

1 The amendments to §217.74(a) change the requirement for a county tax assessor-collector to
2 make webDEALER available to motor vehicle dealers from permissive to mandatory. The amendment is
3 necessary to implement the requirement that each county tax assessor-collector must allow motor vehicle
4 dealers access to webDEALER.

5 The amendment to §217.74(b) creates a reference to new §217.74(c), which addresses motor
6 vehicle dealer access to webDEALER. The amendment does not change access to webDEALER by persons
7 who are not motor vehicle dealers or the ability of county tax assessor-collectors to authorize that access.

8 The new §217.74(c) states the requirement that a county tax assessor-collector must allow motor
9 vehicle dealers to access webDEALER. To clarify the term motor vehicle dealer as used in Transportation
10 Code §520.005(e), the subsection refers to "a holder of a general distinguishing number."

11 This does not remove the requirement for county tax assessor-collectors to ensure title
12 applications comply with Transportation Code Chapter 501, nor does it require county tax assessor-
13 collectors to approve non-complaint or fraudulent title applications. A county tax assessor-collector who
14 suspects possible fraud, waste, or abuse by a motor vehicle dealer may submit a request to the
15 department for review and possible investigation under the Red Flag process. The department will pursue
16 action as necessary.

17 **SUMMARY OF COMMENTS.**

18 The department received written comments requesting clarifications or changes in the proposed
19 text from: Bexar County Tax-Assessor Collector, Lubbock County Tax Assessor-Collector, and Tax Assessor-
20 Collectors Association of Texas.

21 **Comment**

22 A commenter stated that county tax assessor-collectors should have full authority to rescind or
23 revoke access if they suspect fraud, waste or abuse.

1 **Agency Response**

2 The department disagrees with the comment. As added by SB 604, Transportation Code
3 §520.005(e) requires each county assessor-collector to make available to motor vehicle dealers the
4 electronic system designed by the department that allows a motor vehicle dealer to submit a title and
5 registration application online in the name of the purchaser of a motor vehicle. Transportation Code
6 §520.005(e) creates no criteria other than being a motor vehicle dealer. As stated in Transportation Code
7 §503.021, a person may not engage in business as a dealer without a general distinguishing number
8 (GDN). The department issues GDNs and is charged with taking regulatory action against GDN holders.

9 The statute and amendments do not require a county tax assessor-collector to approve title
10 applications in webDEALER that do not comply with Transportation Code Chapter 501. The amendments
11 also do not change the county tax assessor-collector's ability to revoke, rescind, or cancel the webDEALER
12 access of persons other than dealers.

13 **Comment**

14 A commenter states that the county tax assessor-collector should report to the department that
15 they have revoked, rescinded or cancelled access to webDEALER.

16 **Agency response**

17 The department agrees that county tax assessor-collectors can and should take action to report
18 any dealer engaging in fraud, waste, or abuse of the webDEALER system. The process is the Red Flag
19 process outlined in §223.3 of this title. The department does not agree with the assertion that
20 Transportation Code §520.005(e) authorizes a county tax assessor-collector to suspend or revoke a motor
21 vehicle dealer's webDEALER access.

22 **Comment**

1 A commenter states that a county tax assessor-collector has the responsibility to protect their
2 constituents and their office if fraud, waste or abuse is perpetrated by a user of webDEALER.

3 **Agency Response**

4 The department agrees with the comment. The statute and amendments do not require a county
5 tax assessor-collector to approve title applications in webDEALER that do not comply with Transportation
6 Code Chapter 501. The amendments also do not change the county tax assessor-collector's ability to
7 revoke, rescind, or cancel the webDEALER access of persons other than dealers. In addition, a county tax
8 assessor-collector can report fraud, waste or abuse using the Red Flag process.

9 **Comment**

10 A commenter states that the proposed rule requires amendments to comply with the Legislature's
11 intent regarding "grant" language of webDEALER online access and/or termination rules; which was
12 meant to be in coordination with county tax assessor-collectors.

13 **Agency Response**

14 The department disagrees with the comment. Transportation Code §520.005(e) and SB 604 do
15 not reference termination by the county. In SB 604 the legislature addresses the RTS system in section
16 4.04 (Transportation Code Chapter 520, Subchapter C, §§520.021-520.023) and the online system
17 (webDEALER) in §4.02. The coordination provision to create clear criteria for the suspension or denial of
18 access to the department's automated registration and titling system in SB 604 §4.07 applies to
19 implementing Transportation Code Chapter 520, Subchapter C.

20 **Comment**

21 A commenter states that the department's new rule, as written, will in essence require the county
22 tax assessor-collector to accept any and all types of motor vehicle dealers' request for full access to the

1 department's electronic titling system, without any proper security screening or fiscal accounting or
2 application requirements established by a county tax assessor-collector.

