteria for Site Visits.

7 In determining whether to conduct a site visit at an active salvage dealer's location, the department will
8 consider whether the dealer has:

9 (1) failed to respond to a records request;

10 (2) failed to operate from the license location; or

11 (3) an enforcement history that reveals failed compliance inspections or multiple
12 complaints with administrative sanctions being taken by the department.

13

14

SUBCHAPTER B. LICENSING

15

43 TAC §221.12

16 [~~§221.12. Salvage Vehicle Agent.~~]

17 [(a) A person may only act as a salvage vehicle agent if the person holds a license issued by the
18 department and is acting under the authorization of a salvage vehicle dealer holding a current license
19 issued by the department.]

20 [(b) The holder of a salvage vehicle dealer license issued by the department may authorize no
21 more than five (5) persons to operate as salvage vehicle agents under the dealer's license.]

22 [(c) A salvage vehicle agent may acquire, sell, or otherwise deal in non-repairable motor vehicles
23 or salvage motor vehicles in this state as directed by the salvage vehicle dealer under whose license the

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1 ~~person operates and subject to the authority granted by the department to the salvage vehicle dealer~~
2 ~~under whose license the salvage vehicle agent operates.]~~

3 ~~[(d) To be authorized to act as a salvage vehicle agent for a salvage vehicle dealer, a person must~~
4 ~~submit a signed application on a form prescribed by the department and the applicable license fee.]~~

5 ~~[(e) If the license of the salvage vehicle dealer authorizing the salvage vehicle agent is canceled or~~
6 ~~revoked, the salvage vehicle agent's license shall be canceled after notice and opportunity for hearing,~~
7 ~~effective on the date the salvage vehicle dealer's license is canceled or revoked.]~~

8 ~~[(f) A salvage vehicle dealer shall notify the department in writing within five days after the salvage~~
9 ~~vehicle dealer terminates the authority of the salvage vehicle agent to operate under the salvage vehicle~~
10 ~~dealer's license.]~~

11 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the adoption and found it to be within the
12 state agency's legal authority to adopt.

13 Issued at Austin, Texas, on Month Day, YYYY.

14
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16

Tracey Beaver, General Counsel

Board Meeting Date: 12/5/2019
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Daniel Avitia, Motor Vehicle Division Director
Agenda Item: 8
Subject: Adoption of Rules under Title 43, Texas Administrative Code
Chapter 215, Motor Vehicle Distribution
Amendments, §215.83
Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders
Amendments, §221.17
(Relating to SB 1200, authority of certain military spouses to engage in a business or occupation in this state.)

RECOMMENDATION

Approval to publish the adoption of amendments to §215.83 and §221.17 in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The amendments implement Senate Bill 1200, 86th Legislature, Regular Session (2019), which creates new Occupations Code, §55.0041, Recognition of Out-Of-State License of Military Spouse.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

Senate Bill 1200 authorizes military spouses to engage in a business or occupation in Texas for which a license is required, without applying for a Texas license, if the applicable Texas licensing agency determines the spouse is currently licensed in good standing by a jurisdiction with licensing requirements substantially equivalent to the relevant licensing requirements in Texas. Senate Bill 1200 requires the TxDMV to adopt rules that:

- establish processes to identify jurisdictions with substantially equivalent licensing requirements; and
- verify that a military spouse is licensed and in good standing in such a jurisdiction.

Senate Bill 1200 additionally authorizes an agency, at its discretion, to adopt rules to provide for the issuance of a license to military spouse who is confirmed to be in good standing in a jurisdiction with substantially equivalent licensing requirements.

The amendments to §215.83 include:

- renumbering subsections where appropriate;

- adding subsection (j) – stating that a military spouse may engage in a business or occupation for which a department issued license is required if military spouse meets the requirements of Occupations Code, §55.041 and this section;
- §215.83(j)(1) – clarifying that a military spouse must submit documentation to the department to request authorization to engage in a business or occupation in Texas under Occupations Code, §55.0041;
- §215.83(j)(2) – providing that upon receipt of a military's spouse notice of intent to engage in a business or occupation for which the department requires a license, the department will determine whether the military spouse is currently licensed in good standing in another jurisdiction with substantially equivalent licensing requirements to Texas. Subparagraphs (A) and (B) of this paragraph describe the process by which the department will verify that a military spouse is licensed and in good standing in a jurisdiction with substantially equivalent licensing requirements; and
- §215.83(j)(3) – implementing the discretionary rulemaking authority in SB 1200, specifically new Occupations Code, §55.0041(f), which authorizes a state agency to adopt rules providing for the issuance of a license to a military spouse for whom the agency has confirmed licensure in good standing in a jurisdiction with substantially equivalent licensing requirements.

The amendments to §221.17 include:

- renumbering subsections where appropriate;
- add subsection (b) – stating that a military spouse may engage in a business or occupation for which a department issued license is required if military spouse meets the requirements of Occupations Code, §55.041 and this section;
- §221.17(b)(1) – clarifying that a military spouse must submit documentation to the department to request authorization to engage in a business or occupation in Texas under Occupations Code, §55.0041;
- §221.17(b)(2) – providing that upon receipt of a military's spouse notice of intent to engage in a business or occupation for which the department requires a license, the department will determine whether the military spouse is currently licensed in good standing in another jurisdiction with substantially equivalent licensing requirements to Texas. Subparagraphs (A) and (B) of this paragraph describe the process by which the department will verify that a military spouse is licensed and in good standing in a jurisdiction with substantially equivalent licensing requirements; and
- §221.17(b)(3) – implementing the discretionary rulemaking authority in SB 1200, specifically new Occupations Code, §55.0041(f), which authorizes a state agency to adopt rules providing for the issuance of a license to a military spouse for whom the agency has confirmed licensure in good standing in a jurisdiction with substantially equivalent licensing requirements.

The proposal was published in the *Texas Register* on August 23, 2019. The comment period closed on September 23, 2019. The department received a written comment on the proposal from the Texas Independent Automobile Dealers Association expressing support for the rules as proposed.

If the board adopts the amendments during its December 5, 2019, open meeting, staff anticipates:

- publication in the December 27, 2019, issue of the *Texas Register*; and
- an effective date of January 2, 2020.



September 23, 2019

Office of General Counsel
Texas Department of Motor Vehicles
4000 Jackson Ave.
Austin, TX 78731

Sent via email: rules@txdmv.gov

Re: Proposed amendments to 43 TAC §215.133, §215.161, and §215.83 as published in the Texas Register August 23, 2019.

Dear Ms. Beaver:

The Texas Independent Automobile Dealers Association (TIADA) thanks you for the opportunity to submit the following comment with regard to consignment locations, reciprocity of salvage licenses, pre-licensing education, and military licensing.

215.133

- (a) Consignment locations: TIADA supports the clarifying amendment in which “A dealer must also hold a GDN for a consignment location “unless the consignment location is a wholesale motor vehicle auction.”

And:

- (j) Reciprocity of General Distinguishing Number and salvage license. The association is supportive of the adoption of new section (j), which will allow an independent motor vehicle dealer to also act as a salvage dealer or rebuilder without the need for an additional license.
- (k) Pre-licensing and renewal education. The association is supportive of new section (k), relating to educational requirements for persons or entities seeking to obtain a motor vehicle general distinguishing number license.

TIADA respectfully asks for clarification regarding subsection (k)(2) for persons or independent auto dealerships seeking renewal of a GDN license, but are not otherwise exempt (10 year). We ask that a renewal license holder not be required to take the same class as a prospective licensee as it is redundant. We would also request that alternative curriculum be made available for approval by the Department that is narrower in scope and shorter in duration, ex 30 minutes to an hour. Lastly, we would also request that state motor vehicle trade associations be allowed to present renewal

education or training opportunities with classroom equivalent if such classroom sessions are approved by the Department in advance.

215.83

Military licensing. TIADA supports adoption of new section (j) relating to reciprocity of military spouses. TIADA appreciates the efforts of the Department to assist our country's military families.

We look forward to working with the Department on these programs.

Sincerely,

/s/

Christopher Bean
Director of Dealer Compliance and
Strategic Communications

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ADOPTION OF

SUBCHAPTER C. LICENSES, GENERALLY

43 TAC §215.83

INTRODUCTION. The Texas Department of Motor Vehicles adopts amendments to 43 TAC §215.83 concerning recognition of out-of-state licenses of military spouses. The department adopts amendments to §215.83 without changes to the proposed text as published in the August 23, 2019 issue of the *Texas Register* (44 TexReg 4460).

REASONED JUSTIFICATION. The amendments to §215.83 are necessary to necessary to implement Senate Bill 1200, 86th Legislature, Regular Session (2019), which creates new Occupations Code, §55.0041, Recognition of Out-Of-State License of Military Spouse. Section 55.0041, authorizes military spouses to engage in a business or occupation in Texas for which a license is required, without applying for a required Texas license, if the applicable Texas licensing agency determines the military spouse is currently licensed in good standing by a jurisdiction with licensing requirements substantially equivalent to the relevant licensing requirements in Texas.

Section 215.83 adds subsection (j) to provide that military spouses are required to comply with Occupations Code, §55.0041 and this section to obtain authority to engage in the business or occupation in Texas for which a license from the department is otherwise required.

Section 215.83(j)(1) clarifies that the military spouse must submit documentation to the department to request authorization to engage in a business or occupation in Texas under Occupations Code, §55.0041. This documentation is necessary for the department to know which jurisdiction to

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1 contact for verification of the status of the military spouse's license, and to ensure the military spouse
2 meets the qualification requirements of Occupations Code, §55.0041.

3 Section 215.83(j)(2) provides that that upon the receipt of a military spouse's notice of intent to
4 engage in business in a business or occupation for which the department requires a license, the
5 department will determine whether the military spouse is currently licensed in good standing in another
6 jurisdiction with substantially equivalent licensing requirements to Texas. Section 215.83(j)(2)
7 subparagraphs (A) and (B), describe the process by which the department will verify that a military spouse
8 is licensed and in good standing in a jurisdiction determined to have substantially equivalent licensing
9 requirements.

10 Section 215.83(j)(3) implements the discretionary rulemaking authority in SB 1200, specifically
11 new Occupations Code, §55.0041(f), which authorizes a state agency to adopt rules providing for the
12 issuance of a license to a military spouse for whom the agency has confirmed licensure in good standing
13 in a jurisdiction with substantially equivalent licensing requirements. The department's issuance of a
14 license will help clarify that a military spouse authorized to practice a business or occupation in Texas,
15 based on the department's confirmation under this section, and will be subject to the same requirements
16 for maintaining a license as a licensee who was granted a license under the standard licensure application
17 process.

18

19 SUMMARY OF COMMENT.

20 The department received one written comment from the Texas Independent Automobile Dealers
21 Association expressing support of the rule as proposed.

22 **Response.** The department thanks the commenter for its support.

23

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1 **STATUTORY AUTHORITY.** The amendments to §215.83 are adopted under Occupations Code,
2 §§55.0041(e), 2301.153(8), and 2301.155; and Transportation Code, §1002.001.

3 Occupations Code, §55.0041(e) provides the board of the Texas Department of Motor Vehicles
4 (board) specific authority to adopt this rule.

5 Occupations Code, §2301.153(8) and §2301.155 provides the board authority to adopt rules to
6 administer Chapter 2301.

7 Transportation Code, §1002.001 authorizes the board to adopt rules that are necessary and
8 appropriate to implement the powers and the duties of the department.

9
10 **CROSS REFERENCE TO STATUTE.** Occupations Code, §55.0041 and Chapter 2301.

11 **TEXT.**

12 **Subchapter C. Licenses, Generally**

13 **43 TAC §215.83**

14 §215.83. License Applications, Amendments, or Renewals.

15 (a) An application for a new license, license amendment, or license renewal filed with the
16 department must be:

17 (1) on a form approved by the department;

18 (2) completed by the applicant, license holder, or authorized representative who is an
19 employee, a licensed attorney, or a certified public accountant;

20 (3) accompanied by the required fee, paid by check, credit card, or by electronic funds
21 transfer, drawn from an account held by the applicant or license holder, or drawn from a trust account of
22 the applicant's attorney or certified public accountant; and

23 (4) accompanied by proof of a surety bond, if required.

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1 (b) An authorized representative of the applicant or license holder who files an application with
2 the department may be required to provide written proof of authority to act on behalf of the applicant or
3 license holder.

4 (c) The department will not provide information regarding the status of an application, application
5 deficiencies, or new license numbers to a person other than a person listed in subsection (a)(2) of this
6 section, unless that person files a written request under Government Code, Chapter 552.

7 (d) Prior to the expiration of a license, a license holder or authorized representative must file with
8 the department a sufficient license renewal application. Failure to receive notice of license expiration
9 from the department does not relieve the license holder from the responsibility to timely file a sufficient
10 license renewal application. A license renewal application is timely filed if:

11 (1) the department receives a sufficient license renewal application on or before the date
12 the license expires; or

13 (2) a legible postmark on the envelope transmitting the sufficient license renewal
14 application clearly indicates that the license holder or authorized representative mailed the license
15 renewal application on or before the date the license expires.

16 (e) An application for a new license or license amendment filed with the department must be
17 sufficient. An application is sufficient if the application:

18 (1) includes all information and documentation required by the department; and

19 (2) is filed in accordance with subsection (a) of this section.

20 (f) A license renewal application received by the department is sufficient if:

21 (1) the renewal application form is completed by the license holder or authorized
22 representative of the license holder who is an employee, an unpaid agent, a licensed attorney, or certified
23 public accountant;

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1 (2) accompanied by the required license renewal application fee payment; and

2 (3) accompanied by proof of a surety bond, if required.

3 (g) If an applicant, license holder, or authorized representative does not provide the information
4 or documentation required by the department, the department will issue a written notice of deficiency.
5 The information or documentation requested in the written notice of deficiency must be received by the
6 department within 20 calendar days of the date of the notice of deficiency, unless the department issues
7 a written extension of time. If an applicant, license holder, or authorized representative fails to respond
8 or fully comply with all deficiencies listed in the written notice of deficiency within the time prescribed by
9 this subsection, the application will be deemed withdrawn and will be administratively closed.

10 (h) The department will evaluate a sufficient application for a new license, license amendment,
11 or license renewal in accordance with applicable rules and statutes to determine whether to approve or
12 deny the application. If the department determines that there are grounds for denial of the application,
13 the department may pursue denial of the application in accordance with Subchapter J of this chapter
14 (relating to Administrative Sanctions).

15 (i) The department will process an application for a new license, license amendment, or license
16 renewal filed by a military service member, military spouse, or military veteran in accordance with
17 Occupations Code, Chapter 55. A license holder who fails to timely file a sufficient application for a license
18 renewal because that license holder was on active duty is exempt from any increased fee or penalty
19 imposed by the department for failing to renew the license in a timely manner.

20 (j) A military spouse may engage in a business or occupation for which a department issued license
21 is required if the military spouse meets the requirements of Occupations Code, §55.0041 and this section.

22 (1) To meet the requirements of Occupations Code, §55.0041, a military spouse must
23 submit to the department:

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1 (A) notice of the military spouse's intent to engage in a business or occupation in
2 Texas for which a department issued license is required;

3 (B) proof of the military spouse's residency in Texas and a copy of the military
4 spouse's military identification card, as required by Occupations Code, §55.0041(b)(2); and

5 (C) documentation demonstrating that the military spouse is licensed and in good
6 standing in another jurisdiction for the relevant business or occupation.

7 (2) Upon receipt of the notice and documentation required by paragraphs (1)(B) and (1)(C)
8 of this subsection, the department shall:

9 (A) confirm with the other licensing jurisdiction that the military spouse is
10 currently licensed and in good standing for the relevant business or occupation; and

11 (B) conduct a comparison of the other jurisdiction's license requirements,
12 statutes, and rules with the department's licensing requirements to determine if the requirements are
13 substantially equivalent.

14 (3) If the department confirms that a military spouse is currently licensed in good standing
15 in another jurisdiction with substantially equivalent licensing requirements, the department may issue a
16 license to the military spouse for the relevant business or occupation. The license is subject to
17 requirements in Chapter 215 of this title and Occupations Code, Chapter 2301 in the same manner as a
18 license issued under the standard application process, unless exempted under Occupations Code, Chapter
19 55.

20 (k) [(j)] A license holder who timely files a sufficient license renewal application in accordance with
21 subsection (d) of this section may continue to operate under the expired license until the license renewal
22 application is determined.

23 (l) [(k)] A license holder who fails to timely file a sufficient license renewal application in

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1 accordance with subsection (d) of this section is not authorized to continue licensed activities after the
2 date the license expires. A license holder may dispute a decision that a license renewal application was
3 not timely or sufficient by submitting evidence to the department demonstrating that the license renewal
4 application was timely and sufficient. Such evidence must be received by the department within 10
5 calendar days of the date the department issues notice that a timely or sufficient license renewal
6 application was not received by the department.

7 (m) ~~[(h)]~~ The department shall accept a late license renewal application up to 90 days after the
8 date the license expires. In accordance with subsection (l) ~~[(k)]~~ of this section, the license holder is not
9 authorized to continue licensed activities after the date the license expires until the department approves
10 the late license renewal application. If the department grants a license renewal under this section, the
11 licensing period begins on the date the department issues the renewed license. The license holder may
12 resume licensed activities upon receipt of the department's written verification or upon receipt of the
13 renewed license.

14 (n) ~~[(m)]~~ If the department has not received a late license renewal application within 90 days after
15 the date the license expires, the department will close the license. A person must apply for and receive a
16 new license before that person is authorized to resume activities requiring a license.

17 (o) ~~[(n)]~~ A metal dealer's license plate issued in accordance with Transportation Code, Chapter
18 503, Subchapter C expires on the date the associated license expires or when a license renewal application
19 is determined, whichever is later.

20

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Adopted Section

Part 10. Texas Department of Motor Vehicles
Chapter 215 - Motor Vehicle Distribution

1

2 **CERTIFICATION.** The department certifies that legal counsel has reviewed the adoption and found it to
3 be a valid exercise of the agency’s legal authority.

4 Issued at Austin, Texas, on M DD, YYYY.

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Tracey Beaver, General Counsel

DRAFT

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers, Salvage Pool Operators
and Salvage Vehicle Rebuilders

1

ADOPTION OF

2

SUBCHAPTER B. LICENSING

3

43 TAC §221.17

4

INTRODUCTION. The Texas Department of Motor Vehicles adopts amendments to 43 TAC §221.17

5

concerning recognition of out-of-state licenses of military spouses. The department adopts amendments

6

to §221.17 without changes to the proposed text as published in the August 23, 2019 issue of the *Texas*

7

Register (44 TexReg 4472).

