

Board Meeting Agenda Book



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

December 7, 2017

Full Board Meeting, 8:00 a. m.

**AGENDA
BOARD MEETING
TEXAS DEPARTMENT OF MOTOR VEHICLES
4000 JACKSON AVE., BUILDING 1, LONE STAR ROOM
AUSTIN, TEXAS 78731
THURSDAY, DECEMBER 7, 2017
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. Chair's Reports** - Chairman Raymond Palacios

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3. Executive Director's Reports - Whitney Brewster

- A. Awards, Recognition of Years of Service, and Announcements
- B. Sunset Review Status Update
- C. Hurricane Relief Response
- D. Introduction of Interim Chief Information Officer

BRIEFINGS AND ACTION ITEMS

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4. Finance and Audit

[Internal Audit Update](#) - Sandra Menjivar-Suddeath (BRIEFING ONLY)

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5. Legislative and Public Affairs - Caroline Love (BRIEFING ONLY)

[85th Legislative Implementation](#)

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6. Projects and Operations - Judy Sandberg (BRIEFING ONLY)

[Enterprise Projects Update](#)

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7. Consideration of issues related to the titling and registration of vehicles manufactured, assembled, or altered by persons other than licensed manufacturers or converters (street rods, custom vehicles, and dune buggies)
- Jeremiah Kuntz (BRIEFING ONLY)

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61**CONTESTED CASE**

8. **Licensure Application Denial and Appeal to SOAH under Occupations Code, §§2301.002(17), 2301.251(a), and 2301.651(a)(2); Transportation Code, §§503.21, 503.034(a)(1), 503.064(a)(1); and 43 Texas Administrative Code §§215.141(a)(1), (b)(17), 215.141(a)(19), and 215.89(b)(7) - (8)** - Daniel Avitia and Heather Pierce
MVD Docket No. 17-0175723 ENF; SOAH Docket No. 608-17-4725.ENF
Texas Department of Motor Vehicles v. Rickey A. Lyons d/b/a The Race House

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RULE - ADOPTION**Title 43, Texas Administrative Code**

9. **Chapter 219, Oversize and Overweight Vehicles and Loads** - Jimmy Archer
[New, §§219.34, 219.35, and 219.36](#)
(Relating to HB 2319, North Texas Intermodal Permit; SB 1383, Fluid Milk Transport Permit; and SB 1524, Intermodal Shipping Container Port Permit)
(Proposal Published October 20, 2017 - 42 Tex. Reg. 5847)

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RULES - PROPOSAL**Title 43, Texas Administrative Code**

10. **Chapter 215, Motor Vehicle Distribution** - Jeremiah Kuntz
Amendments, §215.144

Chapter 217, Vehicle Titles and Registration

Amendments, §§217.71-217.73; and New, §217.74

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

Amendments, §221.72

[\(Relating to document retention requirements for users of webDealer, including webSalvage\)](#)

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11. **Chapter 217, Vehicle Titles and Registration** - Jeremiah Kuntz

- [Amendments, §217.2](#)

(Relating to clarification of definitions of All-Terrain Vehicle (ATV) and Recreational Off-highway Vehicle (ROV))

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- [Amendments, §217.41](#)

(Relating to HB 1790 on application for new disabled placard following seizure of placard)

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- [Amendments, §217.123 and §217.124](#)

(Relating to charges for motor vehicle records; waiving fees for governmental entities)

EXECUTIVE SESSION

12. 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.

- **Section 551.089** - Security devices or security audits:
 - the deployment, or specific occasions for implementation, of security personnel or devices; or
 - a security audit.

13. Action Items from Executive Session

14. Public Comment

15 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.

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 Stacy Steenken by telephone at (512) 302-2380.

Board of the Texas Department of Motor Vehicles
Agenda: December 7, 2017

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

CERTIFYING OFFICIAL: David D. Duncan, General Counsel, (512) 465-5665.



DATE: December 7, 2017

Action Requested: Briefing

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Whitney Brewster, Executive Director
Agenda Item: 3. A.
Subject: Executive Director's Reports – 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

Beginning November 3, 2016, the Executive Director will announce the name of individuals who retired from the agency and will recognize employees who have reached a state service milestone of 20 years and every five-year increment thereafter. Recognition at the December 7, 2017 Board meeting for retirements and state service awards include:

Mark Krupa in the Vehicle Titles & Registration Division reached 20 years of state service.
Melissa Altman in the Vehicle Titles & Registration Division reached 20 years of state service.
Christina Flores in the Vehicle Titles & Registration Division reached 20 years of state service.
Bryan Evans in the Motor Carrier Division reached 20 years of state service.
Sylvia Alvarado in the Motor Carrier Division reached 25 years of state service.
Cristina Elorriaga in the Vehicle Titles & Registration Division reached 25 years of state service.
Candy Southerland in the Vehicle Titles & Registration Division reached 25 years of state service.
Pat Barnes in Human Resources Division reached 30 years of state service.
Debbie Nelson in the Vehicle Titles & Registration Division reached 35 years of state service.

Finally, the following individuals recently retired from the agency:

Patricia Valdez - Vehicle Titles & Registration Division
Miguel Pabon - Vehicle Titles & Registration Division

Jonathan O'Quinn
Interim Director
Information Technology Services Division
Texas Department of Motor Vehicles

Jonathan O'Quinn currently serves as the Interim Chief Information Officer of the Texas Department of Motor Vehicles (TxDMV). In this role, he oversees the Information Technology Services Division (ITSD) consisting of 92 employees and additional contract staff, providing information technology services and support for all agency staff, as well as maintenance and support of the TxDMV's major systems and technologies serving our external customers.

Jonathan has over 20 years of IT experience, with three years in Texas state government at TxDMV. Prior to working in Texas, Jonathan served numerous roles in Alaska state government, including IT Director for the Alaska Division of Motor Vehicles. He also has more than ten years in the private sector providing county and state governments IT services for voter registration and election management. Roles have included software developer, database administrator, data architect, conversion program manager, project manager and various titles for IT Director.

Jonathan attended the West Virginia Institute of Technology where he majored in Electrical Engineering.



DATE: December 7, 2017

Action Requested: Briefing

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Sandra Menjivar-Suddeath, Internal Audit Director
Agenda Item: 4
Subject: Internal Audit Division Status

RECOMMENDATION

None.

PURPOSE AND EXECUTIVE SUMMARY

The status update provides information on current Internal Audit Division (IAD) activities. The December 2017 status update contains three parts: fiscal year (FY) 2018 Audit Plan Status, External Coordination Items, and Personnel.

FINANCIAL IMPACT

None.

BACKGROUND AND DISCUSSION

At each board meeting, the IAD provides a status on current activities done.

FY 2018 Audit Plan Status

The IAD is currently working on four internal engagements and will begin another audit shortly:

- TxDMV Fund tables and Process & Handling Fees Audit (Fieldwork)
- Open Records Audit (Reporting)
- Fraud, Waste, and Abuse Risk Assessment Advisory Service (Planning)
- Travel and Training Audit (Upcoming audit)
- FY 2018 Internal Audit Follow-Up (Fieldwork)

For the FY 2018 Internal Audit Follow-Up, the IAD is reporting on the implementation status of 25 internal audit recommendations. During the first quarter, the TxDMV implemented 17 (68%) internal audit recommendations and started eight (32%) internal audit recommendations. The TxDMV revised the implementation dates for the eight internal audit recommendations.

External Coordination Items

In November 2017, the Texas Comptroller of Public Accounts and the State Office of Risk Management audited the TxDMV.

Personnel

The Internal Audit Division hired two auditors.



Internal Audit Division Status Update

Status of Fiscal Year (FY) 2018 Internal Audit Plan

Project	Description	Status
TxDMV Fund tables and Process & Handling Fees Audit	An audit to determine if appropriate revenue is being deposited to the TxDMV Fund as well as whether correct amounts of revenue are being transferred to counties per agency rule.	<i>Fieldwork</i> Anticipated release date: January 2018
Open Records Audit	An audit to determine if open records request, also known as Public Information Requests (PIRs) are handled consistently and in accordance with state law. In addition, the audit is reviewing whether the PIRs cost are appropriate.	<i>Reporting</i> Anticipated release date: January 2018
Fraud, Waste, and Abuse Risk Assessment Advisory Service	An advisory service to identify and rank fraud, waste, and abuse risks for the department.	<i>Planning</i> Anticipated release date: August 2018
FY 2018 Internal Audit Follow-Up	This project verifies if outstanding audit recommendations have been fully implemented. Currently, the IAD reviewed internal recommendations that had a completion date or that a division submitted an implementation action between January 1 and November 30, 2017.	<i>Fieldwork</i> First Quarter memo attached. Anticipated release date: August 2018
Travel and Training Audit	An audit to determine if training and travel requests have appropriate approvals and justifications as well as determining if the requests are appropriate and meet the need of the TxDMV.	Audit Engagement letter to be sent during the second week of December.

External Coordination Items

1. The Texas Comptroller of Public Accounts (Comptroller) conducted a routine post-payment audit in November 2017. The audit objective was to ensure that the Department’s payroll, purchase, procurement and travel expenditures comply with state laws and regulations. The Comptroller will provide a report shortly to the department on all identified issues.
2. The State Office of Risk Management (SORM) conducted a Risk Management Program Review of TxDMV in November 2017. The SORM verified all previous recommendations had been addressed and will provide the final report shortly.

Personnel

1. Frances Barker started on November 6, 2017 as an Auditor III.
2. Jacob Geray started on November 6, 2017 as an Auditor II.



Texas Department of Motor Vehicles

Memorandum

Date: 11/30/2017
 To: Texas Department of Motor Vehicles Board
 From: Sandra Menjivar-Suddeath, Internal Audit Director
 Subject: Fiscal year (FY) 2018 Internal Audit Follow – Up: First Quarter Results

Background

The Internal Audit Division (IAD) continuously conducts follow-up activities to determine if appropriate action has been taken to address previously issued internal audit recommendations (recommendations). On a quarterly basis, the IAD reports to the TxDMV Board whether appropriate action was taken by assigning an implementation status to each recommendation reviewed during the designated period. The implementation status IAD can assign includes the following:

- **Fully Implemented:** The division fully implemented the audit recommendation by developing and using processes, systems, or policies. The changes are operating as intended.
- **Started:** The division began developing and using processes, systems, or policies to implement a recommendation but not all elements were complete. The division revised the completion date.
- **Pending:** The division has not begun developing processes or using processes, systems, or policies to implement a recommendation. The division revised the completion date.
- **Not Implemented/ Management Accepts the Risk:** The division and department no longer attends to take steps to develop a process, system, or policy to address a recommendation.
- **Not Applicable¹:** The recommendation is no longer relevant.

The IAD determines whether appropriate action was taken and assigns an implementation status to the recommendations when the completion date is due or when the division submits an implementation action.

First Quarter Results

For the first quarter of FY 2018, the IAD reviewed 25 audit recommendations, from seven internal audit reports, that had an estimated completion date or had been completed between January 1, 2017 and November 30, 2017. The IAD verified that the department fully implemented 17 recommendations (68%) and started eight recommendations (32%).

Implementation status	Count	Percentage
Fully Implemented	17	68%
Started	8	32%
Total	25	100%

For the eight recommendations that were started but not completed by the estimated date, management provided an updated completion date. The table below summarizes the recommendations, including priority level, and the updated completion date for each report.

¹ Some recommendations are no longer applicable due to the age of the recommendation and organizational changes.



Texas Department of Motor Vehicles

Memorandum

Report Number and Name	Summary of Started Recommendation(s)	Original Completion Date	Updated Completion Date
P14-14 A Follow-Up Audit on the Implementation of Recommendations	The Human Resource Division updated the estimated completion date for one recommendation related to developing a succession plan and talent management program. The recommendation has a priority of low.	08/31/2017	03/01/2018
15-2 Internal Controls over the State of Texas Titling Processes	The Vehicle Titles & Registration Division updated the estimated completion date for one recommendation related to creating a process to monitor titling performance and transactions. The recommendation has a priority of high.	09/01/2017	08/31/2019
15-5 A Confidential Follow-Up Audit Report on the Information Security Standards Gap	The Information Technology Services Division updated the estimated completion date for one recommendation related to gaps identified in a Texas Administrative Code (TAC) 202 assessment. The recommendation has a priority of high.	08/31/2017	12/17/2017
16-3 An Audit on the Efficiency of the Texas International Registration Plan Compliance Audit Process	The Motor Carrier Division updated the estimated completion date for one recommendation related to establishing a two-tier audit review method. The recommendation has a priority of high.	01/01/2017	03/01/2018
16-04 Confidential Audit of Texas Department of Motor Vehicles' Internal Controls Related to the Driver's Privacy Protection Act	The TxDMV updated the estimated completion date for three recommendations related to transferring contract reviews and billing responsibilities and updating monitoring controls. These recommendations have a priority of low.	12/31/2017 12/31/2017 12/31/2017	12/01/2017 02/28/2018 07/31/2018
17-07 Payment Card Industry (PCI) Compliance with Credit Card Information Storage	The Information Technology Services Division updated the estimated completion date for one recommendation.	09/30/2017	02/09/2018

CC: Whitney Brewster, Executive Director
 Shelly Mellott, Deputy Executive Director

**Texas Department of Motor Vehicles**

HELPING TEXANS GO. HELPING TEXAS GROW.

DATE: December 7, 2017

Action Requested: Briefing

To: Texas Department of Motor Vehicles (TxDMV) Board

From: Caroline Love, Director of the Government and Strategic Communications Division

Agenda Item: 5
Subject: [85th Legislative Implementation](#)

RPOSE AND EXECUTIVE SUMMARY

This briefing is part of a continued effort to provide the board with update on TxDMV implementation activities as they relate to legislation passed by the 85th Legislature, Regular Session.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

The briefing includes the status of implementation efforts. Key dates related to the legislative session and effective dates for bills enacted will be included. The Government and Strategic Communications Division will be providing regular updates throughout the 2018-2019 biennium on the status of implementation efforts.



Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

85th Legislative Implementation

Agenda Item 5

December 7, 2017

85th Legislative Session Update

The 85th Texas State Legislative Session began on January 10, 2017 which started the 140 day process for elected officials to consider changes to state statutes. The legislature adjourned Sine Die on May 29, 2017 and the Governor's opportunity to sign legislation, allow legislation to become law without signature, or veto legislation ended on June 18, 2017.

As outlined in previous meetings, the Texas Department of Motor Vehicles (TxDMV) Board is charged with considering opportunities to improve the operations of the department and recommending statutory changes to the Texas Legislature under Texas Transportation Code, Section 1001.025. TxDMV's Government and Strategic Communications Division worked with all the department's divisions and offices to identify statutory changes the board could recommend. Those changes were also evaluated by stakeholders.

The TxDMV Board adopted a set of legislative recommendations in November 2016. These recommendations were then presented to the Office of the Governor, Lt. Governor, and Speaker of the House; as well as the chairs of the Senate and House Transportation Committees for further consideration during the session. Several of those recommendations became law. This report includes an update on implementation efforts of those measures as well as efforts related to other newly passed laws with an impact on department operations and activities.

A. Implementation of TxDMV Board Recommendations to the 85th Legislature

Previous updates have been provided regarding the passage of Board recommended legislation and implementation status. This item focuses on the status of continued implementation efforts including proposed amendments to, and the adoption of new, Administrative Rules.

I. **Registration Code Changes: SB 2075 by Rodriguez (House Sponsor: Pickett)**

- **Summary:** SB 2075 contains several clean up items, as well as further defining when a county tax assessor-collector office's transactions may be performed by a different county allowing for continuity of services for customers. This legislation allows for printed receipts from online vehicle registration renewal transactions to serve as proof of registration for 31 days (to allow the actual sticker time to be received through the mail). There are also changes resulting from an internal audit recommendation associated with the time frames of county remittance of registration fees to the state to align statute with current process.
- **Implementation:** At the December 7, 2017 TxDMV Board meeting, rules will be considered for proposal amending Texas Administrative Code, Chapter 217.56 related to the Unified Carrier Registration (UCR) requirements outlined in SB 2075. The proposed rules will require a registrant to register under UCR before it can register vehicles under the International Registration Plan (IRP). The TxDMV Board proposed amendments to Chapter 217.54 of the Texas Administrative Code enabling the registration of fleet vehicles at their October 19 meeting. Public comment for these rules remain open through December 11, and it is anticipated the rules will be considered for adoption in early 2018.

II. **Motor Carrier Registration & Enforcement Changes: HB 3254 by Phillips (Senate Sponsor: Nichols)**

- **Summary:** The legislation includes many of the recommendations from the 84th Legislative Session to promote greater efficiency and safety for the motoring public in TxDMV operations as it relates to the regulation of the motor carrier industry. The language gives TxDMV new tools to address the issue of chameleon carriers (i.e., a carrier who changes names or operates under various aliases to continue operations without remedying previous penalties or sanctions, often related to safety), with provisions related to re-application and renewals of registration for motor carriers; a requirement for household goods movers to file all tariffs (i.e., what the mover charges a consumer) with the TxDMV rather than just the current requirement of only tariffs for moves between municipalities; and other clarifications.

- **Implementation:** Efforts to implement HB 3254 remain underway within the department.

III. Title Act Changes: SB 2076 by Sen. Rodriguez (House Sponsor: Pickett)

- **Summary:** The legislation changes statute to allow the most recently issued “Certified Copy of Original Title” (CCO) to supersede all preceding iterations of title and serve as the only valid proof of ownership, along with other various clarifications to statute. This also includes new recommendations changing state statute to properly reference and conform to the appropriate Code of Federal Regulations regarding odometer disclosure statement requirements, establishes a process to provide for Vehicle Identification Number (VIN) inspections, and further cleans up references to trailer dimensions and definitions of salvage vehicles. In addition, language was added requiring TxDMV to partner with the Texas Department of Public Safety (TxDPS) on a study of elements related to the titling, registration and inspection of vehicles with any recommendations due to the legislature by December 2018.
- **Implementation:** At the October 19 meeting of the TxDMV Board, rules were proposed in Chapter 217 of the Texas Administrative Code updating the changes to the titling process. The has adopted rules implementing the VIN inspection process through amendments to Chapter 217 of the Texas Administrative Code establishing an Identification Number Inspection. Department staff will be issuing a scope of work to institutes of higher education in the near term to address the study requirements of the bill and development of the required report which is due to the legislature December 31, 2018. Other implementation efforts remain ongoing.

IV. Lemon Law: HB 2070 by Smithee (Senate Sponsor: Watson)

- **Summary:** The legislation provides for statutory clarifications and simplifies how vehicles can qualify for Lemon Law status. The TxDMV Board considered the proposal to amend Chapter 215.210 of Texas Administrative Code at the October 19 meeting. HB 2070 and the proposed amendments to Administrative Code will help Texas statutes reflect practices adopted in other states.
- **Implementation:** Efforts to implement HB 2070 remain underway.

Seized Disabled Parking Placard Process: HB 1790 by Pickett (Senate Sponsor: Rodriguez)

- **Summary:** The bill clarifies TxDMV's role when disabled parking placards are seized by law enforcement and eliminates outdated practices.
- **Implementation:** While staff has implemented the efforts associated with this legislation, the TxDMV Board will consider the proposal of amendments to Chapter 217.41 of the Texas Administrative Code at the December 7, 2017 meeting to reflect current practices.

V. Notification to Demolish Vehicle Process Changes: HB 3131 by Martinez (Senate Sponsor: Rodriguez)

- **Summary:** This legislation removes a redundant requirement that the department must send notice to an applicant who has been identified as the owner of a vehicle. This legislation was based upon feedback from the industry and stakeholders.
- **Implementation:** Staff continues to work on implementation and offer guidance to counties related to this legislation.

VI. TxDMV Own/Control Real Property: SB 1349 by Watson/HB 3689 by Pickett

- **Summary:** The department continues to work closely with the Office of the Governor and the Texas Department of Transportation (TxDOT) to identify a solution for housing TxDMV headquarters operations. The legislation allows TxDMV to accept property from TxDOT, and for TxDMV to maintain, improve and have control over such property. The transfer from TxDOT applies only to the Camp Hubbard location in Austin, where TxDMV headquarters is currently housed.
- **Implementation:** This legislation is effective and TxDMV will continue to coordinate closely with TxDOT on its implementation.

B. Implementation of Other 85th Legislative Items

Several other pieces of legislation passed by the 85th Legislature will have an impact on TxDMV operations. These include, but are not limited to:

- **HB 561** by Murphy allows for limited use of small vehicles (e.g. Golf Carts, Neighborhood Electric Vehicles, etc.) by delivery and logistics companies to provide for more efficient package delivery services. This bill amends current law

relating to the operation of certain small vehicles used for package delivery and authorizes a \$25 license plate fee for such vehicles. The TxDMV Board adopted amendments to the Texas Administrative Code to implement this legislation at the October 19 meeting.

- **HB 1247** by Pickett outlines the notification requirements applicable to a vehicle storage facility in possession of an impounded vehicle registered in another state. This bill requires a vehicle storage facility operator to send the notice to an address obtained from the applicable governmental or private entity that has access to the relevant vehicle information and identifies the circumstances under which the operator may provide notice by publication. Guidance has been provided to counties on these new requirements and this legislation has been implemented.
- **SB 1062** by Perry allows for vehicle title transfer documentation to be processed either electronically or by paper. The legislation also references the appropriate federal regulations regarding odometer disclosure statements, which is also reflected in SB 2076 by Rodriguez. The effective date of this legislation is January 1, 2018 to allow for associated programming and implementation efforts.
- **HB 1959** by Thompson requires the department to conduct a study that identifies and assesses alternative procedures for commercial vehicle registration, licensing, and permitting. In addition it authorizes TxDMV to collaborate with another state agency or a research division of an institution of higher education in Texas to conduct the study. The study is due to the legislature by December 2021. If the study provides that a pilot program would be feasible, such a program could be conducted with the corresponding report due to the legislature by December 2022. TxDMV and TxDPS staff have met to discuss partnering on this study, and efforts are underway to begin the study process. The study requirements of this legislation are being combined with the study required in SB 2076, and a scope of work will be issued to institutes of higher education on this effort in early 2018.
- **HB 2663** by Pickett allows for counties to issue a replacement vehicle registration sticker or license plates without a fee if it is determined by the county that the item in question was not received by the customer via mail, either through an online or

mail-in renewal transaction. Guidance was provided to counties on this item and it has been implemented.

- **HB 4102** by Neave provides an opportunity for individuals to voluntarily contribute to a grant program at the time of vehicle registration to help fund the testing of evidence collected in relation to sexual assaults or other sex offenses and authorizes voluntary contributions by TxDPS. Language was added allowing for the opportunity to voluntarily contribute to the Ending Homelessness Fund at the time of vehicle registration as well. Implementation efforts remain underway.
- **SB 1524** by Nichols allows for the shipment of overweight sealed shipping containers, not more than thirty miles from applicable ports of entry, which are moving as part of an international shipment. The \$6,000 permit fee is distributed to the State Highway Fund and local entities to compensate for road damage, including 4% (\$240) of every permit being deposited to the TxDMV Fund to cover the costs of issuing the permit. Implementation efforts are underway as the department coordinates with the Texas Department of Transportation (TxDOT) on routing requirements. The TxDMV Board will consider adoption of rules regarding this permit at the December 7, 2017 meeting.
- **SB 1001** by Larry Taylor exempts trailers up to 7,500 pounds gross vehicle weight rating from state safety inspection requirements. This is an increase from the previous 4,500 pounds gross vehicle weight rating exemption and will require programming updates. Trailers qualifying for this exemption must still pay the state's portion of any fees associated with the state safety inspection and those fees are collected at the time of registration while verifying a passing state inspection will no longer be required. Implementation efforts remain underway.
- **SB 1383** by Perry creates a permit authorizing the movement of fluid milk by a truck-tractor and semitrailer combination that, in addition to other criteria, is not heavier than 90,000 pounds. The TxDMV Board will consider adoption of rules regarding this permit at the December 7, 2017 meeting.
- **HB 2319** by Paddie creates a permit specific to Bowie County in northeast Texas allowing for the movement of intermodal shipping containers on specific roadways. Implementation efforts remain underway, and the department continues to

coordinate with the TxDOT on the route for these loads. The TxDMV Board will consider adoption of rules regarding this permit at the December 7, 2017 meeting.

- **HB 3215** by Goldman allows a business that owns any number of vehicles to be auctioned off by a licensed auctioneer without that business being considered to be engaging in business as a vehicle dealer.
- **SB 1952** by Hughes allows licensed out-of-state vehicle dealers to buy, sell, or exchange at public auctions antique and special vehicles without having to be licensed in Texas.
- **SB 1052** by Hughes was amended late in the session to include HB 3163 by Button which changes the definition of “vehicle lessor” so that titling the vehicle in the lessor’s name is not required. This change makes the distinction between a “vehicle lessor” and a “vehicle lease facilitator” almost non-existent and the practical effects of the change are likely to be insignificant.
- **HB 91** by White requires all state agencies that review criminal history as part of the eligibility requirements for an occupational license to study those requirements and report to legislature by December 1, 2018 on any recommendations the agency has to keep, modify, or repeal the requirement. The department must perform this review and report on the licenses it issues to dealers under Occupations Code 2301 & 2302 and under Transportation Code 503. Lastly, though not related exclusively to dealers, any state agency that pursues a regulatory action against an entity, such as an administrative sanction or license revocation, is now liable for damages, attorney’s fees, and costs if a court determines that the agency action was frivolous.
- **SB 869** by Huffman creates a new process for vehicle owners to designate a beneficiary to receive legal title to a vehicle upon the owner’s death. The department is working with stakeholders who pushed for this change to design the process in such a way as to make implementation and understanding of this new process as easy as possible for both county tax assessor-collector staff and the public. Implementation efforts remain underway.

- **SB 1501** by Zaffirini made several changes to the law regarding how vehicle storage facilities notify vehicle owners and lienholders before the facility can foreclose on a storage lien.
- **HB 1793** by Pickett exempts commercial motor vehicles registered in Texas and under IRP that have a valid safety inspection in compliance with federal standards and are not domiciled in the state from state safety inspection requirements. Vehicles qualifying for this exemption must still pay any state fees associated with the state inspection and those fees are collected at the time of registration while verifying a state inspection at the time of registration will no longer be required.
- **HB 897** by Ashby as filed expanded an existing sales tax exemption for religious motor vehicles to cover trailers used for religious purposes. The bill was amended late in the session to apply the same exemption to vehicles owned by open enrollment charter schools. Exempt registration was also granted to vehicles owned by open enrollment charter schools.

C. Specialty and Military License Plates

In addition, eleven pieces of legislation passed by the 85th Legislature created forty-four new specialty license plates. Of these, seven bills relate to special military plates creating forty such new plates or additional options for existing plates. The remaining four are the new “Back the Blue”, Star of Texas Award recipient, Blessed are the Peacemakers, and justices of the peace specialty license plates. The majority of these plates were available by September 1, 2017, and the remaining plates were made available in November.

The Government and Strategic Communications Division will continue to provide regular updates on legislative implementation efforts.



DATE: December 7, 2017

Action Requested: Briefing

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Judy Sandberg, Enterprise Project Management Office Director
Agenda Item: 6
Subject: Enterprise Projects Update

RECOMMENDATION

This is a briefing only and no decisions or actions are requested.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of this briefing is to provide an update on enterprise projects. The report includes:

- A Portfolio Dashboard
- A list of FY18/19 Projects
- A list of Closed Projects.

FINANCIAL IMPACT

All open and closed projects are within budget.

BACKGROUND AND DISCUSSION

In addition to Refactored RTS and webDealer, the FY18/19 Projects Portfolio includes new projects which were listed as initiatives in TxDMV's Legislative Appropriations Request (LAR).

Priority Group 1 Projects

1. RTS – project end date is 12/31/2018. Next release is schedule for 12/17/2017. Go/No Go Vote is set for 12/12/17.
2. webDealer – project end date is 4/30/2018. Next release, eTags/Centralized Pay, is scheduled for 12/17/2017. Go/No Go Vote is set for 12/12/17.
3. webLien – project end date is 8/31/2019. First monitoring report is due to Texas Quality Assurance Team (QAT) by 12/31/2018.

Priority Group 2 Projects (Next Review Gate: 12/18/17, set date for projects to proceed to requirements gathering phase.)

4. Call Center Upgrade
5. Kiosk Pilot
6. E-Renewals
7. Fraud Data Dashboard

Priority Group 3 Projects (Next Review Gate: 12/18/17, set date for projects to proceed to requirements gathering phase.)

8. Enterprise Reporting
9. External Web Site Renovation
10. Mobile App.

TxDMV Board Meeting Enterprise Projects Update

December 7, 2017

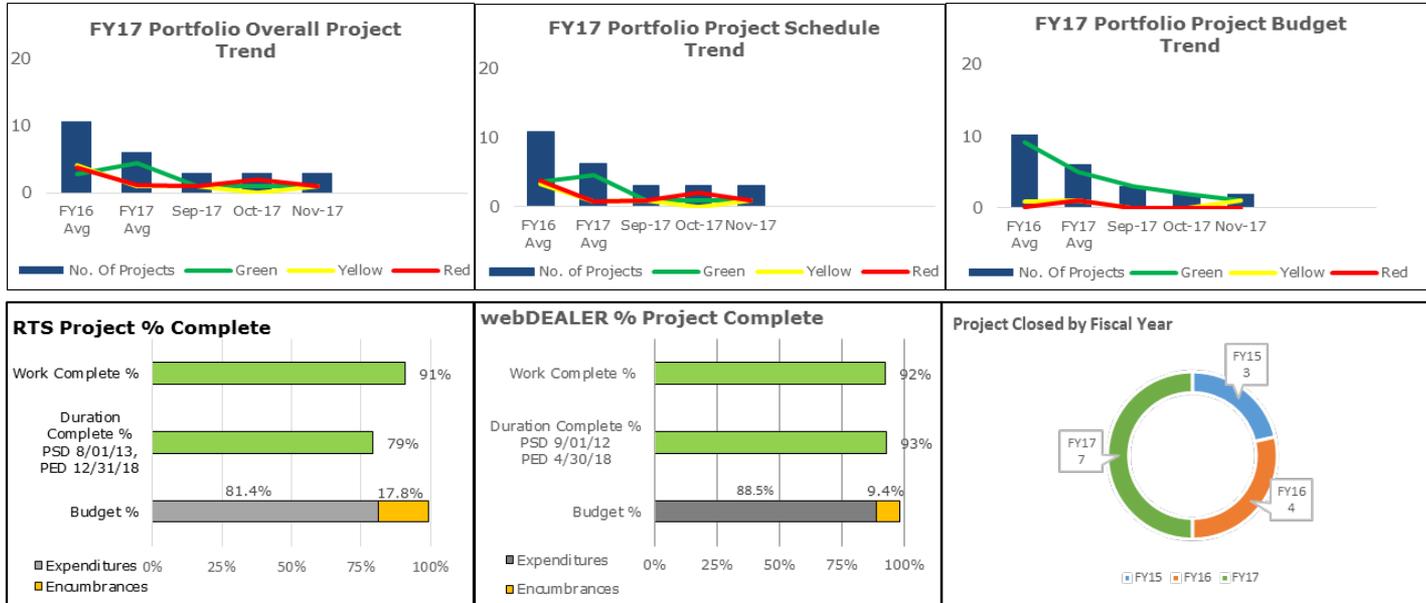


Texas Department *of* Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.



