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ADOPTION OF

SUBCHAPTER A. MOTOR VEHICLE TITLES

43 TAC §217.16

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §217.40

INTRODUCTION. The Texas Department of Motor Vehicles adopts new 43 TAC §217.16 and an amendment to 43 TAC §217.40 concerning applications for title when a dealer goes out of business. The department adopts new §217.16 and the amendment to §217.40 without changes to the proposed text as published in the August 30, 2019, issue of the *Texas Register* (44 TexReg 4680). These rules will not be republished.

REASONED JUSTIFICATION. The new §217.16 and amendment to §217.40 are necessary to implement House Bill 3842, 86th Legislature, Regular Session (2019). House Bill 3842 requires the department to adopt rules to permit a person to apply for title if an out of business dealer failed to apply for title as required by Transportation Code, §501.0234. House Bill 3842 also authorizes the department to waive fees for a title, if the purchaser can show that fees for a title were paid to the dealer, and the fee for one 30-day permit.

§217.16

The new §217.16 is necessary to implement HB 3842. Section 217.16(a) establishes the process for a person to apply for a title if the person purchased a vehicle from a dealer who is required to apply for title, but did not because the dealer went out of business. Section 217.16(b) provides that a dealer is considered out of business if the dealer's license has been closed or has expired, or if operations have ceased at the licensed location as determined by the department. Section 217.16(c) is necessary to

1 allow a person to obtain a letter on department letterhead stating the dealer has gone out of business.
2 The purpose of the letter is to confirm the dealer is out of business, regardless of whether the dealer's
3 license has closed or expired or operations have ceased at the licensed location as determined by the
4 department, and authorize a county tax assessor-collector to waive fees in accordance with §217.16(f).
5 A purchaser may request the letter by contacting the department, including a Regional Service Center,
6 or a county tax assessor-collector's office by email, phone, or in-person. The department also has an
7 online complaint entry system for the public that provides status updates on the submitted complaint
8 that may be used to request the letter. The department may be contacted directly weekdays between
9 8:00 a.m. and 4:30 p.m. at (888) 368-4689 for questions regarding a complaint submission, or a
10 customer may go into the online system to find out the status of the submission. Additionally, once the
11 department is made aware of a dealer closure through an initial customer's request for a letter,
12 individuals requesting a letter could receive a letter very quickly as subsequent requests would not
13 require additional research on the dealer. The department's Regional Service Center staff will coordinate
14 issuance of the letter to the customer. Section 217.16(d) requires an applicant to comply with all
15 requirements for title application under §217.4, Initial Application for Title, except that an applicant may
16 provide either the sales contract, retail installment agreement, or buyer's order in lieu of the assigned
17 manufacturer's certificate of origin or title required under §217.5(a), Evidence of Motor Vehicle
18 Ownership. The applicant must also provide the letter stating the dealer has gone out of business, but is
19 not required to provide a release of lien if the only recorded lienholder is the dealer that has gone out of
20 business. The applicant will have their transaction completed at the county tax assessor-collector's
21 office at the time they submit their application if the proper documentation is presented. Section
22 217.16(e) provides that a title application under the new section must include a properly completed
23 odometer disclosure statement, if applicable, or the odometer brand will be recorded as "NOT ACTUAL

1 MILEAGE." Lastly, §217.16(f) provides that the department will waive the title application fee, the
2 delinquent transfer penalty, all fees under Transportation Code, Chapter 502, and the buyer's temporary
3 tag fee.

4 **§217.40**

5 The amendment to §217.40 is necessary to implement HB 3842. The amendment to §217.40
6 allows for waiver of the fee for one 30-day permit if the applicant is exempt from payment of fees under
7 Transportation Code, §501.0236, and provides the letter on department letterhead stating the dealer
8 has gone out of business.

9

10 **SUMMARY OF COMMENTS.**

11 No comments were received.

12

13 **SUBCHAPTER A. MOTOR VEHICLE TITLES**

14 **§217.16**

15 **STATUTORY AUTHORITY.** The department adopts new §217.16 under Transportation Code,
16 §§501.0236(f), 502.401(g), 502.402(f), 520.003, and 1002.001.

17 Transportation Code, §501.0236(f) requires the department to adopt rules necessary to
18 implement the section.

19 Transportation Code, §502.401(g) authorizes the department to adopt rules necessary to
20 administer registration for a vehicle being registered in a county imposing a fee under the section.

21 Transportation Code, §502.402(f) authorizes the department to adopt rules necessary to
22 administer registration for a vehicle being registered in a county imposing a fee under the section.

1 Transportation Code, §520.003 allows the department to adopt rules to administer
2 Transportation Code, Chapter 520, including rules that waive the payment of fees if a dealer has gone
3 out of business and the applicant can show that fees were paid to the dealer.

4 Transportation Code, §1002.001 authorizes the board of the Texas Department of Motor
5 Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers
6 and the duties of the department.

7

8 **CROSS REFERENCE TO STATUTE.** Transportation Code, Chapters 501, 502, 503, and §520.003.

9

10 **TEXT.**

11

Subchapter A. Motor Vehicle Titles

12

43 TAC §217.16

13 §217.16. Application for Title When Dealer Goes Out of Business.

