

Refund Authority

As part of TxDMV's Sunset bill, TxDMV was given the following authority to order a refund:

Sec. 2301.807. REFUND. If, after a proceeding under this chapter and board rules, the board determines that a person is violating or has violated this chapter or a rule adopted or order issued under this chapter, the board may order the person to pay a refund to the buyer or lessee of the motor vehicle that is the subject of the proceeding.

Sec. 643.257. REFUND BY MOTOR CARRIERS TRANSPORTING HOUSEHOLD GOODS. The department may order a motor carrier that violates this chapter or a rule or order adopted under this chapter to pay a refund to a consumer who paid the motor carrier to transport household goods.

Questions for Consideration

1. How should "refund" be defined?
 - a. Should the reimbursement of expenses be considered a refund?
2. Under what circumstances should TxDMV order a licensee or registrant to provide a refund?
3. Should a refund be ordered in these scenarios?
 - a. **Dealer.** Consumer has to purchase 30-day permit(s) because dealer failed to transfer title before buyer tag expired (60 days);
 - b. **Dealer.** Consumer has to make additional payments on trade in vehicle to their lender because dealer was late in making agreed upon payoff;
 - c. **Dealer.** Consumer has to pay for safety inspection that should have been completed by the dealer;
 - d. **Dealer.** Consumer has out-of-pocket expenses because dealer failed to honor the written "WE OWE" portion of the contract;
 - i. Examples:
 1. Dealer promised 2 sets of fobs/keys for purchased vehicle and fails to provide the second set.
 2. Dealer refuses to honor limited warranty provided with purchase of vehicle.
 - e. **Dealer.** Consumer has to obtain a bonded title because dealer failed to provide title or obtain a bonded title for the consumer;
 - f. **Dealer.** Consumer is overcharged for TT&L, Documentary Fee, or other fictitious fees;
 - g. **Dealer.** Consumer purchases a third-party extended warranty offered by the dealer and the dealer does not submit the paperwork or funds. Consumer needs repairs and discovers they have no warranty.
 - h. **Household Goods.** Consumer is charged for costs not listed on their tariff after the household goods mover takes possession of the consumer's property; mover refused to unload goods until charges were paid.



February 27, 2020

Registration and Title Bulletin # 005-20 Policy and Procedure

TO: All County Tax Assessor-Collectors

SUBJECT: Titling Procedures and Waiving of Fees for Out of Business Dealer Applications

PURPOSE

To provide guidance on the titling procedures and waiving of fees when an out of business dealer fails to apply for title on the purchaser's behalf.

DETAILS

House Bill (HB) 3842, enacted by the 86th Legislature, authorizes the department to establish titling requirements and waive fees paid to a dealer by the purchaser, when an out of business dealer failed to apply for title on the purchaser's behalf as required by Transportation Code, §501.0234. HB 3842 also authorizes the department to waive the fee for one 30-Day Permit for the purchaser.

A customer who purchases a vehicle from a dealer that has gone out of business may apply for title and registration at their county tax assessor-collector's office and apply for one 30-Day Permit at no fee, if needed.

Prior to applying for title, the purchaser must obtain a letter from a Texas Department of Motor Vehicles Regional Service Center on department letterhead stating the dealer has gone out of business and what fees may be waived. Fees waived are determined by evidence provided by the purchaser showing any fees that were paid to the dealer. The department will waive the following fees:

- title application fee;
- delinquent transfer penalty;
- all registration and optional county fees under Transportation Code, Chapter 502;
- all inspection fees under Transportation Code, Chapter 548; and
- buyer tag fee.

The department will not waive motor vehicle sales and use tax paid by the purchaser to the out of business dealer; however, the county tax assessor-collector may waive the fees per Tax Code, §152.041, when proof of payment is submitted to the county with the title application.