TxDOT Portfolio Dashboard





TxDOT FY18/19 Projects Portfolio

Project Name	External Cost	Purpose	Benefit to Public	Benefit to Agency
Priority Group 1				
RTS Refactoring Whitney Brewster, Executive Sponsor	\$900K	Refreshes RTS technology by modernizing the core RTS system and providing business intelligence reporting capabilities.	Improved data quality. Improved customer service through system improvements.	System modernization improves Agency's agility for implementing system improvements required by changes in statute, rules, and/or policy and by continuous quality improvement in Agency processes.
webDealer eTags CP eTitles Jeremiah Kuntz, Executive Sponsor	\$263K	Allows a vehicle title to be created, stored and transferred in electronic form, improving the accuracy of the titling process.	Reduce costs and time required for titling and registration services from motor vehicle sales.	Improve tracking and management of registration and titling from motor vehicle sales. Reduce operating costs.
webLIEN Jeremiah Kuntz, Executive Sponsor	\$2.5M	Provide lien holders with a self-service web-enabled alternative to the existing Electronic Lien and Title (ELT) application for the addition or removal of liens by adding a new application to the webDealer suite called webLien.	Indirect benefit from dealer to dealer lien changes.	Improve tracking and management of registration and titling from motor vehicle sales. Reduce operating costs.A3:E6



TxDMV FY18/19 Portfolio

Project Name	External Cost	Purpose	Benefit to Public	Benefit to Agency
Priority Group 2				
Kiosk Pilot Eric Obermier, Executive Sponsor	\$500K	Pilot a few self-service kiosks at remote locations that will provide TxDMV customers an option to purchase and to print vehicle registration renewal stickers.	Improve customer service delivery. Reduce customer wait times.	Increase efficiency/effectiveness of motor vehicle registration process.
Fraud Data Dashboard David Duncan, Executive Sponsor	\$500K	Mine existing RTS data to produce enhanced reports that will help identify trends which may indicate Fraud and/or the need for further investigation.	Build public trust and improve the quality of customer service.	Use automation to help identify trends for possible investigation. Increase efficiency and effectiveness by using automation to help identify trends for potential fraud.
Call Center Upgrade Ginny Booton, Executive Sponsor	\$900K	Upgrade existing telephony system to enhance customer service and provide quality monitoring and workforce management services.	Improve customer service delivery.	Increase call center efficiency and effectiveness.
e-Renewals	\$500K	Provide TxDMV Customers the option to receive renewal notices electronically.	Improve customer experience and convenience.	Reduce printing/mailling costs. Increase efficiency/effectiveness of motor vehicle registration process.



TxDOT FY18/19 Portfolio

Project Name	External Cost	Purpose	Benefit to Public	Benefit to Agency
Priority Group 3				
Enterprise Reporting Linda Flores, Executive Sponsor	\$500K	Develop a data roadmap (strategy) and a technology framework to improve the ability to mine, store and report on existing data and information.	Increase information that is published and readily available to the public.	Increase Agency efficiency and reports quality by using automation to mine data across multiple sources and reduce or eliminate manual data collection.
External WebSite Renovation Caroline Love, Executive Sponsor	\$500K	Improve the public website's appearance, functionality, and usability.	Provide a personal and engaging customer experience.	Increase efficiency/effectiveness of information delivery.
Mobil App - MCD Jimmy Archer, Executive Sponsor	\$300K	Develop a mobile app for the Texas International Registration Program (TxIRP) for Multi-Year Fleet Registration, Token Trailer and recently proposed TxIRP registration enhancement programs.	Improve safety notification and monitoring. Continuously improve customer usability of public web site.	Gradual elimination of paper filing of various registration transactions. Improve customer service through continuous process improvement.

Closed Projects

- ❑ AMSIT
- ❑ County Equipment Refresh
- ❑ eLICENSING
- ❑ Physical Security Project
- ❑ P&H
- ❑ Single Sticker I & II
- ❑ RTS Name Parsing
- ❑ CAPPs Finance and HR
- ❑ Consolidated Call Center
- ❑ Regional Offices Telecommunications
- ❑ FileNet
- ❑ Temp Permit
- ❑ Active Directory



DATE: December 7, 2017

Action Requested: DISCUSSION ITEM ONLY

To: Texas Department of Motor Vehicles (TxDMV) Board

From: Jeremiah Kuntz, Director – Vehicle Titles and Registration and David Duncan, General Counsel

Agenda Item: 7

Subject: Consideration of issues related to the titling and registration of vehicles manufactured, assembled, or altered by persons other than licensed manufacturers or converters (street rods, custom vehicles, and dune buggies)

Summary and History of Regulation of Assembled Vehicles

Texas statutes do not directly address the titling and registration of dune buggies, only “custom vehicles” and “street rods.” The relevant statutes are Trans. Code §501.038, which deals with the titling of custom vehicles and street rods, and the definitions of those terms in Trans. Code §504.501(f). That statute defines “custom vehicle” as one that is at least 25 years old and of a model year after 1948 or that is manufactured to resemble a vehicle that meets those criteria, and that has been altered from the manufacturer’s original design or which has a body constructed from materials not originally on the vehicle. “Street rod” is similarly defined, only it must be a vehicle manufactured before 1949, or a later-manufactured vehicle designed to look like a pre-1949 vehicle.

The current rule on dune buggies is found at 43 Texas Administrative Code Sect. 217.3, where the term is included as a type of vehicle that is not eligible for title. The rule reads as follows: “(6) Not Eligible for Title. The following are not eligible for a Texas title regardless of the vehicle’s previous title and/or registration in this or any other jurisdiction: (B) vehicles designed or determined by the department to be a dune buggy. . .” This rule was adopted by the TxDMV Board to be effective on March 9, 2016. No comments were received on the rule during the public comment period.

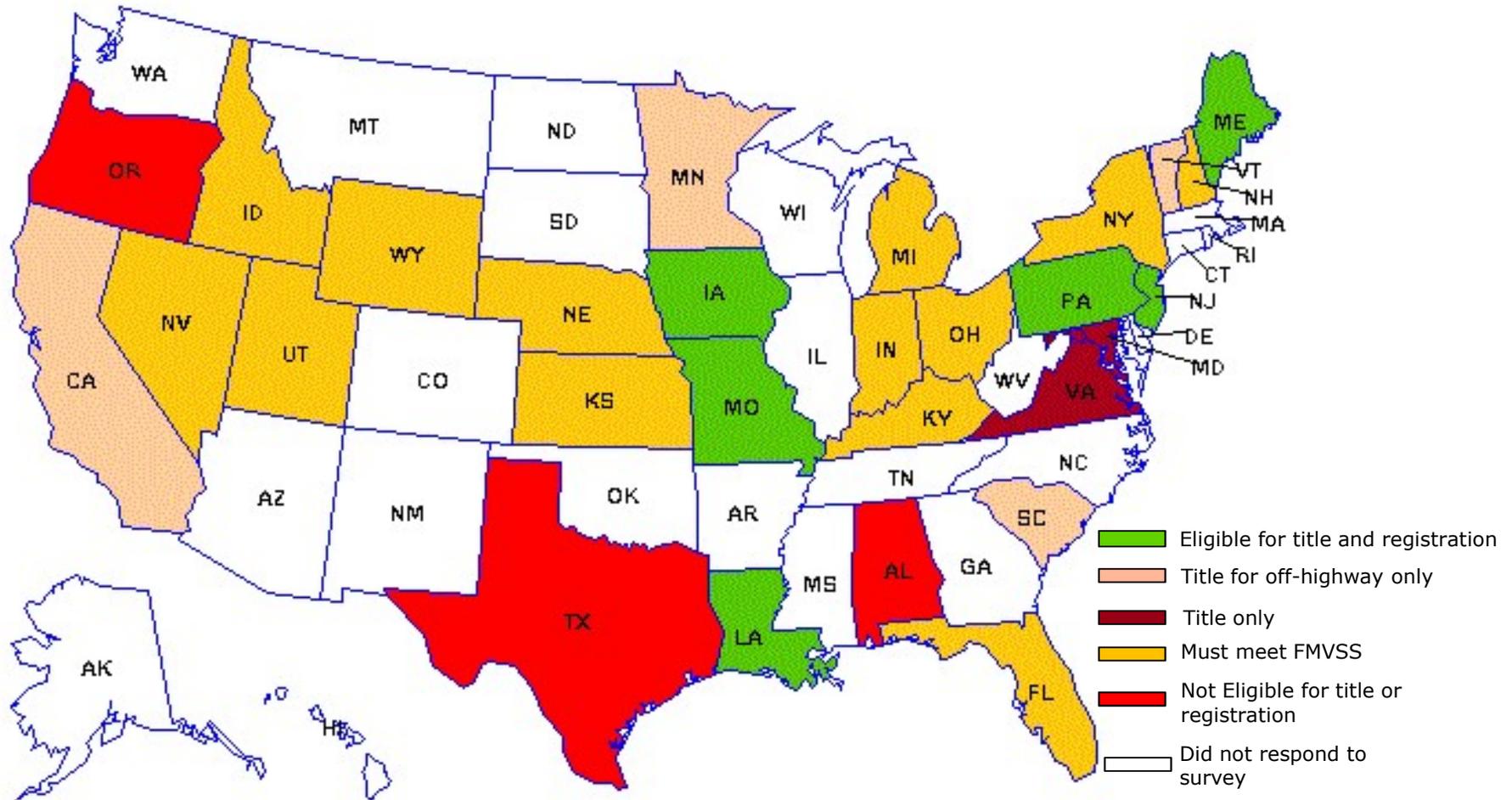
Prior to the adoption of these changes to rule 217.3, the rule dealt with the titling of dune buggies by identifying dune buggies as a type of assembled vehicle that would not be eligible for title. This rule was adopted to be effective April 6, 2014. The section of the rule that prohibited the titling of dune buggies did not receive any comments during the public comment period.

Prior to the 2014 rule, dune buggies were not specifically addressed in department rules. There was a provision in rule 217.3 that noted that the department would not title a vehicle, with the exception of a trailer as defined in Transportation Code §501.002, that does not have a body, motor, and frame manufactured by a motor vehicle manufacturer. Under this rule, the department titled and registered dune buggies that met all legal requirements.

The department has received approximately 180 petitions for rulemaking, the first of which was received by the department on September 12, 2017 from State Representative Ed Thompson. The remaining petitions were generated through an association of dune buggy enthusiasts, and request that the department amend its rules to allow for registration and titling of dune buggies.

The department surveyed the regulatory approaches of other states, and found that there is a wide variety of approaches to the titling and registration of dune buggies. A summary of other states’ approaches to dune buggy titling and registration is attached, shown as a map of the states surveyed. The staff has also reviewed regulations and guidance of the federal National Highway Traffic Safety Administration (NHTSA) as they relate to safety standards for vehicle manufacturing. A copy of their guidance document for manufacturers is also attached, along with an interpretation letter regarding dune buggies and the application of manufacturer safety standards.

State Survey on Title and Registration of Dune Buggies



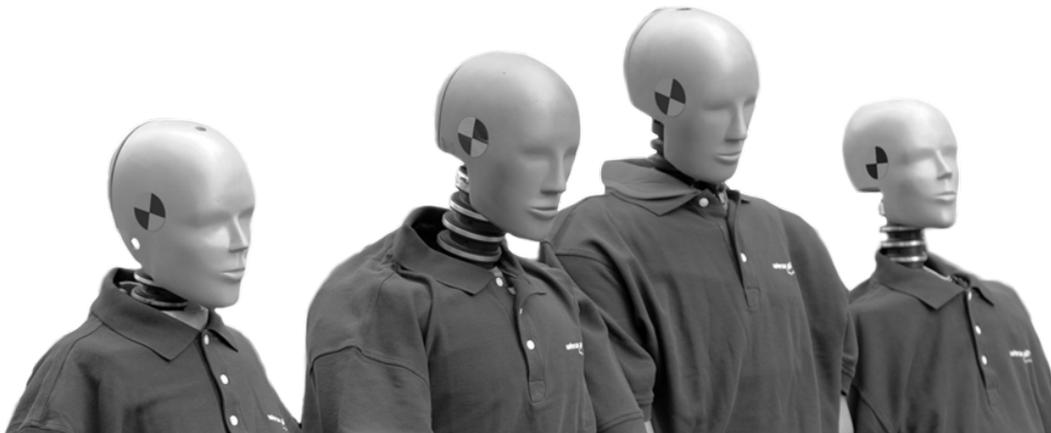
National Highway Traffic Safety Administration

Safer cars. Safer Drivers. Safer roads.



NEW MANUFACTURERS HANDBOOK

Requirements for Manufacturers of Motor Vehicles and Motor Vehicle Equipment



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Requirements for Manufacturers of Motor Vehicles and Motor Vehicle Equipment Items

Disclaimer – This document is a simplified description of the requirements for manufacturers of motor vehicles and motor vehicle equipment and does not supersede any requirements contained in the statutes and regulations administered by The National Highway Traffic Safety Administration. Please refer to the statutes and regulations cited herein for a more detailed description of such requirements.

Chapter 1. Background

Federal Statutes and Regulations

The National Highway Traffic Safety Administration (NHTSA) is the U.S. government agency responsible for implementing and enforcing the National Traffic and Motor Vehicle Safety Act of 1966, as amended, 49 U.S.C. Chapter 301 (the Vehicle Safety Act), and certain other laws relating to motor vehicle safety. Under that authority, NHTSA issues and enforces Federal motor vehicle safety standards (FMVSS) that apply to motor vehicles and to certain items of motor vehicle equipment. Implementing regulations are found in Title 49 of the Code of Federal Regulations (CFR), Parts 500-599.¹ Most CFR citations in this document are to specific sections of the regulations. For example, FMVSS No. 101 *Controls and Displays* can be found at 49 CFR 571.101.

How and Why Were the Federal Motor Vehicle Safety Standards Developed?

The Vehicle Safety Act was enacted to reduce traffic crashes and deaths and injuries resulting from traffic crashes. Under that authority, NHTSA issues and enforces FMVSS that apply to motor vehicles and certain items of motor vehicle equipment. The Vehicle Safety Act requires that each FMVSS be practicable, meet the need for motor vehicle safety, and be stated in objective terms.² On February 3, 1967, NHTSA published a final rule establishing the first FMVSS.³

Motor Vehicle and Motor Vehicle Equipment Certification

The Vehicle Safety Act requires that motor vehicles and regulated items of motor vehicle equipment manufactured for sale in the United States be certified to comply with all applicable FMVSS.⁴ Type approval is not required for motor vehicles and motor vehicle equipment sold in the United States. NHTSA does not issue type approval certifications and does not certify any motor vehicles or motor vehicle equipment as complying with applicable FMVSS. Instead, in accordance with 49 U.S.C. 30115, a “self-certification” process is in place, which requires the manufacturer to certify the vehicle or equipment item as complying with the applicable FMVSS. The Vehicle Safety Act requires the exercise of “reasonable care” in issuing a certification of compliance with safety standards.⁵

¹ The CFR may be browsed or searched at the link http://www.ecfr.gov/cgi-bin/text-idx?SID=48fa9e537b77babef583a42e23e4555c5&mc=true&tpl=/ecfrbrowse/Title49/4_9tab_02.tpl

² See 49 U.S.C. 30111

³ See 32 FR 2408

⁴ See 49 U.S.C. 30115

⁵ *Ibid.*

Penalties for Violations of the Vehicle Safety Act and Implementing Regulations

Manufacturers may be subject to substantial civil penalties for failure to meet the requirements of the statutes and regulations that NHTSA administers.⁶ Currently, those penalties can be as high as \$21,000 for each violation with a maximum civil penalty of \$105,000,000 for a related series of violations.⁷ For example, the failure of a manufacturer to furnish notification of a noncompliance or defect to owners or to NHTSA may subject the fabricating manufacturer to substantial civil penalties.

Chapter 2. What does NHTSA Regulate?

Motor Vehicles

Motor vehicles are defined by statute as vehicles that are driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, or highways.⁸ In regulating the manufacture of motor vehicles, NHTSA has established the type classifications identified and defined in Table 1.⁹

Table 1 – Motor Vehicle Type Classifications

Classification	Definition
Passenger car	A motor vehicle with motive power, except a low-speed vehicle, multipurpose passenger vehicle, motorcycle, or trailer, designed for carrying 10 persons or less.
Multipurpose passenger vehicle	A motor vehicle with motive power, except a low-speed vehicle or trailer, designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.
Truck	A motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment.
Bus	A motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons.
Motorcycle	A motor vehicle with motive power having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.
Trailer	A motor vehicle with or without motive power, designed for carrying persons or property and for being drawn by another motor vehicle.
Low-speed vehicle	A motor vehicle, that is 4-wheeled, whose speed attainable in 1 mile (1.6 km) is more than 20 miles per hour (32 kilometers per hour) and not more than 25 miles per hour (40 kilometers per hour) on a paved level surface, and whose GVWR is less than 3,000 pounds (1,361 kilograms).
Pole Trailer	A motor vehicle without motive power designed to be drawn by another motor vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members capable generally of sustaining themselves

All motor vehicles must be classified in the manner set forth in Table 1. For example, school buses are classified as buses, motor driven cycles are classified as motorcycles, and motor homes are classified as multipurpose passenger vehicles. Vehicles such as race cars, dirt bikes, or all-terrain vehicles that are not primarily manufactured for on-road use do not qualify as motor vehicles and are therefore not regulated by NHTSA. Instead, such vehicles may be regulated by the Consumer Product Safety Commission (CPSC).¹⁰

⁶ See 49 U.S.C. 30165

⁷ See 49 CFR Part 578

⁸ See 49 U.S.C. 30102

⁹ See 49 CFR § 571.3 Definitions

¹⁰ See www.cpsc.gov

Motor Vehicle Equipment

The Vehicle Safety Act defines motor vehicle equipment as:

- Any system, part, or component of a motor vehicle as originally manufactured;
- Any similar part or component manufactured or sold for replacement or improvement of a system, part, or component, or as an accessory or addition to a motor vehicle; or
- Any device or an article of apparel (except medicine or eyeglasses prescribed by a licensed practitioner) that is not a system, part, or component of a motor vehicle and is manufactured, sold, delivered, offered, or intended to be used only to safeguard motor vehicles and highway users against risk of accident, injury, or death.¹¹

The Vehicle Safety Act requires that regulated items of motor vehicle equipment manufactured for sale in the United States be certified to comply with all applicable FMVSS.¹² Motor vehicle equipment items that are not subject to the FMVSS do not require certification; however, such items may be found (by either NHTSA or the manufacturer) to have a safety-related defect, and if so, the manufacturer will have an obligation to furnish owners of the equipment with notification of, and a remedy for, the defect, usually at no charge to the consumer. Motor vehicle equipment items that are subject to the FMVSS are identified in Table 2.

Table 2 – Motor Vehicle Equipment Items Subject to the FMVSS

Motor Vehicle Equipment Description	See FMVSS Number(s)
Tires	109/110/117/119/120/129/139
Rims	110/120
Brake Hoses	106
Brake Fluid	116
Seat Belt Assemblies	209
Lamps, Reflective Devices, and Associated Equipment	108
Glazing (Automotive Glass and Plastics)	205
Motorcycle Helmets	218
Child Restraint Systems (Child Safety Seats)	213
Platform Lift Systems For The Mobility Impaired	404
Rear Impact Guards For Trailers	223
Triangular Reflective Warning Devices	125
Compressed Natural Gas Containers	304

¹¹ See 49 U.S.C. 30102(a)(7)

¹² See 49 U.S.C. 30115

Chapter 3. Procedural Requirements for Fabricating Manufacturers

Introduction

Before offering a motor vehicle or motor vehicle equipment item for sale in the United States, the fabricating manufacturer must: 1) designate a permanent resident of the United States as its agent for service of process if the fabricating manufacturer is not located in the United States (49 CFR Part 551, Subpart D *Service of Process on Foreign Manufacturers and Importers*) and 2) submit to NHTSA identifying information on itself and on the products it manufactures to the FMVSS, not later than 30 days after the manufacturing process begins (49 CFR Part 566 *Manufacturer Identification*).¹³ Forms Part 565 & Part 566, as well as Equipment and Tire forms must be submitted to the NHTSA Manufacturer Portal. Information about the Portal can be found in Appendix 7.

Part 551 - Designate a Permanent Resident of the United States as its Agent for Service of Process

All foreign manufacturers, assemblers, and importers of motor vehicles or motor vehicle equipment must comply with this regulation before offering a motor vehicle or item of motor vehicle equipment for importation into the United States. The purpose of this regulation is to ensure that NHTSA is able to serve the manufacturer's agent with administrative or judicial notice or process. A detailed explanation of this regulation may be found in 49 CFR Part 551, Subpart D.

To expedite NHTSA's processing of submissions received under Part 551, Subpart D, foreign manufacturers may submit designation information online at: <http://vpic.nhtsa.dot.gov/MfrPortal/>. After a manufacturer submits designation information online, NHTSA's database will email a confirmation of the form. **The manufacturer must print, sign and mail the designation form to NHTSA's at this address:**

U.S. Department of Transportation
NHTSA Correspondence Unit
1200 New Jersey Avenue, SE
Room W41-306
Washington, D.C. 20590

To comply with Part 551, Subpart D, the manufacturer must mail to NHTSA an original printout of the Adobe PDF with original ink signatures by both the manufacturer and agent. Submitting your designation information online, without mailing the original form with ink signatures to NHTSA, will not satisfy the requirements of Part 551, Subpart D.

See Appendix 1 for a Part 551 submission form.

Part 566 - Manufacturer Identification

Manufacturers of motor vehicles and of motor vehicle equipment to which a FMVSS applies (except tires), must submit to NHTSA identifying information and a description of the items they produce not later than 30 days after manufacturing begins.¹⁴ Not later than 30 days after any relevant business information changes, manufacturers must notify NHTSA to ensure that their records remain current, accurate, and complete.¹⁵

An individual business such as a corporation or limited liability company may want to operate multiple businesses without creating a new legal entity for each business. In the United States, these names are generally registered with the Office of the Secretary of State for the State in which the company is domiciled. Business laws may

¹³ NHTSA maintains on its web site a list of manufacturers that have made Part 566 submissions. See <http://vpic.nhtsa.dot.gov/mid/>

¹⁴ See 49 CFR Part 566

¹⁵ NHTSA obtains tire manufacturer identification information when the agency assigns a plant code to the tire manufacturer. See 49 CFR 574.5

be different from State to State and even more diverse from country to country; however, it is important for manufacturers to furnish NHTSA with all versions of its company's legal business name, including trade names, assumed names, fictitious business names, and brand or label names that are associated with the business. Unregistered manufacturers' names on vehicle certification labels, importation documents, or vehicle ownership documents may cause confusion or delays when processing vehicles at the ports or during titling and registration of the vehicles for on-road use. Several examples of business names are shown in Table 3.

Table 3 - Examples of Assumed / Fictitious Business Names

Acme Company, Inc.	Trading As or T/A	Smith Productions
Jones Manufacturing	Doing business as or DBA or d/b/a	Acme Company, Inc.
Smith and Sons	A Division of	Acme Company, Inc.
Jones Manufacturing	A Subsidiary of	Acme Company, Inc.
Brown Quality Motors, Ltd.	Operating as or o/a	BQM Associates
China ABC Group Co. Ltd.	Doing business as or DBA or d/b/a	Qinghai Wu Industries

See Appendix 6 for instructions on how to search NHTSA's Manufacturers' Information database and Appendix 7 for instructions on how to submit 566 submittals to NHTSA Manufacturer Portal at: <http://vpic.nhtsa.dot.gov/MfrPortal/>.

Part 566 information submitted by manufacturers is searchable on the Manufacturer's Information Database web site is: <http://vpic.nhtsa.dot.gov/mid/>.

Chapter 4. Vehicle Identification Numbers

Vehicle Identification Number or VIN

Under regulations administered by NHTSA, a vehicle identification number or VIN is "a series of Arabic numbers and Roman letters that is assigned to a motor vehicle for identification purposes."¹⁶ Among other things, NHTSA's regulations at 49 CFR Part 565 require a motor vehicle manufacturer to assign to each motor vehicle manufactured for sale in the United States a 17-character VIN that uniquely identifies the vehicle. The VIN must be correctly formatted and include a check digit in Position 9 that is mathematically correct under a formula that is included in the regulation. VINS are required to have 17 characters that do not include the letters I, O, or Q. Beginning with the 1980 model year, the VINs of any two vehicles manufactured within a 60-year period must not be identical. All spaces provided for in the VIN must be occupied by a character specified in Part 565 and the type face used for each VIN must be in capitals and use sans serif characters. This means that the characters will not have fine lines or "serifs" finishing off the main strokes of the letters. The VIN of each vehicle must appear clearly and indelibly upon either a part of the vehicle, other than the glazing, that is not designed to be removed except for repair or upon a separate plate or label that is permanently affixed to such a part.¹⁷

VIN Location on Vehicles

The VIN for passenger cars, multipurpose passenger vehicles, low-speed vehicles, and trucks of 10,000 lbs. or less gross vehicle weight rating (GVWR) must be located inside the passenger compartment and readable, without moving any part of the vehicle, through the vehicle glazing (windshield) from outside the vehicle adjacent

¹⁶ See 49 CFR 565.12(r)

¹⁷ See 49 CFR 565.13(e)

to the left windshield pillar.¹⁸ This is commonly called the “public VIN.” NHTSA regulations require that a motorcycle’s VIN need only appear on the label certifying compliance with all applicable FMVSS that the manufacturer must affix to a permanent member of the motorcycle as close as practicable to the intersection of the steering post with the handle bars in such a location that it can be easily readable without moving any part of the vehicle except for the steering mechanism.¹⁹ The VIN for a trailer must appear on the label certifying the vehicle’s compliance with all applicable FMVSS that the manufacturer must affix to a location on the forward half of the trailer’s left side, such that it is easily readable from outside the trailer without moving any part of the vehicle.²⁰

VIN Content

On April 30, 2008, NHTSA issued amended VIN regulations.²¹ These amendments were necessary to make certain that the VIN system would remain viable for the next 30 years. All motor vehicles that are manufactured on or after April 30, 2009 are subject to the amended regulation.

Chart 1 identifies how a VIN is formatted, the general contents of a VIN, and specifications for the characters to be used in certain positions of the VIN.

Chart 1 - General VIN Format

1 st Section			2 nd Section					3 rd	4 th Section								
Identifies Manufacturer and Type of Vehicle			Identifies Vehicle Attributes (Now includes Vehicle Make)					Check Digit	MY	Plant	Number sequentially assigned in Positions 12-17 if a High-Vol. Manu. or in Positions 15-17 if a Low-Vol. Manu.						
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	
		"9" if low-vol. manu.									WMI if low-vol. manufacturer (<1,000 of a given type each year)						
							@@										
							if car, and MPV and truck ≤ 10,000 lbs.										
								###	###	###	###	###	if car, and MPV and truck ≤ 10,000 lbs.				
											###	###	###	###	For vehicle <u>not</u> a car, and MPV and truck ≤ 10,000 lbs.		
@@ means that VIN Characters are: A,B,C,D,E,F,G,H,I,J,K,L,M,N,P,R,S,T,U,V,W,X,Y, or Z ### means that VIN Characters are: 0,1,2,3,4,5,6,7,8, or 9																	

The VIN is comprised of four sections. Each section is described in detail below.

First Section of the VIN

The first section of a VIN consists of three characters. These first three characters of a VIN uniquely identify a motor vehicle manufacturer using the “World Manufacturer Identifier” or WMI code, if the manufacturer produces 1,000 or more vehicles of a given type each year (i.e., a “high-volume” manufacturer²²). A “low-volume” manufacturer that produces fewer than 1,000 vehicles of a given type each year uses the numeral “9” as the third character and Positions 12, 13, and 14 of the VIN for the remainder of the WMI. The placement of the WMI

¹⁸ See 49 CFR 565.13(f)

¹⁹ See 49 CFR 567.4(e)

²⁰ See 49 CFR 567.4(d)

²¹ See 73 Federal Register 23367, Published April 30, 2008

²² See 49 CFR 565.12(e)

within a 17-character VIN is identified in Chart 2.

Chart 2 - Placement of the World Manufacturer Identifier in the VIN

1 st Section				4 th Section							
Identifies Manufacturer and Type of Vehicle				MY	Plant	Identifies (among other things) the 2nd part of the WMI for low-volume manufacturers in Positions 12, 13, and 14					
1	2	3	4,5,6...	10	11	12	13	14	15	16	17
		"g" if low-vol. manu				WMI if low-vol. manufacturer (<1,000 of a given type each year)					

Obtaining a World Manufacturer Identifier

A manufacturer that intends to assemble motor vehicles in the United States must obtain a WMI from the SAE International (Previously known as the Society of Automotive Engineers). NHTSA has a contract with that organization to assign WMIs to manufacturers that assemble motor vehicles in the United States. Manufacturers must contact the SAE directly (and not NHTSA) to request the assignment of a WMI. They may do so by telephoning 724-772-8511 or by writing to: SAE International, 400 Commonwealth Avenue, Warrendale, PA 15096, Attention: WMI Coordinator.

Second Section of the VIN

The second section of the VIN, known as the "Vehicle Descriptor Section," consists of Positions 4 through 8. This second is used to identify "vehicle attributes" for each vehicle type as identified by 49 CFR 565.15, Table I, entitled "*Type of Vehicle and Information Decipherable.*" There are two special rules for passenger cars, and for multi-purpose passenger vehicles (MPVs) and trucks with a gross vehicle weight rating (GVWR) of 10,000 lbs. or less. First, manufacturers of such vehicles must report all restraint devices and their locations in the vehicles. Second, Position 7 of the VIN of such a vehicle must be alphabetic. Therefore, for passenger cars, and MPVs and trucks with a GVWR of 10,000 lbs. or less, if Position 7 of the VIN is alphabetic, the model year identified in Position 10 of the VIN refers to a year in the range of 2010-2039. Position 7 of VINs assigned to other vehicle types (e.g., motorcycles, buses, trailers) may be either alphabetic or numeric.

Part 565 requires that manufacturers identify in the second section of the VIN, the vehicle attributes for each vehicle type as summarized in Chart 3.

Chart 3 - Vehicle Attributes for Each Vehicle Type that must be Identified in VIN Positions 4 through 8

Required Information for:	Passenger	Multipurpose	Truck*	Bus	Trailer	Motorcycle	Incomplete	Low Speed
Make	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Line or Model	Yes	Yes	Yes	Yes		Yes	Yes	
Series	Yes	Yes	Yes	Yes			Yes	
Body Type	Yes	Yes		Yes				Yes
Engine Type	Yes	Yes	Yes	Yes		Yes	Yes	Yes
GVWR@		Yes	Yes					Yes
All Restraint Devices & Location*	Yes	Yes	Yes					Yes
Chassis			Yes					
Cab Type			Yes				Yes	
Brake System			Yes	Yes			Yes	Yes
Trailer Connection Type					Yes			
Trailer Body Type					Yes			
Length					Yes			
Axle Configuration					Yes			
Type of Motorcycle						Yes		
Net Brake Horsepower@@						Yes		

Footnotes to Chart 3:

@The GVWR designations in "Table II – Gross Vehicle Weight Rating Classes" must be used. The use of these designations within the VIN itself is not required.