3 **Agency Response**

4 The department agrees with the comment. The proposal conforms the existing rule to the
5 statutory requirement in Transportation Code §520.005(e), which states that counties shall provide access
6 and creates no criteria for access other than being a motor vehicle dealer. Motor vehicle dealers must
7 hold a GDN and will be screened for that purpose by the department. Further, the legislature granted
8 access to the state's webDEALER system, not the state's RTS system. Additionally, neither statute or rule
9 require a county tax assessor-collector to approve title applications in webDEALER that do not comply
10 with Transportation Code Chapter 501.

11 **Comment**

12 A commenter states that the department has made no analysis or study as to the direct or indirect
13 cost to local counties or county tax assessor-collector offices by requiring un-restricted access to the
14 webDEALER system.

15 **Agency Response**

16 The department agrees with the comment. The proposal conforms the existing rule to the
17 statutory requirement in Transportation Code §520.005(e), which states that counties shall provide access
18 to motor vehicle dealers. Costs related to that requirement are a result of statute and do not result from
19 the adoption of this rule. County tax assessor-collectors would have the same requirements and costs if
20 no rule existed.

21 **Comment**

22 A commenter proposes that in order to mitigate concerns and the potential abuse, waste or fraud,
23 the section should be amended to determine provisional access to webDEALER and background

1 application information by the county tax assessor-collector; including having a motor vehicle dealer to
2 be in compliance with vehicle inventory tax.

3 **Agency Response**

4 The department disagrees with the comment. As addressed in other comment responses
5 Transportation Code §520.005(e) requires county tax assessor-collector's counties to provide access and
6 creates no criteria for access other than being a motor vehicle dealer. Motor vehicle dealers must hold a
7 GDN and will be screened for that purpose by the department. The statute and rule do not require a
8 county tax assessor-collector to approve title applications in webDEALER that do not comply with
9 Transportation Code Chapter 501.

10 **Comment**

11 A commenter suggests that a county tax assessor-collector be allowed flexibility to also “suspend”
12 a motor vehicle dealer under §217.74(e). Currently the subsection only allows the county tax assessor-
13 collector to revoke, rescind, or cancel the person's webDEALER access.

14 **Agency response**

15 The department disagrees with the comment because motor vehicle dealer access is addressed
16 in §217.74(c). Section 217.74(e) only applies to persons who are not motor vehicle dealers and are
17 accessing the system under §217.74(b). The department declines to make the change because persons
18 affected by the change were not on notice that the change to other relationships would be considered.

19 **STATUTORY AUTHORITY.** The department adopts amendments to §217.74 under Transportation Code
20 §§501.0041, 502.0021, 520.003, and §1002.001.

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

1 Transportation Code §502.0021 authorizes the department to adopt rules to administer
2 Transportation Code Chapter 502.

3 Transportation Code §520.003 authorizes the department to adopt rules to administer
4 Transportation Code Chapter 520.

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

7 **CROSS REFERENCE TO STATUTE.** Transportation Code §§501.022, 501.023, 501.0234, and 520.005.

8

9 **TEXT.**

10 **SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS**

11 **43 TAC §217.74**

12 §217.74. Access to and Use of webDEALER

13 (a) Each ~~[At the discretion of a]~~ county tax assessor-collector shall ~~[, the county may]~~ request
14 access to, and accept title applications submitted through, webDEALER. A county tax assessor-collector
15 must utilize webDEALER in order to accept a title application in the county as provided by subsections (b)
16 and (c) of this section.

17 (b) Except as provided in subsection (c) of this section, a [A] person who wishes to become a user
18 of webDEALER must contact each entity to whom they submit title applications for authorization to utilize
19 webDEALER. A user must receive authorization from each entity, including each county tax assessor-
20 collector, to whom the user submits title applications. Title applications submitted to the department
21 require the authorization by the department.

22 (c) A holder of a general distinguishing number (holder) who wishes to become a user of
23 webDEALER must contact each county tax assessor-collector to whom they submit title applications for

1 webDEALER access. The county must provide the holder access. A holder must obtain access from each
2 county tax assessor-collector, to whom the user submits title applications.

3 (d) [(e)] A county tax assessor-collector may authorize a deputy appointed by the county tax
4 assessor-collector in accordance with subchapter H of this chapter (relating to Deputies) to utilize
5 webDEALER.

6 (e) [(d)] A person authorized under subsection (b) of this section may have their authorization to
7 use webDEALER revoked, rescinded, or cancelled at any time, with no notice, at the discretion of a county
8 tax assessor-collector or the department.

9 (f) [(e)] When submitting a title application through webDEALER, a user must:

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

- 13 (A) arial font;
14 (B) black ink; and
15 (C) a size of 1/4" height x 2 1/4" length;

16 (2) retain the physical document described in paragraph (1) of this subsection for a
17 minimum of four calendar years from the date of submitting a scanned copy of the stamped title
18 document using the webDEALER system; and

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

21

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

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

4 /s/ Tracey Beaver
5 Tracey Beaver, General Counsel

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