

1 they purchased a new motor vehicle or a used motor vehicle, while maintaining the true value of a vehicle
2 that has never really been the subject of a first sale.

3 Transportation Code §501.051 provides the department authority to rescind, cancel, or revoke
4 an application for a title if a notarized or county-stamped affidavit is presented, but does not state a
5 deadline for the affidavit to be presented to the department. By extending the deadline to 90 days, the
6 department is balancing the needs of businesses and consumers. The new deadline provides ample time
7 for businesses to recognize that an affidavit needs to be submitted, while protecting consumers and
8 preventing fraud by not allowing for sale recessions, cancellations, and revocations to take place
9 indefinitely and having the transactions take place within the administrative process.

10 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
11 has determined that for each year of the first five years the amendment will be in effect, there will be no
12 fiscal impact to state or local governments as a result of the enforcement or administration of the
13 proposal. While the extended deadline may increase the number of affidavits the division processes, it is
14 not anticipated that the increase will be significant enough to increase costs at this time. Jeremiah Kuntz,
15 Director of the Vehicle Titles and Registration (VTR) Division, has determined that there will be no
16 measurable effect on local employment or the local economy as a result of the proposal.

17 **PUBLIC BENEFIT AND COST NOTE.** Mr. Kuntz has also determined that, for each year of the first five years
18 the amended section is in effect, there are public benefits anticipated from extending the deadline from
19 21 days to 90 days.

20 Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include
21 removing barriers to Texas businesses by extending the deadline for title rescission, cancellation, and
22 revocation and retaining the value of new vehicles that have never left the possession of the dealer.
23 Maintaining the true value of a new vehicle that was never sold or in the possession of the title applicant

1 benefits the public at large and the motor vehicle dealer industry. The proposal will also help prevent
2 fraud by allowing more of these transactions to be processed within the administrative process with
3 department review of the affidavits.

4 Anticipated Costs to Comply With The Proposal. Mr. Kuntz anticipates that there will be no costs
5 to comply with these rules.

6 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by the
7 Government Code, §2006.002, the department has determined that the proposed amendments will not
8 have an adverse economic effect on small businesses, micro-businesses, or rural communities as a result
9 of implementing this rule. Therefore, the department is not required to prepare a regulatory flexibility
10 analysis under Government Code, §2006.002.

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

15 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first five
16 years the proposed amendment is in effect, no government program would be created or eliminated.
17 Implementation of the proposed amendment would not require the creation of new employee positions
18 or elimination of existing employee positions. Implementation would not require an increase or decrease
19 in future legislative appropriations to the department or an increase or decrease of fees paid to the
20 department. The proposed amendment does not create a new regulation, or expand, or repeal an existing
21 regulation. The proposed amendment limits an existing regulation by extending the deadline for the
22 rescission, cancelation, or revocation of certain title applications. Lastly, the proposed amendment does

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

3 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written
4 comments by 5:00 p.m. CDT on May 18, 2020. A request for a public hearing must be sent separately from
5 your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov* or by
6 mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin,
7 Texas 78731. If a hearing is held, the department will consider written comments and public testimony
8 presented at the hearing.

9 **STATUTORY AUTHORITY.** The amendment is proposed under Transportation Code §1002.001 which
10 provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are
11 necessary and appropriate to implement the powers and the duties of the department; and more
12 specifically, Transportation Code §501.051 which provides the department authority to rescind, cancel,
13 or revoke an application for a title if a notarized or county-stamped affidavit is presented.

14 **CROSS REFERENCE TO STATUTE.** Transportation Code, §503.051 and §1002.001.

15 **TEXT**

16 **Subchapter G. Inspections**

17 **43 TAC §217.11**

18 §217.11. Rescission, Cancellation or Revocation by Affidavit.

19 (a) The department may rescind, cancel, or revoke an existing title or application for a title if a
20 notarized or county stamped affidavit is completed and presented to the department within 90 [~~21~~] days
21 of initial sale containing:

22 (1) a statement that the vehicle involved was a new motor vehicle in the process of a first
23 sale;

1 (2) a statement that the dealer, the applicant, and any lienholder have canceled the sale;

2 (3) a statement that the vehicle was:

3 (A) never in possession of the title applicant; or

4 (B) in the possession of the title applicant;

5 (4) the signatures of the dealer, the applicant, and any lienholder as principal to the
6 document; and;

7 (5) an odometer disclosure statement executed by the purchaser of the motor vehicle
8 and acknowledged by the dealer if a statement is made pursuant to paragraph (3)(B) of this subsection to
9 be used for the purpose of determining usage subsequent to sale.

10 (b) A rescission, cancellation, or revocation containing the statement authorized under subsection

11 (a)(3)(B) of this section does not negate the fact that the vehicle has been subject to a previous retail sale.

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

14 Issued at Austin, Texas, on April 3, 2020.

15 /s/ Tracey Beaver
16 Tracey Beaver, General Counsel