@@Engine net brake horsepower when encoded in the VIN cannot differ by more than 10% from the actual net brake horsepower. In the case of a motorcycle with an actual net brake horsepower of 2 or less, the net brake horsepower must be not more than 2, and must be greater than 2 in the case of a motorcycle with an actual brake hp greater than 2. (The purpose of this exception is to preserve the distinction in the VIN between motorcycles and motor driven cycles.)

*Trucks and Multipurpose Passenger Vehicles of GVWR≤10,000 lbs. are required to have all restraint devices and locations available -- Trucks and MPVs of GVWR>10,000 lbs. are not required to have this information.

The terms used in Chart 3 are defined in 49 CFR 565.12. These definitions, and examples of the vehicle characteristics they cover, are identified in Chart 4.

Chart 4 – Definitions and Examples of Vehicle Attributes

Term	Definition	Examples
Type	means a class of vehicle distinguished by common traits including design and purpose	Passenger cars, Multipurpose Passenger Vehicles (MPVs), Trucks, Buses, Trailers, Incomplete Vehicles, Low Speed Vehicles (LSVs), and Motorcycles are separate types
Make	means a name that a manufacturer applies to a group of vehicles or engines	Chevrolet, Buick, Pontiac, Cadillac
Model	means the name that a manufacturer applies to a family of vehicles of the same type, make, line, series, and body type	Monte Carlo, Malibu, Lucerne, CTS
Line	means a name that a manufacturer applies to a family of vehicles within a make that have a degree of commonality in construction, such as body, chassis, or cab type	Super Sport, LT Classic, GXP, CX, CXL
Series	means a name that a manufacturer applies to a subdivision of a “line” denoting price, size or weight identification, and that is used by the manufacturer for marketing purposes	3500, 4500, 5500, 6500 Series
Body Type	means the general configuration or shape of a vehicle distinguished by such characteristics as the number of doors or windows, cargo carrying features and the roofline	4-door Sedan, 2-door, 2-door Fastback, 3-door Hatchback, 2-door Convertible, 5-door Liftback, 4-door Station Wagon
Engine Type	means a power source with defined characteristics. The specific manufacturer and make shall be represented if the engine powers a passenger car, and a MPV or truck with a GVWR ≤ 10,000 lbs.	Fuel utilized, number of cylinders, displacement, and net brake horsepower.

Trucks and other vehicle types have as many as nine reportable vehicle attributes and only five VIN positions in which to report these. This causes NHTSA to be frequently asked: “How do I fit all this information into the second section of the VIN?”

Part 565 gives manufacturers the flexibility to determine how they wish to structure or “encode” the contents of this section. One way a manufacturer may encode the information is to employ a “lookup table.” For example, the manufacturer’s five VIN characters “ABCDE” may be decoded using a lookup table to identify more than five vehicle attributes. It is important to remember that the manufacturer’s coding must be decipherable to NHTSA so that the agency may carry out its safety mission. The following examples for a passenger car may help clarify this.

Passenger Car Manufacturer’s Sample VIN for the Second Section of the VIN (Positions 4-8)

Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Example				R	P	1	A	3									



Note: Please remember VINs cannot contain the characters I, O or Q and that Position 7 must be alphabetic for passenger cars, and MPVs and trucks with a GVWR of 10,000 lbs. or less manufactured on or after April 30, 2009.

Sample Passenger Car Manufacturer's Lookup Table for the Second Section of the VIN (Positions 4-8)

Passenger Car Vehicle Attributes That Must Be Identified							
VIN 4-8 Code	Make	Line or Model	Series	Body Type	Engine Type	GVWR Class @	Restraint System @@
RP1A3	USA Car Co.	Super	LV	3 Dr. Coupe	2.4L 4 cyl. 180hp gas	A	A
RP1B3	USA Car Co.	Super	DV	4 Dr. Sedan	2.4L 4 cyl. 180hp Gas	B	B

Manufacturer's Notes to Lookup Table:
 @GVWR Class is from 49 CFR 565.15 "Table II - Gross Vehicle Weight Rating Classes"
 A= Not greater than 1360 kg. (3,000 lbs.)
 B=Greater than 1360 kg. to 1814 kg. (3,001-4,000 lbs.)
 @@Restraint System
 A= Front: Seat Belt, Air Bag, Side Air Bag, and Side Curtain Air Bag (Driver and Passenger) and Rear: Seat Belt and Side Curtain Air Bag.

Motorcycle VINs

Part 565 requires only five vehicle attributes of a motorcycle to be reported in the second section of a VIN. Because there are five positions available in the second section, a manufacturer may use each position for one of the five attributes. A motorcycle example will show how the second section of the VIN may be encoded.

Motorcycle Manufacturer's Sample VIN for the Second Section of the VIN (Positions 4-8)

Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Example				U	2	A	D	G									



Sample Motorcycle Manufacturer's Lookup Table for the Second Section of the VIN (Positions 4-8)

VIN Position	Vehicle Attribute	Coding
4	Make	U=USA Motorcycle Co.
5	Line or Model	2=Winner
6	Type of Motorcycle	A= Scooter B=Sport Bike C=Cruiser
7	Engine Type	D=V-2, 200cc, gas E= V-4, 400cc, gas F=V-8, 1000cc, gas
8	Net Brake HP	G=V-2 - 15hp H=V-4 - 36hp J=V-8 - 75hp

Trailer VINs

The vehicle attributes “length” and “axle configuration” are applicable only to trailers. Although the term “length” is not defined in Part 565, the agency has interpreted it to mean the length of a trailer as measured from one extremity to the other. For a trailer, this would include the equipment that is part of the vehicle and by which it is towed (i.e., the tongue or equivalent connector to the towing vehicle). Axle configuration means the number of axles, e.g., 1-axle, 2-axle, 3-axle, etc. A trailer example will show how VIN Positions 4 through 8 of the second section may be encoded.

Trailer Manufacturer’s Sample VIN for the Second Section of the VIN (Positions 4-8)

Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Example				U	1	M	6	1									



Sample Trailer Manufacturer’s Lookup Table for the Second Section of the VIN (Positions 4-8)

VIN Position	Vehicle Attribute	Coding
4	Trailer Make	U=USA Trailer Co.
5	Trailer to Towing Vehicle Connection Type	1=Ball Type Pull 2=Pintle Hitch 3=Gooseneck 4=Straight Semi 5=Fifth Wheel 6=Kingpin 7=Bumper Pull 8=Others
6	Trailer Body Type	A=Flatbed B=Tank C=Utility D=Livestock E=Enclosed
7	Trailer Length	6=6 feet long 9=9 feet long A=26 feet long
8	Trailer Axle configuration	1=Single Axle 2=2 Axles 3=3 Axles

Sample Tank Trailer Manufacturer's Lookup Table for the Second Section of the VIN (Positions 4-8)

VIN Position	Vehicle Attribute	Coding
4	Type of Trailer	A=NON-CODE B=NON-CODE ETM C=Reserved D=DRY BULK E=DOT 406 F=DOT 407 G=DOT 412 V=CONTAINER CHASSIS
5	Type of Material	A=Aluminum B=Stainless Steel C=Carbon Steel D=Fiberglass/Composite
6	Gallorage	0=Container Chassis 1=1000 > Gallons 2=1000 ≤ Gallons < 2000 3=2000 ≤ Gallons < 3000 4=3000 ≤ Gallons < 4000 5=4000 ≤ Gallons < 5000 ... 9=9000 ≤ Gallons < 10000 B=10000 ≥ Gallons
7	Trailer Length	6=6 feet long 9=9 feet long A=26 feet long
8	Trailer Axle configuration	1=Single Axle 2=2 Axles 3=3 Axles

Second Section VIN Character Restrictions

The amended VIN regulations no longer restrict Positions 4, 5, 6, or 8 to either alphabetic or numeric characters. This gives manufacturers more permutations for their vehicle attribute coding. However, as stated above, for passenger cars, and MPVs and trucks with a GVWR of 10,000 lbs. or less manufactured on or after April 30 2009, Position 7 of the VIN must be alphabetic, which designates that the model year in Position 10 of the VIN refers to a year in the range of 2010-2039.

Third Section of the VIN

The third section of the VIN consists of one character, called the “check digit”, which occupies Position 9 in the VIN. The check digit’s purpose is to provide a means for verifying the accuracy of any VIN transcription. NHTSA regulations establish a mathematical formula for calculating the check digit.

After all other characters in VIN have been determined by the manufacturer, the check digit is calculated by carrying out the mathematical computation specified in the regulation.²³ First, each character in the VIN is assigned a “numerical value” as shown in Table III of the regulation, entitled “Assigned Values”.

49CFR 565.15(c)(1) Table III – Values Assigned to Characters of VIN

A	B	C	D	E	F	G	H	J	K	L	M	N	P	R	S	T	U	V	W	X	Y	Z
1	2	3	4	5	6	7	8	1	2	3	4	5	7	9	2	3	4	5	6	7	8	9

Each position of the VIN (except Position 9, the check digit) is assigned a “weight value” as shown in Table IV of the regulation, entitled “VIN Position and Weight Factor”.

49CFR 565.15(c)(2) Table IV – Weight Factors Assigned to VIN Positions 1-8 and 10-17

Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Weight	8	7	6	5	4	3	2	10	N/A	9	8	7	6	5	4	3	2

Next, each character’s numeric value is multiplied by the position’s weight value. After you compute several, the check digit mathematical calculations are not very difficult. Below is an example.

Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Sample VIN	1	J	9	R	P	1	A	3		A	1	6	4	4	3	4	5
Assigned Value	1	1	9	9	7	1	1	3		1	1	6	4	4	3	4	5
VIN Position Weight	8	7	6	5	4	3	2	10	N/A	9	8	7	6	5	4	3	2
Multiply Value by Weight	8	7	54	45	28	3	2	30		9	8	42	24	20	12	12	10

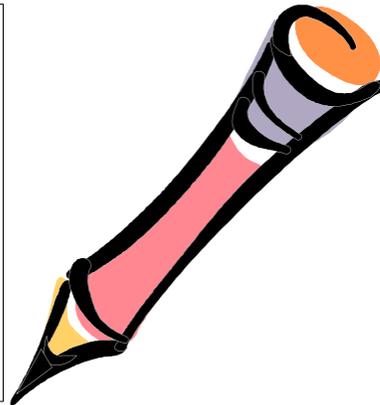
= 314

²³ See 49 CFR 565.15, paragraphs (c) (1) through (4)

The results are now added together and the total "314" is then divided by 11.

$$8 + 7 + 54 + 45 + 28 + 3 + 2 + 30 + 9 + 8 + 42 + 24 + 20 + 12 + 12 + 10 = 314$$

$\begin{array}{r} 28 \\ 11 \overline{)314} \\ \underline{22} \\ 94 \\ \underline{88} \\ 6 \end{array}$	equals $28 \frac{6}{11}$
--	--------------------------



The total 314 is then divided by 11 = 28 6/11 or 28.545454

The check digit is based on either the Fractional Remainder or the Decimal Equivalent Remainder as reflected in Table V of the regulation, entitled "Ninth Position Check Digit Values".

49 CFR 565.15(c)(4) Table V – 9th Position Check Digit Values

6/11 or .545

↓

Fractional Remainder	0	1/11	2/11	3/11	4/11	5/11	6/11	7/11	8/11	9/11	10/11
Decimal Equivalent Remainder	0	.091	.182	.273	.364	.455	.545	.636	.727	.818	.909
Check Digit	0	1	2	3	4	5	6	7	8	9	X

↑
Check Digit "6"

All decimal equivalent remainders in Table V are rounded to the nearest thousandth (i.e., the 3rd digit to the right of the decimal point). If the 4th digit to the right of the decimal point is 5 or greater, round up; if 4 or less, round down.

In our total, 28.5454, the 4th digit to the right of the decimal point is 4, so round to 28.545. Table V shows that our decimal equivalent remainder ".545" equates to the check digit "6".

A check digit, which can be zero through nine (0–9) or the letter "X", appears in Position 9 of the VIN. Our computed check digit "6" will appear in Position 9 of our completed VIN: 1J9RP1A36A1644345. While the mathematical computations can be completed by hand, the agency recommends that new manufacturers develop a simple spreadsheet program to assist with calculating check digits and thereby reduce VIN errors. See Appendix 2 for a sample spreadsheet format to calculate VIN check digits.

Fourth Section

The fourth section of the VIN consists of Positions 10 through 17. Position 10 is reserved to encode the model year of the vehicle.

Fourth Section of the VIN - Model Year Placement

4 th Section								
MY	Plant	Number sequentially assigned in Positions 12-17 if a High-Vol. Manu. or in Positions 15-17 if a Low-Vol. Manu.						
10	11	12	13	14	15	16	17	
		WMI if low-vol. manufacturer (<1,000 of a given type each year)						
		##	##	##	##	##		
Note: ## means that the VIN Characters are: 0,1,2,3,4,5,6,7,8, or 9		if car, and MPV and truck ≤ 10,000 lbs.						
		###	###	###	###			
		For vehicle <u>not</u> a car, and MPV and truck ≤ 10,000 lbs. GVWR						

Besides the three letters that are not allowed in the VIN itself (I, O, and Q), the letters U and Z and the number 0 are not used for the year code. The model year is the year that a manufacturer uses to designate a discrete vehicle model, irrespective of the calendar year in which the vehicle was actually produced, provided that the production period does not exceed 24 months.²⁴ The year codes that must be used in the manufacturer's VIN are found in Table VII of the regulation, entitled "Year Codes for VIN".

49 CFR 565.15(d)(1) - Table VII - Required Year Codes for VIN

Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028
Code	A	B	C	D	E	F	G	H	J	K	L	M	N	P	R	S	T	V	W

Position 11 of a VIN is used to encode the vehicle's plant of manufacture. This term is defined by the regulation as "the plant where the manufacturer affixes the VIN."²⁵ Manufacturers may assign their own plant codes, but should report to NHTSA, in their VIN deciphering information, the city, state, and country in which the plant of manufacture is located, as well as the name of the Plant (e.g., Lansing, Michigan, USA - GMNA). Plant Name is only a required field where applicable. If the manufacturer has no plant name, then it may be left off the submission. An example will show how VIN Positions 10 and 11 of the fourth section may be encoded.

²⁴ See 49 CFR 565.12(m)

²⁵ See 49 CFR 565.12(n)

Manufacturer's Sample VIN for the Fourth Section of the VIN (Positions 10-11)

Position	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Example										A	B						



Manufacturer's Lookup Table for the Fourth Section of the VIN (Positions 10 and 11)

VIN Position	Vehicle Attribute	Coding
10	Model Year	H=2017 J=2018 K=2019 (From Table VII of 49 CFR 565.15(d) (1))
11	Plant of Manufacture	B=Baltimore, MD USA – Main Plant F=Flint, MI USA – Flint Plant L=Lansing, MI USA - GMNA M=Lordstown, OH USA K=Bowling Green, KY USA R=Ramos Arizpe, Coahuila, Mexico

Positions 12 through 17 of the VIN represent the number sequentially assigned by the manufacturer in the production process if the manufacturer is a high-volume manufacturer. If the manufacturer is a low-volume manufacturer, Positions 12, 13, and 14 combined with Positions 1, 2, and 3 of the VIN uniquely identify the manufacturer. Please note that Positions 13 through 17 must be numeric, if the VINs are for passenger cars, and MPVs and trucks with a GVWR of 10,000 lbs. or less. For any other type of vehicle, Positions 14 through 17 must be numeric.

4 th Section							
MY	Plant	Number sequentially assigned in Positions 12-17 if a High-Vol. Manu. or in Positions 15-17 if a Low-Vol. Manu.					
10	11	12	13	14	15	16	17
		WMI if low-vol. manufacturer (<1,000 of a given type each year)					
		##	##	##	##	##	##
Note: ## means that the VIN Characters are: 0,1,2,3,4,5,6,7,8, or 9		if car, and MPV and truck ≤ 10,000 lbs.					
		##	##	##	##	##	##
		For vehicle <u>not</u> a car, and MPV and truck ≤ 10,000 lbs. GVWR					

Manufacturer's Requirement to Furnish NHTSA with VIN Deciphering Information

It is very important that each manufacturer report to NHTSA its complete VIN deciphering information so that the agency may simplify vehicle identification information retrieval and increase the accuracy and efficiency of the vehicle recall campaigns. The VIN has become the key identifier in data systems that track compliance with Federal and state safety programs and that manage and analyze information on vehicle manufacturing processes, registrations, insurance programs, crash investigations, and safety research. Organizations that use VINs in data systems include NHTSA, manufacturers, state motor vehicle departments, law enforcement agencies, insurance companies, and motor vehicle safety researchers.

Under 49 CFR 565.26, a motor vehicle manufacturer must submit to NHTSA, either directly or through an agent, information the agency will need to decipher the manufacturer's VIN characters not later than 60 days before the manufacturer offers for sale the first vehicle identified by that VIN or if information concerning vehicle characteristics sufficient to specify the VIN code is unavailable to the manufacturer by that date, then within one week after that information first becomes available. The purpose of the 60-day requirement is to permit users of the VIN, such as State motor vehicle agencies, to obtain the necessary deciphering information before vehicle purchasers begin registering their vehicles. The VIN deciphering information must be submitted through the NHTSA Manufacturer Portal or by email at manufacturerinfo@dot.gov. See Appendix 3 for sample VIN deciphering letters.

Chapter 5. Certification to all Applicable FMVSS

Introduction

Vehicles manufactured for sale in the United States be certified to comply with all applicable FMVSS. NHTSA's regulations on motor vehicle certification are found at 49 CFR Part 567, while the regulations on the certification As noted above, the Vehicle Safety Act requires that regulated items of motor vehicle equipment and motor of motor vehicle equipment subject to the FMVSS are found within the standards that pertain to each such item of equipment, as published in 49 CFR Part 571, Subpart B.

Motor Vehicle Equipment Certification and NHTSA Assigned Codes

Motor vehicle equipment that is subject to an FMVSS must, as originally manufactured, conform to the standard and be so certified. In most instances, certification of compliance with the applicable FMVSS for regulated items of motor vehicle equipment is evidenced by the symbol "DOT" either inscribed on the equipment in a prescribed location, or placed on the outside of the container in which the equipment is shipped.²⁶

Along with a marking that indicates certification of compliance with an applicable FMVSS, the fabricating manufacturer of certain regulated equipment items such as brake hoses, glazing (automotive glass and plastics), and tires must label its products with code marks or identification numbers assigned to the manufacturer by NHTSA.²⁷ NHTSA assigns an identification number to a manufacturer of tires or glazing (automotive glass and plastics) and accepts the designation of a brake hose manufacturer after the manufacturer submits an application to the National Highway Traffic Safety Administration through the Manufacturer Portal. See Appendix 7 for a description on how to use the NHTSA Manufacturer Portal²⁸. To avoid a delay in the issuance of NHTSA assigned code marks or identification numbers, it is wise to comply with the requirements to designate a U.S. resident as agent for service of process if the fabricating manufacturer is not located in the United States.

This is accomplished by submitting the appropriate form to the NHTSA Office of Chief Counsel. See Chapter 3, Paragraph B and Appendix 1 of this document for the Part 551 requirements and form.

Requirements for certification markings on equipment items are found in the individual standards that apply to

²⁶ See 49 U.S.C. §§ 30112 and 30115

²⁷ See 49 CFR 571.106, paragraph S5.2.2(b), relating to brake hoses; 49 CFR 571.205, paragraph S6.2, relating to glazing; and 49 CFR 574.5, relating to tires

²⁸ See <http://vpic.nhtsa.dot.gov/MfrPortal/>

those items, as published in 49 CFR Part 571. For example, FMVSS No. 205 requires a glazing manufacturer to certify its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1–1996,²⁹ in letters and numerals of the same size, the symbol “DOT” and a manufacturer's code mark that NHTSA assigned to the glazing manufacturer.

Motor Vehicle Certification

A motor vehicle must be manufactured to comply with all applicable FMVSS and bear a label certifying such compliance that is permanently affixed (riveted or affixed in such a manner that it cannot be removed without destroying or defacing it) by the vehicle's manufacturer (i.e., the actual assembler of the vehicle).³⁰ Certification labeling requirements are necessary to establish that the vehicle was manufactured to comply with all applicable FMVSS. Because the label also identifies the type classification of the vehicle, it also helps to identify which of the FMVSS, Bumper Standards (49 CFR Part 581), and Federal Theft Prevention Standards (49 CFR Part 541) apply to the vehicle.

Motor Vehicle Certification Labels

Placement of the Certification Label³¹

For vehicles other than trailers and motorcycles, the manufacturer's certification label must be affixed to either the hinge pillar, door-latch post, or the door edge that meets the door-latch post, next to the driver's seating position, or if none of these locations is practicable, to the left side of the instrument panel. If that location is also not practicable, the label must be affixed to the inward-facing surface of the door next to the driver's seating position.³² The location of the label must be such that it is easily readable without moving any part of the vehicle except an outer door.

The manufacturer's certification label for trailers must be affixed to a location on the forward half of the left side, such that it is easily readable from outside the vehicle without moving any part of the vehicle. The certification label for motorcycles must be affixed to a permanent member of the vehicle as close as is practicable to the intersection of the steering post with the handle bars, in a location such that it is easily readable without moving any part of the vehicle except for the steering system. This label is the only location on a motorcycle that must show the VIN.

Motor Vehicle Certification Label Content

The motor vehicle certification label, among other things, identifies the vehicle's manufacturer (i.e., the actual assembler of the vehicle), states the vehicle's date of manufacture (month and year), Gross Vehicle Weight Rating or GVWR, Gross Axle Weight Rating or GAWR of each axle, vehicle type classification (e.g., MPV, truck), and VIN. For multipurpose passenger vehicles and trucks with a GVWR of 6,000 pounds or less, the label must contain the statement: *“This vehicle conforms to all applicable Federal motor vehicle safety and theft prevention standards in effect on the date of manufacture shown above.”* For passenger cars, the label must contain the statement *“This vehicle conforms to all applicable Federal motor vehicle safety, bumper, and theft prevention standards in effect on the date of manufacture shown above.”* For all other vehicles, the label must contain the statement: *“This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above.”*

²⁹ See 49 CFR 571.205 S3.2, entitled “Incorporation by Reference” wherein it states: (a) “American National Standard for Safety Glazing Materials for Glazing Motor Vehicles and Motor Vehicle Equipment Operating on Land Highways-Safety Standard” ANSI/SAE Z26.1–1996, Approved by American National Standards Institute August 11, 1997 (ANSI/SAE Z26.1– 1996) is incorporated by reference in Section 5.1 and is hereby made part of this Standard

³⁰ See 49 U.S.C. §§ 30112 and 30115, and 49 CFR part 567

³¹ See 49 CFR 567.4(c), (d), and (e)

³² If none of the preceding locations is practicable, notification of that fact, together with drawings or photographs showing a suggested alternate location in the same general area, shall be submitted for approval to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, D.C. 20590

Certification Requirements for Vehicles Manufactured in Two or More Stages

A “completed” vehicle is one that requires no further manufacturing operations to perform its intended function. An “incomplete” vehicle is an assemblage consisting, at a minimum, of chassis (including the frame) structure, power train, steering system, suspension system, and braking system, in the state that those systems are to be part of the completed vehicle, but requires further manufacturing operations to become a completed vehicle. An incomplete trailer is also an incomplete vehicle.³³ Manufacturers of incomplete vehicles must furnish at or before the time of delivery an incomplete vehicle document or “IVD” that contains, among other things, a list of each FMVSS applicable to the incomplete vehicle’s type classification and a statement whether the vehicle will or will not conform to each applicable FMVSS, or that FMVSS conformance cannot be determined.³⁴

Additionally, incomplete vehicle manufacturers must generally affix to their vehicles a label that identifies the incomplete manufacturer, the vehicle’s date of manufacture (month and year), its GVWR, GAWR, and VIN.

A final-stage manufacturer is a person who performs such manufacturing operations on an incomplete vehicle that it becomes a completed vehicle. An intermediate manufacturer is a person, other than the incomplete vehicle manufacturer or the final-stage manufacturer, who performs manufacturing operations on a vehicle manufactured in two or more stages.³⁵ Both the final-stage and intermediate manufacturers assume legal responsibility for all certification-related duties and liabilities under the Vehicle Safety Act with respect to components and systems they install or supply for installation on the incomplete vehicle, unless changed by a subsequent manufacturer. Both have responsibility to further manufacture or complete the vehicle in accordance with the IVD furnished by the incomplete vehicle manufacturer.

The intermediate manufacturer must affix a label that identifies that manufacturer, states the vehicle’s GVWR, GAWR, and VIN, and identifies the month and year in which the intermediate manufacturer performed its last manufacturing operation on the incomplete vehicle.

The final-stage manufacturer must affix a label that identifies that manufacturer, states the vehicle’s GVWR, GAWR, vehicle type classification, and VIN, and identifies the vehicle’s date of manufacture (month and year). The date selected must be the date of manufacture of the incomplete vehicle, the date of final completion, or a date between those two dates. The label must also contain one of the following three alternative certification statements:³⁶

1. *“This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards, [and Bumper and Theft Prevention Standards, if applicable] in effect in (month, year).”*
2. *“This vehicle has been completed in accordance with the prior manufacturers’ IVD, where applicable. This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards, [and Bumper and Theft Prevention Standards, if applicable] in effect in (month, year).”*
3. *“This vehicle has been completed in accordance with the prior manufacturers’ IVD, where applicable, except for [insert FMVSS]. This vehicle conforms to all applicable Federal Motor Vehicle Safety Standards, [and Bumper and Theft Prevention Standards if applicable] in effect in (month, year).”*

³³ See 49 CFR 567.3

³⁴ See 49 CFR 568.4(a) and (b)

³⁵ See 49 CFR 567.3

³⁶ See 49 CFR 567.5(d)

Certification label content requirements for each manufacturer are summarized in Table 4.

Table 4 - Certification Label Content Requirements by Manufacturer Type

Manufacturer Type	Company's Name	Date of Manufacture	GVWR	GAWR	Vehicle Type	VIN	Certification Statement Source
Completed Vehicle	Yes	Yes	Yes	Yes	Yes	Yes	Yes, 1 of 3 567.4(g)
Incomplete Vehicle	Yes	Yes	Yes	Yes	No	Yes	No, IVD 567.5(b)(2)
Intermediate	Yes	Yes	Yes	Yes	No	Yes	No 567.5(c)(2)
Final-stage	Yes	Yes	Yes	Yes	Yes	Yes	Yes, 1 of 3 567.5(d)(2)

Sample manufacturers' certification labels covering a motorcycle, trailer, low-speed vehicle, multipurpose passenger vehicle, truck, and passenger car are provided in Appendix 3.

Certification Label Suppliers

NHTSA does not endorse any certification label suppliers or their products; however, companies known to the agency that supply such products to motor vehicle manufacturers are identified in Appendix 5.

Chapter 6. The Federal Motor Vehicle Safety Standards

FMVSS Issuance

NHTSA is authorized by the Vehicle Safety Act to issue safety standards that set minimum performance requirements for new motor vehicles and for certain items of motor vehicle equipment. Such standards must be practicable, meet the need for motor vehicle safety, and be stated in objective terms. The FMVSS specify the minimum performance requirements and, in general terms, the objective tests required to demonstrate product compliance.

FMVSS Organization under 49 CFR Part 571

The FMVSS are generally organized under Vehicle Crash Avoidance (Series 100), Crashworthiness (Series 200)³⁷, Post-Crash Protection (Series 300), Miscellaneous (Series 400), Low-Speed Vehicles (Series 500), or Equipment standards. All FMVSS are found in 49 CFR Part 571, Subpart B, and are numbered to correspond to the FMVSS number. For example FMVSS No. 101 *Controls and Displays* is found in 49 CFR 571.101.

Because manufacturers are responsible for "self-certifying" that their products meet all applicable FMVSS before those products can be offered for sale, it is important for a manufacturer to be knowledgeable about the performance requirements of each FMVSS applicable to its products. NHTSA encourages manufacturers to conduct tests as specified in certain of the FMVSS. Manufacturers should also be familiar with the laboratory test procedures that NHTSA uses to evaluate the compliance of their products with each FMVSS. These may be found on the NHTSA web site.³⁸

³⁷ Crashworthiness means the protection a passenger motor vehicle gives its passengers against personal injury or death from a motor vehicle crash

³⁸ See <http://www.nhtsa.gov/Vehicle+Safety/Test+Procedures>

FMVSS Applicability

A paragraph within each FMVSS identifies the types of vehicles or equipment items to which the standard applies. For example, Paragraph S3 of 49 CFR 571.101 states that FMVSS No. 101 *Controls and Displays* applies to passenger cars, multipurpose passenger vehicles, trucks, and buses. Certain FMVSS requirements apply only to vehicles above or below a specified GVWR. For example, FMVSS No. 201 *Occupant Protection in Interior Impact* applies to passenger cars, multipurpose passenger vehicles, trucks, and buses with a GVWR of 10,000 pounds (4,536 kilograms) or less.³⁹ Other FMVSS requirements may not apply to certain specialty vehicles. For example, FMVSS No. 225 *Child Restraint Anchorage Systems* does not apply to walk-in van-type vehicles, vehicles manufactured to be sold exclusively to the U.S. Postal Service, shuttle buses, and funeral coaches.⁴⁰

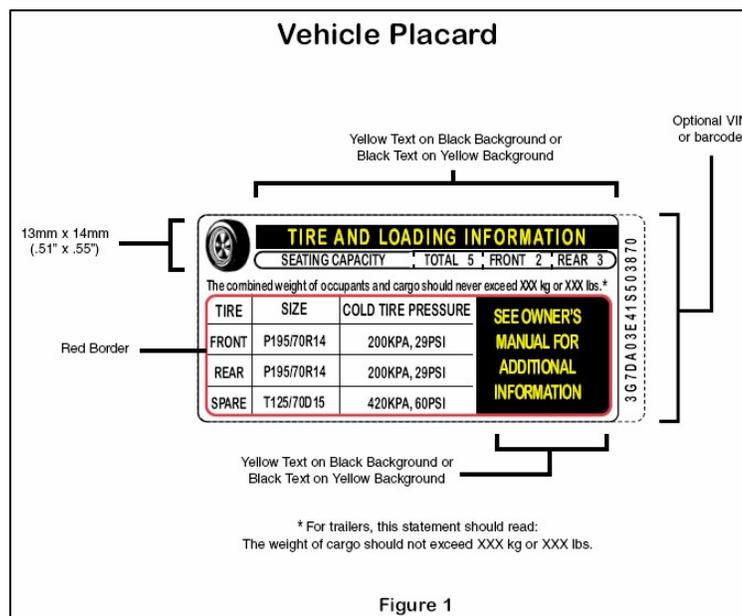
Reference Table Identifying FMVSS Applicability by Vehicle Type and Equipment Items

To assist manufacturers, NHTSA has created a ready reference table to show FMVSS applicability by motor vehicle type classification and motor vehicle equipment item. See Appendix 8. As FMVSS are adopted or amended, they are assigned effective dates. It is therefore wise to check the most up-to-date version of 49 CFR Part 571, Subpart B for regulatory amendments.

