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PROPOSAL OF

SUBCHAPTER C. REGISTRATION AND TITLE SYSTEMS

43 TAC §217.74

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 TAC §217.74, concerning access to the department's webDEALER online system (webDEALER). The amendments are necessary to implement Transportation Code §520.005(e) as added by Senate Bill 604, 86th Legislature, Regular Session (2019).

EXPLANATION. This proposal is necessary to implement Transportation Code §520.005(e), as enacted in SB 604, and required to be effective not later than September 1, 2020 in Section 4.08 of SB 604. Transportation Code §520.005(e) requires each county assessor-collector to make available to motor vehicle dealers the electronic system designed by the department that allows a motor vehicle dealer to submit a title and registration application online in the name of the purchaser of a motor vehicle. The requirement is included within the Sunset Advisory Commission's Change in Statute Recommendation 5.2, as stated in the Sunset Staff Report with Commission Decisions, 2018-2019, 86th Legislature (2019), which directly refers to webDEALER.

To implement Transportation Code §520.005(e), it is necessary to amend §217.74 to conform with the requirements of Transportation Code §520.005(e), including changing county tax assessor-collector's use of webDEALER and requiring each county tax assessor-collector to grant motor vehicle dealers access to webDEALER. In addition, the department is implementing enhancements to webDEALER to support the expansion required by Transportation Code §520.005(e), which include efficiencies and throughput improvements. The amendments to §217.74 do not add fees or change processing requirements for county tax assessor-collectors or users; or change the access process for users who are not motor vehicle dealers.

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

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

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

12 The proposal does not provide county tax assessor-collectors a direct right to terminate a motor
13 vehicle dealer's access to webDealer. The department will pursue action as necessary. A county tax
14 assessor-collector who suspects possible fraud, waste, or abuse by a motor vehicle dealer may submit a
15 request to the department for review and possible investigation under the red flag process.

16 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
17 has determined that for each year of the first five years the proposed amendments will be in effect, there
18 will be no fiscal impact to state or local governments as a result of the enforcement or administration of
19 the proposal. Jeremiah Kuntz, Director of the Vehicle Titles and Registration Division, has determined that
20 there will be no measurable effect on local employment or the local economy as a result of the proposal.

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22 **PUBLIC BENEFIT AND COST NOTE.** Mr. Kuntz has also determined that, for each year of the first five years
23 the proposed amendments and new sections are in effect, the public benefits include increased use of

1 webDEALER resulting in greater efficiency and reduced costs for county tax assessor-collectors and motor
2 vehicle dealers.

3 Mr. Kuntz anticipates that there will be no additional costs on regulated persons to comply with
4 these rules. The rules do not establish any additional fee or change existing webDEALER processes. Statute
5 requires county tax assessor-collectors to provide dealers with access to webDEALER, and as such any
6 related costs do not result from this rule. In addition, the department provides the county tax assessor-
7 collectors with access to webDEALER at no charge. Finally, motor vehicle dealers are not charged an
8 additional fee if they decide to use webDEALER. A motor vehicle dealer's choice to use webDEALER would
9 be a business decision of the motor vehicle dealer and not a requirement of this rule.

10 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
11 Code, §2006.002, the department has determined that the proposed amendments will not have an
12 adverse economic effect on small businesses, micro-businesses, or rural communities because the
13 proposal amends §217.74 to conform with the requirements of Transportation Code §520.005(e) and
14 does not create additional costs or requirements. Therefore, the department is not required to prepare a
15 regulatory flexibility analysis under Government Code, §2006.002.

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

20 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the first
21 five years the proposed amendments and new sections are in effect, the proposed rule:

22 will not create or eliminate a government program;

23 will not require the creation of new employee positions or the elimination of existing employee

1 positions;

2 will not require an increase or decrease in future legislative appropriations to the department;

3 will not require an increase or decrease in fees paid to the department;

4 will not create new regulations;

5 will expand existing regulation §217.74 to implement Transportation Code §520.005(e);

6 will not repeal existing regulations;

7 will not increase or decrease the number of individuals subject to the rule's applicability; and

8 will not positively or adversely affect the Texas economy.

9 **REQUEST FOR PUBLIC COMMENT.**

10 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CDT on July 27,
11 2020. A request for a public hearing must be sent separately from your written comments. Send written
12 comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas
13 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
14 department will consider written comments and public testimony presented at the hearing.

15 **STATUTORY AUTHORITY.** The department proposes amendments to §217.74 under Transportation Code
16 §§501.0041, 502.0021, 520.003, and §1002.001.

17 Transportation Code §501.0041 authorizes the department to adopt rules to administer
18 Transportation Code Chapter 501.

19 Transportation Code §502.0021 authorizes the department to adopt rules to administer
20 Transportation Code Chapter 502.

21 Transportation Code §520.003 authorizes the department to adopt rules to administer
22 Transportation Code Chapter 520.

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

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

4 **TEXT**

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

6 **43 TAC §217.74**

7 §217.74. Access to and Use of WebDEALER.

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

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

17 (c) A holder of a general distinguishing number (holder) who wishes to become a user of
18 webDEALER must contact each county tax assessor-collector to whom they submit title applications for
19 webDEALER access. The county must provide the holder access. A holder must obtain access from each
20 county tax assessor-collector, to whom the user submits title applications.

21 (d) ~~[(e)]~~ A county tax assessor-collector may authorize a deputy appointed by the county tax
22 assessor-collector in accordance with Subchapter H of this chapter (relating to Deputies) to utilize
23 webDEALER.