8

9

REASONED JUSTIFICATION. The amendments are necessary to implement Senate Bill 1200, 86th

10

Legislature, Regular Session (2019), which creates new Occupations Code, §55.0041, Recognition of Out-

11

Of-State License of Military Spouse. Section 55.0041 authorizes military spouses to engage in a business

12

or occupation in Texas for which a license is required, without applying for a required Texas license, if the

13

applicable Texas licensing agency determines the military spouse is currently licensed in good standing by

14

a jurisdiction with licensing requirements substantially equivalent to the relevant licensing requirements

15

in Texas.

16

Section 221.17 rennumbers subsections where appropriate.

17

Section 221.17(b) provides that military spouses are required to comply with Occupations Code,

18

§55.0041 and this section to obtain authority to engage in the business or occupation in Texas for which

19

a license from the department is otherwise required.

20

Section 221.17(b)(1) clarifies that the military spouse must submit documentation to the

21

department to request authorization to engage in a business or occupation in Texas under Occupations

22

Code, §55.0041. This documentation is necessary for the department to know which jurisdiction to

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers, Salvage Pool Operators
and Salvage Vehicle Rebuilders

1 contact for verification of the status of the military spouse’s license, and to ensure the military spouse
2 meets the qualification requirements of Occupations Code, §55.0041.

3 Section 221.17(b)(2) provides that that upon the receipt of a military spouse’s notice of intent to
4 engage in a business or occupation for which department requires a license, the department will
5 determine whether the military spouse is currently licensed in good standing in another jurisdiction with
6 substantially equivalent licensing requirements to Texas. Sub Section 221.17(b)(2), subparagraphs (A) and
7 (B), describe the process by which the department will verify that a military spouse is licensed and in good
8 standing in a jurisdiction determined to have substantially equivalent licensing requirements.

9 Section 221.17 (b)(3) implements the discretionary rulemaking authority in SB 1200, specifically
10 new Occupations Code, §55.0041(f), which authorizes a state agency to adopt rules providing for the
11 issuance of a license to a military spouse for whom the agency has confirmed licensure in good standing
12 in a jurisdiction with substantially equivalent licensing requirements. The department’s issuance of a
13 license will help clarify that a military spouse authorized to practice a business or occupation in Texas,
14 based on the department’s confirmation under this section, is entitled to a license and will be subject to
15 the same requirements for maintaining a license as a licensee who was granted a license under the
16 standard licensure application process.

17

18 SUMMARY OF COMMENTS.

19 No comments on the proposed amendments were received.

20

21 **STATUTORY AUTHORITY.** The amendments to §221.17 are adopted under under Occupations Code
22 §55.0041(e) and §2302.051, and Transportation Code, §1002.001.

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers, Salvage Pool Operators
and Salvage Vehicle Rebuilders

1 The amendments are adopted under the specific authority of Occupations Code,
2 §55.0041(e) provides the board specific authority to adopt this rule.

3 Occupations Code, §2302.051 authorizes the board to adopt rules as necessary to administer
4 Chapter 2302.

5 Transportation Code, §1002.001 authorizes the board to adopt rules that are necessary and
6 appropriate to implement the powers and the duties of the department.

7

8 **CROSS REFERENCE TO STATUTE.** Occupations Code, §55.0041 and Chapter 2302.

9

10 **TEXT.**

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Subchapter B. Licensing

12

43 TAC §221.17

13 §221.17. License Processing for Military Service Members, Spouses, and Veterans.

14 (a) The department will process a license, amendment, or renewal application submitted for
15 licensing of a military service member, military spouse, or military veteran in accordance with Occupations
16 Code, Chapter 55.

17 (b) A military spouse may engage in a business or occupation for which a department issued
18 license is required if the military spouse meets the requirements of Occupations Code, §55.0041 and this
19 section.

20 (1) To meet the requirements of Occupations Code, §55.0041, a military spouse must
21 submit to the department:

22 (A) notice of the military spouse's intent to engage in a business or occupation in
23 Texas for which a department issued license is required;

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 221 – Salvage Vehicle Dealers, Salvage Pool Operators
and Salvage Vehicle Rebuilders

1 (B) proof of the military spouse’s residency in Texas and a copy of the military
2 spouse’s military identification card, as required by Occupations Code, §55.0041(b)(2); and

3 (C) documentation demonstrating that the military spouse is licensed and in good
4 standing in another jurisdiction for the relevant business or occupation.

5 (2) Upon receipt of the notice and documentation required by paragraphs (1)(B) and (1)(C)
6 of this subsection the department shall:

7 (A) confirm with the other licensing jurisdiction that the military spouse is
8 currently licensed and in good standing for the relevant business or occupation; and

9 (B) conduct a comparison of the other jurisdiction’s license requirements,
10 statutes, and rules with the department’s licensing requirements to determine if the requirements are
11 substantially equivalent.

12 (3) If the department confirms that a military spouse is currently licensed in good standing
13 in another jurisdiction with substantially equivalent licensing requirements, the department may issue a
14 license to the military spouse for the relevant business or occupation. The license is subject to
15 requirements of Chapter 221 of this title and Occupations Code, Chapter 2302 in the same manner as a
16 license issued under the standard application process, unless exempted under Occupations Code, Chapter
17 55.

18

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles
Chapter 221 – Salvage Vehicle Dealers, Salvage Pool Operators
and Salvage Vehicle Rebuilders

1

2 **CERTIFICATION.** The department certifies that legal counsel has reviewed the adoption and found it to
3 be a valid exercise of the agency’s legal authority.

4 Issued at Austin, Texas, on M DD, YYYY.

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Tracey Beaver, General Counsel

DRAFT



To: Texas Department of Motor Vehicles Board
From: Jeremiah Kuntz, Vehicle Titles & Registration Division Director
Agenda Item: 10
Subject: Adoption of Rule under Title 43, Texas Administrative Code
Chapter 217, Vehicle Titles and Registration
New, §217.15
(Relating to HB 2315, evidence of ownership of temporary housing provided by a government agency in response to a natural disaster or other declared emergency; and automatic issuance of title to travel trailer owned by government agency in certain circumstances.)

RECOMMENDATION

Approval to publish the adoption of new §217.15 in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The new section implements House Bill 2315, 86th Legislature, Regular Session (2019), which added Transportation Code §501.0341, Issuance of Title to Government Agency for Travel Trailer.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The new section establishes the process for a government agency, including a Texas state agency, political subdivision of the state, and a United States government agency, to apply for and receive a title for a travel trailer used by the government agency to provide temporary housing in response to a natural disaster or other declared emergency.

The new section includes:

- §217.15(a) – clarifying that a government agency must apply directly to the department for title for a travel trailer under this section;
- §217.15(b) – requiring a government agency to comply with the standard title application requirements in §217.4, Initial Application for Title, except for the requirement to apply for title with a county tax-assessor collector; and
- §217.15(c) – providing that the department will issue title without payment of a fee unless the government agency is also applying for registration, in which case the government agency must pay any applicable state inspection fee.

The proposal was published in the *Texas Register* on August 30, 2019. The comment period closed on September 30, 2019. No comments were received.

If the board adopts the new section during its December 5, 2019, open meeting, staff anticipates:

- publication in the December 27, 2019, issue of the *Texas Register*; and
- an effective date of January 2, 2020.

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

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ADOPTION OF**SUBCHAPTER A. MOTOR VEHICLE TITLES****43 TAC §217.15**

INTRODUCTION. The Texas Department of Motor Vehicles adopts new 43 TAC §217.15 concerning title issuance to a government agency for a travel trailer under Transportation Code §501.0341. The department adopts new §217.15 without changes to the proposed text as published in the August 30, 2019 issue of the *Texas Register* (44 TexReg 4678).

REASONED JUSTIFICATION. Section 217.15 is necessary to implement House Bill 2315, 86th Legislature, Regular Session (2019), which added Transportation Code §501.0341. House Bill 2315 requires the department to establish a process for the department to issue a title to a government agency for a travel trailer used by the government agency to provide temporary housing in response to a natural disaster or other declared emergency. House Bill 2315 was filed as a result of a recommendation from the report titled “*Eye of the Storm*,” created by the Governor’s Commission to Rebuild Texas in the aftermath of Hurricane Harvey.

Implementation of HB 2315 will ensure an expedited process for issuing titles to government agencies that provide temporary housing in response to a natural disaster or other declared emergency and protect the governmental agency from fraud by ensuring an accurate record of ownership. House Bill 2315 also provided exemptions to certain requirements for a manufactured home purchased by a federal government agency and used to provide temporary housing in response to a natural disaster or other declared emergency. Section 217.15 does not address these exemptions since manufactured housing is not subject to Transportation Code Chapter 501 and is not regulated by the department.

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

1 Section 217.15 establishes the process for a government agency to apply for and receive a title
2 for a travel trailer used by the government agency to provide temporary housing in response to a natural
3 disaster or other declared emergency. Section 217.15 will apply to a Texas state agency, a political
4 subdivision of the state, and a United States government agency.

5 Section 217.15(a) clarifies that a government agency may apply directly to the department for a
6 title for a travel trailer used by the government agency to provide temporary housing in response to a
7 natural disaster or other declared emergency. Section 217.15(a) clarifies that a travel trailer owned or
8 operated by the United States, or transferred to a state agency from the United States, or used by a
9 governmental agency, to provide temporary housing in response to a natural disaster or other declared
10 emergency may have a title issued under §217.15.

11 Section 217.15(b) requires a government agency to comply with the title application requirements
12 in §217.4, except for the requirement to apply for title with the county tax assessor-collector. The
13 governmental agency must still comply with the time for application, information included on the
14 application, and accompanying documentation requirements under §217.4(a), (c), and (d).

15 Section 217.15(c) provides that the department will issue title without payment of a fee unless
16 the government agency is also applying for registration, in which case the government agency must pay
17 any applicable state inspection fee. Texas state agencies and political subdivisions of the state are already
18 exempt from payment of a title application fee under Transportation Code §501.138. The title application
19 fee will be waived for United States government agencies under the requirement that the department
20 will automatically issue a title under Transportation Code §501.0341.

21 In addition, vehicles owned by the United States, Texas state agencies, and political subdivisions
22 of the state are already exempt from payment of registration fees under Transportation Code §§502.451,
23 502.452, and 502.453; however, they are not exempt from payment of the applicable state inspection

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

1 fee. The registration fee will be waived for United States government agencies since registration will be
2 issued in accordance with Transportation Code §§502.451, 502.452, and 502.453. Travel trailers are
3 considered trailers for purposes of the inspection fee and are subject to inspection under Transportation
4 Code §548.051. Of the \$12.50 inspection fee required by Transportation Code §548.501, \$7.50 of that fee
5 is remitted to the state.

6

7 SUMMARY OF COMMENTS.

8 No comments on the new section were received.

9

10 **STATUTORY AUTHORITY.** The department adopts new §217.15 under Transportation Code §§501.0041,
11 501.0341, and 1002.001.

12 Transportation Code §501.0041 authorizes the department to adopt rules to administer Chapter
13 501.

14 Transportation Code §501.0341 requires the department to establish, by rule, a process to
15 automatically issue a title to a government agency for a travel trailer used by the government agency to
16 provide temporary housing in response to a natural disaster or other declared emergency.

17 Transportation Code §1002.001 authorizes the board of the Texas Department of Motor Vehicles
18 to adopt rules that are necessary and appropriate to implement the powers and the duties of the
19 department.

20

21 **CROSS REFERENCE TO STATUTE.** Transportation Code §§501.004, 501.021, 501.022, 501.023, and
22 501.0341.

23

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

1 **TEXT.**

2

Subchapter A. Motor Vehicle Titles

3

43 TAC §217.15

4 §217.15. Title Issuance to Government Agency for Travel Trailer.

5 (a) A government agency may apply to the department for a title to a travel trailer purchased by
6 or transferred to the government agency if the travel trailer is being used as temporary housing in
7 response to a natural disaster or other declared emergency.

8 (b) A government agency applying for a title under subsection (a) of this section must comply with
9 §217.4(a), (c), and (d) of this title (relating to Initial Application for Title).

10 (c) The department will issue a title to a government agency under this section without payment
11 of a fee if the government agency is not applying for registration at the same time. If the government
12 agency is also applying for registration, the government agency must pay any applicable state inspection
13 fee to the department at the time of application.

14

15 **CERTIFICATION.** The department certifies that legal counsel has reviewed the adoption and found it to be
16 a valid exercise of the agency's legal authority.

17 Issued at Austin, Texas, on M DD, YYYY.

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Tracey Beaver, General Counsel

Board Meeting Date: 12/5/2019
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Jeremiah Kuntz, Vehicle Titles & Registration Division Director
Agenda Item: 12
Subject: Adoption of Rule under Title 43, Texas Administrative Code
Chapter 217, Vehicle Titles and Registration
Amendments, §217.27
(Relating to HB 1262, the extended registration of certain vehicles not subject to
Inspection.)

RECOMMENDATION

Approval to publish the adoption of amendments to §217.27 in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the amendments is to implement House Bill 1262, 86th Legislature, Regular Session (2019), which added Transportation Code §502.0024. House Bill 1262 requires the department to develop and implement a system of extended registration of up to five years for a trailer, semitrailer, or pole trailer having a gross weight of 7,500 or less, and not subject to inspection.

In conjunction with this rule, the department is also reconfiguring its internal systems to conform to the new requirement under HB 1262. Therefore, the effective date of the rule may be extended to correspond with completion of the programming necessary to fully implement the rule.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The amendments to §217.27(c):

- authorize an applicant to select a registration period of 12, 24, 36, 48, or 60 consecutive months for a trailer, semitrailer, or pole trailer having a gross weight of 7,500 or less, and not subject to inspection under Transportation Code §548.052(3);
- require the applicant to pay all registration fees for each full year of registration with the application;
- require the applicant to pay one processing and handling fee for the registration transaction, regardless of the registration period selected; and
- require the applicant to pay all other applicable fees for each year of registration with the application.

The extended registration will apply to a vehicle that fits within the description of §548.052(3), even if that vehicle is registered as a farm trailer.

The proposal was published in the *Texas Register* on August 30, 2019. The comment period closed on September 30, 2019. No comments were received.

If the board adopts the new section during its December 5, 2019, open meeting, staff anticipates:

- publication in the December 27, 2019, issue of the *Texas Register*; and
- an effective date of January 2, 2020.

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

1 The department also clarifies its position stated in the explanation to the proposal that “the
2 extended registration is not authorized for farm trailers because a farm trailer is referenced in
3 Transportation Code §548.052(4).” The extended registration will apply to a vehicle that fits within the
4 description of §548.052(3), even if that vehicle is registered as a farm trailer. The proposed text has not
5 been changed. The clarification of the rule does not affect anyone not already on notice of the proposal,
6 and imposes no additional costs on any person, because the extended registration is voluntary.

7 The rule also makes additional nonsubstantive edits to §217.27 to conform the rule text with
8 department style and improve readability.

9
10 **SUMMARY OF COMMENTS.**

11 No comments on the proposed amendments were received.

12
13 **STATUTORY AUTHORITY.** The department adopts amendments to §217.27 under HB 1262, 86th
14 Legislature, Regular Session (2019), Section 2; and Transportation Code §502.0021 and §1002.001.

15 House Bill 1262, 86th Legislature, Regular Session (2019), Section 2, requires the department shall
16 adopt the system required by Transportation Code §502.0024 and any rules necessary to implement that
17 section not later than February 1, 2020.

18 Transportation Code §502.0021 authorizes the department to adopt rules to administer Chapter
19 502.

20 Transportation Code §1002.001 authorizes the board of the Texas Department of Motor Vehicles
21 to adopt rules that are necessary and appropriate to implement the powers and the duties of the
22 department.

23

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

1 **CROSS REFERENCE TO STATUTE.** Transportation Code §502.0024 and §548.052.

2

3 **TEXT.**

4

Subchapter B. Motor Vehicle Registration

5

43 TAC §217.27

6 §217.27. Vehicle Registration Insignia.

7 (a) On receipt of a complete initial application for registration with the accompanying documents
8 and fees, the department will issue vehicle registration insignia to be displayed on the vehicle for which
9 the registration was issued for the current registration period.

10 (1) If the vehicle has a windshield, the symbol, tab, or other device prescribed by and
11 issued by the department shall be attached to the inside lower left corner of the vehicle's front windshield
12 in a manner that will not obstruct the vision of the driver.

13 (2) If the vehicle has no windshield, the symbol, tab, or other device prescribed by and
14 issued by the department shall be attached to the rear license plate, except that registration receipts,
15 retained inside the vehicle, may provide the record of registration for vehicles with permanent trailer
16 plates.

17 (3) If the vehicle is registered as a former military vehicle as prescribed by Transportation
18 Code, §504.502, the vehicle's registration number shall be displayed instead of displaying a symbol, tab,
19 or license plate.

20 (A) Former military vehicle registration numbers shall be displayed on a
21 prominent location on the vehicle in numbers and letters of at least two inches in height.

22 (B) To the extent possible, the location and design of the former military vehicle
23 registration number must conform to the vehicle's original military registration number.

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

1 (b) Unless otherwise prescribed by law, each vehicle registered under this subchapter:

2 (1) must display two license plates, one at the exterior front and one at the exterior rear
3 of the vehicle that are securely fastened at the exterior front and rear of the vehicle in a horizontal position
4 of not less than 12 inches from the ground, measuring from the bottom, except that a vehicle described
5 by Transportation Code, §621.2061 may place the rear plate so that it is clearly visible; or

6 (2) must display one plate that is securely fastened at or as close as practical to the
7 exterior rear of the vehicle in a position not less than 12 inches from the ground, measuring from the
8 bottom if the vehicle is a road tractor, motorcycle, trailer or semitrailer.

9 (c) Each vehicle registered under this subchapter must display license plates:

10 (1) assigned by the department for the period; or

11 (2) validated by a registration insignia issued by the department for a registration period
12 consisting of 12 consecutive months at the time of application for registration, except that: [-]

13 (A) trailers, semitrailers, or pole trailers not subject to inspection under
14 §548.052(3) may obtain a registration insignia for a period consisting of 12, 24, 36, 48 or 60 consecutive
15 months on payment of all fees for each full year of registration; and

16 (B) vehicles [Vehicles] may be registered for 24 consecutive months [only] in
17 accordance with Transportation Code, §548.102 on payment of all fees [- However, the vehicle must be
18 registered for 24 consecutive months and all fees must be paid] for each year of registration, regardless
19 of the number of months remaining on the inspection at the time of registration, provided [if both of the
20 following occur]:

21 (i) [(A)] the vehicle receives a two-year inspection under §548.102; and

22 (ii) [(B)] the application for registration is made in the name of the
23 purchaser under Transportation Code, §501.0234.