Chapter 7. Tire Information Labeling Requirements

FMVSS No. 110 specifies, among other things, requirements for tire selection to prevent tire overloading. The standard applies to vehicles with a GVWR of 10,000 pounds (4,536 kilograms) or less, except for motorcycles, low-speed vehicles, and incomplete vehicles.⁴¹ Manufacturers are required to permanently affix a tire placard in a specified location on the vehicle. The placard provides consumers with tire and loading information, including the vehicle's seating capacity and weight. An example of the required placard is shown in Figure 1.

Figure 1 – Tire Placard



³⁹ See 49 CFR 571.201 paragraph S2

⁴⁰ See 49 CFR 571.225 paragraph S2

⁴¹ See 49 CFR 571.110 paragraph S4.3

Chapter 8. Duty to Notify NHTSA of a Noncompliance with an FMVSS or a Safety-Related Defect

Notwithstanding its certification of a product, a manufacturer may subsequently determine that a noncompliance with an FMVSS or a safety-related defect exists in a motor vehicle or a motor vehicle equipment item it has produced. Manufacturers have a duty to notify NHTSA if they learn the vehicle or equipment contains a defect and in good faith they decide that the defect is related to motor vehicle safety, or in good faith they decide that the vehicle or equipment does not comply with an applicable FMVSS.⁴² The manufacturer must notify NHTSA within five working days after determining the existence of a noncompliance or a safety-related defect.⁴³ Alternately, NHTSA may determine the existence of a noncompliance or a safety-related defect in a particular motor vehicle or motor vehicle equipment item and order the responsible manufacturer to recall the product.⁴⁴

Chapter 9. Duty to Notify Owners and Dealers and Provide a Remedy for a Noncompliance or a Safety-Related Defect

Regardless of whether the noncompliance with an FMVSS or a safety-related defect is determined to exist by the manufacturer or by NHTSA, the manufacturer must provide owners and dealers of the affected products with notification of the noncompliance or defect and must remedy the noncompliance or defect, usually without charge.⁴⁵ The notification and remedy process is commonly referred to as a “safety recall campaign” or more simply as a “recall.” NHTSA monitors the remedy program to ensure its successful completion. The agency is not authorized to expend its funds on recalls; the expense of notifying owners and providing a remedy must be borne by the fabricating manufacturer and/or importer of the products found to contain the noncompliance or defect.⁴⁶ Manufacturers are encouraged to contact NHTSA at 202-366-5210 or review the agency’s web site for more comprehensive information. See <http://www.odj.nhtsa.dot.gov/>.

Chapter 10. Record Keeping for Manufacturers

Tires

A new tire manufacturer is required by NHTSA regulations to permanently mold into each tire intended for use on a motor vehicle a “tire identification number” or “TIN.”⁴⁷ Tire distributors and dealers that are owned or controlled by tire manufacturers are required to send to the tire manufacturers, records of any new tires they sell, including the TINs of the tires and the name and address of the tire purchasers. Independent tire distributors or dealers are required to furnish tire registration forms that identify the TIN and the tire distributor or dealer’s name and address to the purchasers of new tires, who may then mail the forms to the tire manufacturer. See Appendix 9 for a sample tire registration form. Instead of furnishing the tire purchaser with a registration form, independent tire distributors or dealers may electronically transmit tire purchaser and tire registration information to the tire manufacturer by secure means, as identified or authorized by the manufacturer.

Tire manufacturers must maintain information from the registration forms for a period of not less than 5 years from the date on which the information is recorded. Motor vehicle manufacturers are required to maintain records of the TINs for the tires installed on their vehicles and the name and address of the first purchasers of their vehicles for 5 years from the date that the vehicles are sold. These requirements are intended to ensure that purchasers receive proper notification in the event that a tire is recalled to remedy a noncompliance or

⁴² See 49 U.S.C. 30118(c)

⁴³ See 49 CFR 573.6

⁴⁴ See 49 U.S.C. 30118(b)

⁴⁵ See 49 CFR Part 577

⁴⁶ See 49 U.S.C. §§ 30118 - 30120

⁴⁷ See 49 CFR Part 574.5

safety-related defect.⁴⁸

Child Restraints

In like manner, the manufacturer of a child restraint system (i.e., a child safety seat), other than one installed on a vehicle as newly manufactured, must furnish a registration form to be completed by the owners of those seats and retain information from the form for a period of not less than 6 years to ensure that the owners receive proper notification of a recall campaign.⁴⁹

Motor Vehicles and Equipment

NHTSA regulations also require manufacturers of motor vehicles and motor vehicle equipment to retain claims, complaints, reports, and other records concerning alleged and proven defects and malfunctions that may be related to motor vehicle safety for a period of five calendar years from the date on which they were generated or acquired by the manufacturer.⁵⁰ Under this regulation, “malfunctions that may be related to motor vehicle safety” are defined as including any failure or malfunction beyond normal deterioration in use, or any failure of performance, or any flaw or unintended deviation from design specifications, that could in any reasonably foreseeable manner be a causative factor in, or aggravate, a crash or an injury to a person. This regulation also describes the records that manufacturers must maintain, including all documentary materials, films, tapes, and other information-storing media that contain information concerning malfunctions that may be related to motor vehicle safety. The section describes such records as including, but not being limited to, reports and other documents, including material generated or communicated by computer, telefax or other electronic means, that are related to work performed under warranties; and any lists, compilations, analyses, or discussions of such malfunctions contained in internal or external correspondence of the manufacturer, including communications transmitted electronically.

Chapter 11. Early Warning Reporting

Manufacturers must submit quarterly reports to NHTSA under the agency’s Early Warning Reporting (EWR) regulations that implement the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act of 2000. These regulations require manufacturers to submit information that could assist the agency in determining whether a safety-related defect exists in a vehicle or equipment item used in the United States.⁵¹ The regulations divide manufacturers of motor vehicles and motor vehicle equipment into two groups with different responsibilities for reporting information that could indicate the existence of potential safety-related defects.

The first group comprises motor vehicle manufacturers that meet certain production thresholds, tire manufacturers that produce more than a certain number of tires by tire line, and all manufacturers of child restraint systems. Manufacturers of light vehicles, motorcycles, trailers, and medium-heavy vehicles (except buses and emergency vehicles) that produced, imported, offered for sale, or sold 5,000 or more vehicles of a category annually in the United States are required to furnish NHTSA with comprehensive reports every calendar quarter. Emergency vehicle manufacturers must report if they produced, imported, offered for sale, or sold 500 or more vehicles annually, and bus manufacturers must report if they produced, imported or offered for sale, or sold 100 or more buses annually in the United States. Manufacturers of passenger car, light truck, and motorcycle tires are also required to provide comprehensive quarterly reports if they produced, imported, offered for sale, or sold 15,000 or more tires in a tire line. This group of manufacturers must generally report to NHTSA production-related information, incidents related to a death or injury, consumer complaints, warranty claims (warranty adjustments for tires), property damage claims, and field reports.

The second group comprises all other manufacturers of motor vehicles and motor vehicle equipment (i.e., vehicle manufacturers that produce, import, or sell annually in the United States fewer than 5,000 light vehicles,

⁴⁸ See 49 CFR Part 574

⁴⁹ See 49 CFR Part 588

⁵⁰ See 49 CFR Part 576

⁵¹ See 49 CFR Part 579, Subpart C

motorcycles, trailers, and medium-heavy vehicles (excluding emergency vehicles and buses); manufacturers that produce, import, or sell annually in the United States fewer than 500 emergency vehicles; manufacturers that produce, import, or sell annually in the United States fewer than 100 buses; manufacturers of original motor vehicle equipment; and manufacturers of replacement motor vehicle equipment other than child restraint systems and tires). These manufacturers must submit a report if they receive a claim or notice related to an incident involving a death, but are not required to report any other information under the EWR rule. Manufacturers are encouraged to contact NHTSA at 202-366-4238 or review the agency's web site for more comprehensive EWR information. See <http://www-odi.nhtsa.dot.gov/ewr/ewr.cfm>.

Under other NHTSA regulations, all vehicle and equipment manufacturers in both groups must provide copies of all documents sent or made available to more than one dealer, distributor, owner, purchaser, lessor or lessee, in the United States concerning customer satisfaction campaigns, consumer advisories, recalls, or other activities involving the repair or replacement of vehicles or equipment.⁵² A manufacturer must also report safety recalls and other safety campaigns it conducts in a foreign country that cover a motor vehicle, an item of motor vehicle equipment, or a tire that is identical or substantially similar to such a product offered for sale or sold in the United States.⁵³

Chapter 12. Other Statutory/Regulatory Requirements

Manufacturers should be aware that NHTSA administers additional statutes and regulations related to motor vehicles and motor vehicle equipment. These include:

Theft Prevention

This statute and implementing regulations require motor vehicle manufacturers to affix or inscribe anti-theft identification markings to major parts and replacement parts for certain lines of passenger cars, light trucks and MPVs designated as high theft lines. See 49 U.S.C. Chapter 331 and 49 CFR Parts 541-543.

Bumper Standards

This statute and implementing regulations establish standards to reduce physical damage to the front and rear of passenger motor vehicles from low speed collisions. See 49 U.S.C. Chapter 325 and 49 CFR Part 581.

Fuel Economy

This statute and implementing regulations require manufacturers to comply with the applicable average fuel economy standards. See 49 U.S.C. Chapter 329 and 49 CFR Parts 525, 526, 529, 531, 533, 535, 537, and 538.

Domestic Content Labeling

This statute and implementing regulations establish requirements for the disclosure of information relating to the countries of origin of the equipment on new passenger motor vehicles. See 49 U.S.C. Chapter 323 and 49 CFR Part 583.

Consumer Information

This statute and implementing regulations establish requirements for the disclosure of information in the owner's manual of a motor vehicle relating to tires and the Uniform Tire Quality Grading program and the reporting of possible safety defects to NHTSA. Owner's manuals of special vehicles such as slide-in campers and trucks that are capable of accommodating slide-in campers must also contain certain consumer information.⁵⁴ For certain

⁵² See 49 CFR 579.5 and 579

⁵³ See 49 CFR Part 579, Subpart B

⁵⁴ See 49 CFR 575.103

vehicles, manufacturers are required to affix a Rollover Warning label⁵⁵ and to label the vehicle with New Car Assessment Program Safety Rating information.⁵⁶ See 49 U.S.C. Chapter 323 and 49 CFR Part 575.

Chapter 13. NHTSA Contacts

Table 5 provides NHTSA contact numbers and Internet resources to help answer questions about the information presented in the previous sections.

Table 5 – NHTSA Contacts

Office of Vehicle Safety Compliance		
Topic	NHTSA Office/Internet	Telephone No./Link
General questions about importing vehicles and equipment items	Import and Certification Division	(202) 366-5291
<i>General Importation Information</i>	http://www.nhtsa.gov/cars/rules/import	
Questions about how a manufacturer informs NHTSA about its company and the products it manufactures	Import and Certification Division	(202) 366-5291
Questions about how to provide NHTSA with the manufacturer’s vehicle identification number deciphering information	NHTSA Manufacturer Help Desk	1- (888) 399-3277
Questions about NHTSA ID numbers that are assigned to equipment manufacturers of brake hoses, glazing (glass), and tires	Equipment Division	(202) 366-5317
<i>Information to Assist New Manufacturers</i>	https://vpic.nhtsa.dot.gov/	
Questions about how to submit Manufacturer Information (49 CFR 566), VIN deciphering info (49 CFR 565), and Equipment forms to NHTSA	https://vpic.nhtsa.dot.gov/	
Questions about FMVSS as they relate to equipment items (i.e., tires, rims, brake hoses, brake fluid, seat belt assemblies, lighting equipment, glazing (automotive glass and plastics), motorcycle helmets, child restraint systems (child safety seats), platform lift systems for the mobility impaired, rear impact guards for trailers, triangular reflective warning devices, and compressed natural gas containers)	Equipment Division	(202) 366-5317
<i>Federal motor vehicle safety standards (FMVSS)</i>	http://www.nhtsa.gov/cars/rules/	
<i>NHTSA’s Manufacturer Databases</i>	http://vpic.nhtsa.dot.gov/mid/	
<i>Government Vehicle Safety Information</i>	http://www.safercar.gov/	

⁵⁵ See 49 CFR 575.105

⁵⁶ See 49 CFR 575.301

Office of Defects Investigation		
Topic	NHTSA Office/Internet	Telephone No./Link
Questions about Early Warning Reporting (EWR)	Early Warning Division	(202) 366-4238
<i>Early Warning Reporting</i>	http://www-odi.nhtsa.dot.gov/ewr/ewr.cfm	
Questions about Defects and Recalls	Office of Defects Investigation	(202) 366-5210
<i>Defects Investigations</i>	http://www-odi.nhtsa.dot.gov/	

Office of Chief Counsel		
Topic	NHTSA Office/Internet	Telephone No./Link
Requests for interpretation of the statutes and regulations administered by NHTSA	Office of Chief Counsel	Requests should be made in writing.
<i>NHTSA Chief Counsel interpretive letters</i>	http://isearch.nhtsa.gov/	
<i>NHTSA Statutory Authorities</i>	http://www.nhtsa.gov/Laws-Regs	
<i>NHTSA Regulations</i>	http://www.nhtsa.gov/cars/rules/	
Questions about how to designate a U.S. resident as an agent for service of process	Office of Chief Counsel	(202) 366-1834
<i>Suggested Designation of Agent for Service of Process 49 CFR Part 551, Subpart D</i>	http://vpic.nhtsa.dot.gov/MfrPortal/	

Chapter 14. Additional Resources

Other than those noted before, manufacturers may find helpful the resources identified in Table 6.

Table 6 – Additional Resources

Resource	Contact
Environmental Protection Agency	www.epa.gov
Motorcycle Industry Council	www.mic.org
National Association of Trailer Manufacturers	www.natm.com
Truck Trailer Manufacturers Association	www.ttmanet.org
Recreational Vehicle Industry Association	www.rvia.org
Tire and Rim Association, Inc.	www.us-tra.org
National Truck Equipment Association	www.ntea.com

Chapter 15. Helpful Hints

Manufacturer's Statements of Origin or Certificates of Origin

NHTSA is not responsible for titling or registering motor vehicles or for regulating the operation of motor vehicles on public roads in the United States. That is instead the responsibility of the individual States. Some States may require a manufacturer's certificate of origin (MCO) or manufacturer's statement of origin (MSO) to register a new motor vehicle. These are not federally required documents. NHTSA, therefore, is not in a position to offer guidance to prospective vehicle manufacturers or vehicle purchasers on obtaining a needed MCO or MSO. For assistance, please contact your State's Department of Motor Vehicles (DMV).

Search the United States Code

To search the United States Code, follow this link: <http://uscode.house.gov/>

Search the Code of Federal Regulations

To search the Code of Federal Regulations, follow this link: http://www.ecfr.gov/cgi-bin/text-idx?SID=7d86ffa476c2d4b7414acbd1b7e9b0d1&mc=true&tpl=/ecfrbrowse/Title49/49tab_02.tpl

Search the Federal Register

To search the Federal Register, follow this link: <http://www.gpo.gov/fdsys/search/home.action>

Search NHTSA Interpretations

To search NHTSA Interpretation letters, follow this link: <http://isearch.nhtsa.gov>

FMVSS Compliance Test Procedures

For FMVSS Compliance Test Procedures, follow this link: <http://www.nhtsa.gov/Vehicle-Safety/Test-Procedures>

Motorcycle and motorcycle frame engineering reports

Engineering reports for motorcycles and motorcycle frames are available on a fee basis through the SAE. See that organization's web site at www.sae.org

Ms. Tammy Ruff
Sandrail Mfg. Co.
231 E. Alessandro Blvd 344
Riverside, CA 92508-8963

d.7/22/99

Dear Ms Ruff:

The Federal Highway Administration has forwarded to us for reply your letter of May 5, 1999. Your letter has been supplemented with information obtained from a telephone call to your office on June 23, 1999, by the agency's Office of Vehicle Safety Compliance, as well as from your website on June 22, 1999.

You ask for a list of "the necessary equipment to enable the street legal construction of dune buggies to be driven in Hawaii" as rental vehicles.

Under the laws that we administer, a vehicle that is "street legal," i.e., which is manufactured primarily for use on the public roads, is required to comply with all applicable Federal motor vehicle safety standards. Your website information describes the Sandrail as "designed to be driven on soft sand, the beach and tall hills." Thus, the Sandrail has not been designed primarily for on road use and, in its present configuration, is not a "motor vehicle" subject to our jurisdiction.

However, your present intent is to construct "street legal" Sandrails. We shall consider those vehicles as manufactured primarily for use on the public roads and therefore "motor vehicles" which must comply with our laws regulating motor vehicles and their manufacturers.

Our Office of Vehicle Safety Compliance learned from your company on June 23, 1999, that the vehicles that Sandrail intends to manufacture will be capable of speeds of more than 25 miles per hour. The on-road Sandrail will be required to meet the same Federal motor vehicle safety standards as "multipurpose passenger vehicles" (assuming that the dune buggies retain their capability for occasional off-road operation). These standards include the requirements to provide air bags for the driver and outboard front seat passenger. Sandrail is also required to submit to this agency certain information relating to its VIN in accordance with 49 CFR Part 565 Vehicle Information Number.

Sandrail is also required, within 30 days after it commences manufacture of motor vehicles, to file with us an information statement in compliance with 49 CFR Part 566 Manufacturer Identification.

I enclose a copy of a "New Manufacturers" information package which will outline our requirements for manufacturers. If you would like more information on the Federal motor vehicle safety standards, or have any other questions, please contact the agency's Office of Vehicle Safety Compliance.

Sincerely,
Frank Seales, Jr.
Chief Counsel
Enclosure



DATE: December 7, 2017

Action Requested: DECISION

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Daniel Avitia, Director, Motor Vehicle Division
Agenda Item: 8
Subject: Licensure Application Denial and Appeal to SOAH under Texas Occupations Code §§ 2301.002(17), 2301.251(a), 2301.651(a)(2); and under Texas Transportation Code §§ 503.21, 503.034(a)(1); 503.064(a)(1) and under Texas Administrative Code §§ 215.141(a)(1), (b)(17), 215.141(a)(19), 215.89(b)(7) - (8). Texas Department of Motor Vehicles v. Rickey A. Lyons d/b/a The Race House; MVD Docket 17-0175723, SOAH Docket No. 608-17-4725.ENF.

RECOMMENDATION

Staff recommends the Board adopt the ALJ's findings of fact and conclusions of law, as modified. A draft of the Final Order is attached to this Executive Summary for the Board's consideration.

PURPOSE AND EXECUTIVE SUMMARY

The State Office of Administrative Hearings (SOAH) issued a Proposal for Decision (PFD) for consideration by the Board of the Texas Department of Motor Vehicles.

FINANCIAL IMPACT

None

BACKGROUND AND DISCUSSION

On January 27, 2017, Respondent applied to the DMV for a GDN license by filing an application (2017 Application). Respondent's application for licensure was denied for two reasons:

1. Respondent made a material misrepresentation in the 2017 Application. Specifically, Respondent failed to disclose that he previously held a GDN license; and
2. Respondent was affiliated with another dealership that had their license revoked in one case and in another case had a \$6,000 administrative penalty that remained unpaid as of the date of trial.

In addition, Respondent admitted during trial that he was selling cars owned by others online for a commission. This admission was not pled in the Second Amended Notice of Department of Decision because it was not a basis for the denial of licensure. However, it is relevant to further establish that Respondent is unfit to perform the duties of a license holder.

The Motor Vehicle Division (MVD) referred the contested case matter to the State Office of Administrative Hearings (SOAH) on June 15, 2017. The ALJ conducted the hearing on the merits on August 10, 2017, and the administrative record and hearing concluded on August 10, 2017. The proposal for decision (PFD) was issued on September 29, 2017.

DOCUMENTS

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

1. Notice of Department's Decision to Deny Application, May 9, 2017;
2. Applicant's Request for Administrative Hearing Form, June 1, 2017;
3. SOAH ALJ's PFD, September 29, 2017; and
4. Draft Order for Board Consideration.

¹ The ALJ misspelled Respondent's First name, the name has been corrected here in the Agenda Item.



Texas Department of Motor Vehicles

HELPING TEXANS GO. HELPING TEXAS GROW.

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

May 9, 2017

Rickey Lyons
P.O. Box 746616
Dallas, Texas 75376
VIA US MAIL AND CERT. MAIL

RE: IN THE MATTER OF THE LICENSE(S) OF
d/b/a The Race House
WHEN RESPONDING, PLEASE REFER TO MVD CASE No. 17-0175723.ENF

Dear Applicant:

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 that you believe mitigate the allegations or recommendation described in the Decision you can bring them to the attention of the undersigned enforcement attorney. To discuss mitigating circumstances or the denial recommendation **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 - 4163 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 26 days from the date of the Decision, the terms and any sanctions contained therein become final.

Sincerely,

Heather Pierce

Heather Pierce,
Attorney, Enforcement Division
(512) 465-4163

Enclosures

d/b/a The Race House
725 3rd Ave
cc: Dallas, Texas 75226-2017
VIA US MAIL AND CERT. MAIL

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

**IN THE MATTER OF THE LICENSE(S) OF
d/b/a The Race House**

MVD CASE NO. 17-0175723.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, d/b/a The Race House, (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. Respondent, a licensee or license applicant, on or about January 27, 2017, made a material misrepresentation in an Application for General Distinguishing Number (Independent Dealers), specifically, Respondent failed to disclose that he previously held general distinguishing number P103324 issued by the department in connection with the licensure application filed with the Motor Vehicle Division, which conduct constitutes grounds for sanctions under TEX. TRANSP. CODE ANN. § 503.038(a)(6), TEX. OCC. CODE ANN. § 2301.651(a)(2) and 43 TEX. ADMIN. CODE 215.141(a)(19).

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 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 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 to deny your application for a Dealer General Distinguishing with the Department.

If you wish to contest the allegations, or recommended action, 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:

Heather R. E. Pierce
Attorney, Enforcement Division
Texas Department of Motor Vehicle
4000 Jackson Avenue
Austin, Texas 78731

(512) 465-4163
Fax: (512) 465-5650

You must include your name and the MYD Cause 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 cause 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; 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 512-465-4163.

DATE OF DECISION: May 9, 2017

Respectfully Submitted,

Heather Pierce

Heather Pierce
Attorney – Enforcement Division
Bar Card 24067969
4000 Jackson Avenue
Austin, Texas 78731
(512) 465-4163
(512) 465-5650 Fax

REQUEST FOR ADMINISTRATIVE HEARING

If you intend to contest the allegations listed in the Notice of Department of Decision in this matter or negotiate a settlement with the assigned enforcement division attorney you must first request an administrative hearing. You may use this form to request a hearing.

I request a hearing in Texas Department of Motor Vehicles Case No. 17-0175723.ENF. (The Case Number is found in the heading of the Decision; i.e. MVD Case No. 17-0175723.ENF).

NOTE: Failure to include the Case Number of this matter on this request may result in no hearing being scheduled and loss of the opportunity to settle this matter before a Final Order is issued.

Name of person requesting hearing: _____

(Please Print)

Phone Number of person requesting hearing: _____

Would you like to discuss a resolution to this case without a hearing: ___ Yes ___ No

This request for hearing must be received at the below address no later than 26 days from the date of the Notice of Department Decision in this matter.

TEXAS DEPARTMENT OF MOTOR VEHICLES
 ENFORCEMENT Division
 4000 Jackson Avenue – Austin, Texas 78731

This request may also be faxed to phone number **(512) 465-5650**

Information about the Notice of Department Decision

This document provides information about the Notice of Department Decision (“Decision”) you have just received from the Enforcement Division of the Texas Department of Motor Vehicles (“Department”). If you have questions about the Decision call the enforcement attorney who signed the document at (512) 465-4204 or consult a private attorney. Please note that the enforcement attorney only represents the Department and therefore cannot give you legal advice. When contacting the Department you should refer to the case number at the top of the whenever you contact the Department about this case.

The Notice of Department Decision

The Department filed the Decision, because of allegations that you (the Respondent) may have violated one or more of the laws enforced by the Department. After an investigation by the Department if violations are believed to have occurred, a Notice of Department Decision is prepared including the allegations and recommended sanctions. Sanctions may include a civil penalty (a monetary fine), and in more serious cases, revocation of your license. The civil penalty amount depends on the nature of the violation, facts of the case, any prior violations, any harm to consumers, and any action by you to minimize harm.

Settling Your Case

You may settle this matter informally and avoid a hearing before an Administrative Law Judge (“ALJ”) at the State Office of Administrative Hearings (“SOAH”) by timely filing a request for hearing within 26 days of the date of the Decision and discussing the case with the enforcement attorney. During settlement discussions, you may make the enforcement attorney aware of any mitigating or extenuating circumstances that may justify a lower civil penalty or other adjustment of sanctions recommended in the Decision.

Paying the Civil Penalty

If you settle this matter before a SOAH hearing, the Enforcement attorney will prepare and send you an “Agreed Final Order” containing the terms of the settlement. **You must sign the order and return a complete copy of it to the Department along with a check to pay any civil penalty imposed by the order.** The Department Board Chairman or a delegate will then sign the Agreed Final Order, which ends your case. The Department will send you a copy of the signed order to you or your representative.

Notice of Hearing

If you request a hearing within 26 days of the date of the Decision and you do not settle the case, it will be set for a SOAH hearing. You will be sent a Notice of Hearing stating the time, place and nature of the hearing. **If you plan on appearing at the hearing, you must notify the enforcement attorney. If you appear at the hearing without filing a response to the allegations or notifying the enforcement attorney, the hearing may be reset for another date.**

Changing the Hearing Date

Contact the enforcement attorney if you wish to change the hearing date. If you and the enforcement attorney cannot agree on changing the hearing date, you should call the SOAH docket clerk at (512) 475- about how to file a motion for continuance.

The Hearing

The Texas Rules of Evidence and SOAH's rules of procedure apply to SOAH hearings. The enforcement attorney will present evidence in the form of witness testimony and documents. You (if representing yourself) or your attorney/representative may object to the evidence and question each witness. You may present your case after the enforcement attorney's presentation. You should bring your witnesses with you or arrange with the ALJ before the hearing to have the witnesses testify by telephone. If you need an interpreter, notify the enforcement attorney as soon as possible before the hearing. You need to bring an original and two copies of all documents you intend to present at the hearing.

After reviewing the parties' evidence and arguments, the ALJ will issue a Proposal For Decision ("PFD") addressing whether any violations occurred and what sanctions, if any, should apply.

If you disagree with the PFD, you may file "exceptions" explaining your disagreement. The Department will consider the PFD with the exceptions and any replies to the exceptions. You may also orally address your case before the Department Board at a scheduled meeting. The Department Board may: (1) issue a Final Order approving the PFD, (2) issue a Final Order approving the PFD with modifications, or (3) send the case back to SOAH for a new hearing.

If a Final Order is issued and you disagree with the order, you have 20 days after receiving it to file a Motion for Rehearing. If the Department Board or its delegate does not grant the Motion for Rehearing, the order will be final. If the order assessed a civil penalty or other sanction, you must comply with the order or the Department may initiate contempt action against you.

Appealing the Final Order

You may appeal a Final Order to the Travis County District Court if you have filed a proper Motion for Rehearing within 30 days after a Final Order becomes final and appealable.

Failing to Attend the Hearing (Default)

If you do not settle the case and fail to attend the hearing, the enforcement attorney may request a civil penalty and/or license revocation, and/or other sanction be entered against you. The sanctions requested may be more severe than if you had settled before the hearing date. The Department will then issue and send you a copy of a Final Order. If you disagree with the order you may file a Motion for Rehearing. The case becomes final if you do not file a motion for rehearing within 20 days after receiving the order, or if the motion is not granted.

Running Your Business While the Case is Pending

You may continue operating your business and can renew your license while your case remains pending, unless the ALJ orders you to stop operating during the case.

Communications with the ALJ, Director or Department Board Members

The law prohibits communications about a pending case with the ALJ and the Department, **except communications with the enforcement attorney** or when the other party is included in the communication. For example, you may send a letter to the ALJ about a pending case only if you copy the enforcement attorney on the correspondence.

May 02 17 12:08p

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REQUEST FOR ADMINISTRATIVE HEARING

If you intend to contest the allegations listed in the Notice of Department of Decision in this matter or negotiate a settlement with the assigned enforcement division attorney you must first request an administrative hearing. You may use this form to request a hearing.

I request a hearing in Texas Department of Motor Vehicles Case No. 17-0175723.ENF. (The Case Number is found in the heading of the Decision; i.e. MVD Case No. 17-0175723.ENF).

NOTE: Failure to include the Case Number of this matter on this request may result in no hearing being scheduled and loss of the opportunity to settle this matter before a Final Order is issued.

Name of person requesting hearing: Rickey A. Lyons
(Please Print)

Phone Number of person requesting hearing: (972) 213-5265

Would you like to discuss a resolution to this case without a hearing: Yes No

This request for hearing must be received at the below address no later than 26 days from the date of the Notice of Department Decision in this matter.

TEXAS DEPARTMENT OF MOTOR VEHICLES
ENFORCEMENT Division
4000 Jackson Avenue - Austin, Texas 78731

This request may also be faxed to phone number (512) 465-5650

TXDMV

JUN 01 2017

ENFORCEMENT DIVISION

State Office of Administrative Hearings



Lesli G. Ginn
Chief Administrative Law Judge

September 29, 2017

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

VIA INTERAGENCY MAIL

RE: **Docket No. 608-17-4725.ENF; MVD Docket No. 17-0175723 ENF; Texas Department of Motor Vehicles v. Ricky A. Lyons d/b/a The Race House**

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(c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

Travis Vickery
Administrative Law Judge

TEV/mle
Enclosure

cc: Ricky A. Lyons, 725 3rd Ave., Dallas, TX 75226 - VIA REGULAR MAIL
Ricky A. Lyons, PO Box 746616, Dallas, TX 75373 - VIA REGULAR MAIL
Ricky A. Lyons, PO Box 764616, Dallas, TX 75373 - 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 Evidentiary Record)

300 W. 15th Street, Suite 504, Austin, Texas 78701/P.O. Box 13025, Austin, Texas 78711-3025
512.475.4993 (Main) 512.475.3445 (Docketing) 512.475.4994 (Fax)
www.soah.texas.gov

SOAH DOCKET NO. 608-17-4725.ENF

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II. DISCUSSION

Staff presented the testimony of Licensing Manager Antonia Roque Knight and Investigator Paul Skendrovic, and offered 25 exhibits, which were admitted.¹ Mr. Lyons testified and offered seven exhibits, which were admitted.²

A. Applicable Law

A “dealer” is defined as a person who regularly and actively buys, sells, or exchanges vehicles at an established and permanent location.³ A person may not engage in business as a dealer, directly or indirectly, including by consignment, without a GDN for each location from which the person conducts business as a dealer.⁴ The GDN constitutes a dealer’s license.⁵ A person is not required to obtain a GDN if the person sells, or offers to sell, during a calendar year fewer than five vehicles of the same type that are owned and registered in that person’s name.⁶

The Department is authorized to deny, revoke, or suspend a license if the applicant/dealer, among other things, makes a material misrepresentation in an application filed with the Department.⁷ The Department is also authorized to deny, revoke, or suspend a license, and assess a civil penalty, if the Department determines that the person is unfit to perform the duties and discharge the responsibilities of a license holder.⁸ Additionally, the revocation of a previously held license may be grounds for denying a subsequent application for a license.⁹

¹ At the hearing Mr. Lyons objected to Department Exhibits 1-6, 8-14, 22, and 24 for the reasons set forth in Respondent’s Exhibit I. The objections were overruled, and Department Exhibits 1-25 were admitted.

