

1 **ADOPTION OF**  
2 **SUBCHAPTER A. MOTOR VEHICLE TITLES**  
3 **43 TAC §217.11**

4 **INTRODUCTION.** The Texas Department of Motor Vehicles (department) adopts amendments to Title 43  
5 of the Texas Administrative Code (TAC) §217.11 concerning rescission, cancellation, or revocation of an  
6 existing title or application by affidavit. The department adopts the amendments to § 217.11 without  
7 changes to the proposed text as published in the April 17, 2019 issue of the *Texas Register* (45 TexReg  
8 2519). The rules will not be republished.

9 **REASONED JUSTIFICATION.** The amendments help remove barriers to Texas businesses, streamlines  
10 administrative processes for efficiency, and protects consumers from fraud. The amendment to  
11 §217.11(a) extends the deadline to submit to the department an affidavit asking the department to  
12 rescind, cancel, or revoke an existing title or application for a title for a vehicle involved in the process of  
13 a first sale. The deadline is extended from within 21 days of initial sale to within 90 days of initial sale. By  
14 extending the deadline, the department is giving motor vehicle dealers and their customers more time to  
15 ask the department to rescind, cancel, or revoke a title to a new motor vehicle in cases where title was  
16 applied for in the customer's name, but the dealer, customer, and any lienholder have all agreed to cancel  
17 the sale. The amendment does not change any existing sales or contracting requirements under the  
18 Transportation Code or Finance Code, but merely extends the deadline to submit an affidavit to the  
19 department.

20 The rescission of title related to a cancelled sale on a new motor vehicle involved in a first sale  
21 results in the title record being deleted from the department's title records. This allows a motor vehicle  
22 dealer to obtain a duplicate Manufacturer's Certificate of Origin (MCO). Once a dealer has obtained a  
23 duplicate MCO, the dealer may treat a subsequent sale to another buyer as a first sale of a new motor

1 vehicle rather than a used car sale, provided the vehicle never left the dealer's possession. Extending of  
2 the deadline for title rescission requests eliminates confusion for subsequent purchasers as to whether  
3 they purchased a new motor vehicle or a used motor vehicle, while maintaining the true value of a vehicle  
4 that has never really been the subject of a first sale.

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

12 **SUMMARY OF COMMENTS.**

13 The department received written comments from the Denton County Tax Assessor-Collector and  
14 the Texas Automobile Dealers Association:

15 **Comment.**

16 A commenter asks for text in the rule to clarify if the title process will include Manufacturer's  
17 Certificate of Origin (MCO) and/or used vehicles and notes that the rule assumes inferred knowledge of  
18 the MCO process when a buyer doesn't complete a first sale.

19 **Response.**

20 The commenter is correct that the MCO is discussed in the preamble as background information.  
21 The purpose of this is to provide context to the process that results in applying the rule. Once the affidavit  
22 process described in the rule is followed, additional statutes and rules apply to the transaction, not  
23 §217.11. As a result, no changes were made to the rule text. The affidavit process outlined in §217.11 is

1 available only for vehicles that were in the process of a new sale. Any vehicle that has been subject to a  
2 prior sale, a used vehicle, is not eligible for a sale rescind under Transportation Code §501.051(b) and is  
3 not subject to the extended timeline in §217.11.

4 **Comment.**

5 A commenter endorses the addition of time from 21 to 90 days and notes that while  
6 Transportation Code §501.051 does not state a deadline for the affidavit to be presented to the  
7 department, it concurs with the TxDMV that the extended deadline balances the needs  
8 of businesses and consumers.

9 **Response.**

10 The department appreciates the supportive comment and understands the importance of  
11 balancing the needs of businesses and consumers.

12 **STATUTORY AUTHORITY.** The department adopts amended §211.17 under Transportation Code  
13 §1002.001 which provides the board of the Texas Department of Motor Vehicles with the authority to  
14 adopt rules that are necessary and appropriate to implement the powers and the duties of the  
15 department; and more specifically, Transportation Code §501.051 which provides the department  
16 authority to rescind, cancel, or revoke an application for a title if a notarized or county-stamped affidavit  
17 is presented.

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

19 **TEXT**

20 **SUBCHAPTER A. MOTOR VEHICLE TITLES**

21 **§217.11**

22 §217.11. Rescission, Cancellation or Revocation by Affidavit.

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

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

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

7 (3) a statement that the vehicle was:

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

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

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

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

15 (b) A rescission, cancellation, or revocation containing the statement authorized under subsection  
16 (a)(3)(B) of this section does not negate the fact that the vehicle has been subject to a previous retail sale.

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

19 Issued at Austin, Texas, on June 11, 2020.

20 /s/ Tracey Beaver  
21 Tracey Beaver, General Counsel