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

1 (d) The department may cancel any personalized alpha-numeric pattern that was issued if the
2 department subsequently determines or discovers that the personalized license plate was not in
3 compliance with these guidelines when issued, or if due to changing language usage, meaning or
4 interpretation, the personalized license plate has become non-compliant with these guidelines. When
5 reviewing a personalized alpha-numeric pattern, the department need not consider the applicant's
6 subjective intent or declared meaning. The department will not issue any license plate containing an
7 alpha-numeric pattern that meets one or more of the following criteria.

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

10 (2) The director of the department's Vehicle Titles and Registration Division or the
11 director's designee finds that the personalized alpha-numeric pattern, including plate patterns that
12 feature foreign or slang words or phrases, use phonetic, numeric or reverse spelling, acronyms, patterns
13 viewed in mirror image, or use a code which only a small segment of the community may be able to readily
14 decipher, that may be considered objectionable or misleading, including that the pattern may be viewed
15 as, directly or indirectly:

16 (A) indecent (defined as including a reference or connotation to a sexual act,
17 sexual body parts, excrement, or bodily fluids or functions. Additionally, "69" formats are prohibited
18 unless used in combination with the vehicle make, for example, "69 CHEV".);

19 (B) a vulgarity (defined as profane, swear, or curse words);

20 (C) derogatory (defined as an expression that is demeaning to, belittles, or
21 disparages any person, group, race, ethnicity, nationality, gender, sexual orientation, or refers to an
22 organization that advocates such expressions);

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

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

3 (E) a reference to gangs, illegal activities, violence, implied threats of harm, or
4 expressions that describe, advertise, advocate, promote, encourage, glorify, or condone violence, crime
5 or unlawful conduct;

6 (F) a reference to illegal drugs, controlled substances, the physiological state
7 produced by such substances, intoxicated states, or references that may express, describe, advertise,
8 advocate, promote, encourage, glorify such items or states;

9 (G) a representation of, or reference to, law enforcement, military branches, or
10 other governmental entities and their titles, including any reference to public office or position, military
11 or law enforcement rank or status, or any other official government position or status; or

12 (H) deceptively similar to a military, restricted distribution, or other specialty
13 plate.

14 (3) The alpha-numeric pattern is currently issued to another owner.

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

18 (e) A decision to cancel or not issue a personalized alpha-numeric pattern under subsection (d) of
19 this section may be appealed to the executive director of the department or the executive director's
20 designee within 20 days of notification of the cancellation or non-issuance. All appeals must be in writing
21 and the requesting party may include any written arguments, but shall not be entitled to a contested case
22 hearing. The executive director or the executive director's designee will consider the requesting party's
23 arguments and issue a decision no later than 30 days after the submission of the appeal, unless additional

TITLE 43. TRANSPORTATION

Adopted Section

Part 10. Texas Department of Motor Vehicles

Chapter 217 – Vehicle Titles and Registration

1 information is sought from the requestor, in which case the time for decision is tolled until the additional
2 information is provided. The decision of the executive director or the executive director's designee is final
3 and may not be appealed. An appeal is denied by operation of law 31 days from the submission of the
4 appeal, or if the requestor does not provide additional requested information within ten days of the
5 request.

6 (f) The provisions of subsection (a) of this section do not apply to vehicles registered with annual
7 license plates issued by the department.

8 (g) A person whose initial application has been denied may either receive a refund or select a new
9 alpha-numeric pattern. If an existing personalized alpha-numeric pattern has been cancelled, the person
10 may choose a new personalized alpha-numeric pattern which will be valid for the remainder of the term
11 or will forfeit the remaining term purchased.

12
13 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the adoption and found it to be a
14 valid exercise of the agency's legal authority.

15 Issued at Austin, Texas, on M DD, YYYY.

16

17

18

Tracey Beaver, General Counsel

Board Meeting Date: 12/5/2019
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Jeremiah Kuntz, Vehicle Titles & Registration Division Director
Agenda Item: 13
Subject: Adoption of Rule under Title 43, Texas Administrative Code
Chapter 217, Vehicle Titles and Registration
Amendment, §217.41
(Relating to HB 643, expanding the county locations at which an application for
a disabled parking placard may be submitted.)

RECOMMENDATION

Approval to publish the adoption of the amendment to §217.41 in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The amendment implements House Bill 643, 86th Legislature, Regular Session (2019), which amended Transportation Code §681.003(b) to allow Texas residents to apply for a disability placard in the county where the applicant is seeking medical treatment.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

House Bill 643 amended Transportation Code §681.003(b) to allow an individual to apply for a disability placard in the county where the applicant is seeking medical treatment, without regard to the county or state of residence of the individual. Prior law required Texas residents to apply in their county of residence, creating potential hardships.

The amendment to §217.41(f)(2) deletes the phrase “if the applicant is not a resident of this state” to mirror the amendment to Transportation Code §681.003(b).

The proposal was published in the *Texas Register* on August 30, 2019. The comment period closed on September 30, 2019. No comments were received.

If the board adopts the new section during its December 5, 2019, open meeting, staff anticipates:

- publication in the December 27, 2019, issue of the *Texas Register*; and
- an effective date of January 2, 2020.

1

ADOPTION OF

2

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

3

43 TAC §217.41

4 **INTRODUCTION.** The Texas Department of Motor Vehicles adopts the amendment to 43 TAC §217.41

5 concerning the location at which an application for a disabled parking placard may be made. The

6 department adopts the amendment to §217.41 without changes to proposed text as published in the

7 August 30, 2019 issue of the *Texas Register* (44 TexReg 4686).

8

9 **REASONED JUSTIFICATION.** The amendment is necessary to implement House Bill 643, 86th Legislature,
10 Regular Session (2019), which amends Transportation Code §681.003(b) to make disabled parking
11 placards more assessable for Texas residents seeking medical treatment outside of their county of
12 residence.

13 Prior to its amendment, Transportation Code §681.003(b) allowed an individual to apply for a
14 disability placard in the individual's county of residence or in the county where the applicant was seeking
15 medical treatment if the applicant was not a Texas resident. House Bill 643 amended Transportation Code
16 §681.003(b) to remove the phrase "if the applicant is not a resident of this state," to allow an individual
17 to apply for a disability placard in the county where the applicant is seeking medical treatment, regardless
18 of the individual's county or state of residence. This change should alleviate the burden on caretakers who
19 may be forced to drive long distances and take off work to submit an application or pick up a placard by
20 providing another option.

21 The amendment to §217.41(f)(2) deletes the phrase "if the applicant is not a resident of this state"
22 that allowed an applicant, after having a disability placard seized by a law enforcement officer, to apply
23 for a new disabled parking placard in the county in which the applicant is seeking medical treatment only

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1 if the applicant is not a Texas resident. The amendment to §217.41(f)(2) is necessary for consistency with
2 the statutory language in HB 643 and mirrors the amendment to Transportation Code §681.003(b).

3

4 **SUMMARY OF COMMENTS.**

5 No comments on the proposed amendment were received.

6

7 **STATUTORY AUTHORITY.** The amendment to §217.41 is adopted under Transportation Code §504.0011
8 and §1002.001.

9 Transportation Code §504.0011 authorizes the department to adopt rules to administer Chapter
10 504.

11 Transportation Code §1002.001 authorizes the board of the Texas Department of Motor Vehicles
12 to adopt rules that are necessary and appropriate to implement the powers and the duties of the
13 department.

14

15 **CROSS REFERENCE TO STATUTE.** Transportation Code §504.201 and §681.003.

16

17 **TEXT.**18 **Subchapter B. Motor Vehicle Registration**19 **43 TAC §217.41**

20 §217.41. Disabled Person License Plates and Identification Placards.

21 (a) Purpose. Transportation Code, Chapters 504 and 681, charge the department with the
22 responsibility for issuing specially designed license plates and identification placards for disabled persons.

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1 For the department to perform these duties efficiently and effectively, this section prescribes the policies
2 and procedures for the application, issuance, and renewal of Disabled Person license plates and placards.

3 (b) Issuance.

4 (1) Disabled Person license plates.

5 (A) Eligibility. In accordance with Transportation Code, §504.201, the department
6 will issue specially designed license plates displaying the international symbol of access to permanently
7 disabled persons or their transporters instead of regular motor vehicle license plates.

8 (B) Specialty license plates. The department will issue Disabled Person insignia on
9 those specialty license plates that can accommodate the identifying insignia and that are issued in
10 accordance with §217.45 of this title (relating to Specialty License Plates, Symbols, Tabs, and Other
11 Devices).

12 (C) License plate number. Disabled Person license plates will bear a license plate
13 number assigned by the department or will bear a personalized license plate number issued in accordance
14 with §217.45.

15 (2) Windshield identification placards. The department will issue removable windshield
16 identification placards to temporarily or permanently disabled persons and to the transporters of
17 permanently disabled persons. A person who has been issued a windshield identification placard shall
18 hang the placard from a vehicle's rearview mirror when the vehicle is parked in a disabled person parking
19 space or shall display the placard on the center portion of the dashboard if the vehicle does not have a
20 rearview mirror.

21 (c) Renewal of Disabled Person license plates. Disabled Person license plates are valid for a period
22 of 12 months from the date of issuance, and are renewable as specified in §217.28 of this title (relating to
23 Vehicle Registration Renewal).

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1 (d) Replacement.

2 (1) License plates. If Disabled Person license plates are lost, stolen, or mutilated, the
3 owner may obtain replacement license plates by applying with a county tax assessor-collector.

4 (A) Accompanying documentation. To replace permanently Disabled Person
5 license plates, the owner must present the current year's registration receipt and personal identification
6 acceptable to the county tax assessor-collector.

7 (B) Absence of accompanying documentation. If the current year's registration
8 receipt is not available and the county cannot verify that the Disabled Person license plates were issued
9 to the owner, the owner must reapply in accordance with this section.

10 (2) Disabled Person identification placards. If a Disabled Person identification placard
11 becomes lost, stolen, or mutilated, the owner may obtain a new identification placard in accordance with
12 this section.

13 (e) Transfer of Disabled Person license plates and identification placards.

14 (1) License plates.

15 (A) Transfer between persons. Disabled Person license plates may not be
16 transferred between persons. An owner who sells or trades a vehicle to which Disabled Person license
17 plates have been issued shall remove the Disabled Person license plates from the vehicle. The owner shall
18 return the license plates to the department and shall obtain appropriate replacement license plates to
19 place on the vehicle prior to any transfer of ownership.

20 (B) Transfer between vehicles. Disabled Person license plates may be transferred
21 between vehicles if the county or the department can verify the plate ownership and the owner of the
22 vehicle is the disabled person or the vehicle is used to transport the disabled person.

23 (i) Plate ownership verification may include:

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- 1 (I) a Registration and Title System (RTS) inquiry;
2 (II) a copy of the department Application for Disabled Person
3 license plates; or
4 (III) the owner's current registration receipt.

5 (ii) An owner who sells or trades a vehicle with Disabled Person license
6 plates must remove the plates from the vehicle.

7 (2) Identification placards.

8 (A) Transfer between vehicles. Disabled Person identification placards may be
9 displayed in any vehicle driven by the disabled person or in which the disabled person is a passenger.

10 (B) Transfer between persons. Disabled Person identification placards may not be
11 transferred between persons.

12 (f) Seizure and revocation of placard.

13 (1) If a law enforcement officer seizes and destroys a placard under Transportation Code,
14 §681.012, the officer shall notify the department by email.

15 (2) The person to whom the seized placard was issued may apply for a new placard by
16 submitting an application to the county tax assessor-collector of the county in which the person with the
17 disability resides or in which the applicant is seeking medical treatment [~~if the applicant is not a resident~~
18 ~~of this state~~].

19

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1

2 **CERTIFICATION.** The department certifies that legal counsel has reviewed the proposal and found it to be
3 within the state agency’s legal authority to adopt.

4 Issued at Austin, Texas, on M DD, YYYY.

5

6

7

Tracey Beaver, General Counsel

DRAFT

Board Meeting Date: 12/5/2019
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Jeremiah Kuntz, Vehicle Titles & Registration Division Director
Agenda Item: 14
Subject: Chapter 217, Vehicle Titles and Registration
Amendments, §§217.3 and 217.141-217.143
New Subchapter L, §§217.401-217.407
(Relating to HB 1755, title and registration for assembled vehicles ;HB 3171, motor driven cycles; and
Transportation Code, §501.036 and §501.037, farm trailers, farm semitrailers, trailers, semitrailers, and
house trailers.)

RECOMMENDATION

Approval to publish the rules in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the proposed new and amended sections is to implement the legislative goal of titling and registering assembled vehicles under Transportation Code Chapter 731, as enacted by HB 1755, 86th Legislature, Regular Session (2019). To achieve that legislative goal, the proposed procedures differ significantly from standard titling and registering procedures due to the nature of assembled vehicles. The proposal also makes unrelated amendments in §217.3 that are necessary to conform the provisions with statute, including changes enacted in HB 1548, 86th Legislature, Regular Session (2019) and HB 3171, 86th Legislature, Regular Session (2019).

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The primary purpose of the proposal is to implement the legislative goal of titling and registering assembled vehicles under Transportation Code Chapter 731, as enacted by HB 1755 (86R2019). To achieve that legislative goal, the proposed procedures differ significantly from standard titling and registering procedures due to the nature of assembled vehicles.

The proposed amendments to §217.3(5) delete references to assembled vehicles because those requirements will now be addressed in proposed new Subchapter L, §§217.401 - 217.402. The proposed amendments to §217.3(6) make changes to conform those provisions with new statutory provisions in Transportation Code Chapter 731 as enacted in HB 1755. Additionally, proposed amendments to §217.3 make changes concerning motor driven cycles; farm trailers and farm semitrailers; and trailers and semitrailers, that are necessary to conform the provisions with statute.

The proposed amendments to §§217.141 - 217.143 implement the assembled vehicle inspection requirements under Transportation Code §731.101 and §731.102. The department has proposed amending the existing sections related to the Transportation Code §504.501(e) street rod and custom vehicle registration inspection because it is the same inspection that will be applied to titling assembled vehicles.

The proposed new Chapter 217, Subchapter L, §§217.401 - 217.407 implements the assembled vehicle titling and registration requirements under Transportation Code Chapter 731. The proposed new sections address the titling application review process, vehicle identification numbers, and evidence of ownership, including a process to obtain a title by using a bond as evidence of ownership.

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1 for issuance of title in Transportation Code §731.101(c). The proposed amendments to §§217.3 and
2 217.141 - 217.143 and new §§217.401 - 217.407 provide the necessary rules and implement
3 Transportation Code Chapter 731 as required in HB 1755, Section 12.

4 Transportation Code §731.051 provides that the owner of an assembled vehicle may apply for a
5 title and register the vehicle in accordance with Transportation Code Chapters 501 and 502 and the rules
6 adopted to implement Chapter 731. The department applies that provision in these rules to create a
7 certain and workable path for owners to title and register assembled vehicles, but also to maintain the
8 purpose of Transportation Code Chapter 501 that is stated, in part, in Transportation Code §501.003 as
9 to lessen and prevent: (1) the theft of motor vehicles; and (2) the importation into this state of and traffic
10 in motor vehicles that are stolen.

11 This proposal also makes amendments to §217.3 concerning motor-driven cycles; farm trailers
12 and farm semitrailers; and trailers, semitrailers, and house trailers. The amendments are unrelated to
13 Transportation Code Chapter 731, but are necessary to conform those provisions with statute.

14

15 **Subchapter A. §217.3.**

16 The proposed amendments to §217.3 conform the rules to existing statute, including statutory
17 amendments passed by the 86th Legislature, Regular Session (2019). The proposed amendment to §217.3
18 conforms the opening sentence with changes in statute made by HB 1548, 86th Legislative Session (2019),
19 that allow for certain vehicles, for example off-highway vehicles, to be titled under Transportation Code
20 Chapter 501 without a registration requirement. The proposed amendment also adds Transportation
21 Code Chapter 731, concerning assembled vehicles, to reflect changes in statutes made by HB 1755.

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1 The proposed amendment to §217.3(1) removes the term "motor-driven cycle." House Bill 3171
2 repealed the definition of the term in Transportation Code §541.201 and removed all uses of the term in
3 the Transportation Code.

4 The proposed amendment to §217.3(2)(D) concerning farm trailers and farm semitrailers
5 conforms the subparagraph with Transportation Code §501.004(b)(1) and §501.036. These statutes
6 require a farm trailer or semitrailer with a gross weight of more than 34,000 to be titled, while permissively
7 allowing farm trailers or semitrailers with a gross weight of 34,000 or less to be titled.

8 The proposed amendment to §217.3(4) conforms the paragraph with Transportation Code
9 §501.037 concerning trailers, semitrailers, and house trailers, by removing terms that are not in that
10 section or the Transportation Code, and makes nonsubstantive changes to conform with department
11 style.

12 The proposed amendments to §217.3(5) and (6) are necessary to implement Transportation Code
13 Chapter 731 concerning assembled vehicles, as added by HB 1755. The proposed amendment to §217.3(5)
14 removes the existing language and adds a reference to proposed new Subchapter L of Chapter 217, which
15 will implement Transportation Code Chapter 731 concerning assembled vehicles.

16 The proposed amendment to §217.3(6)(A) conforms the language to Transportation Code
17 §731.051(b)(6), which prohibits titling of a vehicle that has been stripped to the extent that the vehicle
18 loses its original identity. The proposed amendment to §217.3(6)(B) removes the prohibition against
19 titling a dune buggy, because a dune buggy is an assembled vehicle and eligible for title under
20 Transportation Code Chapter 731. The proposed amendment to §217.3(6)(C) redesignates the
21 subparagraph as subparagraph (B) and conforms the language to Transportation Code §731.051(b)(5),
22 which prohibits titling of a vehicle that the manufacturer has designated for on track racing only.

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1 Additionally, the proposed amendments to §217.3(6) redesignate the subparagraphs following
2 subparagraph (B), and change "and/or" to "or" to reflect current department style guidelines.

3

4 **Subchapter G. §§217.141 - 217.143.**

5 The proposed amendments to §§217.141 - 217.143 implement the assembled vehicle inspection
6 requirements under Transportation Code §731.101 and §731.102 as enacted by HB 1755. The department
7 has proposed amending the existing sections related to the Transportation Code §504.501(e) street rod
8 and custom vehicle registration inspection because it is the same inspection that will be applied to titling
9 assembled vehicles under Transportation Code §731.101.