² At the hearing, Staff objected to Respondent Exhibits 1-7 as untimely and not relevant. The objections were overruled and Respondent Exhibits 1-7 were admitted.

³ Tex. Transp. Code § 503.001(4).

⁴ Tex. Transp. Code § 503.021; Tex. Occ. Code § 2301.251(a).

⁵ Tex. Occ. Code § 2301.002(17).

⁶ Tex. Transp. Code § 503.024(a)(1).

⁷ Tex. Transp. Code §§ 503.034(a); .038(a)(6); Tex. Occ. Code § 2301.651(a)(2).

⁸ 43 Tex. Admin. Code §§ 215.141(a)(1)-(4), (b)(17); .89(b). At the hearing, Staff clarified that a civil penalty is not being sought in this case.

⁹ Tex. Occ. Code § 2301.651(c).

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PROPOSAL FOR DECISION

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In determining a person's fitness for licensure, the Department will consider: (1) the requirements of Texas Occupations Code chapter 53;¹⁰ (2) the provisions of Texas Occupations Code § 2301.651; (3) any specific statutory licensing requirements; (4) mitigating factors; and (5) other evidence of a person's fitness as allowed by law, including the standards identified in the Department's rule on fitness.¹¹ The Department's rule on fitness includes the following as grounds for determining that a person is unfit to perform the duties of a license holder: (1) the failure to pay a civil penalty or administrative fine pursuant to the terms of a final order; as well as (2) a person who was or is a manager or affiliate of a sole proprietorship or other legal entity whose license has been subject to disciplinary action, including revocation, or assessment of a civil penalty or administrative fine.¹²

B. Evidence

From March 3, 2008 through December 31, 2009, Mr. Lyons held GDN P103324.¹³ His license expired on December 31, 2009, due to nonrenewal. Mr. Lyons was notified by the Department when his license expired, and that he was no longer able to do business in the State without a license.¹⁴ From 2011 to 2015, Mr. Lyons was the manager of Ladies' Choice. On or about February 19, 2016, the Department revoked Ladies' Choice's license and assessed a civil penalty of \$6,000.¹⁵ As of July 27, 2017, the \$6,000 civil penalty assessed against Ladies' Choice had not been paid.¹⁶

¹⁰ Chapter 53 of the Texas Occupations Code relates to the consequences of a criminal conviction on a license holder, and therefore is inapplicable to this case.

¹¹ 43 Tex. Admin. Code § 215.89(a)(1)-(5).

¹² 43 Tex. Admin. Code § 215.89(b)(7),(8).

¹³ Dept. Ex. 1.

¹⁴ Dept. Ex. 1.

¹⁵ Dept. Exs. 2-11.

¹⁶ Dept. Ex. 22.

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On January 27, 2017, Mr. Lyons applied to the Department for a GDN (2017 Application),¹⁷ the application at issue in this case. In the 2017 Application, Mr. Lyons answered “No” to the question, “Has the TxDMV ever licensed the applicant to act in any capacity in Texas?” (Question No. 15).¹⁸ Question No. 15 defines “TxDMV” as the Department or any division or predecessor of the Department; and defines “applicant” to include the applicant’s partner, manager, director, member, officer, or owner.¹⁹

In Ms. Knight’s capacity as Licensing Manager, she testified that she manages the personnel and activities of the Department’s licensing division. She explained that she was a part of the licensing committee that reviewed Mr. Lyons’s 2017 Application, discovered his failure to disclose his previously-held license and subsequent affiliation with Ladies’ Choice, and recommended denying his application. The recommendation to deny Mr. Lyons’s application was based on his failure to answer Question No. 15 correctly, his affiliation with Ladies’ Choice, and his failure to pay the penalty assessed against Ladies’ Choice. Ms. Knight explained that Mr. Lyons made a material misrepresentation to the Department by denying that he had ever been previously licensed by the Department. However, she elaborated that his affiliation with Ladies’ Choice and the failure to pay the civil penalty assessed against Ladies’ Choice were the more significant factors in deciding to deny his application. Looking at the 2017 Application itself, she noted that Mr. Lyons signed the certificate of responsibility, attesting that his statements were true and complete, and acknowledging that the Department may deny an application that contains false or misleading information.²⁰

Mr. Skendrovic testified that he knows that Mr. Lyons was affiliated with Britney Watson and Ladies’ Choice from his work investigating consumer complaints. During his investigations, Mr. Lyons represented himself to Mr. Skendrovic as the person running Ladies’ Choice.

¹⁷ Dept. Ex. 17.

¹⁸ Dept. Ex. 17 at 106.

¹⁹ Dept. Ex. 17 at 106.

²⁰ Dept. Ex. 17 at 107.

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At the hearing, Mr. Lyons admitted that he was licensed by the Department from 2008 to 2010; that from 2011 to 2015, he was the manager of Ladies' Choice; and that he answered Question No. 15 incorrectly when he filled out the 2017 Application.²¹ Nonetheless, he argued that the Department should have contacted him about the mistake and given him the opportunity to correct it, instead of denying the 2017 Application.

Mr. Lyons testified at length regarding the negotiations surrounding the revocation and assessment of a \$6,000 civil penalty against Ladies' Choice. He explained that he is the brother of the owner, Britney Watson; and was the manager of Ladies' Choice from 2011 through 2015. Mr. Lyons argued that the underlying revocation and civil penalty assessed against Ladies' Choice is in violation of the Service Members Civil Relief Act.²² In support of his argument, Mr. Lyons offered a copy of his sister's Active Duty Orders which purport to demonstrate that Ms. Watson was assigned to report to duty in Washington DC starting May 10, 2012.²³

Having been in this industry since 2008, Mr. Lyons testified that he is aware that a person cannot sell cars without a license from the Department. He testified that he is currently unemployed, but has started The Race House of Hope, a nonprofit organization geared towards helping abused girls. When confronted with internet advertisements of cars posted for sale on The Race House of Hope's Facebook page, Mr. Lyons admitted that he had posted them for sale online, but said they were cars owned by a friend who had offered to pay a commission that Mr. Lyons would put towards the nonprofit organization if he sold the cars.²⁴ He denied that he actually sold any of the cars that he offered for sale.

²¹ See also Dept Exs. 7, 18.

²² Respondent Ex. 1, citing 50 U.S.C. §501, *et seq.*

²³ Respondent Ex. 2.

²⁴ Dept. Ex. 25.

C. The ALJ's Analysis

The evidence was undisputed that: (1) Mr. Lyons was the manager of Ladies Choice; (2) the Department revoked Ladies' Choice's license, and assessed a civil penalty of \$6,000 against it; (3) the \$6,000 civil penalty has not been paid; and (4) Mr. Lyons answered Question No. 15, regarding having previously held a license, incorrectly on his 2017 Application. While Mr. Lyons argued that his answer to Question No. 15 was a mistake and that he should have been allowed to correct it, nothing in the law requires that an applicant be allowed to change a response after certification. With regard to Ladies' Choice, although Mr. Lyons' disputed the underlying revocation and penalty assessed against Ladies Choice, those issues have been previously decided and are not at issue in this case.²⁵

Staff proved each of its allegations. Pursuant to the Texas Transportation Code, Texas Occupations Code, and Department rules, the Department is authorized to deny an application if the applicant makes a material misrepresentation in an application, or is determined to be unfit to be a license holder.²⁶ 'A person who fails to pay a civil penalty pursuant to a final order, as well as a person who was the manager of an entity whose license has been subject to disciplinary action, including revocation or a civil penalty, may be considered unfit to be a license holder.'²⁷

Staff also demonstrated that Mr. Lyons is in violation of Texas Transportation Code § 503.021 and Texas Occupations Code § 2301.251(a) by his online activities in offering to sell vehicles of another on The Race House of Hope's Facebook page; however, that offense was not pled in Staff's Second Amended Notice of Hearing, and therefore will not be considered as a basis for denial of the 2017 Application. Instead, the fact that Mr. Lyons is circumventing the State's requirements that all persons engaged in business as a dealer, directly or indirectly, must be licensed by the Department, is simply a factor the ALJ considers in assessing his credibility.

²⁵ Dept. Exs. 2-11.

²⁶ Tex. Occ. Code § 2301.651(a)(1)-(2); Tex. Transp. Code § 503.034(a)(1); 43 Tex. Admin. Code §§215.89(b)(7)-(8); .141(a), (b)(17).

²⁷ 43 Tex. Admin. Code § 215.89(b)(7)-(8).

Based on the evidence presented, the ALJ concludes that Mr. Lyons made a material misrepresentation in the 2017 Application, is unfit to be a license holder at this time, and his 2017 Application should be denied.

III. FINDINGS OF FACT

1. From March 3, 2008 through December 31, 2009, Ricky Lyons held General Distinguishing Number (GDN) P103324. His license expired on December 31, 2009, due to nonrenewal.
2. From 2011 to 2015, Mr. Lyons was general manager of Britney Watson d/b/a Ladies' Choice (Ladies' Choice), GDN P113680.
3. On or about February 19, 2016, the Texas Department of Motor Vehicles (Department) revoked Ladies' Choice's license and assessed a civil penalty of \$6,000.
4. As of July 27, 2017, the \$6,000 civil penalty assessed against Ladies' Choice had not been paid.
5. On or about January 27, 2017, Ricky Lyons d/b/a The Race House applied to the Department for a GDN to operate as an independent motor vehicle dealer (2017 Application).
6. In the 2017 Application, Mr. Lyons answered "No" to the question, "Has the TxDMV ever licensed the applicant to act in any capacity in Texas?"
7. Mr. Lyons made a material misrepresentation to the Department by denying that he had been previously licensed by the Department on his 2017 Application.
8. Mr. Lyons is not currently licensed by the Department.
9. Mr. Lyons currently attempts to sell cars owned by others online for a commission.
10. Mr. Lyons is currently unfit to be a license holder.
11. On May 9, 2017, staff (Staff) of the Department notified Mr. Lyons that it was proposing to deny his 2017 Application.
12. Mr. Lyons timely requested a hearing.
13. On June 23, 2017, Staff mailed a notice of hearing to Mr. Lyons by certified mail and first class mail.

SOAH DOCKET NO. 608-17-4725.ENF

PROPOSAL FOR DECISION

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14. The notice of hearing 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 a short, plain statement of the factual matters asserted.
15. On July 28, 2017, Staff mailed its Second Amended Notice of Department Decision to Respondent by certified mail and first class mail.
16. The hearing on the merits was held on August 10, 2017, before Administrative Law Judge Travis Vickery in Austin, Texas. Staff was represented by Heather R. E. Pierce, Enforcement Division attorney. Mr. Lyons appeared and represented himself. The hearing concluded and the record closed the same day.

IV. CONCLUSIONS OF LAW

1. The Department has jurisdiction over independent motor vehicle dealers pursuant to Texas Occupations Code ch. 2301 and Texas Transportation Code ch. 503.
2. The State Office of Administrative Hearings has jurisdiction over all matters related to conducting a contested case in this matter, including the preparation of a Proposal for Decision with proposed Findings of Fact and Conclusions of Law, under Texas Government Code ch. 2003.
3. Mr. Lyons received proper and timely notice of hearing. Tex. Gov't Code §§ 2001.051-.052.
4. A GDN constitutes an independent motor vehicle dealer's license, and a person may not legally engage in the business of a dealer without a GDN. Tex. Occ. Code §§ 2301.002(17), 2301.251(a); Tex. Transp. Code § 503.21.
5. The Department may deny an application for a GDN if the applicant makes a material misrepresentation in an application filed with the Department. Tex. Transp. Code § 503.034(a)(1); Tex. Occ. Code § 2301.651(a)(2).
6. The Department may deny an application for a GDN if the Department determines that the person is unfit to perform the duties and discharge the responsibilities of a license holder. 43 Tex. Admin. Code §§ 215.141(a)(1), (b)(17); .89.
7. The Department's rule on fitness includes the following as grounds for determining that a person is unfit to perform the duties of a license holder: (1) the failure to pay a civil penalty or administrative fine pursuant to the terms of a final order; as well as (2) a person who was or is a manager or affiliate of a sole proprietorship or other legal entity whose license has been subject to disciplinary action, including revocation, or assessment of a civil penalty or administrative fine. 43 Tex. Admin. Code § 215.89(b)(7),(8).

SOAH DOCKET NO. 608-17-4725.ENF

PROPOSAL FOR DECISION

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8. Mr. Lyons' previous affiliation as manager of Ladies' Choice and the failure of Ladies' Choice to pay a civil penalty pursuant to the terms of a final order demonstrate that he is unfit to perform the duties of a license holder. 43 Tex. Admin. Code §§ 215.141(a)(1), (b)(17); .89(b)(7)-(8).
9. The 2017 Application should be denied because of Mr. Lyons's material misrepresentation and unfitness to perform the duties of a license holder.

SIGNED September 29, 2017.



TRAVIS VICKERY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

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

IN THE MATTER OF	§	
RICKEY A. LYONS	§	MVD CAUSE NO. 17-0175723
D/B/A THE RACE HOUSE	§	SOAH DOCKET NO. 608-17-4725.ENF

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 the TxDMV’s denial of Ricky Lyons’ (Applicant) application for a dealer license due to applicant’s material misrepresentation and unfitness to perform the duties of a license holder.

The Board enters this Final Order, having considered the evidence, arguments, findings of fact and conclusions of law presented in:

The PFD made and filed by the Administrative Law Judge on September 29, 2017.

ACCORDINGLY, IT IS ORDERED:

1. That findings of fact numbers 1-16 and conclusions of law numbers 1-9, as set out in the ALJ’s September 29, 2017, PFD are hereby adopted;
2. That Respondent’s application for licensure is denied because of Respondent’s material misrepresentation and unfitness to perform the duties of a license holder;
3. That any findings of fact or conclusions of law proposed by the parties that are not adopted in this Order are hereby rejected; and
4. That all remaining motions, exceptions, or objections, of any party, if any, are hereby denied.

Date: _____

Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

ATTESTED:

Daniel Avitia, Director
Motor Vehicle Division
Texas Department of Motor Vehicles



To: Texas Department of Motor Vehicles (TxDMV) Board
From: Jimmy Archer, Director, Motor Carrier Division
Agenda Item: 9
Subject: Adoption of Rules under Title 43, Texas Administrative Code, Chapter 219, Oversize and Overweight Vehicles and Loads
New, §§219.34, 219.35, and 219.36
(Relating to HB 2319, North Texas Intermodal Permit; SB 1383, Fluid Milk Transport Permit; and SB 1524, Intermodal Shipping Container Port Permit)

RECOMMENDATION

Approve adoption of new sections for publication in the *Texas Register*.

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the new sections is to implement House Bill 2319, Senate Bill 1383, and Senate Bill 1524, which authorize three new permits for overweight vehicle combinations. The permits authorize certain vehicle combinations to exceed gross weight and axle weight limits, as long as the vehicle combination and the operator are in compliance with all of the applicable requirements and restrictions.

FINANCIAL IMPACT

There will be no fiscal implications for state or local governments as a result of enforcing or administering the proposed new sections. Although the sale of the new permits is anticipated to generate revenue for the state and certain local jurisdictions in the state, the estimated increase in revenue cannot be determined at this time due to a lack of data on the number of applications that will be submitted and approved for the permits authorized by the new sections. Also, the fee for the permits under §219.35 and §219.36 is set by statute, rather than by rule.

BACKGROUND AND DISCUSSION

The new sections establish the requirements, restrictions, and procedures for the following permits:

- **§219.34, North Texas Intermodal Permit** - implements House Bill 2319, which added Transportation Code, §623.0172, Permit for Intermodal Shipping Container, to require the department to issue an annual permit for the international transportation of a sealed intermodal shipping container by a truck-tractor and semitrailer combination in portions of Bowie County, Texas.
- **§219.35, Fluid Milk Transport Permit** - implements Senate Bill 1383, which added Transportation Code, §623.401, Permit for Vehicles Transporting Fluid Milk, to authorize the department to issue an annual permit for the movement of fluid milk by certain truck-tractor and semitrailer combinations.
- **§219.36, Intermodal Shipping Container Port Permit** - implements Senate Bill 1524, which added Transportation Code, §623.402, Issuance of Permit, to authorize the department to issue an annual permit for the movement of certain vehicle combinations transporting sealed intermodal shipping containers moving in international transportation.

The proposal was published in the *Texas Register* on October 20, 2017. The comment period closed on November 20, 2017. The department received the attached comments from the following regarding the fee for the North Texas Intermodal Permit under §219.34: William L. Hale, P.E., Texas Department of Transportation (TxDOT); The Honorable James Carlow, Bowie County Judge; Colin T. Parrish, Statehouse Consultants, LLC; Ronnie Alexander, Domtar, Logistics and Distribution



Services Manager, Ashdown Mill; Bob Grygotis, Domtar, General Manager, Ashdown Mill; and Tammy Waters, Domtar, Manager, Communications and Government Relations.

TxDOT recommended a permit fee of \$200, based on Domtar's estimate that it will buy approximately 20 permits per year and will take approximately 1.5 trips per day, five days a week under each permit. TxDOT stated that a permit fee of \$200 is "sufficient at this time to cover the anticipated increase in pavement and bridge consumption costs caused by the increased weight of permitted vehicles."

The Honorable James Carlow, Bowie County Judge, requested the department to set the permit fee at an amount: 1) that is proportionate to the short distance within the county; and 2) that aligns with similar permits in Texas.

Domtar representatives requested the department to adjust the proposed fee of \$2,000 to align with the following: 1) the distance to be traveled, which is 2.5 miles; and 2) similar permits issued by the department. Mr. Parrish submitted a comment on behalf of Domtar in which he proposed a formula, which is based on the fee for the Intermodal Shipping Container Port Permit under §219.36, to come up with a \$500 fee for the North Texas Intermodal Permit. Mr. Parrish also stated that the legislature intended the permit fee to be set lower than \$2,000 "except in extreme circumstances or as a last resort," and that the fee for this permit will be "viewed as a precedent setting test case."

The department recommends a reduction of the fee for the North Texas Intermodal Permit from \$2,000 to \$500 in response to the comments. However, the department disagrees with the formula and rationale proposed by the commenters to reduce the fee, as explained in the department's preamble.

If the board adopts the new sections during its December 7, 2017, open meeting, staff anticipates:

- publication in the December 29, 2017, issue of the *Texas Register*; and
- an effective date of January 7, 2018.



125 EAST 11TH STREET, AUSTIN, TEXAS 78701-2483 | 512.463.8588 | WWW.TXDOT.GOV

October 19, 2017

RECEIVED

OCT 23 2017

TxDMV
OFFICE OF GENERAL COUNSEL

Mr. Jimmy Archer
Director, Motor Carrier Division
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731

Dear Mr. Archer:

In response to the Texas Department of Motor Vehicles' (TxDMV) request regarding a proposed permit fee for vehicles traveling under a permit issued pursuant to the limitations of House Bill (HB) 2319, 85th Regular Legislative Session (2017), the Texas Department of Transportation (TxDOT) has concluded that a permit fee of \$200 is sufficient at this time to cover the anticipated increase in pavement and bridge consumption costs caused by the increased weight of permitted vehicles.

If there is anything further you need from TxDOT to implement HB 2319, please contact Blake Calvert at (512) 463-6399 or blake.calvert@txdot.gov.

Sincerely,

William L. Hale, P.E.
Chief Engineer

cc: Whitney Brewster, Executive Director, TxDMV
Caroline Love, Director, Government and Strategic Communications, TxDMV
James M. Bass, Executive Director, TxDOT
Glenn H. Green, P.E., Atlanta District Engineer, TxDOT
Trent W. Thomas, Director, State Legislative Affairs, TxDOT

OUR VALUES: People • Accountability • Trust • Honesty

OUR MISSION: Through collaboration and leadership, we deliver a safe, reliable, and integrated transportation system that enables the movement of people and goods.

An Equal Opportunity Employer

Deborah Lann, Executive Assistant
903-628-6718
903-628-6719 Fax
Email: countyjudge@txkusa.org



JAMES M. CARLOW
COUNTY JUDGE
BOWIE COUNTY

Bowie County Courthouse
P.O. Box 248
710 James Bowie Drive
New Boston, TX 75570

November 17, 2017

Mr. David D. Duncan, General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731
rules@txdmv.gov

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TxDMV
OFFICE OF GENERAL COUNSEL

RE: Written Comments on Proposed New 43 TAC §219.34 Which Implements House Bill 2319

Dear Mr. Duncan:

As Bowie County Judge, I am writing on behalf of Domtar's Ashdown Mill (manufacturer of pulp and paper products) to respectfully ask for the proposed Texas Administrative Code (TAC) §219.34 which added the permit for Intermodal Shipping Container, to be set based on the legislative text providing for permit fees of "up to \$2000". Domtar will only be utilizing a 2.5 mile stretch on Highway 71 in Texas, which contains no bridges, to move their product back through Arkansas on route to intermodal rail. My ask is that the fee be set at an amount proportionate to the short distance within the county and that it align with similar permits in our State.

Even though Domtar is located in Arkansas (only 15 miles north of Texarkana, Texas), they are a vital leader to the regional economy in Bowie County. Of the mill's nearly 850 employees, nearly 1/3 resides in Texarkana and northeast Texas. The mill has decades of successful manufacturing experience, a skilled workforce, and have proven to be a true asset to the region.

During the 2017 legislative session, I was directly involved to ensure HB 2319 passed because I recognized the importance of this permit to our friends at Domtar. The language in the bill (up to \$2000) gives clear flexibility to the DMV to set the rate at an amount that is fair to the State of Texas and to the Ashdown Mill.

I would like to thank the DMV in advance for thoroughly reviewing the fee structure for this permit and ensuring it aligns with similar permits in the state.

Sincerely,
James Carlow
Bowie County Judge



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NOV 17 2017
TxDMV
OFFICE OF GENERAL COUNSEL

David D. Duncan, General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, Texas 78731
rules@txdmv.gov

Dear Mr. Duncan,

I am writing to encourage the Texas Department of Motor Vehicles (TXDMV) to use the statutory authority granted to it during the 85th legislative session, and set a permit fee lower than the maximum limit under the law, as initially set in the proposed rule under Title 43 Texas Administrative Code §623.0172, relating to a permit for intermodal shipping containers in portions of Bowie County. If TXDMV adopts the rule as proposed, this will not only be the most expensive weight permit of its kind in the state but the entire country.

Unlike nearly every other truck permit fee which is set at a fixed rate in statute, the legislature clearly included a provision authorizing the fee be set by the department at a rate no more than \$2,000.00 per year. This provision necessarily implies that the legislature intended the rate to be set lower except in extreme circumstances or as a last resort.

Since the authority granted to TXDMV is not common, and will be viewed as a precedent setting test case, I encourage TXDMV to use a formula, or other defined process, to set the rate more in line with similar permits. The most similar recent permit passed by the legislature, the port shipping container permit, is set at \$6,000.00 per year for 30 miles, which represents \$200.00 per mile. The port shipping container permit fee was set very high by the legislature, to account for the fact that the largest container terminal in the state is in Harris County, which has an extremely dense population of bridges and elevated structures on their roadways. Using this formula as a guide, and not taking into account that the authorized area for this permit in Bowie County does not have the same bridges and elevated structures as the permit in Harris County, a 2.5 mile permit would be \$500.00 for an annual fee.

Your support lowering the proposed fee to more precisely reflect the legislature's intent, and keep Texas' fees competitive, is appreciated.

Thank you for your time and consideration in this matter,

Colin T. Parrish, Partner
Statehouse Consultants, LLC
919 Congress Avenue, Suite 1500
Austin, Texas 78701
512-796-7968



November 17, 2017

Mr. David D. Duncan, General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731
rules@txdmv.gov

Domtar
Ashdown Mill
285 Highway 71 South
Ashdown, AR 71822
Tel.: (870) 898-2711

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NOV 17 2017

TXDMV
OFFICE OF GENERAL COUNSEL

RE: Written Comments on Proposed New 43 TAC §219.34 Which Implements House Bill 2319

Dear Mr. Duncan:

As the manager for logistics and distribution services for Domtar's Ashdown Mill, I'm writing to ask for leniency when setting the permit fee for the Texas Administrative Code (TAC) §219.34 which added Transportation Code, §623.0172 - the permit for Intermodal Shipping Container. The verbiage for the permit fee is stated as "up to \$2000". As the DMV makes a decision on the permit fee for Domtar, I'm asking that the short distance of 2.5 miles in Bowie County be considered and the fee set at a reasonable amount which aligns with similar permits in the state. When making the decision, please know that the road in Texas we will be utilizing is not only a short distance, but is also a very flat stretch with no bridges.

Domtar's Ashdown Mill is part of a network of 13 pulp and paper facilities. The Ashdown Mill employs nearly 850 employees, residing in both Arkansas and northeast Texas, and serves as an economic driver not only in Little River County, but the entire region. Following a substantial capital investment at Ashdown in 2016, our mill is positioned within Domtar as a key manufacturer of fluff pulp, the absorbent material used to make infant diapers and incontinence products.

With this transition, we are serving more export markets and need to access deep water ports to ship our product by sealed, oceangoing containers. This permit is critical to us moving our product to the intermodal rail facility in West Memphis, Arkansas.

In my role at the Ashdown Mill, I have seen our competition change over the past few years to internal competition with our sister mills. As an example, Domtar's Plymouth North Carolina Mill is the only other facility within our system producing and shipping fluff pulp as Ashdown is doing. Because they are located right on the coast, their cost for shipping and exporting is very low and cost-efficient. We are constantly challenged to keep our transportation costs down so we too can be competitive and responsive to our customers.

Streamlining the fee structure is an important step as we strive to keep our facility transportation costs in line with our competition. Your consideration of this request is appreciated.

Sincerely,

A handwritten signature in cursive script that reads 'Ronnie Alexander'.

Ronnie Alexander
Logistics & Distribution Services Manager
Ashdown Mill



Domtar
Ashdown Mill
285 Highway 71 South
Ashdown, AR 71822
Tel.: (870) 898-2711

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TxDMV
OFFICE OF GENERAL COUNSEL

November 15, 2017

Mr. David D. Duncan, General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731
rules@txdmv.gov

RE: Written Comments on Proposed New 43 TAC §219.34 Which Implements House Bill 2319

Dear Mr. Duncan:

I am writing in my capacity as the general manager of Domtar's Ashdown Mill to respectfully ask for the proposed Texas Administrative Code (TAC) §219.34 which added Transportation Code, §623.0172, the permit for Intermodal Shipping Container, be reviewed and set based on the legislative text providing for permit fees of "up to \$2000". **Our ask is that the short distance – 2.5 miles – be evaluated and the fee adjusted to an amount commensurate with the very short route within Bowie County where Domtar's products needs to travel.**

Domtar is an integrated pulp and paper manufacturer that manufactures and distributes a wide variety of fiber-based products; including communication, specialty, and packaging papers, as well as absorbent hygiene products (baby diapers/adults diapers/feminine hygiene products). As part of our network of manufacturing facilities, Domtar owns a large pulp and paper mill in Ashdown, Arkansas – located 15 miles north of Texarkana, Texas. In addition, our company owns a paper converting facility in Irving, Texas and a facility in Waco, Texas that manufactures baby diapers and adult incontinent products. Of our nearly 850 employees in Ashdown, nearly 1/3 resides in Texarkana and northeast Texas.

Domtar's Ashdown Mill has decades of papermaking history and an experienced workforce. The facility is an essential pillar of the regional economy in the ARK-LA-TEX. And, like many mills across North America, their long-term future was directly affected by declining paper demand in the markets they served. But after significant investments by Domtar, Ashdown is now repositioned as a manufacturer of fluff pulp, the absorbent material used to make infant diapers and incontinence products.

This journey began several years ago when production on Ashdown's largest paper machine was converted to a fluff pulp machine. With this transition, we are now serving an increasing number of

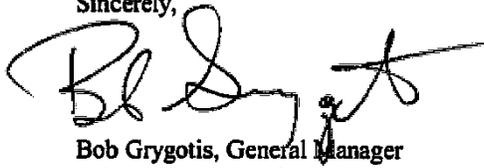
export markets and seek deep water ports to ship our product by sealed, oceangoing containers. HB 2319 and the accompany permit give us the ability to move our product from the mill over the 2.5 mile stretch in Texas to Arkansas where we can access intermodal rail to deep water ports and reach our export markets.

Since our new fluff pulp machine came on-line in 2016, we have worked diligently to build our customer base. This new business has entailed going through rigorous qualification processes to secure new business – a process still continuing today. Based on our current customers secured to date, we are ready to begin utilizing the permit and are looking to grow the number of permits throughout 2018 as new business is secured. The customer-base for this product requires export out of the country and must have competitive freight cost to port to be attractive.

Domtar is committed to being good corporate neighbor to our friends in Texas and we want to pay our fair share to utilize the small portion of Hwy. 71 in your state. Competition has changed for our mill – our main competition used to be other companies, but now it is the internal competition with our sister mills. For example, Domtar's Plymouth North Carolina mill is the only other facility within our system that produces and ships fluff pulp as we do. Because they are more proximate to deep-water ports, their facilities cost for shipping/exporting is often lower and generally more cost-efficient. It is our challenge in Ashdown to keep transportation costs as low as possible to remain competitive and responsive to our customers. By having a permit fee structure that aligns with the distance to be traveled, we believe our success will be enhanced.

On behalf of Domtar and our nearly 850 colleagues at the Ashdown Mill, I appreciate your consideration in addressing the fee structure for this permit.

Sincerely,



Bob Grygotis, General Manager
Ashdown Mill



Domtar
285 Highway 71 South
Ashdown, AR 71822
Tel.: (870) 898-2711

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NOV 17 2017

TxDMV
OFFICE OF GENERAL COUNSEL

November 15, 2017

Mr. David D. Duncan, General Counsel
Texas Department of Motor Vehicles
4000 Jackson Avenue
Austin, TX 78731
rules@txdmv.gov

RE: Proposed New 43 TAC §219.34 Which Implements House Bill 2319 – Written Comments

Dear Mr. Duncan:

On behalf of my nearly 850 colleagues at Domtar's Ashdown Mill, I am submitting comments to respectfully ask for the proposed Texas Administrative Code (TAC) §219.34 which added Transportation Code, §623.0172, be reviewed and set based on the legislative text providing for permit fees of "up to \$2000". When deciding the permit fee amount, please take into account the diminutive distance of 2.5 miles Domtar needs to move product to intermodal rail in northeast Arkansas. With the majority of statutory permitting fees in Texas being at a "set rate," we are asking the DMV to ensure our fee is in line with other similar permits. In addition, DMV was provided clear flexibility with the "up to \$2000" language stated in HB2319. If the fee is set at the upper level of \$2000 for the short 2.5 mile distance, it would make it the most expensive permit per mile in the state and by far one of the highest in the country.