In addition to the letter, the purchaser must provide a sales contract, retail installment agreement, or buyer's order in lieu of the vehicle's evidence of ownership. If the vehicle is subject to odometer disclosure and a properly completed odometer disclosure statement is not included with the title application, the odometer brand must be recorded as Not Actual Mileage.

Additionally, a release of lien is not required if the only lienholder on the vehicle record is the dealer that went out of business. Otherwise, a release of lien will be required if a lien is recorded on the vehicle record.

Programming changes to facilitate waiving fees in the Registration and Title System (RTS) were implemented with RTS Release 9.5. A “Dealer Closure” checkbox is available on the TTL008 screen in the title event and during a 30-Day Permit transaction on the MRG005 screen. Checking the “Dealer Closure” checkbox will waive all fees associated with a title application or issuance of a 30-Day Permit. Any fees associated with the title application that were not paid to the dealer must be collected through the RTS Additional Collections Event. Additional details and processing instructions were provided in the RTS 9.5 Release Notes.

All title and 30-Day Permit related transactions will continue to display on existing RTS reports. RTS will retain the amount of fees that are waived with the title application and/or the 30-Day Permit issuance. Two new Cognos reports are available to reflect transactions associated with a dealer that has gone out of business. One report reflects the title transactions and the amount of fees waived. The other report reflects the 30-Day Permits and the amount of fees waived.

COUNTY ACTION

If a customer requests issuance of a 30-Day Permit for no fee or is filing a title application for a vehicle they purchased from a dealer that has gone out of business, ensure the customer has a letter issued by the department stating the dealership has gone out of business and the fees that may be waived. In addition, ensure the customer provides a sales contract, retail installment agreement, or buyer’s order in lieu of the vehicle’s evidence of ownership with the title application.

Record the odometer brand as Not Actual Mileage if an odometer disclosure is not provided for a vehicle subject to odometer disclosure, and do not require a release of lien if the lienholder is the dealer that has gone out of business.

Ensure any fees not waived in the letter issued by the department that are associated with the title application are collected through the RTS Additional Collections Event.

CONTACT

If you have any questions, please contact your local Texas Department of Motor Vehicles Regional Service Center.

Sincerely,



Jeremiah Kuntz, Director
Vehicle Titles and Registration Division

JK:TT:JE

Texas Administrative Code

<u>TITLE 43</u>	TRANSPORTATION
<u>PART 10</u>	TEXAS DEPARTMENT OF MOTOR VEHICLES
<u>CHAPTER 217</u>	VEHICLE TITLES AND REGISTRATION
<u>SUBCHAPTER A</u>	MOTOR VEHICLE TITLES
RULE §217.16	Application for Title When Dealer Goes Out of Business

(a) A person who purchased a vehicle from a dealer who is required to apply for a title on the purchaser's behalf under Transportation Code, §501.0234 may apply for title as prescribed by this section if the dealer has gone out of business and did not apply for title.

(b) For purposes of this section, a dealer has gone out of business if:

- (1) the dealer's license has been closed or has expired; or
- (2) operations have ceased at the licensed location as determined by the department.

(c) For purposes of this section, a person must obtain a letter on department letterhead stating a dealer has gone out of business. A person may request the letter by contacting the department, including a Regional Service Center, or a county tax assessor-collector's office.

(d) An application under subsection (a) of this section must meet the requirements of §217.4 of this title (relating to Initial Application for Title) except the applicant:

(1) must provide the sales contract, retail installment agreement, or buyer's order in lieu of evidence of vehicle ownership as described in §217.5(a) of this title (relating to Evidence of Motor Vehicle Ownership);

(2) must provide the letter described by subsection (c) of this section; and

(3) is not required to provide a release of lien if the only recorded lienholder is the dealer that has gone out of business.

(e) If a title application under this section does not include a properly completed odometer disclosure statement, as required by Transportation Code, §501.072, the odometer brand will be recorded as "NOT ACTUAL MILEAGE."