10 The proposed amendment to §217.141 accounts for the changed scope of §§217.141 - 217.143.
11 The sections now address the new initial titling inspection of assembled vehicles required under
12 Transportation Code §731.101, and the existing registration inspection required for street rods and
13 custom vehicles under Transportation Code §504.501(e).

14 The proposed amendments to §217.142 provide definitions for terms used in §§217.141 -
15 217.143. The proposed amendment to §217.142(a) incorporates terms defined in Transportation Code
16 §731.001. Because Transportation Code §731.001 and the existing text of §217.142(2) and (4) both define
17 the terms "street rod" and "custom vehicle" by reference to Transportation Code §504.501, the existing
18 definitions of "street rod" and "custom vehicle" in this section have been removed.

19 The proposed amendment to §217.142(b)(1) adds the term "modification" to clarify that the
20 defined phrase "altered from the manufacturer's original design" is not limited to the "removal, addition,
21 or substitution, of at least one major component part." In addition, the department has proposed
22 amending the definition to include a direct reference to the definition of a major component part under
23 Transportation Code §501.091. The change is to clarify that the term "major component part" continues

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1 to apply to making a determination under Transportation Code §504.501(f) of whether a vehicle qualifies
2 as a custom vehicle or street rod, but is not a definition for general application in Subchapter G. The
3 department will remove the existing stand-alone definition of “major component part” in §217.142. The
4 department has also proposed removing the quotation marks around the defined term in accordance with
5 current agency style.

6 The terms “basic component part,” “equipment,” and “major component part” are substantively
7 independent, and each term serves a different purpose in the proposed rules. The term “basic component
8 part” is used in Subchapter L, to identify the items for which evidence of ownership will need to be
9 established for titling assembled vehicles. The term “major component part” is only used in the definition
10 of “altered from the manufacturer's original design” in §217.142(b)(1) of Subchapter G to identify the
11 elements of a motor vehicle that, when modified, substituted, removed, or added, are relevant to the
12 classification of a vehicle as a custom vehicle or street rod. The term “equipment” is used in Subchapter
13 G to establish the items and systems that need to be inspected under Transportation Code §504.501(e)
14 or §731.101.

15 The terminology used in the definitions is based on statute, historical application, and purpose. In
16 scope the definitions all three terms refer to portions of a vehicle. As defined, the term “major component
17 part” would include all items that are “basic component parts,” but not all items and systems that are
18 “equipment.”

19 The proposed amendment to §217.142(b)(2) defines the term “applicant.” The term clarifies the
20 types of owners that would apply for title to an assembled vehicle. The term is defined in §217.402 with
21 the same meaning and for the same purpose.

22 The proposed amendment to §217.142(b)(3) defines the new term “equipment” to describe the
23 items and systems that the inspector will need to inspect. The inspection will be of those items and

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1 systems required by law to present on the vehicle as inspected, which may not include all the listed items
2 and systems depending on the type of vehicle. The definition also distinguishes “equipment” from “basic
3 component part” and “major component part” as previously discussed in this proposal.

4 The proposed amendment to §217.142(b)(4) defines the term “manufacturer” by reference to
5 the definition in Occupations Code §2301.002. The definition also clarifies that a hobbyist is not a
6 manufacturer, which is consistent with the definition of hobbyist in Transportation Code §731.001. The
7 term is also defined in §217.402 with the same meaning and for the same purpose.

8 The proposed amendment to §217.142(b)(5) clarifies that the definition of “master technician”
9 used in this subchapter refers to a Certified Master Automobile and Light Truck Technician, which is
10 required under Transportation Code §731.101(b)(2). The clarification is necessary because Transportation
11 Code §731.101(a) requires an assembled vehicle to pass an inspection based on the type of assembled
12 vehicle being inspected. Transportation Code §731.101(b) requires the applicant to submit proof that the
13 assembled vehicle passed the inspection and a copy of the master technician’s Automobile and Light Truck
14 certification. The limitation of the credentialing requirement in §731.101(b)(2) limits the titling inspection
15 requirement to those assembled vehicles types that can be inspected by an individual holding an
16 Automobile and Light Truck master certification. The relevant types of assembled vehicles are assembled
17 motor vehicles, custom vehicles, replicas, and street rods, as described in proposed amendments to
18 §217.143(a). The legislative requirement limiting the inspection to the Automobile and Light Truck
19 certification is also consistent with the consideration that a master certification does not exist for
20 motorcycles or trailers; and the limited number of individuals holding a Medium and Heavy Truck master
21 certification could create an impediment to titling glider kits.

22 The proposed amendments to §217.143 implement the new initial titling inspection requirements
23 under Transportation Code §731.101 and maintain the existing custom vehicle and street rod registration

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1 requirement under Transportation Code §501.504(e). To reflect the change, the department proposes
2 changing the title of §217.143 to "Inspection Requirements."

3 The proposed amendments to §217.143(a) provide that an assembled motor vehicle, replica,
4 custom vehicle, or street rod must be inspected by a master technician as required under Transportation
5 Code Chapter 731 and 43 Texas Administrative Code, Chapter 217, Subchapter L. For reasons previously
6 discussed regarding the definition of "master technician," the inspection is not required for an assembled
7 motorcycle, assembled trailer, or glider kit. The titling inspection is only required when the assembled
8 vehicle is titled for the first time. A subsequent titling inspection would be required if the vehicle is
9 disassembled and reassembled as described in proposed §217.407.

10 The proposed amendment to §217.143(b) requires a custom vehicle or street rod to have a safety
11 inspection performed by a master technician as required under Transportation Code §504.501(e) for
12 initial registration. As with the current requirement, the inspection is required each time the vehicle is
13 initially registered in the name of a new owner. However, because the titling and registration inspections
14 are the same, two inspections will not be required if an assembled vehicle designated as a street rod or
15 custom vehicle is titled and registered in the same transaction.

16 The proposed amendments to §217.143(c) and (d) provide the inspection requirements for
17 assembled vehicles. The amendment to existing §217.143(c) states that the inspection of an assembled
18 vehicle must evaluate the structural integrity of the equipment. The proposed amendments to
19 §217.143(d)(1), (2), and (4) amend the style of existing text in §217.143(b) requiring the inspector to
20 certify that the vehicle is structurally stable, meets the necessary conditions to be operated safely on the
21 roadway, and is equipped and operational with all equipment required by statute as a condition of sale
22 during the year the vehicle was manufactured or resembles. The proposed amendments to §217.143(d)
23 also add new §217.143(d)(3) that tracks the safety requirement in Transportation Code §731.051(b)(7).

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1 The department proposes removing the existing text of §217.143(c) because it is duplicative of the
2 requirement in proposed §217.143(d)(4).

3 The proposed amendments to §217.143 also add new §217.143(e), which provides that an
4 inspection under §217.143(a) is in addition to any other required inspection of an assembled vehicle,
5 including an inspection required under Transportation Code Chapter 548. An assembled vehicle
6 designated as a custom vehicle or street rod is not subject to the annual Transportation Code Chapter 548
7 inspection. Other assembled vehicles may be subject to the Chapter 548 inspection requirement.

8 The proposed amendments to §217.143 also add new §217.143(f) and (g) relating to the payment
9 of fees. Under proposed new §217.143(f), the applicant must pay all fees to the master technician for the
10 inspection of an assembled vehicle required under subsection (a) of this section, including any
11 reinspection. Under proposed new §217.143(g), any additional fees must be paid to the inspector or as
12 otherwise required by law. The subsections clarify that inspection fees under this section are not to be
13 paid to the department. The department does not set any of the inspection fees for an inspection required
14 under this section.

15

16 **Subchapter L. §§217.401 - 217.407.**

17 The proposed new Chapter 217, Subchapter L, §§217.401 - 217.407 implements the assembled
18 vehicle titling and registration requirements under Transportation Code Chapter 731, as enacted by HB
19 1755. Proposed new §217.401(a) describes the purpose and scope of proposed new Subchapter L.
20 Proposed new §217.401(b) provides that for the purposes of this subchapter a glider kit issued a title with
21 a “RECONSTRUCTED” remark is a replica. The purpose of this is to state the department’s interpretation
22 that a dealer may transfer, or be transferred ownership, of a glider kit under new Transportation Code
23 §503.013.

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1 Proposed new §217.402 defines terms that will be used in the subchapter. Proposed new
2 §217.402(a) incorporates terms defined in Transportation Code §731.001.

3 Proposed new §217.402(b)(1) defines the term “applicant.” The term clarifies the types of owners
4 that would apply for title of an assembled vehicle. The term is defined in §217.142 with the same meaning
5 and for the same purpose.

6 Proposed new §217.402(b)(2) defines the term “basic component part” for use in this chapter.
7 The term is limited to the vehicle’s motor, body, and frame, as applicable for the type of vehicle. For
8 example, an automobile would have all three parts; a motorcycle just a motor and frame; and a trailer
9 just a frame and body. Evidence of ownership will be required based on the component part of the
10 assembled vehicle under proposed new §217.405. The definition also distinguishes between “basic
11 component part” and “major component part” as previously discussed in this proposal.

12 Proposed new §217.402(b)(3) defines the term “continuous sale,” which is basic in determining if
13 a person is a hobbyist as defined in Transportation Code §731.001. The definition provides that the term
14 means “offering for sale or the sale of five or more assembled vehicles of the same type in a calendar year
15 when such vehicles are not owned and titled in the name of the owner.” The department has proposed
16 five vehicles in the definition because that is the number of vehicles that could classify the person as a
17 dealer under Transportation Code §503.024.

18 Proposed new §217.402(b)(4) defines the term “manufacturer” by reference to the definition in
19 Occupations Code §2301.002. The definition also clarifies that a hobbyist is not a manufacturer, which is
20 consistent with the definition of hobbyist in Transportation Code §731.001. The term is also defined in
21 §217.142 with the same meaning and for the same purpose.

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1 Proposed new §217.402(b)(4) defines the term “personal use” which is basic in determining if a
2 person is a hobbyist as defined in Transportation Code §731.001. The definition provides that the term
3 means “the construction of an assembled vehicle by a hobbyist for use by the hobbyist.”

4 Proposed new §217.403 provides the basic procedure for issuing an initial title on an assembled
5 vehicle and subsequent transfers of the title. Proposed new §217.403(a) requires an applicant for an initial
6 title on an assembled vehicle to apply for the title in accordance with 43 Texas Administrative Code
7 Chapter 217, Subchapter L, and Transportation Code Chapter 731.

8 Proposed new §217.403(b) requires a person transferring title on a titled assembled vehicle to
9 transfer title in accordance with proposed new §217.407. That section provides that once an assembled
10 vehicle is titled, including assembled vehicles brought in from another state, title to the assembled vehicle
11 will transfer in that same manner as any other titled vehicle, except that only assembled vehicles that are
12 replicas may be transferred to and by dealers.

13 Proposed new §217.403(c) provides that unless the assembled vehicle is ineligible for title under
14 Transportation Code §731.051(b), the department shall issue a title if the assembled vehicle passes the
15 required inspection under proposed amended §217.143 and Transportation Code §731.101; passes any
16 additional inspection required by Transportation Code Chapter 548; and following receipt of a fully
17 completed application and all required forms and fees, as identified in §217.404.

18 Proposed new §217.404 details the application process. The process differs from ordinary title
19 application transactions, because in this case the department will review the application before it is
20 formally submitted to a county tax assessor-collector. The process should add uniformity, and avoid
21 rejections and the need for resubmission of the application.

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1 Proposed new §217.404(a) lists the information required in the application. Proposed new
2 §217.404(a)(1) requires photographs of the vehicle and, if a replica, a photograph of what the vehicle is a
3 replica of. These will assist in identifying the vehicle.

4 Proposed new §217.404(a)(2) requires evidence of ownership of the basic component parts of
5 the assembled vehicle as described in §217.405. Evidence of ownership is necessary to establish title to
6 the vehicle or process an application for assignment or reassignment of a vehicle identification number
7 under Transportation Code §501.033 as required by Transportation Code §731.054.

8 Proposed new §217.404(a)(3) requires, if applicable, proof, on a form prescribed by the
9 department, of a safety inspection required under §217.143. Under the proposal, the requirement is
10 applicable only to assembled motor vehicles, custom vehicles, replicas, and street rods.

11 Proposed new §217.404(a)(4) requires a copy of the Automobile and Light Truck certification, or
12 a successor certification, for the master technician who completed the inspection described in
13 §217.404(a)(3), if the inspection was required.

14 Proposed new §217.404(a)(5) requires a copy of the inspection that may be required under
15 Transportation Code Chapter 548 if the assembled vehicle is to be registered for operation on the
16 roadway. Proposed new §217.404(a)(6) (requires a rebuilt vehicle statement; (7) a weight certificate; and
17 (8) the applicant's identification information as required in §217.5(d).

18 Proposed new §217.404(a)(9) requires a vehicle identification number to be established by one
19 of the four listed means. The means are authorized in Transportation Code §731.054. Proposed new
20 §217.404(a)(9)(A) and (B) allow for the process of applying for an application for assignment or
21 reassignment of a vehicle identification number. That process is under Transportation Code §501.033 and
22 requires a vehicle identification number inspection under Transportation Code §501.032. The inspection
23 is consistent with Transportation Code §731.051 which requires titling to be done under Chapter 501 and

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1 Chapter 731. Transportation Code §501.003 states that Transportation Code Chapter 501 is to be liberally
2 construed to lessen and prevent (1) the theft of motor vehicles, and (2) the importation into this state of
3 and traffic in motor vehicles that are stolen. Proposed new §217.404(a)(9)(C) and (D) are based on the
4 vehicle identification numbers assigned by the maker of a kit or the manufacturer of the assembled vehicle
5 respectively authorized in Transportation Code §731.054.

6 Proposed new §217.404(b) provides that the department will review the documents and
7 determine that the application is complete and the vehicle meets the qualifications to be titled as an
8 assembled vehicle. Proposed new §217.404(c) provides that the department will notify the applicant in
9 writing if the department determines the application is complete and the vehicle is determined to qualify
10 for titling as an assembled vehicle.

11 Proposed new §217.404(d) provides that upon the receipt of the department's written approval,
12 the applicant may proceed to the county tax assessor collector for submission and processing of the
13 application. Proposed new §217.404(d) lists that the applicant must provide the county tax assessor with
14 the department's written letter, a copy of the items required under §217.404(a)(1) - (9) that were
15 submitted to the department, and, if the vehicle is being registered, the requirements identified in
16 §217.23.

17 Proposed new §217.405 addresses evidence of ownership and how it may be demonstrated either
18 from a manufacturer, a hobbyist or other owner, or with a bond. Proposed new §217.405(a) provides that
19 evidence of ownership must accompany the title application submitted to the department, which is
20 consistent with the requirement in §217.404(a)(2).

21 Proposed new §217.405(b) provides that evidence of ownership for a replica, custom vehicle,
22 street rod, or glider kit built by a manufacturer must be provided on a manufacturer's certificate of origin
23 and contain the information listed in that subsection.

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1 Proposed new §217.405(c) describes the evidence of ownership requirements for an assembled
2 vehicle that has been built by a hobbyist, or has not otherwise been previously titled by the owner.
3 Evidence is required for the basic component parts of the vehicle. If the basic component parts are from
4 vehicles titled in the name of the owner, evidence of ownership will be based on the identifying numbers
5 on the parts. These will vary based on the type of part and the year of manufacture. Additionally,
6 component parts not titled in the name of the owner may be used with proper documentation, such as a
7 bill of sale.

8 Proposed new §217.405(d) provides that an owner unable to obtain evidence of ownership may
9 file a bond with the department under Transportation Code §501.053 and §217.9. Proposed new
10 §217.405(e) lays out the process of obtaining the vehicle identification number and the bond. The bond
11 will be the evidence of ownership to obtain the title.

12 The process is similar to that of any other applicant, in that the applicant must take or deliver the
13 documentation required under §217.404(a)(1) - (9) to the department's regional service center for review,
14 except that the applicant utilizing the bond procedure will not be required to have evidence of ownership
15 under §217.405(a) – (c). The documentation requirements for the bond procedure would include a vehicle
16 identification number inspection report if the applicant intends to establish a vehicle identification
17 number under §217.404(a)(9)(A) or (B). The department will review the vehicle identification number
18 inspection report and other documents.

19 A vehicle identification number will be reassigned based on the report and documentation if a
20 vehicle identification number by which the assembled vehicle will be identified can be determined. If the
21 vehicle identification number cannot be reassigned based on the lack of a number, the department will
22 assign a department-issued number.

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1 The applicant will then need to complete a statement of fact concerning the acquisition of the
2 vehicle. If the application is complete, the department will use the assigned or reassigned number to issue
3 a letter for the applicant to obtain a bond. The applicant will take the bond as evidence of ownership and
4 other required documents to the county tax assessor-collector.

5 Proposed new §217.406 describes the issuance and form of title. Proposed new §217.406
6 provides that the county tax assessor-collector will process the transaction and issue a receipt upon
7 receiving the completed application, all required documents, and all required fees.

8 Proposed new §217.406(b) describes the form of the title. As described in that subsection, the
9 title will comply with the requirements of Transportation Code §731.053 and be issued with the make of
10 “ASVE” unless original parts are used that reflect an established year and make of a manufactured vehicle
11 and will contain the remarks “RECONSTRUCTED” or “REPLICA,” as applicable, except for assembled trailers
12 which will be titled with a make of “HMDE.”

13 Proposed new §217.406(c) provides that the department will issue and mail or deliver the title to
14 the owner or lienholder disclosed in the application. Proposed new §217.406(d) provides that the receipt
15 issued at the time of application for title may be used only as evidence of title and may not be used to
16 transfer any interest or ownership in a motor vehicle or to establish a new lien.

17 Proposed new §217.407 provides for subsequent transfer of title for a titled assembled vehicle.
18 Proposed new §217.407(a) provides that after an assembled vehicle is titled under Transportation Code
19 Chapter 731 and Subchapter L, the vehicle is then subject to Transportation Code Chapters 501 and 502,
20 and 43 Texas Administrative Code Chapter 217, Subchapter L. The vehicle may be transferred similarly to
21 any other vehicle, except as provided in §217.407(c).

22 Proposed new §217.407(b) provides that an assembled vehicle titled or registered in another
23 jurisdiction may be titled and registered in this jurisdiction subject to Transportation Code Chapters 501

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1 and 502, and 43 Texas Administrative Code Chapter 217, Subchapter L, except as provided in §217.407(c).
2 As such, the vehicle does not have to go through the initial title process in Transportation Code Chapter
3 731 or Subchapter L.