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

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

18 (1) the dealer's license has been closed or has expired; or

19 (2) operations have ceased at the licensed location as determined by the department.

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

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

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

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

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

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

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

14 (1) a title application fee under Transportation Code, §501.138;

15 (2) delinquent transfer penalty under Transportation Code, §501.146;

16 (3) all fees under Transportation Code, Chapter 502; and

17 (4) the buyer's temporary tag fee under Transportation Code, §503.063.

18

19 **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

20 **§217.40**

21 **STATUTORY AUTHORITY.** The department adopts the amendment to §217.40 under Transportation
22 Code, §§501.0236(f), 502.401(g), 502.402(f), 520.003, and 1002.001.

1 Transportation Code, §501.0236(f) requires the department to adopt rules necessary to
2 implement the section.

3 Transportation Code, §502.401(g) authorizes the department to adopt rules necessary to
4 administer registration for a vehicle being registered in a county imposing a fee under the section.

5 Transportation Code, §502.402(f) authorizes the department to adopt rules necessary to
6 administer registration for a vehicle being registered in a county imposing a fee under the section.; and

7 Transportation Code, §520.003 allows the department to adopt rules to administer
8 Transportation Code, Chapter 520, including rules that waive the payment of fees if a dealer has gone
9 out of business and the applicant can show that fees were paid to the dealer.

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

13

14 **CROSS REFERENCE TO STATUTE.** Transportation Code, Chapters 501, 502, 503, and §520.003.

15

16 **TEXT.**

17

Subchapter B. Motor Vehicle Registration

18

43 TAC §217.40

19 §217.40. Special Registrations.

20 (a) Purpose and scope. Transportation Code, Chapter 502, Subchapters C and I, charge the
21 department with the responsibility of issuing special registration permits which shall be recognized as
22 legal registration for the movement of motor vehicles not authorized to travel on Texas public highways
23 for lack of registration or for lack of reciprocity with the state or country in which the vehicles are

1 registered. For the department to efficiently and effectively perform these duties, this section prescribes
2 the policies and procedures for the application and the issuance of temporary registration permits.

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

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

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

12 (B) An additional weight permit will not be issued for a period of less than one
13 month or extended beyond the expiration of a license plate issued under Transportation Code, Chapter
14 502.

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

18 (i) one-month (or 30 consecutive days)--10%;

19 (ii) one-quarter (three consecutive months)--30%;

20 (iii) two-quarters (six consecutive months)--60%; or

21 (iv) three-quarters (nine consecutive months)--90%.

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

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

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

6 (i) legible;

7 (ii) current;

8 (iii) in the name of the person or dba in which the vehicle is or will be
9 registered; and

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

11 (2) Annual permits.

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

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

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

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

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

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

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

11 (3) 72-hour permits and 144-hour permits.

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

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

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

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

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

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

4 (4) Temporary agricultural permits.

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

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

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

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

15 (i) marketed or processed in Texas; or

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

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

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

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

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

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

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

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

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

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

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

1 (6) 30-day temporary registration permits. Transportation Code, §502.095 authorizes
2 the department to issue a temporary registration permit valid for 30 days for a \$25 fee. A vehicle
3 operated on a 30-day temporary permit is not restricted to a specific route. The permit is available for:

4 (A) passenger vehicles;

5 (B) motorcycles;

6 (C) private buses;

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

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

9 and

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

12 (c) Application process.

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

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

17 (A) the signature of the owner;

18 (B) the name and complete address of the applicant; and

19 (C) the vehicle description.

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

21 (A) statutorily prescribed fees, unless the applicant is exempt from fees under

22 Transportation Code, §501.0236 and provides the letter specified in §217.16(c) of this title (relating to

23 Application for Title When Dealer Goes Out of Business);

1 (B) evidence of financial responsibility:
2 (i) as required by Transportation Code, Chapter 502, Subchapter B,
3 provided that all policies written for the operation of motor vehicles must be issued by an insurance
4 company or surety company authorized to write motor vehicle liability insurance in Texas; or
5 (ii) if the applicant is a motor carrier as defined by §218.2 of this title
6 (relating to Definitions), indicating that the vehicle is registered in compliance with Chapter 218,
7 Subchapter B of this title (relating to Motor Carrier Registration); and
8 (C) any other documents or fees required by law.

9 (4) Place of application.

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

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

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

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

22 (e) Transfer of temporary permits.

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

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

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

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

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

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

16 (1) the approval of the governor; and

17 (2) making a determination that the economic benefits to the state outweigh all other
18 factors considered.

19 (h) Border commercial zones.

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

22 (A) owns a leasing facility or a leasing terminal located in Texas; and

23 (B) leases the vehicle to a foreign motor carrier.

1 (2) Exemption for trips of short duration. Except as provided by paragraph (1) of this
2 subsection, a foreign commercial vehicle operating in accordance with Transportation Code, Chapter
3 648 is exempt from the display of a temporary registration permit if:

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

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

7 (i) not more than 24 hours; or

8 (ii) not more than 48 hours, if:

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

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

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

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

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

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

4 Issued at Austin, Texas, on February 10, 2020.

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/s/ Tracey Beaver
Tracey Beaver, General Counsel