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PROPOSAL OF

SUBCHAPTER A. MOTOR VEHICLE TITLES

43 TAC §217.3

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes to amend Title 43 of the Texas Administrative Code §217.3 relating to motor vehicle titles. The changes remove references to the list of certified mopeds published by the Texas Department of Public Safety (DPS) because that list will no longer be maintained. DPS is no longer maintaining the list in response to House Bill (HB) 3171, 86th Legislature, Regular Session (2019), which repealed Transportation Code §521.225, which required DPS to maintain the list.

EXPLANATION. The proposed amendments to §217.3(1)(B) eliminate references to the list of certified mopeds published by DPS and clarify that determinations on whether a motor vehicle may be titled as a moped will be based on the definition of moped in Transportation Code §541.201. Previously, DPS provided a list of certified mopeds that was referenced when county tax assessor-collector offices processed title applications. Transportation Code §521.225, which required that the list be maintained, was repealed by HB 3171. Because that list is no longer maintained, determinations will be based on the statutory definition of moped. Transportation Code §541.201(8) defines moped as, “a motor vehicle that is equipped with a rider's saddle and designed to have when propelled not more than three wheels on the ground, that cannot attain a speed in one mile of more than 30 miles per hour, and the engine of which cannot produce more than five-brake horsepower; and if an internal combustion engine, has a piston displacement of 50 cubic centimeters or less and connects to a power drive system that does not require the operator to shift gears.” If the vehicle meets the definition, it will be titled as a moped. The amendments are not changing or adding requirements for the definition of moped, but are removing the requirement that a motor vehicle be listed on the certified moped list before titling as a moped.

1 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
2 has determined that for each year of the first five years the proposed new section will be in effect, there
3 will be no fiscal impact to state or local governments as a result of the enforcement or administration of
4 the proposal. Jeremiah Kuntz, Director of the Vehicle Title and Registration Division, has determined that
5 there will be no measurable effect on local employment or the local economy as a result of the proposal.

6 **PUBLIC BENEFIT AND COST NOTE.** Mr. Kuntz has also determined that, for each year of the first five years
7 the proposed new section is in effect, the public benefits include removing outdated procedures from
8 department rules, removing the requirement that mopeds must be on a list of certified mopeds to be
9 titled, and clarifying the existing criteria for titling a motor vehicle as a moped.

10 Mr. Kuntz anticipates that there will be no additional costs on regulated persons to comply with
11 these rules, because the rules do not establish any additional requirements or costs for the regulated
12 person.

13 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
14 Code, §2006.002, the department has determined that the amendment will not have an adverse
15 economic effect on small businesses, micro-businesses, or rural communities because the proposal
16 imposes no additional requirements, and has no additional financial effect, on any small businesses,
17 micro-businesses, or rural communities. Therefore, the department is not required to prepare a
18 regulatory flexibility analysis under Government Code, §2006.002.

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

1 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first five
2 years the proposed amendments are in effect, no government program would be created or eliminated.
3 Implementation of the proposed amendments would not require the creation of new employee positions
4 or elimination of existing employee positions. Implementation would not require an increase or decrease
5 in future legislative appropriations to the department or an increase or decrease of fees paid to the
6 department. The proposed amendments do not create a new regulation, or expand, or limit, an existing
7 regulation. The proposed amendments remove an existing regulation. Lastly, the proposed amendments
8 do not affect the number of individuals subject to the rule's applicability and will not affect this state's
9 economy. The proposed amendments do not change the definition of moped; instead the proposed
10 amendments remove the requirement that mopeds must be on a list of certified mopeds to be titled.

11 **REQUEST FOR PUBLIC COMMENT.**

12 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on November
13 16, 2020. A request for a public hearing must be sent separately from your written comments. Send
14 written comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General
15 Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is
16 held, the department will consider written comments and public testimony presented at the hearing.

17 **STATUTORY AUTHORITY.** The department proposes amendments to §217.3 under Transportation Code
18 §501.0041 and §1002.001.

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

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

23 **CROSS REFERENCE TO STATUTE.** Transportation Code §501.021 and §501.022.

1 **TEXT.**

2 **SUBCHAPTER A. MOTOR VEHICLE TITLES**

3 **43 TAC §217.3**

4 §217.3. Motor Vehicle Titles.

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

8 (1) Motorcycles, autocycles, and mopeds.

9 (A) The title requirements for a motorcycle, autocycle, and moped are the same
10 requirements prescribed for any motor vehicle.

11 (B) A vehicle that meets the criteria for a moped under Transportation Code
12 §541.201(8) [and has been certified as a moped by the Department of Public Safety] will be registered and
13 titled as a moped. [If the vehicle does not appear on the list of certified mopeds published by that agency,
14 the vehicle will be treated as a motorcycle for title and registration purposes.]

15 (2) Farm vehicles.

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

18 (B) Farm tractors owned by agencies exempt from registration fees in accordance
19 with Transportation Code §502.453, are required to be titled and registered with "Exempt" license plates
20 issued in accordance with Transportation Code §502.451.

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

23 (D) Owners of farm trailers and farm semitrailers with a gross weight of 34,000

1 pounds or less may apply for a Texas title. Owners of farm trailers and farm semitrailers with a gross
2 weight in excess of 34,000 pounds shall apply for a Texas title. If a farm trailer or farm semitrailer with a
3 gross weight of 34,000 pounds or less has been titled previously, any subsequent owner shall apply for a
4 Texas title for the farm trailer or farm semitrailer.

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

7 (4) Trailers, semitrailers, and house trailers. Owners of trailers and semitrailers shall apply
8 for a Texas title for any trailer or semitrailer with a gross weight in excess of 4,000 pounds. Owners of
9 trailers and semitrailers with a gross weight of 4,000 pounds or less may apply for a Texas title. If a trailer
10 or semitrailer with a gross weight of 4,000 pounds or less has been titled previously, any subsequent
11 owner shall apply for a Texas title for the trailer or semitrailer. House trailer-type vehicles must meet the
12 criteria outlined in subparagraph (C) of this paragraph to be titled:

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

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

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

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

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

23 (iii) A recreational park model type trailer that is primarily designed as

1 temporary living quarters for recreational, camping or seasonal use, is built on a single chassis, and is 400
2 square feet or less when measured at the largest horizontal projection when in the set up mode shall be
3 titled as a house trailer and may be issued travel trailer license plates.

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

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

8 (A) vehicles that are missing or are stripped of their motor, frame, or body, to the
9 extent that the vehicle loses its original identity or makes the vehicle unsafe for on-road operation as
10 determined by the department;

11 (B) vehicles designed by the manufacturer for on-track racing only;

12 (C) vehicles designed or determined by the department to be for off-highway use
13 only, unless specifically defined as a "motor vehicle" in Transportation Code Chapter 501; or

14 (D) vehicles assembled, built, constructed, rebuilt, or reconstructed in any
15 manner with:

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

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

21 **CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be
22 within the state agency's legal authority to adopt.

23 Issued at Austin, Texas, on October 1, 2020.

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/s/ Tracey Beaver
Tracey Beaver, General Counsel

DRAFT