4 Proposed new §217.407(c) states two statutory limitations that apply to the transfer and
5 construction of assembled vehicles. Proposed new §217.407(c) states the limitation in new Transportation
6 Code §503.013 that ownership of an assembled vehicle may not be transferred to or by a dealer unless
7 the assembled vehicle is a “replica” as that term is defined in Transportation Code §731.001. As defined,
8 a “replica” includes a street rod or custom vehicle. Proposed new §217.407(c) states the limitation in new
9 Occupations Code §2302.009 that a salvage vehicle dealer may not rebuild an assembled vehicle.

10 Proposed new §217.407(d) provides that if an assembled vehicle is disassembled and then
11 reassembled, the resulting vehicle is subject to the initial titling requirements in Transportation Code
12 Chapter 731 and 43 Texas Administrative Code Chapter 217, Subchapter L.

13
14 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
15 has determined that for each year of the first five years the proposed amendments and new sections will
16 be in effect, there will be no significant fiscal impact to state or local governments as a result of the
17 enforcement or administration of the proposal. The proposal requires a review of the title application
18 before it is submitted to county tax assessor-collector. While creating some additional work for the
19 department on the front end of the transaction, the review process will not require additional department
20 employees and should reduce county tax assessor-collector processing time and associated costs to issue
21 the title and registration, and department costs related to canceling titles and registrations that may be
22 issued in error. Other fiscal costs related to allowing hobbyist and other owners to title and register
23 assembled vehicles under Transportation Code Chapter 731 are a result of statute and not a cost of this

1 proposal. Jeremiah Kuntz, Director of the Vehicle Titles and Registration Division, has determined that
2 there will be no measurable effect on local employment or the local economy as a result of the proposal.

3

4 **PUBLIC BENEFIT AND COST NOTE.** Mr. Kuntz has also determined that for each year of the first five years
5 the proposed sections are in effect, public benefits are expected as a result of enforcing the proposed
6 amendments and new sections. The public benefits resulting from the adoption of the proposed
7 amendments and new sections will be the implementation of HB 1755 and conforming rule text with
8 statute. The benefits resulting from the implementation of HB 1755 include allowing hobbyists and
9 owners of assembled vehicles to register and receive a title for vehicles they may have put significant
10 amounts of time, money, and effort into building and that do not present a public danger.

11 Mr. Kuntz has also determined that for each year of the first five years the proposed sections are
12 in effect, no additional costs are expected as a result of enforcing the proposed amendments and new
13 sections.

14 The department anticipates that there are no additional costs under these rules resulting from
15 the initial titling application review process under proposed §217.404(a). The information necessary to
16 complete the application consists of information known to the applicant, obtained based on a required
17 inspection, or obtained by the applicant from parts suppliers or the builder of the assembled vehicle. The
18 information should be readily available to the individual completing the application and requires no
19 additional cost to obtain. The applicant may submit the required documents for review by email at no
20 cost to the applicant. The decision of how to submit the application to the service center for review will
21 be the applicant's and is not a requirement of these rules.

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1 Other costs related to initially titling an assembled vehicle result are required by statute and are
2 not a direct cost of the proposed sections. This includes the cost of inspections under §217.143, the cost
3 of a vehicle identification number inspection under §217.404, and the cost of a bond if necessary.

4 The inspections under §217.143 are required under Transportation Code §504.501(e) and
5 §731.101. The costs of those inspections result from these statutory requirements.

6 Costs for applicants needing to assign or reassign a vehicle identification number result from
7 Transportation Code §§731.054, 501.032, and 501.033. Transportation Code §§731.054 provides that
8 the department shall assign or reassign a vehicle identification number under Transportation Code
9 §501.033. Sections 501.032(a)(1) and (3) requires a vehicle to have a vehicle identification number
10 inspection if the owner is needing an assigned or reassigned vehicle identification number under
11 501.033. The costs of submitting the application and the inspection result from those statutory
12 requirements.

13 Additionally, if the applicant has neither evidence of ownership nor the vehicle identification
14 number, the department will assign or reassign a vehicle identification number to the vehicle based on
15 the same inspection so that the applicant may obtain a bond under Transportation Code §501.053,
16 §217.9, and proposed §217.405(e). This would result in no additional inspection cost for an applicant. The
17 cost of a bond is not a requirement of this rule, but is instead a reflection of Transportation Code §501.053
18 as applied to assembled vehicles. This procedure is an option for the applicant to obtain a title should the
19 vehicle otherwise not be eligible for title based on lack of evidence of ownership.

20

21 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** The department has
22 determined that the proposed amendments will not have an adverse economic effect or a
23 disproportionate economic impact on small or micro businesses, or on rural communities. As a result, and

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1 in accordance with Government Code §2006.002(c), the department is not required to prepare a
2 regulatory flexibility analysis.

3

4 **TAKINGS IMPACT ASSESSMENT.** The department has determined that no private real property interests
5 are affected by this proposal and that this proposal does not restrict or limit an owner's right to property
6 that would otherwise exist in the absence of government action and, therefore, does not constitute a
7 taking or require a takings impact assessment under Government Code §2007.043.

8

9 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first
10 five years the proposed amendments and new sections are in effect, the proposed rule:

11 will not create or eliminate a government program;

12 will not require the creation of new employee positions or the elimination of existing employee
13 positions;

14 will not require an increase or decrease in future legislative appropriations to the department;

15 will not require an increase or decrease in fees paid to the department, however, the department
16 will collect more title and registration fees if additional vehicles are titled and registered;

17 will create new regulations in §§217.401 - 217.407 to implement Transportation Code Chapter
18 731, concerning assembled vehicles, enacted in HB 1755;

19 will expand existing regulations §§217.141 - 217.143 to implement Transportation Code
20 Chapter 731, concerning assembled vehicles, enacted in HB 1755;

21 will repeal existing regulations in §217.3, because regulations implementing Transportation Code
22 Chapter 731, concerning assembled vehicles, will be in §§217.141 - 217.143 and 217.401 - 217.407;

23 will increase the number of individuals subject to the rule's applicability, because rules

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1 concerning assembled vehicles do not currently exist, but are required under Transportation Code
2 Chapter 731; and

3 will not positively or adversely affect the Texas economy.

4

5 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written
6 comments by 5:00 p.m. CST on MM, DD, YYYY. A request for a public hearing must be sent separately
7 from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov*
8 or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue,
9 Austin, Texas 78731. If a hearing is held, the department will consider written comments and public
10 testimony presented at the hearing.

11

12 **STATUTORY AUTHORITY.** The department proposes amendments to §§217.3 and 217.141-217.143 and
13 new §§217.401 - 217.407 under Occupations Code §2301.155 and §2302.051; and Transportation Code
14 §§501.0041, 502.0021, 731.002, 731.051, 731.052, 731.101, and 1002.001.

15 Occupations Code §2301.155 authorizes the board of the Texas Department of Motor Vehicles
16 to adopt rules as necessary or convenient to administer this chapter and to govern practice and
17 procedure before the board.

18 Occupations Code §2302.051 authorizes the board to adopt rules as necessary to administer this
19 chapter.

20 Transportation Code §501.0041 authorizes the department to adopt rules to administer Chapter
21 501.

22 Transportation Code §502.0021 authorizes the department to adopt rules to administer Chapter
23 502.

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1 Transportation Code §731.002 authorizes the board to adopt rules as necessary to implement and
2 administer Transportation Code Chapter 731.

3 Transportation Code §731.051 authorizes the board to adopt rules under Transportation Code
4 Chapter 731 for owners to apply for a title and register as provided by Chapters 501 and 502, as applicable,
5 regardless of whether the assembled vehicle was built or assembled using a vehicle that was previously
6 titled in this state or another jurisdiction.

7 Transportation Code §731.052 requires the board to adopt rules establishing procedures and
8 requirements for: (1) issuance of a title for an assembled vehicle; and (2) registration of an assembled
9 vehicle. Rules adopted under this section may not exclude a type of assembled vehicle, other than an
10 assembled vehicle described by Section 731.051(b), from eligibility for title and registration; must
11 establish the form of a title issued for an assembled vehicle; and must exempt an assembled vehicle or a
12 type of assembled vehicle from any provision of Chapter 501 or 502 that an assembled vehicle or type of
13 assembled vehicle, by its nature, cannot comply with or otherwise meet the requirements of.

14 Transportation Code §731.101 requires the board to adopt rules establishing procedures and
15 requirements for the inspection required by Transportation Code §731.101. Rules adopted under
16 Transportation Code §731.101: (1) must establish inspection criteria; (2) may specify additional items of
17 equipment that must be inspected by a master technician and may specify different items of equipment
18 that must be inspected based on the type of assembled vehicle; and (3) must require an owner of an
19 assembled vehicle that is being inspected under this section to pay all fees required for the inspection,
20 including any reinspection, in addition to all applicable fees required under Chapter 548 for an inspection
21 or reinspection conducted under that chapter.

1 Transportation Code §1002.001 authorizes the board of the Texas Department of Motor Vehicles
2 to adopt rules that are necessary and appropriate to implement the powers and the duties of the
3 department.

4
5 **CROSS REFERENCE TO STATUTE.** Occupations Code §2301.0045 and §2302.009; and Transportation Code
6 §§501.003, 501.032, 501.033, 501.036, 501.037, 501.052, 501.053, 503.013, 504.501, 731.051 - 731.054,
7 731.101, and 731.102.

8
9 **Text.**

10 **SUBCHAPTER A. MOTOR VEHICLE TITLES.**

11 **§217.3. Motor Vehicle Titles**

12 Unless otherwise exempted by law or this chapter, the owner of any motor vehicle that is required to be
13 titled, including any motor vehicle required to be registered in accordance with Transportation Code [r]
14 Chapter 502, shall apply for a Texas title in accordance with Transportation Code [r] Chapter 501 or 731.

15 (1) Motorcycles, [~~motor-driven cycles,~~] autocycles, and mopeds.

16 (A) The title requirements for [~~of~~] a motorcycle, [~~motor-driven cycle,~~] autocycle,
17 and moped are the same requirements prescribed for any motor vehicle.

18 (B) A vehicle that meets the criteria for a moped and has been certified as a
19 moped by the Department of Public Safety will be registered and titled as a moped. If the vehicle does not
20 appear on the list of certified mopeds published by that agency, the vehicle will be treated as a motorcycle
21 for title and registration purposes.

22 (2) Farm vehicles.

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1 (A) The term "motor vehicle" does not apply to implements of husbandry, which
2 may not be titled.

3 (B) Farm tractors owned by agencies exempt from registration fees in accordance
4 with Transportation Code [;] §502.453, are required to be titled and registered with "Exempt" license
5 plates issued in accordance with Transportation Code [;] §502.451.

6 (C) Farm tractors used as road tractors to mow rights of way or used to move
7 commodities over the highway for hire are required to be registered and titled.

8 (D) A farm trailer or farm semitrailer is any trailer or semitrailer registered in
9 accordance with Transportation Code §502.146. Owners of farm trailers and farm semitrailers with a gross
10 weight of 34,000 pounds or less may apply for a Texas title. Owners of farm trailers and farm semitrailers
11 with a gross weight in excess of 34,000 pounds shall apply for a Texas title. If a farm trailer or farm
12 semitrailer with a gross weight of 34,000 pounds or less has been titled previously, any subsequent owner
13 shall apply for a Texas title for the farm trailer or farm semitrailer. [Farm semitrailers with a gross weight
14 of more than 4,000 pounds that are registered in accordance with Transportation Code, §502.146, may
15 be issued a Texas title.]

16 (3) Neighborhood electric vehicles. The title requirements of a neighborhood electric
17 vehicle (NEV) are the same requirements prescribed for any motor vehicle.

18 (4) Trailers, semitrailers, and house trailers. Owners of trailers and semitrailers shall apply
19 for [~~and receive~~] a Texas title for any [~~stand-alone (full)~~] trailer [~~, including homemade or shopmade full~~
20 ~~trailers,~~] or [~~any~~] semitrailer with [~~having~~] a gross weight in excess of 4,000 pounds. Owners of trailers
21 and semitrailers with [~~having~~] a gross weight of 4,000 pounds or less may apply for [~~and receive~~] a Texas
22 title. If a trailer or semitrailer with a gross weight of 4,000 pounds or less has been titled previously, any

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1 subsequent owner shall apply for a Texas title for the trailer or semitrailer. House trailer-type vehicles
2 must meet the criteria outlined in subparagraph (C) of this paragraph to be titled: [-]

3 (A) The rated carrying capacity will not be less than one-third of its empty weight.

4 (B) Mobile office trailers, mobile oil field laboratories, and mobile oil field
5 bunkhouses are not designed as dwellings, but are classified as commercial semitrailers and must be
6 registered and titled as commercial semitrailers if operated on the public streets and highways.

7 (C) House trailer-type vehicles and camper trailers must meet the following
8 criteria in order to be titled.

9 (i) A house trailer-type vehicle that is less than eight feet six inches in
10 width or less than 45 feet in length is classified as a travel trailer and shall be registered and titled.

11 (ii) A camper trailer shall be titled as a house trailer and shall be registered
12 with travel trailer license plates.

13 (iii) A recreational park model type trailer that is primarily designed as
14 temporary living quarters for recreational, camping or seasonal use, is built on a single chassis, and is 400
15 square feet or less when measured at the largest horizontal projection when in the set up mode shall be
16 titled as a house trailer and may be issued travel trailer license plates.

17 (5) Assembled vehicles. The title requirements for assembled vehicles are prescribed in
18 Subchapter L of this title (relating to Assembled Vehicles).

19 [~~(A) An assembled vehicle is a vehicle assembled from the three basic component~~
20 ~~parts (motor, frame, and body), except that a motorcycle must have a frame and motor, and a trailer or~~
21 ~~travel trailer will have no motor, and that is:]~~

22 [~~(i) assembled from new or used materials and parts by someone not~~
23 ~~regulated as a motor vehicle manufacturer;]~~

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1 ~~[(ii) altered or modified to the extent that it no longer reflects the original~~
2 ~~manufacturer's configuration; or]~~

3 ~~[(iii) assembled from a kit even if a Manufacturer's Certificate of Origin or~~
4 ~~Manufacturer's Statement of Origin is provided.]~~

5 ~~[(B) A newly assembled vehicle, for which a title has never been issued in this~~
6 ~~jurisdiction or any other, may be titled if:]~~

7 ~~[(i) it is assembled and completed with a body, motor, and frame, except~~
8 ~~that a motorcycle must have a frame and motor, and a trailer or travel trailer will have no motor;]~~

9 ~~[(ii) it is not created from different vehicle classes, (as established by the~~
10 ~~Federal Highway Administration, except as provided by subparagraph (C) of this paragraph), that were~~
11 ~~never engineered or manufactured to be combined with one another;]~~

12 ~~[(iii) it has all safety components required by federal law during the year~~
13 ~~of assembly, unless the vehicle qualifies and is registered as a custom vehicle or street rod in accordance~~
14 ~~with Transportation Code, §504.501;]~~

15 ~~[(iv) it is not a vehicle described by paragraph (6) of this section;]~~

16 ~~[(v) for a vehicle assembled with a body, motor, and frame, the applicant~~
17 ~~provides proof, on a form prescribed by the department, of a safety inspection performed by an~~
18 ~~Automotive Service Excellence (ASE) technician with valid certification as a Certified Master Automobile~~
19 ~~and Light Truck Technician, certifying that the vehicle:]~~

20 ~~[(1) is structurally stable;]~~

21 ~~[(11) meets the necessary conditions to be operated safely on the~~
22 ~~roadway; and]~~

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1 ~~[(III) is equipped and operational with all equipment required by~~
2 ~~statute or rule as a condition of sale during the year the vehicle was assembled unless it is being inspected~~
3 ~~pursuant to Subchapter G of this chapter;]~~

4 ~~[(vi) for a vehicle assembled with a body, motor, and frame, the applicant~~
5 ~~submits a copy of the Certified Master Automobile and Light Truck Technician's ASE certification;]~~

6 ~~[(vii) the applicant submits a Rebuilt Vehicle Statement; and]~~

7 ~~[(viii) the applicant submits the following to establish the vehicle's vehicle~~
8 ~~identification number:]~~

9 ~~[(I) an Application for Assigned or Reassigned Number, and~~
10 ~~Notice of Assigned Number or Installation of Reassigned Vehicle Identification Number, on forms~~
11 ~~prescribed by the department; or]~~

12 ~~[(II) acceptable proof, as established by the department, of a~~
13 ~~vehicle identification number assigned by the manufacturer of the component part by which the vehicle~~
14 ~~will be identified.]~~

15 ~~[(C) Component parts from the following vehicle classes may be interchanged~~
16 ~~with one another or used in the creation of an assembled vehicle:]~~

17 ~~[(i) 2-axle, 4-tire passenger cars;]~~

18 ~~[(ii) 2-axle, 4-tire pickups, panels and vans;]~~

19 ~~[(iii) 6-tire dually pickups, of which the rear tires are dual tires.]~~

20 ~~[(D) The ASE inspection for a newly assembled vehicle required under~~
21 ~~subparagraph (B) of this paragraph is in addition to the inspection required by Transportation Code,~~
22 ~~Chapter 548, except a vehicle that qualifies and is registered as a custom vehicle or street rod in~~

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1 ~~accordance with Transportation Code, §504.501, is exempt from the inspection required under~~
2 ~~Transportation Code, Chapter 548, for the duration the vehicle is registered as such.]~~

3 ~~[(E) An assembled vehicle which has previously been titled and/or registered in~~
4 ~~this or any other jurisdiction is subject to subparagraph (B)(i) – (iv) of this paragraph, but is not subject to~~
5 ~~subparagraph (B)(v) – (viii); however, it is subject to the inspection required by Transportation Code,~~
6 ~~Chapter 548, except a vehicle that qualifies and is registered as a custom vehicle or street rod in~~
7 ~~accordance with Transportation Code, §504.501.]~~

8 ~~[(F) An assembled vehicle will be titled using the year it was assembled as the~~
9 ~~model year and "ASSEMBLED" or "ASVE" as the make of the vehicle unless the body of the vehicle is~~
10 ~~established to the department's satisfaction to be an original body from a particular year and make. An~~
11 ~~assembled vehicle utilizing an original body may be titled by the year and the make of the original body~~
12 ~~but must reflect a "RECONSTRUCTED" remark. An assembled vehicle not utilizing an original body may~~
13 ~~obtain a title with a "REPLICA" remark featuring the year and make of the replica if the vehicle resembles~~
14 ~~a prior model year vehicle. This subparagraph applies regardless of how the vehicle's model year or make~~
15 ~~was previously identified in this or any other jurisdiction.]~~

16 (6) Not Eligible for Title. The following are not eligible for a Texas title regardless of the
17 vehicle's previous title or [and/or] registration in this or any other jurisdiction:

18 (A) vehicles that are missing or are stripped of their motor, frame, or body, to the
19 extent that [it materially alters] the vehicle loses its original identity [manufacturer's original design] or
20 makes the vehicle unsafe for on-road operation as determined by the department;

21 ~~[(B) vehicles designed or determined by the department to be a dune buggy;]~~

22 (B) ~~[(C)]~~ vehicles designed by the manufacturer ~~[or determined by the~~
23 ~~department to be]~~ for on-track racing only ~~[, unless such vehicles meet Federal Motor Vehicle Safety~~

1 ~~Standards (FMVSS) for on-road use and are reported to the National Highway Traffic Safety~~
2 ~~Administration];~~

3 ~~(C) [(D)]~~ vehicles designed or determined by the department to be for off-highway
4 ~~[off-road]~~ use only, unless specifically defined as a "motor vehicle" in Transportation Code [r] Chapter 501;
5 or

6 ~~(D) [(E)]~~ vehicles assembled, built, constructed, rebuilt, or reconstructed in any
7 manner with:

8 (i) a body or frame from a vehicle which is a "nonrepairable motor
9 vehicle" as that term is defined in Transportation Code [r] §501.091(9); or

10 (ii) a motor or engine from a vehicle which is flood damaged, water
11 damaged, or any other term which may reasonably establish the vehicle from which the motor or engine
12 was obtained is a loss due to a water related event.