(f) The department will waive the payment of the following fees if the applicant can provide evidence showing the fee was paid to the dealer:

- (1) a title application fee under Transportation Code, §501.138;
- (2) delinquent transfer penalty under Transportation Code, §501.146;
- (3) all fees under Transportation Code, Chapter 502; and
- (4) the buyer's temporary tag fee under Transportation Code, §503.063.

Source Note: The provisions of this §217.16 adopted to be effective March 1, 2020, 45 TexReg 1230

Texas Administrative Code

<u>TITLE 43</u>	TRANSPORTATION
<u>PART 10</u>	TEXAS DEPARTMENT OF MOTOR VEHICLES
<u>CHAPTER 217</u>	VEHICLE TITLES AND REGISTRATION
<u>SUBCHAPTER B</u>	MOTOR VEHICLE REGISTRATION
RULE §217.40	Special Registrations

(a) Purpose and scope. Transportation Code, Chapter 502, Subchapters C and I, charge the department with the responsibility of issuing special registration permits which shall be recognized as legal registration for the movement of motor vehicles not authorized to travel on Texas public highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered. For the department to efficiently and effectively perform these duties, this section prescribes the policies and procedures for the application and the issuance of temporary registration permits.

(b) Permit categories. The department will issue the following categories of special registration permits.

(1) Additional weight permits. The owner of a truck, truck tractor, trailer, or semitrailer may purchase temporary additional weight permits for the purpose of transporting the owner's own seasonal agricultural products to market or other points for sale or processing in accordance with Transportation Code, §502.434. In addition, such vehicles may be used for the transportation without charge of seasonal laborers from their place of residence, and materials, tools, equipment, and supplies from the place of purchase or storage, to a farm or ranch exclusively for use on such farm or ranch.

(A) Additional weight permits are valid for a limited period of less than one year.

(B) An additional weight permit will not be issued for a period of less than one month or extended beyond the expiration of a license plate issued under Transportation Code, Chapter 502.

(C) The statutory fee for an additional weight permit is based on a percentage of the difference between the owner's annual registration fee and the annual fee for the desired gross vehicle weight computed as follows:

- (i) one-month (or 30 consecutive days)--10%;
- (ii) one-quarter (three consecutive months)--30%;
- (iii) two-quarters (six consecutive months)--60%; or
- (iv) three-quarters (nine consecutive months)--90%.

(D) Additional weight permits are issued for calendar quarters with the first quarter to begin on April 1st of each year.

(E) A permit will not be issued unless the registration fee for hauling the additional weight has been paid prior to the actual hauling.

(F) An applicant must provide proof of the applicant's Texas Agriculture or Timber Exemption Registration Number issued by the Texas Comptroller of Public Accounts. Proof of the registration number must be:

- (i) legible;
- (ii) current;
- (iii) in the name of the person or dba in which the vehicle is or will be registered; and

(iv) verifiable through the online system established by the Comptroller.

(2) Annual permits.

(A) Transportation Code, §502.093 authorizes the department to issue annual permits to provide for the movement of foreign commercial vehicles that are not authorized to travel on Texas highways for lack of registration or for lack of reciprocity with the state or country in which the vehicles are registered. The department will issue annual permits:

(i) for a 12-month period designated by the department which begins on the first day of a calendar month and expires on the last day of the last calendar month in that annual registration period; and

(ii) to each vehicle or combination of vehicles for the registration fee prescribed by weight classification in Transportation Code, §502.253 and §502.255.

(B) The department will not issue annual permits for the importation of citrus fruit into Texas from a foreign country except for foreign export or processing for foreign export.

(C) The following exemptions apply to vehicles displaying annual permits.

(i) Currently registered foreign semitrailers having a gross weight in excess of 6,000 pounds used or to be used in combination with commercial motor vehicles or truck tractors having a gross vehicle weight in excess of 10,000 pounds are exempted from the requirements to pay the token fee and display the associated distinguishing license plate provided for in Transportation Code, §502.255. An annual permit is required for the power unit only. For vehicles registered in combination, the combined gross weight may not be less than 18,000 pounds.