Our company is an integrated pulp and paper manufacturer of communication, specialty, and packaging papers, as well as absorbent hygiene products. Domtar owns a large pulp and paper facility in Ashdown, Arkansas which is located 15 miles north of Texarkana, Texas. Following a \$200 million capital investment into the facility last year, the mill is focused of producing fluff pulp, the absorbent material used to make infant diapers and incontinence products.

During the 2017 Legislative Session, we worked diligently to see the passage of HB 2319 to provide us the ability to move our fluff pulp product from Ashdown over the 2.5 mile stretch in Texas back to Arkansas to access intermodal rail near West Memphis. This is critical as we are now serving an increasing number of export markets and need access to deep water ports to ship our product by sealed, oceangoing containers.

Throughout the legislative session, we had numerous conversations with legislators to discuss a fair solution for this specific overweight permit. During the discussions it was our understanding that the "up to \$2000" verbiage was established to provide the DMV the flexibility to implement a fair and equitable fee (preferably on distance used) for those needed to utilize the permit. We believe this not only makes sense for Domtar, but other companies who want to see growth and success in the four-state region.

Having a permit fee that aligns with the distance to be traveled is critical as we work to keep our transportation costs to a minimum to remain competitive and responsive to our customer base.

Your support in setting this fee structure is very much appreciated.

Sincerely,



Tammy Waters
Manager, Communications & Govt. Relations



BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING ADOPTION OF NEW
43 TAC SECTIONS 219.34, 219.35, AND 219.36
RELATING TO PERMITS FOR OVER AXLE
AND OVER GROSS WEIGHT TOLERANCES

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to adopt new Chapter 219, Oversize and Overweight Vehicles and Loads, Subchapter C, Permits for Over Axle and Over Gross Weight Tolerances, §219.34, North Texas Intermodal Permit; §219.35, Fluid Milk Transport Permit; and §219.36, Intermodal Shipping Container Port Permit.

The preamble and the new sections are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the board that the attached rules are adopted.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

Recommended by:

Jimmy Archer, Director
Motor Carrier Division

Order Number: _____

Date Passed: December 7, 2017

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 Adoption Preamble

2 The Texas Department of Motor Vehicles (department) adopts new
3 Chapter 219, Oversize and Overweight Vehicles and Loads,
4 Subchapter C, Permits for Over Axle and Over Gross Weight
5 Tolerances, §219.34, North Texas Intermodal Permit; §219.35,
6 Fluid Milk Transport Permit; and §219.36, Intermodal Shipping
7 Container Port Permit. Sections 219.35 and 219.36 are adopted
8 without changes to the proposed text as published in the October
9 20, 2017, issue of the *Texas Register* (42 TexReg 5847) and will
10 not be republished. Section 219.34 is adopted with changes to
11 the proposed text and will be republished. The department
12 amended §219.34 to decrease the permit fee from \$2,000 to \$500.

13

14 EXPLANATION OF ADOPTED NEW SECTIONS

15 The 85th Legislature, Regular Session, 2017, authorized three
16 new permits for overweight vehicle combinations. The permits
17 authorize certain vehicle combinations to exceed gross weight
18 and axle weight limits, as long as the vehicle combination and
19 the operator are in compliance with all of the applicable
20 requirements and restrictions. New §§219.34, 219.35, and 219.36
21 establish the requirements, restrictions, and procedures
22 regarding these permits.

23

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 New §219.34 implements House Bill 2319, which added
2 Transportation Code, §623.0172, Permit for Intermodal Shipping
3 Container, to require the department to issue an annual permit
4 for the international transportation of a sealed intermodal
5 shipping container by a truck-tractor and semitrailer
6 combination in portions of Bowie County, Texas.

7

8 New §219.35 implements Senate Bill 1383, which added
9 Transportation Code, §623.401, Permit for Vehicles Transporting
10 Fluid Milk, to authorize the department to issue an annual
11 permit for the movement of fluid milk by certain truck-tractor
12 and semitrailer combinations.

13

14 New §219.36 implements Senate Bill 1524, which added
15 Transportation Code, §623.402, Issuance of Permit, to authorize
16 the department to issue an annual permit for the movement of
17 certain vehicle combinations transporting sealed intermodal
18 shipping containers moving in international transportation.

19

20 COMMENTS

21 The department received comments from the following regarding
22 the fee for the North Texas Intermodal Permit under §219.34:
23 William L. Hale, P.E., Texas Department of Transportation

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 (TxDOT); The Honorable James Carlow, Bowie County Judge; Colin
2 T. Parrish, Statehouse Consultants, LLC; Ronnie Alexander,
3 Domtar, Logistics and Distribution Services Manager, Ashdown
4 Mill; Bob Grygotis, Domtar, General Manager, Ashdown Mill; and
5 Tammy Waters, Domtar, Manager, Communications and Government
6 Relations.

7

8 COMMENTS

9 The department asked TxDOT for their recommendation on the
10 initial fee for this permit, based on Domtar's estimate that it
11 will buy approximately 20 permits per year and will take
12 approximately 1.5 trips per day, five days a week under each
13 permit. In a letter dated October 19, 2017, TxDOT concluded that
14 "a permit fee of \$200 is sufficient at this time to cover the
15 anticipated increase in pavement and bridge consumption costs
16 caused by the increased weight of permitted vehicles."

17

18 The Honorable James Carlow, Bowie County Judge, requested the
19 department to set the permit fee at an amount: 1) that is
20 proportionate to the short distance within the county; and 2)
21 that aligns with similar permits in Texas.

22

23 Domtar representatives submitted four comments, requesting the

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 department to adjust the proposed permit fee to align with the
2 following: 1) the distance to be traveled, which is 2.5 miles;
3 and 2) similar permits issued by the department. Mr. Parrish
4 submitted a comment on behalf of Domtar in which he proposed a
5 formula, which is based on the fee for the Intermodal Shipping
6 Container Port Permit under §219.36, to come up with a \$500 fee
7 for the North Texas Intermodal Permit. Mr. Parrish also stated
8 that the legislature intended the permit fee to be set lower
9 than \$2,000 "except in extreme circumstances or as a last
10 resort," and that the fee for this permit will be "viewed as a
11 precedent setting test case."

12

13 RESPONSE

14 The department reduced the permit fee in §219.34 from \$2,000 to
15 \$500, which is a fair and reasonable fee for this annual permit.
16 However, the department does not adopt the formula proposed by
17 Mr. Parrish, we disagree with the argument that the permit fee
18 should be based on the distance of the road on which the permit
19 is authorized, we disagree with the argument that the
20 legislature intended the permit fee to be set lower than \$2,000
21 "except in extreme circumstances or as a last resort," and we
22 don't intend to set a precedent on determining future permit
23 fees.

Texas Department of Motor Vehicles
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1 Transportation Code, §623.0172(h) requires the department to
2 initially set the fee for this permit in an amount not to exceed
3 \$2,000. This section also says that beginning in 2022 on
4 September 1 of each even-numbered year, the department shall set
5 the fee for this permit based on the results of the study
6 conducted by TxDOT in compliance with the requirements listed in
7 §623.0172(1). Section 623.0172(1) does not list distance as a
8 factor for TxDOT's study, which will be used to determine the
9 future fee for this permit. The legislature did not intend for
10 the initial fee to set a precedent for the future fee for this
11 permit because the legislature provided the factors on which the
12 future fee must be based. Also, there is no language in
13 §623.0172 that says the department must set the fee lower than
14 \$2,000 "except in extreme circumstances or as a last resort."
15
16 Section 623.0172(e)(2) authorizes TxDOT to establish the route
17 for this permit. TxDOT established the route as US 71/US 59 from
18 the Arkansas state border to the eastbound entrance ramp for
19 Interstate Highway 49 in Bowie County. Domtar stated that this
20 portion of US 71 is 2.5 miles long. Although the authorized
21 route is 2.5 miles long, the permit holder can travel on this
22 2.5-mile stretch of US 71 as many times as they want for an
23 entire year because the North Texas Intermodal Permit is an

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 annual permit. In addition, §623.0172(j) says the portion of the
2 permit fee that is deposited into the state highway fund may
3 only be used for transportation projects in the TxDOT district
4 designated in the permit application. If the legislature
5 intended the permit fee to only cover the maintenance costs for
6 the 2.5-mile stretch of US 71, it would have written
7 §623.0172(j) differently.

8

9 Although the statute for the Intermodal Shipping Container Port
10 Permit under §219.36 says the permit is limited to 30 miles from
11 the port authority or port of entry, the statute also says the
12 permit may only be used on highways and roads approved by TxDOT.
13 There is no guarantee that the Intermodal Shipping Container
14 Port Permit will actually authorize the permit holder to travel
15 on 30 miles of highways or roads. Also, §623.0172 does not say
16 the fee for the North Texas Intermodal Permit should be based on
17 the fee for the Intermodal Shipping Container Port Permit.

18

19 Although TxDOT recommended a fee of \$200, this estimate was
20 based on Domtar's estimate that it will buy approximately 20
21 permits per year and will take approximately 1.5 trips per day,
22 five days a week under each permit. TxDOT's estimate was based
23 on the anticipated increase in pavement and bridge consumption

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 costs caused by the increased weight of the permitted vehicles.

2 As stated above, the legislature did not intend for the permit

3 fee to only be used on the 2.5-mile stretch of US 71. In

4 addition, Mr. Bob Grygotis, the General Manager for Domtar's

5 Ashdown Mill, commented that they "are looking to grow the

6 number of permits throughout 2018 as new business is secured."

7

8 Other permits are more expensive, such as a single-trip permit

9 for an overwidth load, which costs \$60 regardless of the

10 distance traveled. The overwidth load does not cause damage to

11 the road like an overweight load. If a person needs to transport

12 1.5 loads for five days a week, the cost will be \$450 for one

13 week and \$23,400 for 52 weeks for an overwidth load under

14 single-trip permits.

15

16 STATUTORY AUTHORITY

17 The new sections are adopted under Transportation Code,

18 §1002.001, which provides the board of the Texas Department of

19 Motor Vehicles (board) with the authority to adopt rules that

20 are necessary and appropriate to implement the powers and the

21 duties of the department under the Transportation Code;

22 Transportation Code, §623.002, which authorizes the board to

23 adopt rules that are necessary to implement and enforce

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

- 1 Transportation Code, Chapter 623; and more specifically,
- 2 Transportation Code, §623.407(a), which requires the department
- 3 to adopt rules that are necessary to implement Transportation
- 4 Code, Chapter 623, Subchapter U, Vehicles Transporting Fluid
- 5 Milk; and Transportation Code, §623.411(a), which requires the
- 6 department to adopt rules that are necessary to implement
- 7 Transportation Code, Chapter 623, Subchapter U, Intermodal
- 8 Shipping Containers.
- 9
- 10 CROSS REFERENCE TO STATUTE
- 11 Transportation Code, Chapters 621 and 623.

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 SUBCHAPTER C. PERMITS FOR OVER AXLE AND

2 OVER GROSS WEIGHT TOLERANCES

3 §219.34. North Texas Intermodal Permit.

4 (a) Purpose. This section prescribes the requirements,
5 restrictions, and procedures regarding the annual permit for
6 transporting an intermodal shipping container under the
7 provisions of Transportation Code, §623.0172.

8 (b) Application for permit.

9 (1) To qualify for a North Texas intermodal permit, a
10 person must submit an application to the department.

11 (2) The application shall be in a form prescribed by
12 the department and at a minimum, will require the following:

13 (A) name and address of the applicant;

14 (B) name of contact person and telephone number
15 or email address; and

16 (C) vehicle information, including vehicle year,
17 make, license plate number and state of issuance, and vehicle
18 identification number.

19 (3) The application shall be accompanied by the total
20 annual permit fee of \$500.

21 (4) Fees for permits issued under this section are
22 payable as required by §219.11(f) of this title (relating to
23 General Oversize/Overweight Permit Requirements and Procedures).

Texas Department of Motor Vehicles
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1 (c) Amendments. An annual permit issued under this section
2 will not be amended except in the case of department error.

3 (d) Transfer of permit. A permit issued under this section
4 may only be transferred once during the term of the permit from
5 one vehicle to another vehicle in the permittee's fleet
6 provided:

7 (1) the permitted vehicle is destroyed or otherwise
8 becomes permanently inoperable, to an extent that it will no
9 longer be utilized, and the permittee presents proof that the
10 negotiable title or other qualifying documentation, as
11 determined by the department, has been surrendered to the
12 department; or

13 (2) the title to the permitted vehicle is transferred
14 to someone other than the permittee, and the permittee presents
15 proof that the negotiable title or other qualifying
16 documentation, as determined by the department, has been
17 transferred from the permittee.

18 (e) Restrictions pertaining to road conditions. Movement of
19 a permitted vehicle is prohibited when road conditions are
20 hazardous based upon the judgment of the operator and law
21 enforcement officials. Law enforcement officials shall make the
22 final determination regarding whether or not conditions are
23 hazardous. Conditions that should be considered hazardous

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 include, but are not limited to:

2 (1) visibility of less than 2/10 of one mile; or

3 (2) weather conditions such as wind, rain, ice, sleet,
4 or snow.

5 (f) Curfew restrictions. The operator of a permitted
6 vehicle must observe the curfew movement restrictions published
7 by the department.

8 (g) Construction or maintenance areas. The permitted
9 vehicle may not travel through any state highway construction or
10 maintenance area if prohibited by the construction restrictions
11 published by the department.

12 (h) Night movement. Night movement is allowed under this
13 permit, unless prohibited by the curfew movement restrictions
14 published by the department.

15 (i) Manufacturer's tire load rating. Permits issued under
16 this section do not authorize the vehicle to exceed the
17 manufacturer's tire load rating.

18

19 §219.35. Fluid Milk Transport Permit.

20 (a) Purpose. This section prescribes the requirements,
21 restrictions, and procedures regarding the annual permit for
22 transporting fluid milk under the provisions of Transportation
23 Code, Chapter 623, Subchapter U, as added by Chapter 750 (S.B.

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 1383), Acts of the 85th Legislature, Regular Session, 2017.

2 (b) Application for permit.

3 (1) To qualify for a fluid milk transport permit, a
4 person must submit an application to the department.

5 (2) The application shall be in a form prescribed by
6 the department and at a minimum, will require the following:

7 (A) name and address of the applicant;

8 (B) name of contact person and telephone number
9 or email address;

10 (C) vehicle information, including vehicle year,
11 make, license plate number and state of issuance, and vehicle
12 identification number; and

13 (D) a list of counties in which the vehicle will
14 be operated.

15 (3) The application shall be accompanied by the total
16 annual permit fee of \$1,200.

17 (4) Fees for permits issued under this section are
18 payable as required by §219.11(f) of this title (relating to
19 General Oversize/Overweight Permit Requirements and Procedures).

20 (c) Issuance and placement of permit and windshield
21 sticker; restrictions.

22 (1) A permit and a windshield sticker will be issued
23 once the application is approved, and each will be mailed to the

Texas Department of Motor Vehicles
Chapter 219, Oversize and Overweight Vehicles and Loads

1 applicant at the address contained in the application.

2 (2) The windshield sticker shall be affixed to the
3 inside of the windshield of the vehicle in accordance with the
4 diagram printed on the back of the sticker and in a manner that
5 will not obstruct the vision of the driver. Any attempt to
6 remove the sticker from the windshield will render the sticker
7 void and will require a new permit and sticker.

8 (3) A replacement sticker for a lost, stolen, or
9 mutilated windshield sticker may be issued, provided that the
10 permittee submits a request on a form approved by the department
11 which shall include a statement, signed by the permittee,
12 affirming that the sticker was lost, stolen, or mutilated. The
13 replacement sticker shall only be valid for the permitted
14 vehicle.

15 (d) Amendments. An annual permit issued under this section
16 will not be amended except in the case of department error.

17 (e) Transfer of permit. A permit issued under this section
18 may only be transferred once during the term of the permit from
19 one vehicle to another vehicle in the permittee's fleet
20 provided:

21 (1) the permitted vehicle is destroyed or otherwise
22 becomes permanently inoperable, to an extent that it will no
23 longer be utilized, and the permittee presents proof that the

Texas Department of Motor Vehicles
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1 negotiable title or other qualifying documentation, as
2 determined by the department, has been surrendered to the
3 department; or

4 (2) the title to the permitted vehicle is transferred
5 to someone other than the permittee, and the permittee presents
6 proof that the negotiable title or other qualifying
7 documentation, as determined by the department, has been
8 transferred from the permittee.

9 (f) Termination of permit. An annual permit issued under
10 this section will automatically terminate, and the windshield
11 sticker must be removed from the vehicle:

12 (1) on the expiration of the permit;

13 (2) when the lease of the vehicle expires;

14 (3) on the sale or other transfer of ownership of the
15 vehicle for which the permit was issued; or

16 (4) on the dissolution or termination of the
17 partnership, corporation, or other legal entity to which the
18 permit was issued.

19 (g) Restrictions pertaining to road conditions. Movement of
20 a permitted vehicle is prohibited when road conditions are
21 hazardous based upon the judgment of the operator and law
22 enforcement officials. Law enforcement officials shall make the
23 final determination regarding whether or not conditions are

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1 hazardous. Conditions that should be considered hazardous
2 include, but are not limited to:

3 (1) visibility of less than 2/10 of one mile; or

4 (2) weather conditions such as wind, rain, ice, sleet,
5 or snow.

6 (h) Curfew restrictions. The operator of a permitted
7 vehicle must observe the curfew movement restrictions published
8 by the department.

9 (i) Construction or maintenance areas.

10 (1) The permitted vehicle may not travel through any
11 state highway construction or maintenance area if prohibited by
12 the construction restrictions published by the department.

13 (2) The permittee is responsible for contacting the
14 appropriate local jurisdiction for construction or maintenance
15 restrictions on non-state maintained roadways.

16 (j) Night movement. Night movement is allowed under this
17 permit, unless prohibited by the curfew movement restrictions
18 published by the department.

19 (k) Manufacturer's tire load rating. Permits issued under
20 this section do not authorize the vehicle to exceed the
21 manufacturer's tire load rating.

22

23 §219.36. Intermodal Shipping Container Port Permit.

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1 (a) Purpose. This section prescribes the requirements,
2 restrictions, and procedures regarding the annual permit for
3 transporting an intermodal shipping container under the
4 provisions of Transportation Code, Chapter 623, Subchapter U, as
5 added by Chapter 108 (S.B. 1524), Acts of the 85th Legislature,
6 Regular Session, 2017.

7 (b) Application for permit.

8 (1) To qualify for an intermodal shipping container
9 port permit, a person must submit an application to the
10 department.

11 (2) The application shall be in a form prescribed by
12 the department and at a minimum, will require the following:

13 (A) name and address of the applicant;

14 (B) name of contact person and telephone number
15 or email address;

16 (C) vehicle information, including vehicle year,
17 make, license plate number and state of issuance, and vehicle
18 identification number;

19 (D) a list of counties in which the vehicle will
20 be operated; and

21 (E) a list of municipalities in which the vehicle
22 will be operated.

23 (3) The application shall be accompanied by the total

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1 annual permit fee of \$6,000.

2 (4) Fees for permits issued under this section are
3 payable as required by §219.11(f) of this title (relating to
4 General Oversize/Overweight Permit Requirements and Procedures).

5 (c) Issuance and placement of permit and windshield
6 sticker; restrictions.

7 (1) A permit and a windshield sticker will be issued
8 once the application is approved, and each will be mailed to the
9 applicant at the address contained in the application.

10 (2) The windshield sticker shall be affixed to the
11 inside of the windshield of the vehicle in accordance with the
12 diagram printed on the back of the sticker and in a manner that
13 will not obstruct the vision of the driver. Any attempt to
14 remove the sticker from the windshield will render the sticker
15 void and will require a new permit and sticker.

16 (3) A replacement sticker for a lost, stolen, or
17 mutilated windshield sticker may be issued, provided that the
18 permittee submits a request on a form approved by the department
19 which shall include a statement, signed by the permittee,
20 affirming that the sticker was lost, stolen, or mutilated. The
21 replacement sticker shall only be valid for the permitted
22 vehicle.

23 (d) Amendments. An annual permit issued under this section

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1 will not be amended except in the case of department error.

2 (e) Transfer of permit. A permit issued under this section
3 may only be transferred once during the term of the permit from
4 one vehicle to another vehicle in the permittee's fleet
5 provided:

6 (1) the permitted vehicle is destroyed or otherwise
7 becomes permanently inoperable, to an extent that it will no
8 longer be utilized, and the permittee presents proof that the
9 negotiable title or other qualifying documentation, as
10 determined by the department, has been surrendered to the
11 department; or

12 (2) the title to the permitted vehicle is transferred
13 to someone other than the permittee, and the permittee presents
14 proof that the negotiable title or other qualifying
15 documentation, as determined by the department, has been
16 transferred from the permittee.

17 (f) Termination of permit. An annual permit issued under
18 this section will automatically terminate, and the windshield
19 sticker must be removed from the vehicle:

20 (1) on the expiration of the permit;

21 (2) when the lease of the vehicle expires;

22 (3) on the sale or other transfer of ownership of the
23 vehicle for which the permit was issued; or

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1 (4) on the dissolution or termination of the
2 partnership, corporation, or other legal entity to which the
3 permit was issued.

4 (g) Restrictions pertaining to road conditions. Movement of
5 a permitted vehicle is prohibited when road conditions are
6 hazardous based upon the judgment of the operator and law
7 enforcement officials. Law enforcement officials shall make the
8 final determination regarding whether or not conditions are
9 hazardous. Conditions that should be considered hazardous
10 include, but are not limited to:

11 (1) visibility of less than 2/10 of one mile; or

12 (2) weather conditions such as wind, rain, ice, sleet,
13 or snow.

14 (h) Curfew restrictions. The operator of a permitted
15 vehicle must observe the curfew movement restrictions published
16 by the department.

17 (i) Construction or maintenance areas.

18 (1) The permitted vehicle may not travel through any
19 state highway construction or maintenance area if prohibited by
20 the construction restrictions published by the department.

21 (2) The permittee is responsible for contacting the
22 appropriate local jurisdiction for construction or maintenance
23 restrictions on non-state maintained roadways.

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1 (j) Night movement. Night movement is allowed under this
2 permit, unless prohibited by the curfew movement restrictions
3 published by the department.

4 (k) Manufacturer's tire load rating. Permits issued under
5 this section do not authorize the vehicle to exceed the
6 manufacturer's tire load rating.



Date: December 7, 2017
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Jeremiah Kuntz, Director, Vehicle Titles and Registration Division
Agenda Item: 10
Subject: Proposal of Rules under Title 43, Texas Administrative Code, Chapter 215, Motor Vehicle Distribution Amendments, §215.144 Chapter 217, Vehicle Titles and Registration Amendments, §§217.71, 217.72, 217.73; and New §217.74 Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders, Amendments, §221.72 (Relating to document retention requirements for users of webDealer, including webSalvage)

RECOMMENDATION

Approval to publish the proposed amendments and proposed new rule in the *Texas Register* for public comment.

PURPOSE AND EXECUTIVE SUMMARY

Proposed amendments to Chapter 217, Subchapter C, §§217.71, 217.72, and 217.73 rename the subchapter and subsection titles. Proposed amendments also clarify that the purpose of the subchapter is to prescribe the policies and procedures under which the department may make automated equipment for use of RTS available to a county tax assessor-collector and for users who opt to use webDEALER.

Proposed amendments to §217.71(b) add definitions for title application and webDEALER and correct a grammatical error. Proposed amendments to §217.72(d)(2) make a minor wording change.

Proposed amendments also add new §217.74, Access to and Use of webDEALER, which includes requirements for submitting a title application through webDEALER, including a requirement that the user must retain the title document or other ownership evidence pertaining to the transaction for a minimum of four calendar years.

Along with the proposed amendments and new section described above, the department proposes related amendments to §215.144 and §221.72. These proposed amendments relate to record retention requirements for users of webDEALER who are either a GDN holder or a salvage vehicle dealer.

Additional amendments correct a punctuation error and update the punctuation of "nonrepairable" motor vehicles to be consistent with statute by deleting the unnecessary hyphen in §215.144, and add county to tax assessor-collector throughout §217.

FINANCIAL IMPACT

There will be no fiscal implications related to the proposed amendments.

BACKGROUND AND DISCUSSION

If the proposed amendments are approved by the board, staff anticipates publication of the proposed amendments in the *Texas Register* on or about December 29, 2017. Comments on the proposed amendments will be accepted until 5:00 pm on January 29, 2018.

BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING PUBLICATION OF PROPOSED AMENDMENTS TO
43 TAC SECTION 215.144, RECORDS

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to amend Chapter 215, Motor Vehicle Distribution, Subchapter E, General Distinguishing Numbers, §215.144, Records.

The preamble and the proposed amendments are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the board that the attached rule is authorized for publication in the *Texas Register* for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

Recommended by:

Corrie Thompson, Director
Enforcement Division

Order Number: _____

Date Passed: December 7, 2017

Texas Department of Motor Vehicles
Chapter 215, Motor Vehicle Distribution

1 Proposed Preamble

2 The Texas Department of Motor Vehicles (department) proposes
3 amendments to Chapter 215, Motor Vehicle Distribution,
4 Subchapter E, General Distinguishing Numbers, §215.144, Records.

5

6 EXPLANATION OF PROPOSED AMENDMENTS

7 Proposed amendments add an exception to the general requirement
8 in §215.144(k) that a license holder may maintain records in
9 electronic format. The exception, proposed §215.144(l),
10 requires a license holder utilizing webDEALER to comply with
11 proposed §217.74 (relating to Access to and Use of webDEALER),
12 which includes a requirement that a physical document be
13 retained at least four calendar years from date of submission.
14 The proposed amendment clarifies that original hard copy titles
15 need not be maintained at the licensed location, but must be
16 made available to the department on request.

17

18 Proposed amendments also correct a punctuation error in
19 §215.144(d).

20

21 FISCAL NOTE

22 Linda M. Flores, Chief Financial Officer, has determined that
23 for each of the first five years the amendments as proposed are

Texas Department of Motor Vehicles
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1 in effect, there will be no fiscal implications for state or
2 local governments as a result of enforcing or administering the
3 proposed amendments.

4

5 Corrie Thompson, Director of the Enforcement Division, has
6 determined that there will be no significant impact on local
7 economies or overall employment as a result of enforcing or
8 administering the proposed amendments.

9

10 PUBLIC BENEFIT AND COST

11 Ms. Thompson has also determined that for each year of the first
12 five years the amendments are in effect, the public benefit
13 anticipated as a result of enforcing or administering the
14 amendment will be security in back-up documentation to support
15 transactions processed through webDEALER. There are no
16 anticipated economic costs for persons required to comply with
17 the proposed amendments. There will be no adverse economic
18 effect on small businesses, micro-businesses, or rural
19 communities.

20

21 TAKINGS IMPACT ASSESSMENT

22 The department has determined that this proposal affects no
23 private real property interests and that this proposal does not

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1 restrict or limit an owner's right to property that would
2 otherwise exist in the absence of government action, and so does
3 not constitute a taking or require a takings impact assessment
4 under Government Code, §2007.043.

5

6 GOVERNMENT GROWTH IMPACT STATEMENT

7 The department has determined that during the first five years
8 the proposed amendments are in effect, no government program
9 would be created or eliminated. Implementation of the proposed
10 amendments would not require the creation of new employee
11 positions or elimination of existing employee positions.
12 Implementation would not require an increase or decrease in
13 future legislative appropriations to the department or an
14 increase or decrease of fees paid to the department.
15 Additionally, the proposed amendments do not create a new
16 regulation, or expand, limit, or repeal an existing regulation.
17 The proposed amendment does not affect the number of individuals
18 subject to the rule's applicability and will not affect this
19 state's economy.

20

21 SUBMITTAL OF COMMENTS

22 Written comments on the proposed amendments may be submitted to
23 David D. Duncan, General Counsel, Texas Department of Motor

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1 Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email
2 to *rules@txdmv.gov*. The deadline for receipt of comments is
3 5:00 p.m. on January 29, 2018.

4

5 STATUTORY AUTHORITY

6 The amendments are proposed under Transportation Code,
7 §1002.001, which provides the board of the Texas Department of
8 Motor Vehicles with the authority to adopt rules that are
9 necessary and appropriate to implement the powers and the duties
10 of the department; and more specifically, Transportation Code,
11 §501.0041, which authorizes the department to adopt rules to
12 administer Transportation Code, Chapter 501.

13

14 CROSS REFERENCE TO STATUTE

15 Transportation Code, §501.0234.

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1 SUBCHAPTER E. GENERAL DISTINGUISHING NUMBERS

2 §215.144. Records.

3 (a) Purchases and sales records. A dealer must maintain a
4 complete record of all vehicle purchases and sales for a minimum
5 period of 48 months and make the record available for inspection
6 and copying by a representative of the department during
7 business hours.

8 (b) Independent mobility motor vehicle dealers. An
9 independent mobility motor vehicle dealer must keep a complete
10 written record of each vehicle purchase, vehicle sale, and any
11 adaptive work performed on each vehicle for a minimum period of
12 36 months after the date the adaptive work is performed on the
13 vehicle.

14 (c) Location of records. A dealer's record reflecting
15 purchases and sales for the preceding 13 months must be
16 maintained at the dealer's licensed location. Original titles
17 are not required to be kept at the licensed location, but must
18 be made available to the agency upon reasonable request. A
19 dealer's record for prior time periods may be kept off-site.

20 (d) Request for records. Within 15 days of receipt of a
21 request sent by mail or electronic document transfer from a
22 representative of the department, a dealer must deliver a copy
23 of the specified records to the address listed in the request.

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1 If a dealer has a concern about the origin of a records request,
2 the dealer may verify that request with the division prior to
3 submitting its records.

4 (e) Content of records. A dealer's complete record for each
5 vehicle purchase or vehicle sale must contain:

6 (1) the date of the purchase;

7 (2) the date of the sale;

8 (3) the VIN;

9 (4) the name and address of the person selling the
10 vehicle to the dealer;

11 (5) the name and address of the person purchasing the
12 vehicle from the dealer;

13 (6) the name and address of the consignor if the vehicle
14 is offered for sale by consignment;

15 (7) except for a purchase or sale where the Tax Code does
16 not require payment of motor vehicle sales tax, a copy of the
17 receipt, titled "Tax Collector's Receipt for Texas Title
18 Application/Registration/Motor Vehicle Tax";

19 (8) a copy of all documents, forms, and agreements
20 applicable to a particular sale, including a copy of:

21 (A) the title application;

22 (B) the work-up sheet;

23 (C) the front and back of manufacturer's certificate of

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Chapter 215, Motor Vehicle Distribution

- 1 origin or manufacturer's statement of origin, unless the title
2 is obtained through the electronic title system;
- 3 (D) the front and back of the title, unless the title
4 is obtained through the electronic title system;
- 5 (E) the factory invoice;
- 6 (F) the sales contract;
- 7 (G) the retail installment agreement;
- 8 (H) the buyer's order;
- 9 (I) the bill of sale;
- 10 (J) any waiver;
- 11 (K) any other agreement between the seller and
12 purchaser; and
- 13 (L) Form VTR-136, relating to County of Title Issuance,
14 completed and signed by the buyer;
- 15 (9) the original manufacturer's certificate of origin,
16 original manufacturer's statement of origin, or original title
17 for motor vehicles offered for sale by a dealer, and a properly
18 stamped original manufacturer's certificate of origin, original
19 manufacturer's statement of origin, or original title for motor
20 vehicles sold by a dealer if the title transaction is entered
21 into the electronic system by the dealer;
- 22 (10) the dealer's monthly Motor Vehicle Seller Financed
23 Sales Returns, if any; and

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1 (11) if the vehicle sold is a motor home or a towable
2 recreational vehicle subject to inspection under Transportation
3 Code, Chapter 548, a copy of the written notice provided to the
4 buyer at the time of the sale, notifying the buyer that the
5 vehicle is subject to inspection requirements.

6 (f) Title assignments.

7 (1) For each vehicle a dealer acquires or offers for
8 sale, the dealer must properly take assignment in the dealer's
9 name of any:

10 (A) title;

11 (B) manufacturer's statement of origin;

12 (C) manufacturer's certificate of origin; or

13 (D) other evidence of ownership.

14 (2) A dealer must apply in the name of the purchaser of a
15 vehicle for the registration of the vehicle with the appropriate
16 county tax assessor-collector as selected by the purchaser.

17 (3) To comply with Transportation Code, §501.0234(f), a
18 registration is considered filed within a reasonable time if the
19 registration is filed within:

20 (A) 20 working days of the date of sale of the vehicle
21 for a vehicle registered in Texas; or

22 (B) 45 days of the date of sale of the vehicle for a
23 dealer-financed transaction involving a vehicle that is

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1 registered in Texas.

2 (4) The dealer is required to provide to the purchaser
3 the receipt for the registration application.

4 (5) The dealer is required to maintain a copy of the
5 receipt for the registration application in the dealer's sales
6 file.

7 (g) Out of state sales. For a sales transaction involving a
8 vehicle to be transferred out of state, the dealer must:

9 (1) within 20 working days of the date of sale, either
10 file the application for certificate of title on behalf of the
11 purchaser or deliver the properly assigned evidence of ownership
12 to the purchaser; and

13 (2) maintain in the dealer's record at the dealer's
14 licensed location a photocopy of the completed sales tax
15 exemption form for out of state sales approved by the Texas
16 Comptroller of Public Accounts.

17 (h) Consignment sales. A dealer offering a vehicle for sale
18 by consignment shall have a written consignment agreement or a
19 power of attorney for the vehicle, and shall, after the sale of
20 the vehicle, take assignment of the vehicle in the dealer's name
21 and, pursuant to subsection (f), apply in the name of the
22 purchaser for transfer of title and registration, if the vehicle
23 is to be registered, with the appropriate county tax assessor-

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1 collector as selected by the purchaser. The dealer must, for a
2 minimum of 48 months, maintain a record of each vehicle offered
3 for sale by consignment, including the VIN and the name of the
4 owner of the vehicle offered for sale by consignment.

5 (i) Public motor vehicle auctions.

6 (1) A GDN holder that acts as a public motor vehicle
7 auction must comply with subsection (h) of this section.

8 (2) A public motor vehicle auction:

9 (A) is not required to take assignment of title of a
10 vehicle it offers for sale;

11 (B) must take assignment of title of a vehicle from a
12 consignor prior to making application for title on behalf of the
13 buyer; and

14 (C) must make application for title on behalf of the
15 purchaser and remit motor vehicle sales tax within 20 working
16 days of the sale of the vehicle.

17 (3) A GDN holder may not sell another GDN holder's
18 vehicle at a public motor vehicle auction.

19 (j) Wholesale motor vehicle auction records. A wholesale
20 motor vehicle auction license holder must maintain, for a
21 minimum of 48 months, a complete record of each vehicle purchase
22 and sale occurring through the wholesale motor vehicle auction.
23 The wholesale motor vehicle auction license holder shall make

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1 the record available for inspection and copying by a
2 representative of the department during business hours.

3 (1) A wholesale motor vehicle auction license holder must
4 maintain at the licensed location a record reflecting each
5 purchase and sale for at least the preceding 24 months. Records
6 for prior time periods may be kept off-site.

7 (2) Within 15 days of receipt of a request sent by mail
8 or by electronic document transfer from a representative of the
9 department, a wholesale motor vehicle auction license holder
10 must deliver a copy of the specified records to the address
11 listed in the request.

12 (3) A wholesale motor vehicle auction license holder's
13 complete record of each vehicle purchase and sale shall, at a
14 minimum, contain:

15 (A) the date of sale;

16 (B) the VIN;

17 (C) the name and address of the person selling the
18 vehicle;

19 (D) the name and address of the person purchasing the
20 vehicle;

21 (E) the dealer license number of both the selling
22 dealer and the purchasing dealer, unless either is exempt from
23 holding a license;

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1 (F) all information necessary to comply with the Truth
2 in Mileage Act;

3 (G) auction access documents, including the written
4 authorization and revocation of authorization for an agent or
5 employee, in accordance with §215.148 of this title (relating to
6 Dealer Agents);

7 (H) invoices, bills of sale, checks, drafts, or other
8 documents that identify the vehicle, the parties, or the
9 purchase price;

10 (I) any information regarding the prior status of the
11 vehicle such as the Reacquired Vehicle Disclosure Statement or
12 other lemon law disclosures; and

13 (J) a copy of any written authorization allowing an
14 agent of a dealer to enter the auction.

15 (k) Electronic records. A license holder may maintain a
16 record in an electronic format if the license holder can print
17 the record at the licensed location upon request by a
18 representative of the department, except as provided by
19 subsection (l) of this section. [~~A license holder does not have~~
20 ~~to maintain a copy of a vehicle title if the title is submitted~~
21 ~~through the electronic title system. Original hard copy titles~~
22 ~~are not required to be kept at the licensed location, but must~~
23 ~~be made available to the department upon request.~~]

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1 (1) Use of webDEALER. A license holder utilizing the
2 department's web-based title application known as webDEALER, as
3 defined in §217.71 of this title (relating to Automated and Web-
4 Based Vehicle Registration and Title Systems), must comply with
5 §217.74 of this title (relating to Access to and Use of
6 webDEALER). Original hard copy titles are not required to be
7 kept at the licensed location, but must be made available to the
8 department upon request.

BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING PUBLICATION OF PROPOSED AMENDMENTS TO
43 TAC SECTIONS 217.71-217.73, AND NEW SECTION 217.74, RELATING TO
REGISTRATION AND TITLE SYSTEM

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to amend Chapter 217, Vehicle Titles and Registration, Subchapter C, Registration and Title System, §217.71, Automated Vehicle Registration and Title System, §217.72, Automated Equipment, and §217.73, Agreement; and add new §217.74, Access to and Use of webDEALER.

The preamble, proposed amendments, and new section are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the board that the attached rules are authorized for publication in the *Texas Register* for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

Recommended by:

Jeremiah Kuntz, Director
Vehicle Titles and Registration

Order Number: _____

Date Passed: December 7, 2017

Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 Proposed Preamble

2 The Texas Department of Motor Vehicles (department) proposes
3 amendments to Chapter 217, Vehicle Titles and Registration,
4 Subchapter C, Registration and Title System, §217.71, Automated
5 Vehicle Registration and Title System; §217.72, Automated
6 Equipment; and §217.73, Agreement. The department also proposes
7 new §217.74, Access to and Use of webDEALER.

8

9 EXPLANATION OF PROPOSED AMENDMENTS AND NEW SECTION

10 Proposed amendments to Chapter 217, Subchapter C, amend the
11 subchapter heading by changing "System" to "Systems." The
12 proposed amendments will make clear that the subchapter applies
13 to both the Registration and Title System (RTS) and webDEALER.

14

15 Proposed amendments to §217.71 rename the section Automated and
16 Web-Based Vehicle Registration and Title Systems. Proposed
17 amendments to §217.71(a)(2) clarify the purpose of the
18 subchapter, which is to prescribe the policies and procedures
19 under which the department may make automated equipment for use
20 of RTS available to a county tax assessor-collector and for
21 users who opt to use webDEALER.

22

23 Proposed amendments to §217.71(b) add a definition for title

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1 application and webDEALER and correct a grammatical error.

2

3 Proposed amendments to §217.72 rename the section Automated
4 Equipment for the Registration and Title System and make a minor
5 wording change in subsection (d)(2), clarifying that automated
6 equipment may be located at sites other than the county tax
7 assessor-collector's office at the discretion, as opposed to
8 election, of a county tax assessor-collector.

9

10 Proposed amendments to §217.73 rename the section Agreement
11 Related to Automated Equipment.

12

13 Proposed new §217.74, Access to and Use of webDEALER, and
14 provide that at the discretion of a county tax assessor-
15 collector, the county may request access to, and accept title
16 applications submitted through, webDEALER. The proposed new
17 section provides that a person who wishes to become a user of
18 webDEALER must receive authorization from each entity to whom
19 they submit title applications, that a deputy appointed by a
20 county tax assessor-collector may be authorized to use
21 webDEALER, and that a person authorized to use webDEALER may
22 have their authorization revoked, rescinded, or cancelled at any
23 time at the discretion of a county tax assessor-collector or the

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1 department. Finally, the proposed new section establishes the
2 requirements for submitting a title application through
3 webDEALER, including a requirement that the user must retain the
4 title document or other ownership evidence pertaining to the
5 transaction for a minimum of four calendar years.

6

7 Finally, proposed amendments add county to tax assessor-
8 collector throughout.

9

10 FISCAL NOTE

11 Linda M. Flores, Chief Financial Officer, has determined that
12 for each of the first five years the amendments and new section
13 as proposed are in effect, there will be no fiscal implications
14 for state or local governments as a result of enforcing or
15 administering the proposed amendments and new section.

16

17 Jeremiah Kuntz, Director of the Vehicle Titles and Registration
18 Division, has determined that there will be no significant
19 impact on local economies or overall employment as a result of
20 enforcing or administering the proposed amendments and new
21 section.

22

23 PUBLIC BENEFIT AND COST

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1 Mr. Kuntz has also determined that for each year of the first
2 five years the amendments and new section are in effect, the
3 public benefit anticipated as a result of enforcing or
4 administering the amendments and new section will be consistent
5 use of the systems and decreased transaction processing time.
6 There are no significant anticipated economic costs for persons
7 required to comply with the proposed amendments and new section.
8 There will be no adverse economic effect on small businesses,
9 micro-businesses, or rural communities.

10

11 GOVERNMENT GROWTH IMPACT STATEMENT

12 The department has determined that during the first five years
13 the proposed amendments and new section are in effect, no
14 government program would be created or eliminated.
15 Implementation of the proposed amendments and new section would
16 not require the creation of new employee positions or
17 elimination of existing employee positions. Implementation would
18 not require an increase or decrease in future legislative
19 appropriations to the department or an increase or decrease of
20 fees paid to the department. Additionally, the proposed
21 amendments and new section do not create a new regulation, or
22 expand, limit, or repeal an existing regulation. The proposed
23 amendments and new section does not affect the number of

Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 individuals subject to the rule's applicability and will not
2 affect this state's economy.

3

4 TAKINGS IMPACT ASSESSMENT

5 The department has determined that this proposal affects no
6 private real property interests and that this proposal does not
7 restrict or limit an owner's right to property that would
8 otherwise exist in the absence of government action, and so does
9 not constitute a taking or require a takings impact assessment
10 under Government Code, §2007.043.

11

12 SUBMITTAL OF COMMENTS

13 Written comments on the proposed amendments and new section may
14 be submitted to David D. Duncan, General Counsel, Texas
15 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas
16 78731 or by email to *rules@txdmv.gov*. The deadline for receipt
17 of comments is 5:00 p.m. on January 29, 2018.

18

19 STATUTORY AUTHORITY

20 The amendments and new section are proposed under Transportation
21 Code, §1002.001, which provides the board of the Texas
22 Department of Motor Vehicles with the authority to adopt rules
23 that are necessary and appropriate to implement the powers and

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1 the duties of the department; and more specifically,
2 Transportation Code, §501.0041, which authorizes the department
3 to adopt rules to administer Transportation Code, Chapters 501;
4 and §502.0021, which authorizes the department to adopt rules to
5 administer Transportation Code, Chapter 502.

6

7 CROSS REFERENCE TO STATUTE

8 Transportation Code, §§501.022, 501.023, and 501.0234.

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Chapter 217, Vehicle Titles and Registration

1 SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS~~[SYSTEM]~~

2 §217.71. Automated and Web-Based Vehicle Registration and Title
3 Systems~~[System]~~.

4 (a) Purpose.

5 (1) Transportation Code, Chapters 501 and 502, charge the
6 department with the responsibility for issuing titles and
7 registering vehicles operating on the roads, streets, and
8 highways of the state.

9 (2) To provide a more efficient, cost-effective system
10 for registering and titling vehicles, submitting title and
11 registration records to county tax assessor-collectors and the
12 department, maintaining records, improving inventory control of
13 accountable items, and collecting and reporting of applicable
14 fees consistent with those statutes, the department has
15 designed:

16 (A) an automated system known as the registration and
17 title system. This system expedites registration and titling
18 processes, provides a superior level of customer service to the
19 owners and operators of vehicles, and facilitates availability
20 of the department's motor vehicle records for official law
21 enforcement needs. Automated equipment compatible with the
22 registration and title system is indispensable to the
23 operational integrity of the system; and~~[.]~~

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1 (B) a web-based system known as webDEALER. This system
2 expedites registration and titling processes, provides a
3 superior level of customer service to the owners and operators
4 of vehicles, and facilitates availability of the department's
5 motor vehicle records for official law enforcement needs.

6 (3) This subchapter prescribes the policies and
7 procedures under which the department may make the automated
8 [that] equipment available to a county tax assessor-collector as
9 designated agent of the state for processing title and vehicle
10 registration documents and the policies and procedures for users
11 who opt to use webDEALER.

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

15 (1) Automated equipment--Equipment associated with the
16 operation of the registration and titling system, including, but
17 not limited to, microcomputers, printers, software, and cables.

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

19 (3) Executive director--The executive director of the
20 Texas Department of Motor Vehicles.

21 (4) Fair share allocation--The amount of automated
22 equipment determined by the department to be effective at
23 providing a reasonable level of service to the public. This

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Chapter 217, Vehicle Titles and Registration

1 amount will be determined on transaction volumes, number of
2 county substations, and other factors relating to a particular
3 county's need.

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

5 (6) Title application--A form as defined by §217.2 of
6 this title (relating to Definitions), and includes the
7 electronic process provided by the department that captures the
8 information required by the department to create a motor vehicle
9 title record.

10 (7) webDEALER--The department's web-based titling and
11 registration system used to submit title applications to county
12 tax assessor-collectors and the department. This term includes
13 any other web-based system which facilitates electronic
14 submission of title applications, including webSALVAGE and
15 webLIEN.

16

17 §217.72. Automated Equipment for the Registration and Title
18 System.

19 (a) Initial allocation of automated equipment. When
20 requested by resolution of the commissioners court of a county,
21 and subject to the terms and conditions specified in subsection
22 (d) of this section, the department will:

23 (1) make a fair share allocation of automated equipment

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1 available to that county to be used by its county tax assessor-
2 collector in implementing and operating RTS;

3 (2) provide the county tax assessor-collector with
4 computer programs and personnel training; and

5 (3) furnish official automated forms and, for the initial
6 start-up of the system, automated equipment supplies.

7 (b) Additional automated equipment. At the request of the
8 county tax assessor-collector of a county, subject to the terms
9 and conditions specified in subsection (d) of this section, and
10 for an amount of consideration that will cover the department's
11 costs, the department will enter into an agreement with the
12 commissioners court of that county under which the department
13 will lease automated equipment to that county in addition to the
14 fair share allocation for that county. Leased equipment will
15 remain the property of the department and will be used primarily
16 for RTS.

17 (c) Automated Registration and Titling System fee. The
18 department will collect an additional fee of \$.50 for each
19 registration for the purposes set forth in Transportation Code,
20 §502.356. The fee shall be deposited into a subaccount in the
21 Texas Department of Motor Vehicles fund.

22 (d) Conditions of availability.

23 (1) A county must:

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1 (A) meet electrical power supply criteria specified by
2 the department prior to installation of the automated equipment;

3 (B) bear all costs incurred for 24-hour per day
4 electrical power consumption for operation of the equipment;

5 (C) provide for the physical security and protection of
6 the equipment and shall indemnify the department for any loss or
7 damages to the equipment while in the custody and control of the
8 county;

9 (D) provide the department's maintenance personnel
10 access to the equipment during business hours of the involved
11 county office; and

12 (E) notify the department not less than 30 working days
13 prior to relocating or adding automation equipment, or of the
14 closing or remodeling of an office, that may affect automated
15 equipment operations.

16 (2) At the discretion [~~election~~] of a county tax
17 assessor-collector, automated equipment may be located at sites
18 other than those of the county tax assessor-collector, including
19 privately owned, for-profit enterprises performing registration
20 and title functions for the county tax office. With regard to
21 equipment located at sites other than those of the county tax
22 assessor-collector, the department's responsibility will be
23 limited to ensuring that the equipment remains operational. The

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Chapter 217, Vehicle Titles and Registration

1 county will be responsible for all training, user support,
2 forms, supplies, user policy and procedures, and other support
3 associated with this equipment.

4 (3) Automated equipment made available to a county
5 pursuant to this section shall remain the property of the
6 department and must be used by the county tax assessor-collector
7 for operation of RTS; provided, however, that while not in RTS
8 usage, the equipment may be utilized for another statutory duty
9 or function of that office.

10

11 §217.73. Agreement Related to Automated Equipment.

12 (a) Prior to receiving automated equipment pursuant to
13 §217.72 of this title (relating to Automated Equipment for the
14 Registration and Title System), a county must enter a written
15 agreement with the department.

16 (b) The agreement shall:

17 (1) be in a form prescribed by the department;

18 (2) include at a minimum each of the terms and conditions
19 specified in §217.72;

20 (3) be executed on behalf of the department by the
21 executive director or the director's designee not below the
22 level of Director of the Vehicle Titles and Registration
23 Division; and

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Chapter 217, Vehicle Titles and Registration

1 (4) be approved by resolution or order of the
2 commissioners court and executed on behalf of the county by the
3 county judge and the county tax assessor-collector.

4

5 §217.74. Access to and Use of webDEALER.

6 (a) At the discretion of a county tax assessor-collector,
7 the county may request access to, and accept title applications
8 submitted through, webDEALER. A county tax assessor-collector
9 must utilize webDEALER in order to accept a title application in
10 the county as provided by subsection (b) of this section.

11 (b) A person who wishes to become a user of webDEALER must
12 contact each entity to whom they submit title applications for
13 authorization to utilize webDEALER. A user must receive
14 authorization from each entity, including each county tax
15 assessor-collector, to whom the user submits title applications.
16 Title applications submitted to the department require the
17 authorization by the department.

18 (c) A county tax assessor-collector may authorize a deputy
19 appointed by the county tax assessor-collector in accordance
20 with Subchapter H of this chapter (relating to Deputies) to
21 utilize webDEALER.

22 (d) A person authorized under subsection (b) of this
23 section may have their authorization to use webDEALER revoked,

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1 rescinded, or cancelled at any time, with no notice, at the
2 discretion of a county tax assessor-collector or the department.

3 (e) When submitting a title application through webDEALER,
4 a user must:

5 (1) stamp the word "SURRENDERED" across the front, face
6 and the next open assignment or reassignment space of any secure
7 title document or other acceptable ownership evidence as
8 determined by the department in:

9 (A) arial font;

10 (B) black ink; and

11 (C) a size of 1/4" height x 2 1/4" length;

12 (2) retain the physical document described in subsection
13 (e)(1) of this section for a minimum of four calendar years from
14 the date of submitting a scanned copy of the stamped title
15 document using the webDEALER system; and

16 (3) submit any documents required to be submitted with
17 the title application with a scanned resolution of at least 200
18 dots per inch (DPI).

BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING PUBLICATION OF PROPOSED AMENDMENTS TO
43 TAC SECTION 221.72, RECORDS RETENTION

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to amend Chapter 221, Salvage Vehicle Dealers, Salvage Pool Operators and Salvage Vehicle Rebuilders, Subchapter D, Records, §221.72, Record Retention.

The preamble and the proposed amendments are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the board that the attached rule is authorized for publication in the *Texas Register* for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

Recommended by:

Corrie Thompson, Director
Enforcement Division

Order Number: _____

Date Passed: December 7, 2017

Texas Department of Motor Vehicles
Chapter 221, Salvage Vehicle Dealers, Salvage Pool
Operators and Salvage Vehicle Rebuilders

1 Proposed Preamble

2 The Texas Department of Motor Vehicles (department) proposes
3 amendments to Chapter 221, Salvage Vehicle Dealers, Salvage Pool
4 Operators and Salvage Vehicle Rebuilders, Subchapter D, Records,
5 §221.72, Record Retention.

6

7 EXPLANATION OF PROPOSED AMENDMENTS

8 Proposed amendments to §221.72 add new §221.72(c) requiring
9 salvage vehicle dealers who use the department's web-based title
10 application known as webDEALER to comply with proposed §217.74
11 of this title (relating to Access to and Use of webDEALER),
12 which includes a requirement that a physical document be
13 retained at least four calendar years from date of submission.
14 The proposed amendment clarifies that original hard copy titles
15 need not be maintained at the licensed location, but must be
16 made available to the department on request. Simultaneous with
17 these proposed amendments, the department is also proposing
18 related amendments in Chapter 217, Subchapter C, Registration
19 and Title Systems. One proposed amendment is a proposed
20 definition of webDEALER, which includes any other web-based
21 system which facilitates electronic submission of title
22 applications, including webSALVAGE.

Texas Department of Motor Vehicles
Chapter 221, Salvage Vehicle Dealers, Salvage Pool
Operators and Salvage Vehicle Rebuilders

1

2 Other amendments correct the punctuation of "nonrepairable"
3 motor vehicles to be consistent with statute by deleting the
4 unnecessary hyphen.

5

6 FISCAL NOTE

7 Linda M. Flores, Chief Financial Officer, has determined that
8 for each of the first five years the amendments as proposed are
9 in effect, there will be no fiscal implications for state or
10 local governments as a result of enforcing or administering the
11 proposed amendments.

12

13 Corrie Thompson, Director of the Enforcement Division, has
14 determined that there will be no significant impact on local
15 economies or overall employment as a result of enforcing or
16 administering the proposed amendments.

17

18 PUBLIC BENEFIT AND COST

19 Ms. Thompson has also determined that for each year of the first
20 five years the amendments are in effect, the public benefit
21 anticipated as a result of enforcing or administering the
22 amendment will be security in back-up documentation to support

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Operators and Salvage Vehicle Rebuilders

1 transactions processed through webDEALER. In addition, since
2 users will no longer be required to submit the physical document
3 to the department, transaction processing time will be improved.
4 There are no significant anticipated economic costs for persons
5 required to comply with the proposed amendments. There will be
6 no adverse economic effect on small businesses, micro-
7 businesses, or rural communities.

8

9 TAKINGS IMPACT ASSESSMENT

10 The department has determined that this proposal affects no
11 private real property interests and that this proposal does not
12 restrict or limit an owner's right to property that would
13 otherwise exist in the absence of government action, and so does
14 not constitute a taking or require a takings impact assessment
15 under Government Code, §2007.043.

16

17 GOVERNMENT GROWTH IMPACT STATEMENT

18 The department has determined that during the first five years
19 the proposed amendments are in effect, no government program
20 would be created or eliminated. Implementation of the proposed
21 amendments would not require the creation of new employee
22 positions or elimination of existing employee positions.

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

1 Implementation would not require an increase or decrease in
2 future legislative appropriations to the department or an
3 increase or decrease of fees paid to the department.
4 Additionally, the proposed amendments do not create a new
5 regulation, or expand, limit, or repeal an existing regulation.
6 The proposed amendment does not affect the number of individuals
7 subject to the rule's applicability and will not affect this
8 state's economy.

9

10 SUBMITTAL OF COMMENTS

11 Written comments on the proposed amendments may be submitted to
12 David D. Duncan, General Counsel, Texas Department of Motor
13 Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email
14 to rules@txdmv.gov. The deadline for receipt of comments is
15 5:00 p.m. on January 29, 2018.

16

17 STATUTORY AUTHORITY

18 The amendments are proposed under Transportation Code,
19 §1002.001, which provides the board of the Texas Department of
20 Motor Vehicles with the authority to adopt rules that are
21 necessary and appropriate to implement the powers and the duties
22 of the department; and more specifically, Transportation Code,

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

1 §501.0041, which authorizes the department to adopt rules to
2 administer Transportation Code, Chapter 501.

3

4 CROSS REFERENCE TO STATUTE

5 Transportation Code, §§501.095, 501.1003, 501.108.

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

1 SUBCHAPTER D. RECORDS

2 §221.72. Record Retention.

3 (a) A salvage vehicle dealer must retain at the licensed
4 business location, or have electronic access at the licensed
5 business location of records stored electronically, a complete
6 record of all purchases and sales of salvage motor vehicles and
7 nonrepairable~~[non-repairable]~~ motor vehicles for a minimum
8 period of 36 months from the date of the transaction.

9 (b) A salvage vehicle dealer shall maintain at the licensed
10 business location a record of each vehicle that is scrapped or
11 destroyed, and a photocopy of the front and back of all salvage
12 vehicle titles and nonrepairable~~[non-repairable]~~ vehicle titles,
13 or a photocopy or electronic copy of all salvage records of
14 title, and nonrepairable~~[non-repairable]~~ records of title, and,
15 if applicable, a photocopy of any out-of-state evidence of
16 ownership surrendered to the department, until the fourth
17 anniversary of the date the report was acknowledged as received
18 by the department.

19 (c) A salvage vehicle dealer utilizing the department's
20 web-based title application known as webDEALER, as defined in
21 §217.71 of this title (relating to Automated and Web-Based
22 Vehicle Registration and Title Systems), must comply with

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

- 1 §217.74 of this title (relating to Access to and Use of
- 2 webDEALER). Original hard copy titles are not required to be
- 3 kept at the licensed location, but must be made available to the
- 4 department upon request.



Date: December 7, 2017
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Jeremiah Kuntz, Director, Vehicle Titles and Registration Division
Agenda Item: 11-1
Subject: Proposal of Rule under Title 43, Texas Administrative Code
Chapter 217, Vehicle Titles and Registration
Amendments, §217.2
(Relating to clarification of definitions of All-Terrain Vehicle (ATV) and Recreational Off-highway Vehicle (ROV))

RECOMMENDATION

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

PURPOSE AND EXECUTIVE SUMMARY

Proposed amendments add the definitions for an all-terrain vehicle (ATV) and a recreational off-highway vehicle (ROV) by reference to Transportation Code, §502.001. The amendments specify that an ATV and ROV are designed primarily for recreational use. Other amendments rearrange the definitions to maintain alphabetical order and paragraphs are renumbered accordingly.

FINANCIAL IMPACT

There will be no fiscal implications related to the proposed amendments.

BACKGROUND AND DISCUSSION

If the proposed amendments are approved by the board, staff anticipates publication of the proposed amendments in the *Texas Register* on or about December 15, 2017. Comments on the proposed amendments will be accepted until 5:00 p.m. on January 29, 2018.

BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING PUBLICATION OF PROPOSED AMENDMENTS TO
43 TAC SECTION 217.2, DEFINITIONS

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to amend Chapter 217, Vehicle Titles and Registration, Subchapter A, Motor Vehicle Titles, §217.2, Definitions.

The preamble and the proposed amendments are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the board that the attached rule is authorized for publication in the *Texas Register* for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

Recommended by:

Jeremiah Kuntz, Director
Vehicle Titles and Registration Division

Order Number: _____

Date Passed: December 7, 2017

Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 Proposed Preamble

2 The Texas Department of Motor Vehicles (department) proposes
3 amendments to Chapter 217, Vehicle Titles and Registration,
4 Subchapter A, Motor Vehicle Titles, §217.2, Definitions.

5

6 EXPLANATION OF PROPOSED AMENDMENTS

7 Proposed amendments to §217.2 add the definitions for an all-
8 terrain vehicle (ATV) and a recreational off-highway vehicle
9 (ROV) by reference to Transportation Code, §502.001. The
10 amendments specify that an ATV and ROV are designed primarily
11 for recreational use. Other amendments correct punctuation and
12 rearrange the definitions to maintain alphabetical order. The
13 paragraphs are renumbered accordingly.

14

15 FISCAL NOTE

16 Linda M. Flores, Chief Financial Officer, has determined that
17 for each of the first five years the amendments as proposed are
18 in effect, there will be no fiscal implications for state or
19 local governments as a result of enforcing or administering the
20 proposed amendments.

21

22 Jeremiah Kuntz, Director of the Vehicle Titles and Registration
23 Division, has determined that there will be no impact on local

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Chapter 217, Vehicle Titles and Registration

1 economies or overall employment as a result of enforcing or
2 administering the proposed amendments.

3

4 PUBLIC BENEFIT AND COST

5 Mr. Kuntz has also determined that for each year of the first
6 five years the amendments are in effect, the public benefit
7 anticipated as a result of enforcing or administering the
8 amendment will be greater clarity in the applicability of title
9 requirements with respect to ATVs and ROVs. There are no
10 anticipated economic costs for persons required to comply with
11 the proposed amendments. There will be no adverse economic
12 effect on small businesses, micro-businesses, or rural
13 communities.

14

15 TAKINGS IMPACT ASSESSMENT

16 The department has determined that this proposal affects no
17 private real property interests and that this proposal does not
18 restrict or limit an owner's right to property that would
19 otherwise exist in the absence of government action, and so does
20 not constitute a taking or require a takings impact assessment
21 under Government Code, §2007.043.

22

23 GOVERNMENT GROWTH IMPACT STATEMENT

Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 The department has determined that during the first five years
2 the proposed amendments are in effect, no government program
3 would be created or eliminated. Implementation of the proposed
4 amendments would not require the creation of new employee
5 positions or elimination of existing employee positions.
6 Implementation would not require an increase or decrease in
7 future legislative appropriations to the department or an
8 increase or decrease of fees paid to the department.
9 Additionally, the proposed amendments do not create a new
10 regulation, or expand, limit, or repeal an existing regulation.
11 The proposed amendment does not affect the number of individuals
12 subject to the rule's applicability and will not affect this
13 state's economy.

14

15 SUBMITTAL OF COMMENTS

16 Written comments on the proposed amendments may be submitted to
17 David D. Duncan, General Counsel, Texas Department of Motor
18 Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email
19 to *rules@txdmv.gov*. The deadline for receipt of comments is
20 5:00 p.m. on January 29, 2018.

21

22 STATUTORY AUTHORITY

23 The amendments are proposed under Transportation Code,

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1 §1002.001, which provides the board of the Texas Department of
2 Motor Vehicles with the authority to adopt rules that are
3 necessary and appropriate to implement the powers and the duties
4 of the department; and more specifically, Transportation Code,
5 §501.0041, which provides the department may adopt rules to
6 administer Chapter 501.

7

8 CROSS REFERENCE TO STATUTE

9 Transportation Code, §§501.002, 502.001 and 663.001.

Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 SUBCHAPTER A. MOTOR VEHICLE TITLES

2 §217.2 Definitions.

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

6 (1) Alias--The name of a vehicle owner reflected on a
7 title, when the name on the title is different from the name of
8 the legal owner of the vehicle.

9 (2) Alias title--A title document issued by the
10 department for a vehicle that is used by an exempt law
11 enforcement agency in covert criminal investigations.

12 (3) All-terrain vehicle or ATV--A motor vehicle as
13 defined by Transportation Code, §502.001, and designed primarily
14 for recreational use. The term does not include a "utility
15 vehicle" as defined by Transportation Code, §663.001, or a self-
16 propelled, motor-driven vehicle designed or marketed by the
17 manufacturer primarily for non-recreational uses.

18 (4)[(3)] Bond release letter--Written notification from
19 the United States Department of Transportation authorizing
20 United States Customs to release the bond posted for a motor
21 vehicle imported into the United States to ensure compliance
22 with federal motor vehicle safety standards.

23 [(4) Title application A form prescribed by the division

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1 ~~director that reflects the information required by the~~
2 ~~department to create a motor vehicle title record.]~~

3 (5) Date of sale--The date of the transfer of possession
4 of a specific vehicle from a seller to a purchaser.

5 (6) Division director--The director of the department's
6 Vehicle Titles and Registration Division.

7 (7) Executive administrator--The director of a federal
8 agency, the director of a Texas state agency, the sheriff of a
9 Texas county, or the chief of police of a Texas city who by law
10 possesses the authority to conduct covert criminal
11 investigations.

12 (8) Exempt agency--A governmental body exempt by law from
13 paying title or registration fees for motor vehicles.

14 (9) Federal motor vehicle safety standards--Motor vehicle
15 safety requirements promulgated by the United States Department
16 of Transportation, National Highway Traffic Safety
17 Administration, set forth in Title 49, Code of Federal
18 Regulations.

19 (10) House moving dolly--An apparatus consisting of metal
20 beams and axles used to move houses. House moving dollies, by
21 nature of their construction and use, actually form large
22 semitrailers.

23 (11) Identification certificate--A form issued by an

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1 inspector of an authorized safety inspection station in
2 accordance with Transportation Code, Chapter 548.

3 (12) Implements of husbandry--Farm implements, machinery,
4 and tools used in tilling the soil, including self-propelled
5 machinery specifically designed or especially adapted for
6 applying plant food materials or agricultural chemicals. This
7 term does not include an implement unless it is designed or
8 adapted for the sole purpose of transporting farm materials or
9 chemicals. This term does not include any passenger car or
10 truck. This term does include a towed vehicle that transports to
11 the field and spreads fertilizer or agricultural chemicals; or a
12 motor vehicle designed and adapted to deliver feed to livestock.

13 (13) Manufacturer's certificate of origin--A form
14 prescribed by the department showing the original transfer of a
15 new motor vehicle from the manufacturer to the original
16 purchaser, whether importer, distributor, dealer, or owner, and
17 when presented with an application for title, showing, on
18 appropriate forms prescribed by the department, each subsequent
19 transfer between distributor and dealer, dealer and dealer, and
20 dealer and owner.

21 (14) Moped--A motor-driven [~~motor-driven~~] cycle whose
22 attainable speed is not more than 30 miles per hour and that is
23 equipped with a motor that produces not more than two-brake

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1 horsepower. If an internal combustion engine is used, the piston
2 displacement may not exceed 50 cubic centimeters and the power
3 drive system may not require the operator to shift gears.

4 (15) Motor vehicle importation form--A declaration form
5 prescribed by the United States Department of Transportation and
6 certified by United States Customs that relates to any motor
7 vehicle being brought into the United States and the motor
8 vehicle's compliance with federal motor vehicle safety
9 standards.

10 (16) Non United States standard motor vehicle--A motor
11 vehicle not manufactured in compliance with federal motor
12 vehicle safety standards.

13 (17) Obligor--An individual who is required to make
14 payments under the terms of a support order for a child.

15 (18) Person--An individual, firm, corporation, company,
16 partnership, or other entity.

17 (19) Recreational off-highway vehicle or ROV--A motor
18 vehicle as defined by Transportation Code, §502.001, and
19 designed primarily for recreational use. The term does not
20 include a "utility vehicle" as defined by Transportation Code,
21 §663.001, or a self-propelled, motor-driven vehicle designed or
22 marketed by the manufacturer primarily for non-recreational
23 uses.

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1 (20)~~(19)~~ Safety certification label--A label placed on
2 a motor vehicle by a manufacturer certifying that the motor
3 vehicle complies with all federal motor vehicle safety
4 standards.

5 (21)~~(20)~~ Statement of fact--A written declaration that
6 supports an application for a title, that is executed by an
7 involved party to a transaction involving a motor vehicle, and
8 that clarifies an error made on a title or other negotiable
9 evidence of ownership. An involved party is the seller or an
10 agent of the seller involved in the motor vehicle transaction.
11 When a written declaration is necessary to correct an odometer
12 disclosure error, the signatures of both the seller and buyer
13 when the error occurred are required.

14 (22) Title application--A form prescribed by the division
15 director that reflects the information required by the
16 department to create a motor vehicle title record.

17 (23)~~(21)~~ Verifiable proof--Additional documentation
18 required of a vehicle owner, lienholder, or agent executing an
19 application for a certified copy of a title.

20 (A) Individual applicant. If the applicant is an
21 individual, verifiable proof consists of a copy of a current
22 photo identification issued by this state or by the United
23 States or foreign passport.

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1 (B) Business applicant. If the applicant is a business,
2 verifiable proof consists of an original or copy of a letter of
3 signature authority on letterhead, a business card, or employee
4 identification and a copy of current photo identification issued
5 by this state or by the United States or foreign passport.

6 (C) Power of attorney. If the applicant is a person in
7 whose favor a power of attorney has been executed by the owner
8 or lienholder, verifiable proof consists of the documentation
9 required under subparagraph (A) or (B) of this paragraph both
10 for the owner or lienholder and for the person in whose favor
11 the power of attorney is executed.



Date: December 7, 2017
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Jeremiah Kuntz, Director, Vehicle Titles and Registration Division
Agenda Item: 12-2
Subject: **Proposal of Rule under Title 43, Texas Administrative Code, Chapter 217, Vehicle Titles and Registration Amendments, §217.41 (Relating to HB 1790 on application for new disabled placard following seizure of placard)**

RECOMMENDATION

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

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the amendments is to implement HB 1790, which eliminates the requirement that the department conduct a hearing to determine whether the revocation of a disabled parking placard should continue or be rescinded and adds that a person from whom a placard has been seized can apply for a new placard by submitting an application under Transportation Code, §681.003.

FINANCIAL IMPACT

There will be no significant fiscal implications related to the proposed amendments.

BACKGROUND AND DISCUSSION

The proposed amendments:

- delete the requirement for a hearing to determine whether the revocation of a disabled parking placard should continue or be rescinded;
- add and clarify language that a person can apply for a new placard by submitting an application to the county tax assessor-collector of the county in which the person with the disability resides or in which the person is seeking medical treatment if the person is not a resident of this state;
- delete the requirement that a law enforcement officer who has seized and destroyed a placard provide the department with a notice that the placard was destroyed, a copy of the citation issued, and a brief summary of events giving rise to the citation; and
- require a law enforcement officer who seizes and destroys a placard to notify the department by email.

If the proposed amendments are approved by the board, staff anticipates publication of the proposed amendments in the *Texas Register* on or about December 29, 2017. Comments on the proposed amendments will be accepted until 5:00 p.m. on January 29, 2017.

BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING PUBLICATION OF PROPOSED AMENDMENTS TO
43 TAC SECTION 217.41, DISABLED PERSON LICENSE PLATES AND
IDENTIFICATION PLACARDS

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to amend Chapter 217, Vehicle Titles and Registration, Subchapter B, Motor Vehicle Registration, §217.41, Disabled Person License Plates and Identification Placards.

The preamble and the proposed amendments are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the board that the attached rule is authorized for publication in the *Texas Register* for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

Recommended by:

Jeremiah Kuntz, Director
Vehicle Titles and Registration Division

Order Number: _____

Date Passed: December 7, 2017

Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 Proposed Preamble

2 The Texas Department of Motor Vehicles (department) proposes
3 amendments to Chapter 217, Vehicle Titles and Registration,
4 Subchapter B, Motor Vehicle Registration, §217.41, Disabled
5 Person License Plates and Identification Placards.

6

7 EXPLANATION OF PROPOSED AMENDMENTS

8 House Bill (HB) 1790, 85th Legislature, Regular Session, 2017,
9 amended Transportation Code, §681.012(b), eliminating the
10 requirement that the department conduct a hearing to determine
11 whether the revocation of a disabled parking placard should
12 continue or be rescinded. The amended statute allows a person
13 from whom a placard has been seized to apply for a new
14 application by submitting an application under Transportation
15 Code, §681.003.

16

17 Amendments are necessary to implement the changes made by HB
18 1790. Specifically, amendments are proposed to §217.41 to
19 eliminate the requirement for a hearing and clarify that a
20 person may apply for a new placard by submitting an application
21 to the county tax assessor-collector of the county in which the
22 person with the disability resides or is seeking medical
23 treatment if the person is not a resident of this state.

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1 Amendments are also proposed to delete the requirement that a
2 law enforcement officer who has seized and destroyed a placard
3 must provide the department with a notice that the placard was
4 destroyed, a copy of the citation issued, and a brief summary of
5 events giving rise to the citation. Instead, the proposed
6 amendment would require a law enforcement officer who seizes and
7 destroys a placard to notify the department by email.

8

9 FISCAL NOTE

10 Linda M. Flores, Chief Financial Officer, has determined that
11 for each of the first five years the amendments as proposed are
12 in effect, there will be no significant fiscal implications for
13 state or local governments as a result of enforcing or
14 administering the proposed amendments.

15

16 Jeremiah Kuntz, Director of the Title and Registration Division,
17 has determined that there will be no impact on local economies
18 or overall employment as a result of enforcing or administering
19 the proposed amendments.

20

21 PUBLIC BENEFIT AND COST

22 Mr. Kuntz has also determined that for each year of the first
23 five years the amendments are in effect, the public benefit

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1 anticipated as a result of enforcing or administering the
2 amendments will be a simplified process for both law enforcement
3 and persons seeking a replacement placard. There are no
4 anticipated economic costs for persons required to comply with
5 the proposed amendments. There will be no adverse economic
6 effect on small businesses, micro-businesses, or rural
7 communities.

8

9 TAKINGS IMPACT ASSESSMENT

10 The department has determined that this proposal affects no
11 private real property interests and that this proposal does not
12 restrict or limit an owner's right to property that would
13 otherwise exist in the absence of government action, and so does
14 not constitute a taking or require a takings impact assessment
15 under Government Code, §2007.043.

16

17 GOVERNMENT GROWTH IMPACT STATEMENT

18 The department has determined that during the first five years
19 the proposed amendments are in effect, no government program
20 would be created or eliminated. Implementation of the proposed
21 amendments would not require the creation of new employee
22 positions or elimination of existing employee positions.
23 Implementation would not require an increase or decrease in

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1 future legislative appropriations to the department or an
2 increase or decrease of fees paid to the department.

3 Additionally, the proposed amendments do not create a new
4 regulation, or expand, limit, or repeal an existing regulation.

5 The proposed amendment does not affect the number of individuals
6 subject to the rule's applicability and will not affect this
7 state's economy.

8

9 SUBMITTAL OF COMMENTS

10 Written comments on the proposed amendments may be submitted to
11 David D. Duncan, General Counsel, Texas Department of Motor
12 Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email
13 to *rules@txdmv.gov*. The deadline for receipt of comments is
14 5:00 p.m. on January 29, 2018.

15

16 STATUTORY AUTHORITY

17 The amendments are proposed under Transportation Code,
18 §1002.001, which provides the board of the Texas Department of
19 Motor Vehicles (board) with the authority to adopt rules that
20 are necessary and appropriate to implement the powers and the
21 duties of the department under the Transportation Code; and more
22 specifically, Transportation Code, §504.0011, which authorizes
23 the board to adopt rules to implement and administer

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1 Transportation Code, Chapter 504; and Transportation Code,
2 §681.002, which requires the department to provide for the
3 issuance of a disabled parking placard to a person with a
4 disability.

5

6 CROSS REFERENCE TO STATUTE

7 Transportation Code, Chapters 504 and 681.

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Chapter 217, Vehicle Titles and Registration

1 SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

2 §217.41. Disabled Person License Plates and Identification
3 Placards.

4 (a) Purpose. Transportation Code, Chapters 504 and 681,
5 charge the department with the responsibility for issuing
6 specially designed license plates and identification placards
7 for disabled persons. For the department to perform these duties
8 efficiently and effectively, this section prescribes the
9 policies and procedures for the application, issuance, and
10 renewal of Disabled Person license plates and placards.

11 (b) Issuance.

12 (1) Disabled Person license plates.

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

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

23 (C) License plate number. Disabled Person license

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1 plates will bear a license plate number assigned by the
2 department or will bear a personalized license plate number
3 issued in accordance with §217.45.

4 (2) Windshield identification placards. The department
5 will issue removable windshield identification placards to
6 temporarily or permanently disabled persons and to the
7 transporters of permanently disabled persons. A person who has
8 been issued a windshield identification placard shall hang the
9 placard from a vehicle's rearview mirror when the vehicle is
10 parked in a disabled person parking space or shall display the
11 placard on the center portion of the dashboard if the vehicle
12 does not have a rearview mirror.

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

17 (d) Replacement.

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

21 (A) Accompanying documentation. To replace permanently
22 Disabled Person license plates, the owner must present the
23 current year's registration receipt and personal identification

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1 acceptable to the county tax assessor-collector.

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

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

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

13 (1) License plates.

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

22 (B) Transfer between vehicles. Disabled Person license
23 plates may be transferred between vehicles if the county or the

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1 department can verify the plate ownership and the owner of the
2 vehicle is the disabled person or the vehicle is used to
3 transport the disabled person.

4 (i) Plate ownership verification may include:

5 (I) a Registration and Title System (RTS) inquiry;

6 (II) a copy of the department Application for
7 Disabled Person license plates; or

8 (III) the owner's current registration receipt.

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

12 (2) Identification placards.

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

17 (B) Transfer between persons. Disabled Person
18 identification placards may not be transferred between persons.

19 (f) Seizure and revocation of placard.

20 (1) If [After] a law enforcement officer seizes and
21 destroys a placard under Transportation Code, §681.012, the
22 officer shall notify the department by email. [not later than
23 the fifth day after the date of the seizure, the officer shall

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1 ~~destroy the placard and provide the department with the~~
2 ~~following items:]~~

3 ~~[(A) a notice that the placard was destroyed:]~~

4 ~~[(B) a copy of the citation issued under Transportation~~
5 ~~Code, §681.011(a) or (d); and]~~

6 ~~[(C) a brief summary of the events giving rise to the~~
7 ~~citation.]~~

8 (2) The person to whom the seized placard was issued may
9 apply for a new placard by submitting an application to the
10 county tax assessor-collector of the county in which the person
11 with the disability resides or in which the applicant is seeking
12 medical treatment if the applicant is not a resident of this
13 state. ~~[petition for a hearing under Chapter 206, Subchapter D~~
14 ~~of this title (relating to Procedures in Contested Cases).]~~

15 ~~[(A) If the department has not received the items~~
16 ~~specified in paragraph (1) of this subsection, the department~~
17 ~~will advise the petitioner to obtain a replacement placard from~~
18 ~~the county tax assessor-collector.]~~

19 ~~[(B) If the department determines from written evidence~~
20 ~~that the citation was dismissed or withdrawn, the department~~
21 ~~will advise the petitioner to obtain a replacement placard from~~
22 ~~the county tax assessor-collector.]~~

23 ~~[(C) If the department has received the items specified~~

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1 ~~in paragraph (1) of this subsection and if the citation has not~~
2 ~~been dismissed or withdrawn, the department may negotiate a~~
3 ~~settlement providing for issuance of a replacement placard,~~
4 ~~including an agreement by the petitioner to abide by all laws~~
5 ~~regarding placards. If a settlement is not reached, the~~
6 ~~department will refer the matter to the State Office of~~
7 ~~Administrative Hearings for a hearing.]~~



Date: December 7, 2017
Action Requested: APPROVAL

To: Texas Department of Motor Vehicles (TxDMV) Board
From: Jeremiah Kuntz, Director, Vehicle Titles and Registration Division
Agenda Item: 11-3
Subject: [Proposal of Rules under Title 43, Texas Administrative Code, Chapter 217, Vehicle Titles and Registration Amendments, §217.123 and §217.124 \(Relating to charges for motor vehicle records; waiving fees for governmental entities\)](#)

RECOMMENDATION

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

PURPOSE AND EXECUTIVE SUMMARY

The purpose of the amendments is to clarify procedures for and access to motor vehicle records and associated cost of records.

FINANCIAL IMPACT

There will be positive fiscal implications for state or local governments and toll project entities as a result of enforcing or administering the proposed amendments. Texas state and local governmental entities and toll project entities that regularly access motor vehicle record information will have access to certain records at no cost resulting in savings for those entities.

BACKGROUND AND DISCUSSION

The proposed amendments include:

- [§217.123](#) -adding a copy of law enforcement credentials to the list of identification documents needed in order to receive records; expanding the scope of public entities that are exempt from certain fees to include all Texas governmental entities and toll project entities, and adding subsection (e) to address deposits and balances; and
- [§217.124](#) - providing law enforcement access to certain records at no cost. In addition, deposit, minimum balance and fee information has been reorganized and simplified to better inform department customers. The amendments to [§217.124](#) add subsection (f) to address reciprocity agreements.

If the proposed amendments are approved by the board, staff anticipates publication of the proposed amendments in the *Texas Register* on or about December 29, 2017. Comments on the proposed amendments will be accepted until 5:00 p.m. on January 29, 2018.

Motor Vehicle Data Services - 217.124 Rule Edits

	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	
Subscription Type	Deposit	Deposit	Min Balance	Min Balance	One-time cost	One-time cost	Weekly Cost	Weekly Cost	Per Run Cost	Per Run Cost	Per Record Cost	Per Record Cost	NOTES
Master File					\$5,000 + \$0.38/1000 records	\$5,000 + \$0.38/1000 records							no change
Weekly Updates	\$1,755	\$1,755					\$135	\$135					no change
e-Tag File*	NONE	\$845			\$9/day x 365 days			\$65					changed pricing structure to weekly cost
Dealer Supplemental File*	\$1,235	\$1,235					\$95	\$95					no change
Special Plates File**	NONE	\$1,235					NONE	\$95					no cost currently assigned
Batch Inquiry	NONE	\$1,000	\$1,000	\$750					\$23	\$23	\$0.12	\$0.12	created separate deposit and minimum balances
MVINet Access	NONE	\$200	\$200	\$150					\$23	\$23	\$0.12	\$0.12	created separate deposit and minimum balances
Scofflaw*	NONE	\$500	\$500	\$350					\$23	\$23	\$0.12	\$0.12	created separate deposit and minimum balances

*TxDMV currently offers subscriptions for this data, but they are currently not in rule.

**TxDMV currently does NOT have a subscription/contract or fees related to this data/file, and it is currently not in rule.

NOTE: Deposits for weekly subscriptions are weekly cost x 13 weeks.



BOARD OF THE TEXAS DEPARTMENT OF MOTOR VEHICLES

RESOLUTION APPROVING PUBLICATION OF PROPOSED AMENDMENTS TO
43 TAC SECTIONS 217.123 AND 217.124 RELATING TO
MOTOR VEHICLE RECORD INFORMATION

The Board of the Texas Department of Motor Vehicles (board) finds it necessary to amend Chapter 217, Vehicle Titles and Registration, Subchapter F, Motor Vehicle Record Information, §217.123, Access to Motor Vehicle Records; and §217.124, Cost of Motor Vehicle Records.

The preamble and the proposed amendments are attached to this resolution as Exhibits A-B, and are incorporated by reference as though set forth verbatim in this resolution, except that they are subject to technical corrections and revisions, approved by the General Counsel, necessary for compliance with state or federal law or for acceptance by the Secretary of State for filing and publication in the *Texas Register*.

IT IS THEREFORE ORDERED by the board that the attached rules are authorized for publication in the *Texas Register* for the purpose of receiving public comment.

The department is directed to take the necessary steps to implement the actions authorized in this order pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Raymond Palacios, Jr., Chairman
Board of the Texas Department of Motor Vehicles

Recommended by:

Jeremiah Kuntz, Director
Vehicle Titles and Registration Division

Order Number: _____

Date Passed: December 7, 2017

Texas Department of Motor Vehicles
Chapter 217, Vehicle Titles and Registration

1 Proposed Preamble

2 The Texas Department of Motor Vehicles (department) proposes
3 amendments to Chapter 217, Vehicle Titles and Registration,
4 Subchapter F, Motor Vehicle Record Information, §217.123, Access
5 to Motor Vehicle Records, and §217.124, Cost of Motor Vehicle
6 Records.

7

8 EXPLANATION OF PROPOSED AMENDMENTS

9 Amendments are proposed to §217.123 and §217.124 to clarify
10 procedures for and access to motor vehicle records and
11 associated cost of records.

12

13 The changes to §217.123 add a requirement that law enforcement
14 officers seeking to access personal information provide a copy
15 of current law enforcement credentials. The changes expand the
16 scope of public entities that are exempt from certain fees to
17 include all Texas governmental entities and Texas toll project
18 entities. Also, amendments throughout §217.123 change "agency"
19 to "Texas governmental entity" and renumber paragraphs as
20 necessary.

21

22 The amendments to §217.124 provide for law enforcement access to
23 certain records at no cost. In addition, deposit, minimum

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1 balance and fee information has been reorganized and simplified
2 to better inform department customers. The amendments to
3 §217.124 add a new subsection (f) to address department
4 reciprocity agreements with other governmental entities for
5 records access.

6

7 FISCAL NOTE

8 Linda M. Flores, Chief Financial Officer, has determined that
9 for each of the first five years the amendments as proposed are
10 in effect, there will be minor positive fiscal implications for
11 state or local governments and toll project entities as a result
12 of enforcing or administering the proposed amendments. Texas
13 state and local governmental entities and toll entities that
14 regularly access motor vehicle record information will have
15 access to certain records at no cost resulting in savings for
16 those entities.

17

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

22

23 PUBLIC BENEFIT AND COST

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1 Mr. Kuntz has also determined that for each year of the first
2 five years the amendments are in effect, the public benefit
3 anticipated as a result of enforcing or administering the
4 amendments will be to clarify who has access to motor vehicle
5 records and the associated costs for copies of the records.
6 There are no anticipated economic costs for persons required to
7 comply with the proposed amendments. There will be no adverse
8 economic effect on small businesses, or micro-businesses, or
9 rural communities.

10

11 TAKINGS IMPACT ASSESSMENT

12 The department has determined that this proposal affects no
13 private real property interests and that this proposal does not
14 restrict or limit an owner's right to property that would
15 otherwise exist in the absence of government action, and so does
16 not constitute a taking or require a takings impact assessment
17 under Government Code, §2007.043.

18

19 GOVERNMENT GROWTH IMPACT STATEMENT

20 The department has determined that during the first five years
21 the proposed amendments are in effect, no government program
22 would be created or eliminated. Implementation of the proposed
23 amendments would not require the creation of new employee

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1 positions or elimination of existing employee positions.
2 Implementation would not require an increase or decrease in
3 future legislative appropriations to the department or an
4 increase or decrease of fees paid to the department.
5 Additionally, the proposed amendments do not create a new
6 regulation, or expand, limit, or repeal an existing regulation.
7 The proposed amendments do not affect the number of individuals
8 subject to the rule's applicability and will not affect this
9 state's economy.

10

11 SUBMITTAL OF COMMENTS

12 Written comments on the proposed amendments may be submitted to
13 David D. Duncan, General Counsel, Texas Department of Motor
14 Vehicles, 4000 Jackson Avenue, Austin, Texas 78731 or by email
15 to *rules@txdmv.gov*. The deadline for receipt of comments is
16 5:00 p.m. on January 29, 2018.

17

18 STATUTORY AUTHORITY

19 The amendments are proposed under Transportation Code,
20 §1002.001, which provides the board of the Texas Department of
21 Motor Vehicles (board) with the authority to adopt rules that
22 are necessary and appropriate to implement the powers and the
23 duties of the department under the Transportation Code; and more

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1 specifically, Transportation Code, §730.014, which provides that
2 the department may adopt rules to implement and administer
3 Chapter 730, Motor Vehicle Records Disclosure Act.

4

5 CROSS REFERENCE TO STATUTE

6 Government Code, §552.130; Transportation Code, Chapter 730; and
7 18 U.S.C. §2721 et seq.

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1 SUBCHAPTER F. MOTOR VEHICLE RECORD INFORMATION

2 §217.123. Access to Motor Vehicle Records.

3 (a) Request for records. A person seeking motor vehicle
4 record information shall submit a written request on the form
5 required by the department. Information will be released in
6 accordance with Title 18 U.S.C. §2721 et seq., Transportation
7 Code, Chapter 730, and Government Code, §552.130. A completed
8 and properly executed form must include, at a minimum:

9 (1) the name and address of the requestor;

10 (2) the Texas license number, title or document
11 number, or vehicle identification number of the motor vehicle
12 about which information is requested;

13 (3) a photocopy of the requestor's identification;

14 (4) a statement that the requested information may
15 only be released if the requestor is the subject of the record,
16 if the requestor has written authorization for release from the
17 subject of the record, or if the intended use is for a permitted
18 use as indicated on the form;

19 (5) a certification that the statements made on the
20 form are true and correct; and

21 (6) the signature of the requestor.

22 (b) Identification required. A person may not apply for
23 receipt of personal information unless the person presents

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1 current photo identification containing a unique identification
2 number. The identification document must be a:

3 (1) driver's license or state identification
4 certificate issued by a state or territory of the United States;

5 (2) United States or foreign passport;

6 (3) United States military identification card;

7 (4) United States Department of Homeland Security,
8 United States Citizenship and Immigration Services, or United
9 States Department of State identification document; ~~[-or]~~

10 (5) concealed handgun license or license to carry a
11 handgun issued by the Texas Department of Public Safety under
12 Government Code, Chapter 411, Subchapter H; or[-]

13 (6) copy of current law enforcement credentials if the
14 requestor is a law enforcement officer.

15 (c) Electronic access. The department may make motor
16 vehicle record information available under the terms of a
17 written service agreement.

18 (1) Agreement with business or individuals. The
19 written service agreement with a business or individual must
20 contain:

21 (A) the specified purpose of the agreement;

22 (B) an adjustable account, if applicable, in
23 which an initial deposit and minimum balance is maintained in

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1 accordance with §217.124 of this title (relating to Cost of
2 Motor Vehicle Records);~~[the amount of:]~~

3 ~~[(i) \$200 for an on line access account; or]~~
4 ~~[(ii) \$1,000 for a prepaid account for batch~~
5 ~~purchase of motor vehicle record information;]~~

6 (C) termination and default provisions;

7 ~~[(D) service hours for access to motor vehicle~~
8 ~~records for on line access;]~~

9 (D)~~[(E)]~~the contractor's signature;

10 (E)~~[(F)]~~ a statement that the use of motor
11 vehicle record information obtained by virtue of a service
12 agreement is conditional upon its being used:

13 (i) in accordance with 18 U.S.C. §2721 et
14 seq. and Transportation Code, Chapter 730; and

15 (ii) only for the purposes defined in the
16 agreement; and

17 (F)~~[(G)]~~ the statements required by subsection
18 (a) of this section.

19 (2) Agreements with Texas governmental
20 entities~~[agencies]~~.

21 (A) The written service agreement with a Texas
22 governmental entity~~[an agency]~~ must contain:

23 (i) the specified purpose of the agreement;

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1 if the department finds a violation of a term or condition of
2 the agreement entered into in accordance with subsection (c) of
3 this section.

4 (e) Initial deposits and minimum balances. Notwithstanding
5 §217.124 of this title, the department may modify initial
6 deposit and minimum balance requirements on a case by case basis
7 depending on customer usage.

8

9 §217.124. Cost of Motor Vehicle Records.

10 (a) Standard costs. The department will charge fees in
11 accordance with Government Code, Chapter 552 and the cost rules
12 promulgated by the Office of the Attorney General in 1 Texas
13 Administrative Code, Chapter 70 (relating to Cost of Copies of
14 Public Information).

15 (b) Law enforcement. An employee of a state, federal or
16 local law enforcement entity is exempt from the payment of fees
17 for motor vehicle records in subsections (c)(1), (2), (3), and
18 (4) of this section if the records are necessary to carry out
19 lawful functions of the law enforcement agency.

20 (c) Motor vehicle record costs. For new contracts and
21 renewals, the costs are:

22 (1) Title history - \$5.75;

23 (2) Certified title history - \$6.75;

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- 1 (3) Title and registration verification (record
2 search) - \$2.30;
- 3 (4) Certified title and registration verification
4 (record search) - \$3.30; and
- 5 (5) Duplicate registration receipt for current
6 registration period - \$2.
- 7 (d) Electronic motor vehicle records and files.
- 8 (1) Master file of motor vehicle registration and
9 title database - \$5,000 plus \$0.38 per 1,000 records;
- 10 (2) Weekly updates to motor vehicle registration and
11 title database - deposit of \$1,755 and \$135 per week;
- 12 (3) e-Tag file - deposit of \$845 and \$65 per week;
- 13 (4) Dealer supplemental file - deposit of \$1,235 and
14 \$95 per week;
- 15 (5) Special plates file - deposit of \$1,235 and \$95
16 per week;
- 17 (6) Batch inquiry to motor vehicle registration and
18 title database - deposit of \$1,000, minimum balance of \$750 and
19 \$23 per run plus \$0.12 per record;
- 20 (7) Online motor vehicle inquiry (MVInet) access -
21 deposit of \$200, minimum balance of \$150 and \$23 per computer
22 run plus \$0.12 per record; and
- 23 (8) Scofflaw remarks (inquiry, addition or deletion) -

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1 deposit of \$500, minimum balance of \$350 and \$23 per run plus
2 \$0.12 per record.

3 (e) Exemption applicability. The exemption granted in
4 §217.123(c)(2)(B) of this title (relating to Access to Motor
5 Vehicle Records) does not apply to subsection (d)(1), (6), or
6 (8) of this section.

7 [~~The cost for motor vehicle information will be:~~]

8 [~~(1) Title and registration verification (record~~
9 ~~search) — \$2.30;~~]

10 [~~(2) Title history — \$5.75;~~]

11 [~~(3) Online access to motor vehicle records database —~~
12 ~~\$23 per month plus \$.12 per record entry;~~]

13 [~~(4) Motor vehicle registration and title database —~~
14 ~~\$5,000 plus \$.38 per 1,000 records copied to media;~~]

15 [~~(5) Weekly updates to motor vehicle registration and~~
16 ~~title database, with media provided by the department — \$135;~~
17 ~~and]~~

18 [~~(6) Batch inquiry to motor vehicle records database —~~
19 ~~\$23 per computer run plus \$.12 per record searched.]~~

20 (f) Reciprocity agreements. The department may enter into
21 reciprocity agreements for records access with other
22 governmental entities that may waive some or all of the fees
23 established in this section.



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.



**Key Performance Indicator Measures
Adopted by TxDMV Board 9/12/14**

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	
	ic	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 Center		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.							