13

14

SUBCHAPTER G. INSPECTIONS.

§217.141. Purpose and Scope.

16 This subchapter prescribes the policies and procedures necessary to protect the public by requiring
17 inspection of assembled vehicles ~~[street rods and custom vehicles]~~, accurately identify the identity of a
18 motor vehicle, and provides department approved training programs which if successfully completed
19 qualify a person to conduct vehicle identification number inspections.

20

§217.142. Definitions.

22 (a) The definitions in Transportation Code §731.001 apply to this subchapter.

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1 **(b)** The following words and terms, when used in this subchapter, shall have the following
2 meanings, unless the context clearly indicates otherwise.

3 (1) ~~["]~~ Altered from the manufacturer's original design ~~["]~~ – as that term is used in
4 §504.501(f), Transportation Code, is defined as the removal, addition, modification, or substitution, of at
5 least one major component part, as defined in Transportation Code §501.091, except that an engine,
6 frame, and body or cab, must be replaced if removed.

7 (2) Applicant - a person applying for title to an assembled vehicle who:

8 (A) is a hobbyist;

9 (B) is the owner of an assembled vehicle that has not been previously titled as an
10 assembled vehicle; or

11 (C) purchased an assembled vehicle constructed and designated by the
12 manufacturer as a replica, custom vehicle, street rod, or glider kit. ~~["Custom vehicle" has the meaning~~
13 assigned by §504.501(f)(1), Transportation Code.]

14 (3) Equipment - items and systems, including the connection points of the items and
15 systems, to include the frame; chassis; structural components; wheel assembly; tires; brake system,
16 including each brake, power brake unit, and all integral items of the system; steering system, including
17 power steering, and all integral items of the system; front seat belts if constructed with seat belt
18 anchorage; body; drivetrain; suspension; motor; fuel supply system and all integral items of the system;
19 exhaust system and all integral items of the system; mirrors; windshield; windshield wipers; turn signal
20 lamps; beam indicator; head lamps, minimum of two; tail lamps; stop lamps; and rear red reflectors. This
21 term includes the “basic component parts” of motor, body, and frame, as defined in §217.402 of this
22 chapter; and some “major component parts” as defined in Transportation Code §501.091. The term “basic
23 component parts” is defined by rule to identify the parts that will be used in determining evidence of

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1 ownership. The term “major component parts” is defined by statute for use in determining whether the
2 vehicle is a custom vehicle or street rod. [~~“Major component part ” has the meaning assigned by~~
3 ~~§501.091, Transportation Code.~~]

4 (4) Manufacturer - is a person that builds an assembled vehicle and is not a hobbyist, has
5 the meaning as defined in Occupations Code §2301.002, and is subject to the requirements of that chapter
6 applicable to manufacturers, including sale through a franchise dealer network. [~~“Street rod” has the~~
7 ~~meaning assigned by §504.501(f)(2), Transportation Code.~~]

8 (5) Master technician - a person who holds a valid certification as a Certified Master
9 Automobile and Light Truck Technician, or equivalent successor certification, issued by the National
10 Institute for Automotive Service Excellence.

11
12 **§217.143. [~~Custom Vehicle and Street Rod~~] Inspection Requirements.**

13 (a) On initial titling [~~registration~~] of an assembled vehicle under Transportation Code Chapter 731,
14 and Subchapter L of this title (relating to Assembled Vehicles), with the exception of an assembled
15 motorcycle, assembled trailer, and glider kit, an applicant [~~including registration at the time of title~~
16 ~~transfer, of a custom vehicle or street rod, the applicant]~~ must provide proof, on a form prescribed

17 [~~provided~~] by the department, of a safety inspection performed by a master technician [~~an Automotive~~
18 ~~Service Excellence (ASE) technician with valid certification as a Certified Master Automobile and Light~~
19 ~~Truck Technician~~].

20 (b) In addition to the requirement under subsection (a), an owner applying for initial registration
21 of a custom vehicle or street rod must provide proof, on a form prescribed by the department, of a safety
22 inspection performed by a master technician under this section as required under Transportation Code
23 §504.501(e).

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1 (c) The inspection must evaluate the structural integrity and proper function of the equipment.

2 (d) The inspector [inspection] must certify that [the vehicle]:

3 (1) the vehicle and equipment are [is] structurally stable;

4 (2) the vehicle and equipment meet [meets] the necessary conditions to be operated
5 safely on the roadway [and];

6 (3) equipment used in the construction of the vehicle, for which a federal motor vehicle
7 safety standard exists, complies with the applicable standard; and

8 (4) [{3}] if the vehicle is a custom vehicle or street rod, the vehicle is equipped and
9 operational with all equipment required by statute as a condition of sale during the year the vehicle was
10 manufactured or resembles.

11 ~~[(c) A custom vehicle or street rod is not required to be equipped with a specific piece of~~
12 ~~equipment unless the specific piece of equipment was required by statute as a condition of sale during~~
13 ~~the year listed as the replica model year.]~~

14 (e) The inspection of an assembled vehicle required under subsection (a) of this section is in
15 addition to all other required inspections including an inspection required under Transportation Code
16 Chapter 548.

17 (f) The applicant must pay all fees to the master technician for the inspection of an assembled
18 vehicle required under subsection (a) of this section, including any reinspection.

19 (g) In addition to the fees in subsection (f), the applicant must pay all applicable fees for other
20 required inspections as required by law, including an inspection or reinspection required under
21 Transportation Code Chapter 548.

22

23

SUBCHAPTER L. ASSEMBLED VEHICLES

1 **§217.401. Purpose and Scope.**

2 (a) Transportation Code Chapter 731, charges the department with the responsibility of
3 establishing procedures and requirements for issuance of title and registration for an assembled vehicle.
4 For the department to efficiently and effectively issue motor vehicle titles, maintain records, and collect
5 the applicable fees, this subchapter prescribes the policies and procedures for the application for and
6 issuance of motor vehicle titles to assembled vehicles.

7 (b) For purposes of this subchapter, a glider kit issued a title with a “RECONSTRUCTED” remark is
8 a replica.

9
10 **§217.402. Definitions.**

11 (a) The definitions in Transportation Code §731.001, apply to this subchapter.

12 (b) The following words and terms, when used in this subchapter, shall have the following
13 meanings, unless the context clearly indicates otherwise:

14 (1) Applicant - a person applying for title to an assembled vehicle who:

15 (A) is a hobbyist;

16 (B) is the owner of an assembled vehicle that has not been previously titled as an
17 assembled vehicle; or

18 (C) purchased an assembled vehicle constructed and designated by the
19 manufacturer as a replica, custom vehicle, street rod, or glider kit.

20 (2) Basic component part - the motor, body, and frame of an assembled vehicle, as
21 applicable to the type of assembled vehicle. This term is a subset of “major component part” as defined
22 in Transportation Code §501.091, but the term “basic component part” is not applicable in determining

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1 whether a vehicle qualifies as a custom vehicle or street rod under Transportation Code Section
2 504.501(f), which is the purpose of the term “major component part.”

3 (3) Continuous sale - is offering for sale or the sale of five or more assembled vehicles of
4 the same type in a calendar year when such vehicles are not owned and titled in the name of the owner.

5 (4) Manufacturer - is a person that builds an assembled vehicle and is not a hobbyist, has
6 the meaning as defined in Occupations Code §2301.002, and is subject to the requirements of that chapter
7 applicable to manufacturers, including sale through a franchise dealer network.

8 (5) Personal use - is the construction of an assembled vehicle by a hobbyist for use by the
9 hobbyist.

10

11 **§217.403. Assembled Vehicle Titles.**

12 (a) An applicant must apply for initial title in the applicant’s name as provided by Transportation
13 Code Chapter 731, and this subchapter in order to register an assembled vehicle for operation on a public
14 roadway or prior to transfer of ownership.

15 (b) The ownership transfer of an assembled vehicle titled under subsection (a) must be in
16 accordance with §217.407 of this subchapter (relating to Title and Registration of a Titled Assembled
17 Vehicle).

18 (c) Unless the assembled vehicle is ineligible for title or registration for a reason listed under
19 Transportation Code 731.051(b), the department shall issue a title for an assembled vehicle:

20 (1) that passes the inspection required under §217.143 of this chapter (relating to
21 Assembled Vehicle Inspection Requirements), and Transportation Code §731.101;

22 (2) that, in addition to the inspection described in paragraph (1) of this subsection, passes
23 an inspection required by Transportation Code Chapter 548, as applicable; and

1 (3) following receipt of a fully completed application and all required forms and fees, as
2 identified in §217.404 of this title (relating to Initial Application for Title).

3

4 **§217.404. Initial Application for Title.**

5 (a) Prior to applying for title, an applicant must submit to the department a complete application
6 for title. The application may be submitted in person, by mail, or electronically, to the department or a
7 county tax assessor-collector for forwarding to the department. The application must include:

8 (1) photographs of the front, rear, and side of the assembled vehicle, and if a replica, a
9 photograph of what the vehicle is a replica of;

10 (2) evidence of ownership of the basic component parts of the assembled vehicle as
11 described in §217.405 of this subchapter (relating to Evidence of Ownership), as applicable to the type of
12 assembled vehicle;

13 (3) if applicable, proof, on a form prescribed by the department, of a safety inspection
14 required under §217.143 of this chapter (relating to Assembled Vehicle Inspection Requirements), and
15 Transportation Code §731.101;

16 (4) if applicable, a copy of the Automobile and Light Truck certification, or a successor
17 certification, for the master technician who completed the inspection described in paragraph (3) of this
18 subsection;

19 (5) a copy of the inspection that may be required under Transportation Code Chapter 548
20 if the assembled vehicle is to be registered for operation on the roadway;

21 (6) a Rebuilt Vehicle Statement;

22 (7) a weight certificate;

1 (8) identification as required in §217.5(d) (relating to Evidence of Motor Vehicle
2 Ownership); and

3 (9) any of the following means to establish the vehicle identification number:

4 (A) an Application for Assigned or Reassigned Number, and Notice of Assigned
5 Number or Installation of Reassigned Vehicle Identification Number, on forms prescribed by the
6 department;

7 (B) an Application for Assigned or Reassigned Number, establishing the vehicle
8 identification number assigned by the manufacturer of the component part by which the assembled
9 vehicle will be identified;

10 (C) acceptable proof, as established by the department, of a vehicle identification
11 number assigned by the maker of the kit used to construct the assembled vehicle; or

12 (D) acceptable proof, as established by the department, of a vehicle identification
13 number assigned by the manufacturer of the replica, custom vehicle, street rod, or glider kit.

14 (b) Following receipt of all information required under subsection (a) of this section, the
15 department will review the application for completeness and to determine that the vehicle meets
16 assembled vehicle qualifications.

17 (c) If the department determines that the application is complete and the vehicle meets
18 assembled vehicle qualifications, the department will issue a letter to the applicant on department
19 letterhead, stating that the application is complete and that the vehicle qualifies as an assembled vehicle.

20 (d) Following receipt of the department's letter described in subsection (c) of this section, the
21 applicant may then submit the letter and the completed application to the county tax assessor-collector
22 for processing. The application must include:

23 (1) the department issued letter;

1 (2) copies of all items required to be submitted to the department in subsection (a)(1)-(9)
2 of this section; and

3 (3) the requirements as identified in §217.23 (Initial Application for Vehicle Registration)
4 if obtaining registration.

5
6 **§217.405. Evidence of Ownership.**

7 (a) Evidence of ownership in the name of or properly assigned to the applicant must accompany
8 the title application submitted to the department.

9 (b) The evidence of ownership for a replica, custom vehicle, street rod, or glider kit built by a
10 manufacturer must be a manufacturer's certificate of origin, indicating:

11 (1) the vehicle identification number assigned to the vehicle by the manufacturer;

12 (2) the make as ASVE, unless a glider kit;

13 (3) a notation the vehicle is a replica and what the vehicle is a replica of if a replica, custom
14 vehicle, or street rod; and

15 (4) the municipality and state in which the vehicle was completed.

16 (c) The evidence of ownership for an assembled vehicle not previously titled as an assembled
17 vehicle by the owner, or built by a hobbyist, must contain the identifying number(s) of the corresponding
18 basic component part(s). Evidence of ownership is required for basic component parts used from a vehicle
19 titled in the name of the applicant, depending on the year and manufacturer of the vehicle. The following
20 evidence of ownership is required if the assembled vehicle is constructed with basic component parts
21 from a vehicle not titled in the name of the applicant:

22 (1) Motor. A bill of sale is required.

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1 (2) Frame. A bill of sale, certificate of origin, or title depending on the year and
2 manufacturer of the frame.

3 (3) Body. A bill of sale, certificate of origin, or title depending on the year and
4 manufacturer of the body.

5 (4) Kit. A bill of sale or certificate of origin for the kit.

6 (5) New fabrication. A bill of sale, invoice, or receipts covering the material used to
7 construct the basic component part.

8 (d) An owner who is unable to obtain the evidence of ownership required under subsection (a)
9 may:

10 (1) file a bond with the department in accordance with Transportation Code §501.053,
11 and §217.9 of this chapter; and

12 (2) submit an application for title in the same manner as an applicant in accordance with
13 Transportation Code Chapter 731, and this subchapter.

14 (e) The department will assign a number or reassign the manufacturer's vehicle identification
15 number to an assembled vehicle based on the result of the vehicle inspection under §217.404(a)(9)(A) or
16 (B) of this chapter. The owner under subsection (d) of this section establishing the vehicle identification
17 number of an assembled vehicle under §217.404(a)(9)(A) or (B), may use the vehicle identification number
18 to satisfy the vehicle identification number requirement under §217.9 of this chapter and obtain a bond
19 under §217.9 to be filed with the department. The bond will be evidence of ownership under subsection
20 (a) of this section.

21

22 **§217.406. Title Issuance**

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1 (a) Issuance. The county tax assessor-collector shall process the application for title and issue a
2 receipt upon receiving:

3 (1) a completed application for title;

4 (2) required documents identified in §217.404(d) of this subchapter;

5 (3) the statutory fee for a title application, unless exempt under:

6 (A) Transportation Code §501.138; or

7 (B) Government Code §437.217, and copies of official military orders are
8 presented as evidence of the person's active duty status and deployment orders to a hostile fire zone; and

9 (4) any other applicable fees.

10 (b) Form of Title. In addition to the requirements under Transportation Code §731.053, an
11 assembled vehicle, other than an assembled trailer, will be titled using the year it was assembled as the
12 model year and "ASVE" for assembled as the make of the vehicle unless it is established to the
13 department's satisfaction to be constructed from original parts that reflect an established year and make
14 of a manufactured vehicle. An assembled vehicle constructed from original parts that reflect an
15 established year and make of a manufactured vehicle will be titled by that year and make, but must reflect
16 a "RECONSTRUCTED" remark if the component parts, excluding the motor, used to construct the vehicle
17 are not original to that vehicle. An assembled vehicle not utilizing an original body may obtain a title with
18 a "REPLICA" remark featuring the year and make of the replica if the vehicle resembles a prior model year
19 vehicle. This subsection applies regardless of how the vehicle's model year or make was previously
20 identified in this or any other jurisdiction. An assembled trailer will be titled using the year it was
21 assembled as the model year and "HMDE" for homemade as the make.

22 (c) Distribution. The department will issue and mail or deliver a title to the applicant, or if a lien is
23 disclosed in the application, to the first lienholder unless the title is an electronic record of title.

1 (d) Receipt. The receipt issued at the time of application for title may be used only as evidence of
2 title and may not be used to transfer any interest or ownership in a motor vehicle or to establish a new
3 lien.

4

5 **§217.407. Title and Registration of a Titled Assembled Vehicle.**

6 (a) After an assembled vehicle is titled under Transportation Code Chapter 731, and this
7 subchapter, the assembled vehicle is subject to Transportation Code Chapters 501 and 502, and this
8 subchapter, except as provided in subsection (c) of this section.

9 (b) An assembled vehicle that is titled or registered in another jurisdiction, may be titled and
10 registered in this jurisdiction subject to Transportation Code Chapters 501 and 502, and this subchapter,
11 except as provided in subsection (c) of this section.

12 (c) An assembled vehicle may not be:

13 (1) transferred to or by a dealer licensed under Transportation Code Chapter 503, unless
14 the assembled vehicle title contains a "REPLICA" remark; or

15 (2) rebuilt by a salvage dealer licensed under Occupations Code Chapter 2302, as part of
16 engaging in a business or activity regulated under Chapter 2302.

17 (d) An assembled vehicle previously titled that has been disassembled and reassembled is subject
18 to Transportation Code Chapter 731, and this subchapter.