(ii) Vehicles registered with annual permits are not subject to the optional county registration fee under Transportation Code, §502.401; the optional county fee for transportation projects under Transportation Code, §502.402; or the optional registration fee for child safety under Transportation Code, §502.403.

(3) 72-hour permits and 144-hour permits.

(A) In accordance with Transportation Code, §502.094, the department will issue a permit valid for 72 hours or 144 hours for the movement of commercial motor vehicles, trailers, semitrailers, and motor buses owned by residents of the United States, Mexico, or Canada.

(B) A 72-hour permit or a 144-hour permit is valid for the period of time stated on the permit beginning with the effective day and time as shown on the permit registration receipt.

(C) Vehicles displaying 72-hour permits or 144-hour permits are subject to vehicle safety inspection in accordance with Transportation Code, §548.051, except for:

(i) vehicles currently registered in another state of the United States, Mexico, or Canada; and

(ii) mobile drilling and servicing equipment used in the production of gas, crude petroleum, or oil, including, but not limited to, mobile cranes and hoisting equipment, mobile lift equipment, forklifts, and tugs.

(D) The department will not issue a 72-hour permit or a 144-hour permit to a commercial motor vehicle, trailer, semitrailer, or motor bus apprehended for violation of Texas registration laws. Apprehended vehicles must be registered under Transportation Code, Chapter 502.

(4) Temporary agricultural permits.

(A) Transportation Code, §502.092 authorizes the department to issue a 30-day temporary nonresident registration permit to a nonresident for any truck, truck tractor, trailer, or semitrailer to be used in the movement of all agriculture products produced in Texas:

(i) from the place of production to market, storage, or railhead not more than 75 miles from the place of production; or

(ii) to be used in the movement of machinery used to harvest Texas-produced agricultural products.

(B) The department will issue a 30-day temporary nonresident registration permit to a nonresident for any truck, truck tractor, trailer, or semitrailer used to move or harvest farm products, produced outside of Texas, but:

(i) marketed or processed in Texas; or

(ii) moved to points in Texas for shipment from the point of entry into Texas to market, storage, processing plant, railhead or seaport not more than 80 miles from such point of entry into Texas.

(C) The statutory fee for temporary agricultural permits is one-twelfth of the annual Texas registration fee prescribed for the vehicle for which the permit is issued.

(D) The department will issue a temporary agricultural permit only when the vehicle is legally registered in the nonresident's home state or country for the current registration year.

(E) The number of temporary agricultural permits is limited to three permits per nonresident owner during any one vehicle registration year.

(F) Temporary agricultural permits may not be issued to farm licensed trailers or semitrailers.

(5) One-trip permits. Transportation Code, §502.095 authorizes the department to temporarily register any unladen vehicle upon application to provide for the movement of the vehicle for one trip, when the vehicle is subject to Texas registration and not authorized to travel on the public roadways for lack of registration or lack of registration reciprocity.

(A) Upon receipt of the \$5 fee, registration will be valid for one trip only between the points of origin and destination and intermediate points as may be set forth in the application and registration receipt.

(B) The department will issue a one-trip permit to a bus which is not covered by a reciprocity agreement with the state or country in which it is registered to allow for the transit of the vehicle only. The vehicle should not be used for the transportation of any passenger or property, for compensation or otherwise, unless such bus is operating under charter from another state or country.

(C) A one-trip permit is valid for a period up to 15 days from the effective date of registration.

(D) A one-trip permit may not be issued for a trip which both originates and terminates outside Texas.

(E) A laden motor vehicle or a laden commercial vehicle cannot display a one-trip permit. If the vehicle is unregistered, it must operate with a 72-hour or 144-hour permit.