Board Meeting Date: 12/5/2019
ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Jeremiah Kuntz, Vehicle Titles & Registration Division Director
Agenda Item: 15
Subject: Special Plate Designs

RECOMMENDATION

The Vehicle Titles and Registration Division (VTR) seeks board approval or denial of two plate designs submitted for your consideration. The plate designs are from the marketing vendor, My Plates. The Texas A&M University designs are both redesigns of the existing Texas A&M University plates. The Texas A&M Maroon has been offered for sale since 2010 and 4,552 have been sold as of October 2019. The Texas A&M Classic Crossover has been offered for sale since 2011 and 1,689 have been sold as of October 2019.

PURPOSE AND EXECUTIVE SUMMARY

Statutory authority for the board to approve vendor specialty license plates and invite the public's comment on proposed vendor plate designs are in Texas Transportation Code Section 504.851 (g) and (g-1) (1). The board's approval criteria are clarified in Administrative Codes §217.45 *Specialty License Plates, Symbols, Tabs, and Other Devices* and §217.52 *Marketing of Specialty License Plates through a Private Vendor*.

Texas Transportation Code Section 504.6011, *General Provisions Applicable to Specialty License Plates for General Distribution Sold through Private Vendor*, allows for a sponsor of a specialty license plate through the TxDMV program to crossover and contract with the private vendor. The Texas A&M Classic Crossover plate design was previously offered through the TxDMV program. In May 2011, Texas A&M ceased offering the Texas A&M Classic plate design for sale through the TxDMV program and began offering the plate design for sale through the private vendor.

The vendor contract (Statement of Work paragraph #2, *Marketing Services*) specifies that following the board's contingent approval of a plate, the vendor must get at least 200 commitments within six months of the approval for a plate to be produced. (Equally, existing plates must maintain 200 registered to stay in the program.) My Plates' procedure is to first offer a plate to the public to register their interest. Following the board's contingent approval, My Plates then offers a plate online for prepaid orders. My Plates confirms when 200 prepaid orders are achieved. Since March 2014, the board has contingently approved 30 vendor plates. Of the 30, nine did not achieve the required 200 commitments and were not produced.)

TxDMV's procedure is to invite comments on all proposed plates ahead of the board's review. The department's intent is to determine if there are any unforeseen public concerns about a plate design. The department publishes a 10-day "like/dislike/comment-by-email" survey, called an eView, on its website. Although the survey counts the public's "likes" and "dislikes," it is unscientific and not used as an indicator of a plate's popularity. The vendor's OU plate, for example, received thousands of eView "dislikes" in 2010 (presumably because of college football rivalry) and has since sold over 953 plates.

The plate designs were presented to the public in a November 2019 eView. No negative comments were received. The count of the public's "like/dislikes" are below with the designs.

Texas A&M University Maroon (Redesign)

207 people liked this design and 40 did not

Current Design



Redesign



Texas A&M University Classic Crossover (Redesign)

157 people liked this design and 70 did not

Current Design



Redesign



TEXAS SPECIALTY PLATE BUSINESS



Vehicle Titles and
Registration Division
Special Plates Unit
(6 FTEs) 12/19



Division Director
Jeremiah Kuntz

Texas Department
of Motor Vehicles

TO BE RELEASED DECEMBER 2019

DV CHINA SERVICE MEDAL

CHINA SERVICE MEDAL



PEACE OFFICER PURPLE HEART



SLP AVAILABLE	490:
MILITARY AND DV	188
RESTRICTED USE	50
STATE SPECIALTY	131
VENDOR SPECIALTY	121

UNIVERSITY OF VIRGINIA
OFFERED BY MY PLATES



SPECIAL PLATES UNIT CUSTOMER SERVICE FY 2020

8,601 PERSONALIZED PLATE APPLICATIONS REVIEWED (10% DECLINED)	6,266 TELEPHONE CALLS	33 WALK-IN CUSTOMERS	3,120 EMAILS	615 REFUNDS	2 PUBLIC INFORMATION / OPEN RECORDS	1,105 CORRESPONDENCE (INCLUDING PLATE APPLICATIONS)
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Board Meeting Date: 12/5/2019

ACTION ITEM

To: Texas Department of Motor Vehicles Board
From: Jimmy Archer, Motor Carrier Division Director
Agenda Item: 16.A
Subject: Delegation of Authority to the Executive Director for the Approval and Execution of the Innovative Technology Deployment (ITD) Commercial Vehicle Information Exchange Window (CVIEW) Services Contract

RECOMMENDATION

Delegate authority to the Executive Director for the approval and execution of the Innovative Technology Deployment (ITD) Commercial Vehicle Information Exchange Window (CVIEW) Services Contract.

PURPOSE AND EXECUTIVE SUMMARY

A new contract is needed for a vendor to provide software maintenance, CVIEW hosting, and support in maintaining Core ITD compliance and to assist in developing projects that fit under the Federal Motor Carrier Safety Administration's (FMCSA) definition of innovative technologies. The current vendor contract expires on January 31, 2020.

FINANCIAL IMPACT

The current vendor can earn up to \$600,000 per year under the current contract. The proposed contract will have an initial term of 2 years with three 2-year renewal options. If the cost proposal for the successful vendor on the proposed contract is consistent with the current contract, the total estimated cost of the proposed contract will be \$600,000 per year for a total of \$4.8 million over eight years.

BACKGROUND AND DISCUSSION

ITD's CVIEW tool is how Texas receives and shares motor carrier safety data with all other states. This includes real-time Out of Service status (when a vehicle or driver has been taken off the road for safety reasons) for on-the-road police enforcement. CVIEW is critical nationwide for data transfers 24/7.

ITD is important to the state in achieving a statewide Intelligent Transportation System (ITS) that improves safety and security; improves productivity of motor carriers, commercial vehicles and their drivers; improves efficiency and effectiveness of safety programs through targeted enforcement; improves data sharing within and between states and the FMCSA; and reduces federal/state and industry regulatory and administration costs.

Texas joined the ITD (formerly the Commercial Vehicle Information and Systems Network (CVISN)) program in 2001. TxDMV is the ITD-designated lead agency for the state. ITD is governed by a Steering Committee and Working Group comprised of representatives of the TxDMV, Texas Department of Transportation, Texas Department of Public Safety, Texas Comptroller of Public Accounts, FMCSA, Federal Highway Administration, and the Texas Trucking Association.

Texas has successfully achieved and maintained Core ITD compliance by meeting FMCSA requirements for Safety Information Exchange, Credentialing Administration, and Electronic Screening.

Board Meeting Date: 12/5/2019
BRIEFING

To: Texas Department of Motor Vehicles Board
From: Sandra Menjivar-Suddeath, Internal Audit Division Director
Agenda Item: 16.B
Subject: Internal Audit Division Status

RECOMMENDATION

Briefing Only. No recommendation.

PURPOSE AND EXECUTIVE SUMMARY

The status update provides information on current Internal Audit Division (IAD) activities. The December 2019 update contains the fiscal year (FY) 2020 Internal Audit Plan status and external coordination efforts.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

IAD provides an update and status on current activities, including the Internal Audit Plan status. The Internal Audit Plan status includes information on the engagement type, the objective(s), anticipated report release date, and the current audit phase. External coordination efforts and divisional update are also provided if applicable. For the December 2019 update, the IAD is providing information on the FY 2020 Internal Audit Plan status and external coordination efforts.

FY 2020 Internal Audit Plan status

The IAD continues to work on three engagements on its audit plan:

- **Patch Management Audit** – An audit to evaluate the Department’s patch management processes. *(Fieldwork)*
- **Titles and Registration Customer Support Audit** – An audit to evaluate the Department’s customer support functions for the Titles and Registration program. *(Fieldwork)*
- **FY 2020 Internal Audit Follow-Up** - An engagement to verify if outstanding internal audit recommendations have been fully implemented. Currently, the IAD is working on the first quarter implementation status memorandum and reviewing audit recommendations due in the second quarter of the fiscal year. *(Fieldwork)*

External Coordination

IAD is coordinating two external engagements:

- The Texas Workforce Commission – Civil Rights Division will be conducting a compliance review on December 17, 2019.
- The State Auditor’s Office released their report that included information on the WebDEALER project at the end of November 2019.

Fiscal Year (FY) 2020 Audit Plan Status

Engagement	Description	Status
Patch Management Audit	The audit will evaluate and determine the effectiveness of patch management for workstations, servers, and network devices and assess management's design of configuration for network devices.	<i>Fieldwork</i> Anticipated Issuance: January 2020
Titles and Registration Customer Support Audit	The audit will evaluate the consistency of title and registration customer support to Tax Assessor-Collector offices and the general public as well as the design of the Department's decentralized customer support function. The audit will also evaluate the communication and planning processes.	<i>Fieldwork</i> Anticipated Issuance: January 2020
FY 2020 Internal Audit Follow-Up	The engagement verifies if outstanding internal audit recommendations have been fully implemented. Currently, IAD is reviewing internal audit recommendations that had a completion date or were implemented between December 1, 2019 – February 28, 2020 and is finalizing the memorandum on the implementation status for internal audit recommendations due or completed between September 1 - November 30, 2019.	<i>Fieldwork</i> FY 2020 Quarter 1 Implementation Status of Internal Audit Recommendations will be issued in late December 2019.

External Coordination

- The Texas Workforce Commission – Civil Rights Division will be conducting a compliance review on December 17, 2019.
- The State Auditor's Office published its report on the *Analysis of Quality Assurance Team Projects*, which includes a review of WebDEALER, at the end of November 2019. The report provides a summary of the WebDEALER project schedule, cost, benefits, and results.

Board Policy Documents

Governance Process (10/13/11)

Strategic Planning (10/13/11)

Board Vision (4/7/16)

Agency Boundaries (9/13/12)

KPIs (9/12/14)

Texas Department of Motor Vehicles TxDMV Board Governance Policy

1. PURPOSE

The directives presented in this policy address board governance of the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. The TxDMV Board Governance Policy shall be one that is comprehensive and pioneering in its scope.

3. POLICY

3.1. TxDMV Board Governing Style

The Board shall govern according to the following general principles: (a) a vision for the agency, (b) diversity in points of view, (c) strategic leadership, providing day-to-day detail as necessary to achieve the agency vision, (d) clear distinction of Board and Executive Director roles, (e) collective decision making, (f) react proactively rather than reactively and with a strategic approach. Accordingly:

- 3.1.1. The Board shall provide strategic leadership to TxDMV. In order to do this, the Board shall:
 - 3.1.1.1. Be proactive and visionary in its thinking.
 - 3.1.1.2. Encourage thoughtful deliberation, incorporating a diversity of viewpoints.
 - 3.1.1.3. Work together as colleagues, encouraging mutual support and good humor.
 - 3.1.1.4. Have the courage to lead and make difficult decisions.
 - 3.1.1.5. Listen to the customers and stakeholders needs and objectives.
 - 3.1.1.6. Anticipate the future, keeping informed of issues and trends that may affect the mission and organizational health of the TxDMV.
 - 3.1.1.7. Make decisions based on an understanding that is developed by appropriate and complete stakeholder participation in the process of identifying the needs of the motoring public, motor vehicle industries,

and best practices in accordance with the mission and vision of the agency.

- 3.1.1.8. Commit to excellence in governance, including periodic monitoring, assessing and improving its own performance.
- 3.1.2. The Board shall create the linkage between the Board and the operations of the agency, via the Executive Director when policy or a directive is in order.
- 3.1.3. The Board shall cultivate a sense of group responsibility, accepting responsibility for excellence in governance. The Board shall be the initiator of policy, not merely respond to staff initiatives. The Board shall not use the expertise of individual members to substitute for the judgment of the board, although the expertise of individual members may be used to enhance the understanding of the Board as a body.
- 3.1.4. The Board shall govern the agency through the careful establishment of policies reflecting the board's values and perspectives, always focusing on the goals to be achieved and not the day-to-day administrative functions.
- 3.1.5. Continual Board development shall include orientation of new Board members in the board's governance process and periodic board discussion of how to improve its governance process.
- 3.1.6. The Board members shall fulfill group obligations, encouraging member involvement.
- 3.1.7. The Board shall evaluate its processes and performances periodically and make improvements as necessary to achieve premier governance standards.
- 3.1.8. Members shall respect confidentiality as is appropriate to issues of a sensitive nature.

3.2. TxDMV Board Primary Functions/Characteristics

TxDMV Board Governance can be seen as evolving over time. The system must be flexible and evolutionary. The functions and characteristics of the TxDMV governance system are:

- 3.2.1. Outreach
 - 3.2.1.1. Monitoring emerging trends, needs, expectations, and problems from the motoring public and the motor vehicle industries.
 - 3.2.1.2. Soliciting input from a broad base of stakeholders.

3.2.2. Stewardship

3.2.2.1. Challenging the framework and vision of the agency.

3.2.2.2. Maintaining a forward looking perspective.

3.2.2.3. Ensuring the evolution, capacity and robustness of the agency so it remains flexible and nimble.

3.2.3. Oversight of Operational Structure and Operations

3.2.3.1. Accountability functions.

3.2.3.2. Fiduciary responsibility.

3.2.3.3. Checks and balances on operations from a policy perspective.

3.2.3.4. Protecting the integrity of the agency.

3.2.4. Ambassadorial and Legitimizing

3.2.4.1. Promotion of the organization to the external stakeholders, including the Texas Legislature, based on the vision of the agency.

3.2.4.2. Ensuring the interests of a broad network of stakeholders are represented.

3.2.4.3. Board members lend their positional, professional and personal credibility to the organization through their position on the board.

3.2.5. Self-reflection and Assessment

3.2.5.1. Regular reviews of the functions and effectiveness of the Board itself.

3.2.5.2. Assessing the level of trust within the Board and the effectiveness of the group processes.

3.3. Board Governance Investment

Because poor governance costs more than learning to govern well, the Board shall invest in its governance capacity. Accordingly:

3.3.1. Board skills, methods, and supports shall be sufficient to ensure governing with excellence.

- 3.3.1.1. Training and retraining shall be used liberally to orient new members, as well as maintain and increase existing member skills and understanding.
 - 3.3.1.2. Outside monitoring assistance shall be arranged so that the board can exercise confident control over agency performance. This includes, but is not limited to, financial audits.
 - 3.3.1.3. Outreach mechanisms shall be used as needed to ensure the Board's ability to listen to stakeholder viewpoints and values.
 - 3.3.1.4. Other activities as needed to ensure the Board's ability to fulfill its ethical and legal obligations and to represent and link to the motoring public and the various motor vehicle industries.
- 3.3.2. The Board shall establish its cost of governance and it will be integrated into strategic planning and the agency's annual budgeting process.

3.4. Practice Discipline and Assess Performance

The Board shall ensure the integrity of the board's process by practicing discipline in Board behavior and continuously working to improve its performance. Accordingly:

- 3.4.1. The assigned result is that the Board operates consistently with its own rules and those legitimately imposed on it from outside the organization.
 - 3.4.1.1. Meeting discussion content shall consist solely of issues that clearly belong to the Board to decide or to monitor according to policy, rule and law. Meeting discussion shall be focused on performance targets, performance boundaries, action on items of Board authority such as conduct of administrative hearings, proposal, discussion and approval of administrative rule-making and discussion and approval of all strategic planning and fiscal matters of the agency.
 - 3.4.1.2. Board discussion during meetings shall be limited to topics posted on the agenda.
 - 3.4.1.3. Adequate time shall be given for deliberation which shall be respectful, brief, and to the point.
- 3.4.2. The Board shall strengthen its governing capacity by periodically assessing its own performance with respect to its governance model. Possible areas of assessment include, but are not limited to, the following:
 - 3.4.2.1. Are we clear and in agreement about mission and purpose?

- 3.4.2.2. Are values shared?
 - 3.4.2.3. Do we have a strong orientation for our new members?
 - 3.4.2.4. What goals have we set and how well are we accomplishing them?
 - 3.4.2.5. What can we do as a board to improve our performance in these areas?
 - 3.4.2.6. Are we providing clear and relevant direction to the Executive Director, stakeholders and partners of the TxDMV?
- 3.4.3. The Board Chair shall periodically promote regular evaluation and feedback to the whole Board on the level of its effectiveness.

Texas Department of Motor Vehicles Strategic Planning Policy

1. PURPOSE

The directives presented in this policy address the annual Strategic Planning process at the Texas Department of Motor Vehicles (TxDMV).

2. SCOPE

The directives presented in this policy apply to the TxDMV Board and TxDMV agency personnel who interact with the Board. TxDMV Strategic Planning Policy attempts to develop, document and expand its policy that is comprehensive in its scope in regards to the strategic planning process of the Board and the Department beyond that of the state strategic planning process.

3. POLICY

3.1. TxDMV Board Strategic Planning

This policy describes the context for strategic planning at TxDMV and the way in which the strategic plan shall be developed and communicated.

- 3.1.1. The Board is responsible for the strategic direction of the organization, which includes the vision, mission, values, strategic goals, and strategic objectives.
- 3.1.2. TxDMV shall use a 5-year strategic planning cycle, which shall be reviewed and updated annually, or as needed.
- 3.1.3. The 5-year strategic plan shall be informed by but not confined by requirements and directions of state and other funding bodies.
- 3.1.4. In developing strategic directions, the Board shall seek input from stakeholders, the industries served, and the public.
- 3.1.5. The Board shall:
 - 3.1.5.1. Ensure that it reviews the identification of and communication with its stakeholders at least annually.
 - 3.1.5.2. Discuss with agency staff, representatives of the industries served, and the public before determining or substantially changing strategic directions.

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- 3.1.5.3. Ensure it receives continuous input about strategic directions and agency performance through periodic reporting processes.
 - 3.1.6. The Board is responsible for a 5-year strategic plan that shall identify the key priorities and objectives of the organization, including but not limited to:
 - 3.1.6.1. The creation of meaningful vision, mission, and values statements.
 - 3.1.6.2. The establishment of a Customer Value Proposition that clearly articulates essential customer expectations.
 - 3.1.6.3. A Strengths, Weaknesses, Opportunities and Threats (SWOT) Analysis, to be updated annually.
 - 3.1.6.4. An assessment of external factors or trends (i.e., customer needs, political factors, economic factors, industry trends, technology factors, uncertainties, etc.)
 - 3.1.6.5. Development of the specific goals and objectives the Department must achieve and a timeline for action.
 - 3.1.6.6. Identification of the key performance indicators to measure success and the initiatives that shall drive results.
 - 3.1.6.7. Engage staff at all levels of the organization, through the executive director, in the development of the strategic plan through surveys, interviews, focus groups, and regular communication.
 - 3.1.6.8. Ensure the strategic planning process produces the data necessary for LBB/GOBPP state required compliance while expanding and enhancing the strategic plan to support the needs of the TxDMV. The overall strategic plan shall be used as a tool for strategic management.
 - 3.1.7. The Board delegates to the Executive Director the responsibility for **implementing** the agency's strategic direction through the development of agency wide and divisional operational plans.
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Texas Department of Motor Vehicles TxDMV Goals and Objectives

1. PURPOSE

The information presented in this policy addresses the goals and key objectives of the Board of the Texas Department of Motor Vehicles (TxDMV) as they relate to the mission, vision, and values of the TxDMV.

2. SCOPE

The scope of this policy is to define the desired state the TxDMV Board is working to achieve. This policy is designed to be inspirational in outlining the desired state of the agency that supports the TxDMV Board vision and meeting agency goals.

3. TxDMV MISSION

To serve, protect and advance the citizens and industries in the state with quality motor vehicle related services.

4. TxDMV VISION

The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.

5. TxDMV VALUES

To earn the trust and faith of all citizens of Texas with transparency, efficiency, excellence, accountability, and putting stakeholders first.

- 5.1. **Transparency** – Being open and inclusive in all we do.
- 5.2. **Efficiency** – Being good stewards of state resources by providing products and services in the most cost-effective manner possible.
- 5.3. **Excellence** – Working diligently to achieve the highest standards.
- 5.4. **Accountability** – Accepting responsibility for all we do, collectively and as individuals.
- 5.5. **Stakeholders** – Putting customers and stakeholders first, always.

6. TxDMV GOALS

6.1. GOAL 1 – Performance Driven

The TxDMV shall be a performance driven agency in its operations whether it is in customer service, licensing, permitting, enforcement or rule-making. At all times the TxDMV shall mirror in its performance the expectations of its customers and stakeholder by effective, efficient, customer-focused, on-time, fair, predictable and thorough service or decisions.

6.1.1. Key Objective 1

The TxDMV shall be an agency that is retail-oriented in its approach. To accomplish this orientation TxDMV shall concentrate the focus of the agency on:

- 6.1.1.1. Delivering its products and services to all of its customers and stakeholders in a manner that recognizes that their needs come first. These needs must be positively and proactively met. TxDMV works for and with its customers and stakeholders, not the other way around.
- 6.1.1.2. Operating the agency's licensing and registration functions in a manner akin to how a private, for-profit business. As a private, for-profit business, TxDMV would have to listen to its customers and stakeholders and implement best practices to meet their needs or its services would no longer be profitable or necessary. Act and react in a manner that understands how to perform without a government safety net and going out of business.
- 6.1.1.3. Simplify the production and distribution processes and ease of doing business with the TxDMV. Adapting and maintaining a business value of continuous improvement is central to TxDMV operations and processes.
- 6.1.1.4. All operations of the TxDMV shall stand on their own merits operationally and financially. If a current process does not make sense then TxDMV shall work within legislative and legal constraints to redesign or discard it. If a current process does not make or save money for the state and/or its customers or stakeholders then TxDMV shall work within legislative and legal constraints to redesign or discard it. TxDMV shall operate as efficiently and effective as possible in terms of financial and personnel needs. Divisions should focus on cost savings without sacrificing performance. Division directors are accountable for meeting these needs and applicable measures. All division directors are collectively responsible for the performance of TxDMV as a whole.
- 6.1.1.5. Focus on revenue generation for transportation needs as well as the needs of its customers.
- 6.1.1.6. Decisions regarding the TxDMV divisions should be based on the overriding business need of each division to meet or provide a specific service demand, with the understanding and coordination of overarching agency-wide needs.

- 6.1.1.7. Developing and regularly updating a long-range Statewide Plan describing total system needs, establishing overarching statewide goals, and ensuring progress toward those goals.
- 6.1.1.8. The TxDMV shall establish a transparent, well-defined, and understandable system of project management within the TxDMV that integrates project milestones, forecasts, and priorities.
- 6.1.1.9. The TxDMV shall develop detailed work programs driven by milestones for major projects and other statewide goals for all TxDMV divisions.
- 6.1.1.10. The TxDMV, with input from stakeholders and policymakers, shall measure and report on progress in meeting goals and milestones for major projects and other statewide goals.

6.2. GOAL 2 – Optimized Services and Innovation

The TxDMV shall be an innovative, forward thinking agency that looks for ways to promote the economic well-being and development of the industries it serves as well as the State of Texas within the legislative boundaries that have been established for the agency.

6.2.1. Key Objective 1

The TxDMV shall achieve operational, cultural, structural and financial independence from other state agencies.

- 6.2.1.1. Build the TxDMV identity. This means that TxDMV shall make customers aware of what services we offer and how they can take advantage of those services.
- 6.2.1.2. Build the TxDMV brand. This means that TxDMV shall reach out to the stakeholders, industries we serve and the public, being proactive in addressing and anticipating their needs.
- 6.2.1.3. Determine immediate, future, and long term facility and capital needs. TxDMV needs its own stand-alone facility and IT system as soon as possible. In connection with these needs, TxDMV shall identify efficient and effective ways to pay for them without unduly burdening either the state, its customers or stakeholders.
- 6.2.1.4. All regulations, enforcement actions and decision at TxDMV shall be made in a timely, fair and predictable manner.

6.2.2. Key Objective 2

Provide continuous education training on business trends in the industry with a particular emphasis on activities in Texas.

6.2.3. Key Objective 3

Provide continuous outreach services to all customers and stakeholders to access their respective needs and wants. This includes helping frame legislative or regulatory issues for consideration by other bodies including the legislature.

6.2.4. Key Objective 4

Examine all fees to determine their individual worth and reasonableness of amount. No fee shall be charged that cannot be defended financially and operationally.

6.3. GOAL 3 – Customer-centric

The TxDMV shall be a customer-centric agency that delivers today's services and decisions in a positive, solution-seeking manner while ensuring continuous, consistent and meaningful public and stakeholder involvement in shaping the TxDMV of tomorrow.

6.3.1. Key Objective 1

The TxDMV shall seek to serve its customer base through a creative and retail oriented approach to support the needs of its industries and customers.

6.3.2. Key Objective 2

The TxDMV shall develop and implement a public involvement policy that guides and encourages meaningful public involvement efforts agency-wide.

6.3.3. Key Objective 3

The TxDMV shall develop standard procedures for documenting, tracking, and analyzing customer complaint data. Successful problem resolution metrics should be monitored to support continuous improvement activities that shall permanently improve customer facing processes.

6.3.4. Key Objective 4

The TxDMV shall provide a formal process for staff with similar responsibilities to share best practices information.

6.3.5. Key Objective 5

The TxDMV shall provide central coordination of the Department's outreach campaigns.

6.3.6. Key Objective 6

The TxDMV shall develop and expand user friendly, convenient, and efficient website applications.

6.3.7. Key Objective 7

TxDmv shall timely meet all legislative requests and mandates.

Agency Operational Boundaries as Defined by Department Policies of the TxDMV Board (Board)

The Board is responsible for the policy direction of the agency. The Board's official connection to the day-to-day operation of the Texas Department of Motor Vehicles (TxDMV) and the conduct of its business is through the Executive Director of the TxDMV (ED) who is appointed by the Board and serves at its pleasure. The authority and accountability for the day-to-day operations of the agency and all members of the staff, except those members who report directly to the Board, is the sole responsibility of the ED.

In accordance with its policy-making authority the Board has established the following policy boundaries for the agency. The intent of the boundaries is not to limit the ability of the ED and agency staff to manage the day-to-day operations of the agency. To the contrary, the intent of the boundaries is to more clearly define the roles and responsibilities of the Board and the ED so as to liberate the staff from any uncertainty as to limitations on their authority to act in the best interest of the agency. The ED and staff should have certainty that they can operate on a daily basis as they see fit without having to worry about prior Board consultation or subsequent Board reversal of their acts.

The ED and all agency employees shall act at all times in an exemplary manner consistent with the responsibilities and expectations vested in their positions. The ED and all agency employees shall act in a manner consistent with Board policies as well as with those practices, activities, decisions, and organizational circumstances that are legal, prudent, and ethical. It is the responsibility of the ED to ensure that all agency employees adhere to these boundaries.

Accordingly, the TxDMV boundaries are as follows:

1. The day-to-day operations of the agency should be conducted in a manner consistent with the vision, mission, values, strategic framework, and performance metrics as established by the Board. These elements must not be disregarded or jeopardized in any way.
2. A team-oriented approach must be followed on all enterprise-wide decisions to ensure openness and transparency both internally and externally.
3. The agency must guard against allowing any financial conditions and decision which risk adverse fiscal consequences, compromise Board financial priorities, or fail to

show an acceptable level of foresight as related to the needs and benefits of agency initiatives.

4. The agency must provide timely, accurate, and honest information that will afford the Board, public, stakeholders, executive branch and the legislature the best ability to evaluate all sides of an issue or opportunity before forming an opinion or taking action on it. Any information provided that is intentionally untimely, inaccurate, misleading or one-sided will not be tolerated.
5. The agency must take all reasonable care to avoid or identify in a timely manner all conflicts of interest or even the appearance of impropriety in awarding purchases, negotiating contracts or in hiring employees.
6. The agency must maintain adequate administrative policies and procedures that are understandable and aid in staff recruitment, development and retention.
7. The agency must maintain an organizational structure that develops and promotes the program areas from an enterprise-wide perspective. No organizational silos or sub-agencies will be allowed. We are the TxDMV.
8. The agency must empower its entire staff to deliver a positive customer experience to every TxDMV customer, stakeholder or vendor to reduce their effort and make it easier for them to do business with the TxDMV.
9. The agency must at all times look to flattening its organizational structure to reduce cost as technology advances allow.
10. Agency staff shall anticipate and resolve all issues timely.
11. The agency must maximize the deployment and utilization of all of its assets – people, processes and capital equipment – in order to fully succeed.
12. The agency must not waste the goodwill and respect of our customers, stakeholders, executive branch and legislature. All communication shall be proper, honest, and transparent with timely follow-up when appropriate.
13. The agency should focus its work efforts to create value, make sure that processes, programs, or projects are properly designed, budgeted and vetted as appropriate with outside stakeholders to ensure our assumptions are correct so positive value continues to be created by the actions of the TxDMV.
14. The ED through his or her staff is responsible for the ongoing monitoring of all program and fiscal authorities and providing information to the Board to keep it apprised of all program progress and fiscal activities. This self-assessment must result in a product that adequately describes the accomplishment of all program

goals, objectives and outcomes as well as proposals to correct any identified problems.

15. In advance of all policy decisions that the Board is expected to make, the ED will provide pertinent information and ensure board members understand issues/matters related to the pending policy decision. Additionally, the ED or designee will develop a process for planning activities to be performed leading up to that particular policy decision and the timeframe for conducting these planning activities. It is imperative that the planning process describes not only when Board consideration will be expected but also when prior Board consultation and involvement in each planning activity will occur.
16. In seeking clarification on informational items Board members may directly approach the ED or his or her designee to obtain information to supplement, upgrade or enhance their knowledge and improve the Board's decision-making. Any Board member requests that require substantive work should come to the Board or Committee Chairs for direction.
17. The agency must seek stakeholder input as appropriate on matters that might affect them prior to public presentation of same to the Board.
18. The agency must measure results, track progress, and report out timely and consistently.
19. The ED and staff shall have the courage to admit a mistake or failure.
20. The ED and staff shall celebrate successes!

The Board expects the ED to work with agency staff to develop their written interpretation of each of the boundaries. The ED will then present this written interpretation to the Board prior to discussion between the Board and ED on the interpretation. The Board reserves the right to accept, reject or modify any interpretation. The intent is that the Board and the ED will come to a mutually agreeable interpretation of agency boundaries that will then form the basis of additional written thought on the part of the ED and staff as to how these boundaries will influence the actions of the agency.

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER
Performance Driven	Effective and efficient services	1	Average processing time for new franchise license applications	45 days	35 days		MVD
		2	Average processing time for franchise renewals	11 days	5 days		MVD
		3	Average processing time of franchise license amendments	20 days	8 days		MVD
		4	Average processing time for new Dealer's General Distinguishing Number (GDN) license applications	35 days	17 days		MVD
		5	Average processing time for GDN renewals	14 days	7 days		MVD
		6	Average processing time for GDN license amendments	19 days	7 days		MVD
		7	Average turnaround time for single-trip routed permits	33.88 mins	32 mins		MCD
		8	Average turnaround time for intrastate authority application processing	1.47 days	1.4 days		MCD
		9	Average turnaround time for apportioned registration renewal applications processing	2 days	2 days		MCD
		10	Average turnaround time to issue salvage or non-repairable vehicle titles	5 days	4 days		VTR
		11	Average time to complete motor vehicle complaints with no contested case proceeding	131 days	120 days		ENF
		12	Average time to complete motor vehicle complaints with contested case proceeding	434 days	400 days		ENF
		13	Average time to complete salvage complaints with no contested case proceeding	131 days	120 days		ENF
		14	Average time to complete salvage complaints with contested case proceeding	434 days	400 days		ENF
		15	Average time to complete motor carrier complaints with no contested case proceeding	297 days	145 days		ENF
		16	Average time to complete motor carrier complaints with contested case proceeding	133 days	120 days		ENF
		17	Average time to complete household goods complaints with no contested case proceeding	432 days	145 days		ENF
		18	Average time to complete household goods complaints with contested case proceeding	371 days	180 days		ENF
		19	Average time to complete Oversize/Overweight (OS/OW) complaints with no contested case proceeding	40 days	35 days		ENF
		20	Average time to complete OS/OW complaints with contested case proceeding	265 days	250 days		ENF
		21	Percent of lemon law cases resolved prior to referral for hearing	76%	60%		ENF
		22	Average time to complete lemon law cases where no hearing is held	147 days	65 days		ENF
		23	Average time to complete lemon law cases where hearing is held	222 days	150 days		ENF
		24	Percent of total renewals and net cost of registration renewal: A. Online B. Mail C. In Person	A. 15% B. 5% C. 80%	A. 16% B. 5% C. 79%		VTR
		25	Total dealer title applications: A. Through Webdealer B. Tax Office	Baseline in development	A. 5% B. 95%		VTR

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER	
Optimized Services and Innovation		26	Percent of total lien titles issued: A. Electronic Lien Title B. Standard Lien Title	A. 16% B. 84%	A. 20% B. 80%		VTR	
		27	Percent of total OS/OW permits: A. Online (self-issued) B. Online (MCD-issued) C. Phone D. Mail E. Fax	A. 57.47% B. 23.03% C. 11.33% D. 1.76% E. 6.4%	A. 58% or greater B. 25% or greater C. 10% or less D. 1.7% or less E. 5.3% or less		MCD	
		28	Average time to complete lemon law and warranty performance cases after referral	Baseline in development	25 days		OAH	
		29	Average time to issue a decision after closing the record of hearing	Baseline in development	30 days		OAH	
		Implement appropriate best practices	30	Percent of audit recommendations implemented	Baseline in development	90% annual goal for these recommendations which Internal Audit included in a follow-up audit		IAD
		Continuous business process improvement and realignment	31	Percent of projects approved by the agency's governance team that finish within originally estimated time (annual)	57%	100%		EPMO
			32	Percent of projects approved by the agency's governance team that finish within originally estimated budget (annual)	71%	100%		EPMO/ FAS
			33	Percent of monitoring reports submitted to Texas Quality Assurance Team (TXQAT) by or before the due date	79%	100%		EPMO
			34	Percent of project manager compliance with EPMO project management standards based upon internal quality assurance reviews	Baseline in development	100%		EPMO
		Executive ownership and accountability for results	35	Percent of employees due a performance evaluation during the month that were completed on time by division.	Baseline in development	100%		HR
		36	Percent of goals accomplished as stated in the directors performance evaluation	Baseline in development	Measure annually at the end of the fiscal year		EXEC	
	Organizational culture of continuous improvement and creativity	37	Employees who rate job satisfaction as above average as scored by the Survey of Employee Engagement (SEE)	3.47 (SEE 2012)	3.65	3.60 (SEE 2013)	HR	
		38	Increase in the overall SEE score	337 (SEE 2012)	360	351 (SEE 2013)	HR	
Focus on the internal customer	Focus on the internal customer	39	Percent of favorable responses from customer satisfaction surveys	Baseline in development	90%		EPMO	
		40	Annual agency voluntary turnover rate	6.5% (FY 2013)	5.0%		HR	
	Increase transparency with external customers	41	Number of education programs conducted and number of stakeholders/customers attending education programs	4.48/80.61	4/80		MCD	
		42	Number of education programs conducted and number of stakeholders/customers attending education programs	36/335	42/390		VTR	
		43	Number of eLearning training modules available online through the Learning Management System and number of modules completed by stakeholders/customers	eLearning Modules Available - 28 Completed - 735	Available - 31 Completed - 814		VTR	

GOAL	STRATEGY	#	MEASURE	Baseline	Target	Actual	OWNER
Customer Centri		44	Number of Shows and Exhibits attended to educate stakeholders/customers about TxDMV services and programs	6	7		MVD
		45	Number of education programs conducted and number of stakeholders/customers attending education programs	3/250	3/250		ENF
		46	Number of education programs conducted and number of stakeholders/customers attending education programs	3/150	4/300		ABTPA
		47	Percent of customers and stakeholders who express above average satisfaction with communications to and from TxDMV	Baseline in development	80%		All Divisions
	Excellent Service Delivery	48	Average hold time	9 min	9 min		CRD
		49	Abandoned call rate	22%	20%		CRD
		50	Average hold time	Baseline in development	1 min		ITS
		51	Abandoned call rate	Baseline in development	5%		ITS
		52	Average hold time	Credentialing - 1.6 minutes Permits - 2.08 minutes CFS - 54.38 seconds	Credentialing - 1.5 minutes Permits - 2 minutes CFS - 50 seconds		MCD
		53	Abandoned call rate	Credentialing - 7% Permits - 6.42% CFS - 5.63%	Credentialing - 6% Permits - 5% CFS - 5%		MCD
Key:		Critical	Off Target	On target	Not yet started		
Vision: The Texas Department of Motor Vehicles sets the standard as the premier provider of customer service in the nation.							
Mission: To serve, protect, and advance the citizens and industries in the state with quality motor vehicle related services.							
Philosophy: The Texas Department of Motor Vehicles is customer-focused and performance driven. We are dedicated to providing services in an efficient, effective and progressive manner as good stewards of state resources. With feedback from our customers, stakeholders and employees, we work to continuously improve our operations, increase customer satisfaction and provide a consumer friendly atmosphere.							
Values: We at the Texas Department of Motor Vehicles are committed to: TEXAS-Transparency, Efficiency, EXcellence, Accountability, and Stakeholders.							