(6) 30-day temporary registration permits. Transportation Code, §502.095 authorizes the department to issue a temporary registration permit valid for 30 days for a \$25 fee. A vehicle operated on a 30-day temporary permit is not restricted to a specific route. The permit is available for:

(A) passenger vehicles;

(B) motorcycles;

(C) private buses;

(D) trailers and semitrailers with a gross weight not exceeding 10,000 pounds;

(E) light commercial vehicles not exceeding a gross weight of 10,000 pounds; and

(F) a commercial vehicle exceeding 10,000 pounds, provided the vehicle is operated unladen.

(c) Application process.

(1) Procedure. An owner who wishes to apply for a temporary registration permit for a vehicle which is otherwise required to be registered in accordance with this subchapter, must do so on a form prescribed by the department.

(2) Form requirements. The application form will at a minimum require:

- (A) the signature of the owner;
- (B) the name and complete address of the applicant; and
- (C) the vehicle description.

(3) Fees and documentation. The application must be accompanied by:

(A) statutorily prescribed fees, unless the applicant is exempt from fees under Transportation Code, §501.0236 and provides the letter specified in §217.16(c) of this title (relating to Application for Title When Dealer Goes Out of Business);

(B) evidence of financial responsibility:

(i) as required by Transportation Code, Chapter 502, Subchapter B, provided that all policies written for the operation of motor vehicles must be issued by an insurance company or surety company authorized to write motor vehicle liability insurance in Texas; or

(ii) if the applicant is a motor carrier as defined by §218.2 of this title (relating to Definitions), indicating that the vehicle is registered in compliance with Chapter 218, Subchapter B of this title (relating to Motor Carrier Registration); and

(C) any other documents or fees required by law.

(4) Place of application.

(A) All applications for annual permits must be submitted directly to the department for processing and issuance.

(B) Additional weight permits and temporary agricultural permits may be obtained by making application with the department through the county tax assessor-collectors' offices.

(C) 72-hour and 144-hour permits, one-trip permits, and 30-day temporary registration permits may be obtained by making application either with the department or the county tax assessor-collectors' offices.

(d) Receipt for permit in lieu of registration. A receipt will be issued for each permit in lieu of registration to be carried in the vehicle during the time the permit is valid. A one-trip or 30-day trip permit must be displayed as required by Transportation Code, §502.095(f). If the receipt is lost or destroyed, the owner must obtain a duplicate from the department or from the county office. The fee for the duplicate receipt is the same as the fee required by Transportation Code, §502.058.

(e) Transfer of temporary permits.

(1) Temporary permits are non-transferable between vehicles and/or owners.

(2) If the owner of a vehicle displaying a temporary permit disposes of the vehicle during the time the permit is valid, the permit must be returned to the county tax assessor-collector office or department immediately.

(f) Replacement permits. Vehicle owners displaying annual permits may obtain replacement permits if an annual permit is lost, stolen, or mutilated.

(1) The fee for a replacement annual permit is the same as for a replacement number plate, symbol, tab, or other device as provided by Transportation Code, §502.060.

(2) The owner shall apply directly to the department in writing for the issuance of a replacement annual permit. Such request should include a copy of the registration receipt and replacement fee.

(g) Agreements with other jurisdictions. In accordance with Transportation Code, §502.091, and Chapter 648, the executive director of the department may enter into a written agreement with an authorized officer of a state, province, territory, or possession of a foreign country to provide for the exemption from payment of registration fees by nonresidents, if residents of this state are granted reciprocal exemptions. The executive director may enter into such agreement only upon:

- (1) the approval of the governor; and
- (2) making a determination that the economic benefits to the state outweigh all other factors considered.

(h) Border commercial zones.

(1) Texas registration required. A vehicle located in a border commercial zone must display a valid Texas registration if the vehicle is owned by a person who:

- (A) owns a leasing facility or a leasing terminal located in Texas; and
- (B) leases the vehicle to a foreign motor carrier.

(2) Exemption for trips of short duration. Except as provided by paragraph (1) of this subsection, a foreign commercial vehicle operating in accordance with Transportation Code, Chapter 648 is exempt from the display of a temporary registration permit if:

(A) the vehicle is engaged solely in the transportation of cargo across the border into or from a border commercial zone;

(B) for each load of cargo transported the vehicle remains in this state for:

- (i) not more than 24 hours; or
- (ii) not more than 48 hours, if:

(I) the vehicle is unable to leave this state within 24 hours because of circumstances beyond the control of the motor carrier operating the vehicle; and

(II) all financial responsibility requirements applying to this vehicle are satisfied;

(C) the vehicle is registered and licensed as required by the country in which the person that owns the vehicle is domiciled or is a citizen as evidenced by a valid metal license plate attached to the front or rear exterior of the vehicle; and

(D) the country in which the person who owns the vehicle is domiciled or is a citizen provides a reciprocal exemption for commercial motor vehicles owned by residents of Texas.

(3) Exemption due to reciprocity agreement. Except as provided by paragraph (1) of this subsection, a foreign commercial motor vehicle in a border commercial zone in this state is exempt from the requirement of obtaining a Texas registration if the vehicle is currently registered in another state of the United States or a province of Canada with which this state has a reciprocity agreement that exempts a vehicle that is owned by a resident of this state and that is currently registered in this state from registration in the other state or province.

Source Note: The provisions of this §217.40 adopted to be effective March 12, 2015, 40 TexReg 1096; amended to be effective August 8, 2016, 41 TexReg 5766; amended to be effective December 4, 2016, 41 TexReg 9335; amended to be effective March 1, 2020, 45 TexReg 1230

AN ACT

relating to the regulation of certain motor vehicle dealers;
waiving certain fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 501, Transportation Code,
is amended by adding Section 501.0236 to read as follows:

Sec. 501.0236. ISSUANCE OF TITLE AND PERMITS WHEN DEALER
GOES OUT OF BUSINESS. (a) This section applies only to a person who
is the purchaser of a motor vehicle for which the dealer:

(1) is required to apply for a title for the vehicle
under Section 501.0234; and

(2) does not apply for the title because the dealer has
gone out of business.

(b) A purchaser to whom this section applies may apply for:

(1) a title in the manner prescribed by the department
by rule; and

(2) on expiration of the buyer's tag issued to the
purchaser under Section 503.063, a 30-day permit under Section
502.095.

(c) An application for a title under this section must
include a release of any recorded lien on the motor vehicle unless
the only recorded lienholder is a dealer described by Subsection
(a).

(d) The department shall waive the payment of fees for:

1 (1) a title issued to a purchaser described by this
2 section, if the purchaser can show that fees for a title were paid
3 to the dealer; and

4 (2) one 30-day permit issued to a purchaser described
5 by this section.

6 (e) Notwithstanding Section 503.033(e), the department may
7 recover against the surety bond executed by the dealer under
8 Section 503.033 the amount of any fee waived for a title or permit
9 issued under this section.

10 (f) The department shall adopt the rules necessary to
11 implement this section.

12 SECTION 2. Section 503.027(a), Transportation Code, is
13 amended to read as follows:

14 (a) A [~~If a dealer consigns for sale more than five vehicles~~
15 ~~in a calendar year from a location other than the location for which~~
16 ~~the dealer holds a general distinguishing number, the]~~ dealer must
17 [~~also~~] hold a general distinguishing number for a [~~the~~] consignment
18 location unless the consignment location is a wholesale motor
19 vehicle auction.

20 SECTION 3. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 3842 was passed by the House on April 30, 2019, by the following vote: Yeas 131, Nays 15, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 3842 on May 24, 2019, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 3842 on May 26, 2019, by the following vote: Yeas 128, Nays 14, 1 present, not voting.

Chief Clerk of the House

H.B. No. 3842

I certify that H.B. No. 3842 was passed by the Senate, with amendments, on May 22, 2019, by the following vote: Yeas 27, Nays 4; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 3842 on May 25, 2019, by the following vote: Yeas 29, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor