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PROPOSAL OF
SUBCHAPTER B. MOTOR VEHICLE REGISTRATION
43 TAC §217.27

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes to amend Title 43 Texas Administrative Code, Subchapter B, §217.27, concerning personalized license plates. The amendments are necessary to clarify and modify the criteria for determining whether a personalized alphanumeric pattern is potentially objectionable under Transportation Code §504.008(e).

Section 504.008(e) authorizes the department to refuse to issue a specialty license plate with a personalized alphanumeric pattern that the director or the director’s designee determines to be potentially objectionable to one or more members of the public. Section 217.27 implements §504.008(e) by setting out criteria for identifying alphanumeric patterns that may be potentially objectionable. The department has determined that the current rule needs to be less restrictive to allow personalized alphanumeric patterns that are not objectionable.

The department proposes substantive and non-substantive changes to amended §217.27.

The non-substantive changes renumber current subsections (e) - (g) as subsections (f) - (h) to accommodate renumbered subsection (e), correct spelling and grammar, revise for consistency in terms, and revise for plain English readability.

EXPLANATION.

Amended §217.27(d)(1) corrects spelling.

Amended §217.27(d)(2) deletes redundant language related to the term, "director," because this term is defined in §217.22(13); and adds "in any language" to words, phrases, or slang that may be objectionable. In the definition of "indecent," the amendment replaces "excrement" with "excreta";

1 modifies "bodily fluids and functions" by adding "sexual"; and adds "with the full year" to allow the
2 alphanumeric pattern "1969." In the definitions of "vulgar" and "derogatory," the amendment adds
3 "directly or indirectly" to specify that a reference may be directly or indirectly vulgar or derogatory. The
4 amendment adds new criteria, "a direct or indirect negative instruction or command directed at another
5 individual related to the operation of a motor vehicle," and deletes "reference to race, ethnicity, gender
6 or sexual orientation whether the reference is derogatory or not." The amendment adds "direct or
7 indirect" to certain references, such as gangs, illegal activities, controlled substances, and drug abuse;
8 deletes the terms "violence" and "illegal drugs" as redundant. The amendment adds "direct" to qualify
9 the term "representation of law enforcement or other governmental entities"; adds "exclusive to
10 government" to qualify the term "public office or position"; and deletes "military or law enforcement rank
11 or status, or any other official government position or status." The amendment adds "a pattern that could
12 be misread by law enforcement," and deletes "deceptively similar to a military, restricted distribution, or
13 other specialty plate."

14 Amended §217.27(d)(3) adds "on a license plate" to clarify that the department will not issue an
15 alphanumeric pattern that is currently on a license plate that has been issued to another owner.

16 Amended renumbered §217.27(e), formerly subsection (d)(4), is renumbered to a separate
17 subsection because the content relates to patterns the department may approve rather than patterns
18 that may be objectionable. Renumbered subsection (e) authorizes the department to issue license plates
19 with personalized alphanumeric patterns that refer to "military branches, military rank, military units,
20 military equipment, or status."

21 Amended renumbered §217.27(f), formerly subsection (e), changes the date that begins the count
22 of 30 days, at the end of which the executive director or the executive director's designee issues a decision
23 on appeal of a denial. In the current rule, the count of 30 days begins after the submission of the appeal.

1 The proposed amendment replaces "submission of" with "department receives," to clarify the starting
2 point for the calculation of 30 days. The proposed amendments also clarify other language in subsection
3 (f).

4 Amended renumbered §217.27(g), formerly subsection (f), renumbers the subsection.

5 Amended renumbered §217.27(h), formerly subsection (g), changes options for an applicant
6 whose initial application for a personalized alphanumeric pattern is denied. The proposed amendment
7 adds that the applicant "will" receive a refund, "if the denial is not appealed in accordance with subsection
8 (f)." The proposed amendment deletes the current option of selecting a new alphanumeric pattern after
9 an initial application has been denied. The amended subsection clarifies that an owner of a canceled
10 license plate may choose a new personalized alphanumeric pattern for the remainder of the term of the
11 canceled license plate, or the remainder of the term will be forfeited.

12 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,
13 has determined that for each year of the first five years the proposed amended section will be in effect,
14 there will be no fiscal impact to the state or local governments as a result of the enforcement or
15 administration of the proposal. Roland D. Luna, Sr., Director of the Vehicle Titles and Registration Division,
16 has determined that there will be no measurable effect on local employment or the local economy as a
17 result of the proposal, because the overall number of applications will not be affected.

18 **PUBLIC BENEFIT AND COST NOTE.** Mr. Luna has also determined that, for each year of the first five years
19 the amended section is in effect, there are public benefits anticipated because the amended section
20 provides more flexibility, allowing the department to accept alphanumeric patterns that are not
21 objectionable.

1 Anticipated Costs To Comply With The Proposal. Mr. Luna anticipates that there will be no
2 additional costs to comply with this rule because the rule does not establish any additional requirements
3 on a regulated person.

4 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** As required by Government
5 Code §2006.002, the department has determined that the proposed amendments will not have an
6 adverse economic effect on small businesses, micro-businesses, or rural communities, because the rule
7 does not add new requirements on, or directly affect, small businesses, micro-businesses, or rural
8 communities. Therefore, the department is not required to prepare a regulatory flexibility analysis under
9 Government Code, §2006.002.

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

14 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the
15 first five years the proposed amendments are in effect, no government program would be created or
16 eliminated. Implementation of the proposed amendments would not require the creation of new
17 employee positions or elimination of existing employee positions. Implementation would not require an
18 increase or decrease in future legislative appropriations to the department or an increase or decrease of
19 fees paid to the department. The proposed amendments do not create a new regulation, or expand, limit,
20 or repeal an existing regulation. Lastly, the proposed amendments do not affect the number of individuals
21 subject to the rule's applicability and will not affect this state's economy.

22 **REQUEST FOR PUBLIC COMMENT.**

1 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on August 15,
2 2022. A request for a public hearing must be sent separately from your written comments. Send written
3 comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General Counsel, Texas
4 Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the
5 department will consider written comments and public testimony presented at the hearing.

6 **STATUTORY AUTHORITY.** The department proposes amendments to §217.27 in accordance with
7 Transportation Code §504.0011 and §1002.001.

8 - Transportation Code §504.0011 authorizes the board to adopt rules to implement and
9 administer Transportation Code Chapter 504.

10 - Transportation Code §1002.001 authorizes the board to adopt rules that are necessary and
11 appropriate to implement the powers and the duties of the department.

12 **CROSS REFERENCE TO STATUTE.** Transportation Code §504.008.

13

14 **TEXT.**

15 **SUBCHAPTER B. MOTOR VEHICLE REGISTRATION**

16 **43 TAC §217.27**

17 §217.27. Vehicle Registration Insignia.

18 (a) On receipt of a complete initial application for registration with the accompanying documents
19 and fees, the department will issue vehicle registration insignia to be displayed on or kept in the vehicle
20 for which the registration was issued for the current registration period.

21 (1) If the vehicle has a windshield, the symbol, tab, or other device prescribed by and
22 issued by the department shall be attached to the inside lower left corner of the vehicle's front windshield

1 in a manner that will not obstruct the vision of the driver, unless the vehicle is registered under
2 Transportation Code, Chapter 504, Subchapter B-1.

3 (2) If the vehicle has no windshield, the symbol, tab, or other device prescribed by and
4 issued by the department shall be attached to the rear license plate unless the vehicle is registered under
5 Transportation Code, Chapter 504, Subchapter B-1, except that registration receipts, retained inside the
6 vehicle, may provide the record of registration for vehicles with permanent trailer plates.

7 (3) If the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1,
8 the registration receipt, symbol, tab, or other device prescribed by and issued by the department must be
9 retained with the vehicle and may provide the record of registration for vehicles with a digital license
10 plate. The expiration month and year must appear digitally on the electronic visual display of the rear
11 digital license plate.

12 (4) If the vehicle is registered as a former military vehicle as prescribed by Transportation
13 Code, §504.502, the vehicle's registration number shall be displayed instead of displaying a symbol, tab,
14 or license plate.

15 (A) Former military vehicle registration numbers shall be displayed on a
16 prominent location on the vehicle in numbers and letters of at least two inches in height.

17 (B) To the extent possible, the location and design of the former military vehicle
18 registration number must conform to the vehicle's original military registration number.

19 (b) Unless otherwise prescribed by law, each vehicle registered under this subchapter:

20 (1) must display two license plates that are clearly visible, readable, and legible, one at
21 the exterior front and one at the exterior rear of the vehicle that are securely fastened at the exterior
22 front and rear of the vehicle in an upright horizontal position of not less than 12 inches from the ground,

1 measuring from the bottom, except that a vehicle described by Transportation Code, §621.2061 may place
2 the rear plate so that it is clearly visible, readable, and legible; or

3 (2) must display one plate that is securely fastened at or as close as practical to the
4 exterior rear of the vehicle in a position not less than 12 inches from the ground, measuring from the
5 bottom if the vehicle is a road tractor, motorcycle, trailer or semitrailer.

6 (c) Each vehicle registered under this subchapter must display license plates:

7 (1) assigned by the department for the period; or

8 (2) validated by a registration insignia issued by the department for a registration period
9 consisting of 12 consecutive months at the time of application for registration, except that:

10 (A) trailers, semitrailers, or pole trailers not subject to inspection under
11 §548.052(3) may obtain a registration insignia for a period consisting of 12, 24, 36, 48 or 60 consecutive
12 months on payment of all fees for each full year of registration; and

13 (B) vehicles may be registered for 24 consecutive months in accordance with
14 Transportation Code, §548.102 on payment of all fees for each year of registration, regardless of the
15 number of months remaining on the inspection at the time of registration, provided:

16 (i) the vehicle receives a two-year inspection under Transportation Code,
17 §548.102; and

18 (ii) the application for registration is made in the name of the purchaser
19 under Transportation Code, §501.0234.

20 (d) The department may cancel any license plate issued with a personalized alphanumeric ~~alpha-~~
21 ~~numeric~~ pattern ~~[that was issued]~~ if the department subsequently determines or discovers that the
22 personalized alphanumeric pattern did not comply ~~[license plate was not in compliance]~~ with this section
23 ~~[these guidelines]~~ when the license plate was issued, or if due to changing language usage, meaning, or

1 interpretation, the personalized alphanumeric pattern no longer complies [~~license plate has become non-~~
2 ~~compliant~~] with this section [~~these guidelines~~]. When reviewing a personalized alphanumeric [~~alpha-~~
3 ~~numeric~~] pattern, the department need not consider the applicant's subjective intent or declared
4 meaning. The department will not issue any license plate containing a personalized alphanumeric [~~an~~
5 ~~alpha-numeric~~] pattern that meets one or more of the following criteria: [;]

6 (1) The alphanumeric [~~alpha-numeric~~] pattern conflicts with the department's current or
7 proposed regular license plate numbering system.

8 (2) The director [~~of the department's Vehicle Titles and Registration Division~~] or the
9 director's designee finds that the personalized alphanumeric [~~alpha-numeric~~] pattern may be considered
10 objectionable. An objectionable alphanumeric pattern may include [~~including plate patterns that feature~~
11 ~~foreign or slang~~] words, [~~or~~] phrases, [~~use~~] or slang in any language; phonetic, numeric, or reverse
12 spelling; [~~]~~ acronyms; [~~]~~ patterns viewed in mirror image; [~~]~~ or [~~use a~~] code that [~~which~~] only a small
13 segment of the community may be able to readily decipher. An [~~that may be considered~~] objectionable
14 [~~or misleading, including that the~~] pattern may be viewed as [~~directly or indirectly~~];

15 (A) indecent (defined as including a direct reference or connotation to a sexual
16 act, sexual body parts, excreta [~~excrement~~], or sexual bodily fluids or functions. Additionally, the
17 alphanumeric pattern "69" is [~~formats are~~] prohibited unless used with the full year (1969) or in
18 combination with a reference to a [~~the~~] vehicle [~~make, for example, "69 CHEV".~~];

19 (B) vulgar, directly or indirectly [~~a vulgarity~~] (defined as profane, swear, or curse
20 words);

21 (C) derogatory, directly or indirectly (defined as an expression that is demeaning
22 to, belittles, or disparages any person, group, race, ethnicity, nationality, gender, or sexual orientation.

1 "Derogatory" may also include a reference [~~,-or refers~~] to an organization that advocates the [~~such~~]
2 expressions described in this subparagraph);

3 (D) a direct or indirect negative instruction or command directed at another
4 individual related to the operation of a motor vehicle [~~reference to race, ethnicity, gender or sexual~~
5 ~~orientation whether the reference is derogatory or not~~];

6 (E) a direct or indirect reference to gangs, illegal activities, [~~violence,~~] implied
7 threats of harm, or expressions that describe, advertise, advocate, promote, encourage, glorify, or
8 condone violence, crime, or unlawful conduct;

9 (F) a direct or indirect reference to [~~illegal drugs,~~] controlled substances or [~~,-~~] the
10 physiological state produced by such substances, intoxicated states, or a direct or indirect reference
11 [~~references~~] that may express, describe, advertise, advocate, promote, encourage, or glorify such
12 substances [~~items~~] or states;

13 (G) a direct representation of [~~,-or reference to,~~] law enforcement [~~,-military~~
14 ~~branches,~~] or other governmental entities [~~and their titles~~], including any reference to a public office or
15 position exclusive to government [~~,-military or law enforcement rank or status, or any other official~~
16 ~~government position or status~~]; or

17 (H) a pattern that could be misread by law enforcement [~~deceptively similar to a~~
18 ~~military, restricted distribution, or other specialty plate~~].

19 (3) The alphanumeric [~~alpha-numeric~~] pattern is currently on a license plate issued to
20 another owner.

21 (e) [(4)] Notwithstanding the provisions of [~~limitations on issuance of plate patterns in~~] this section,
22 [~~subsection,~~] the department may issue license plates with personalized alphanumeric patterns that refer
23 to:

1 (1) military branches, military rank, military units, military equipment, or status; or

2 (2) [publicly and privately funded] institutions of higher education, including military
3 academies, whether funded privately, by the state, or by the federal government [~~by state or federal~~
4 ~~sources, or both~~].

5 (f) [(e)] A decision to cancel or not to issue a license plate with a personalized alphanumeric [alpha-
6 ~~numeric]~~ pattern under subsection (d) of this section may be appealed to the executive director of the
7 department or the executive director's designee within 20 days of notification of the cancellation or non-
8 issuance. All appeals must be in writing, and the requesting party may include any written arguments, but
9 shall not be entitled to a contested case hearing. The executive director or the executive director's
10 designee will [~~consider the requesting party's arguments and~~] issue a decision no later than 30 days after
11 the department receives [submission of] the appeal, unless additional information is sought from the
12 requestor, in which case the time for decision is tolled until the additional information is provided. The
13 decision of the executive director or the executive director's designee is final and may not be appealed to
14 the board. An appeal to the executive director or the executive director's designee is denied by operation
15 of law 31 days from the receipt [submission] of the appeal, or if the requestor does not provide additional
16 requested information within ten days of the request.

17 (g) [(f)] The provisions of subsection (a) of this section do not apply to vehicles registered with
18 annual license plates issued by the department.

19 (h) [(g)] A person whose initial application has been denied will [may either] receive a refund if the
20 denial is not appealed in accordance with subsection (f) of this section [~~or select a new alpha-numeric~~
21 ~~pattern~~]. If an existing license plate with a personalized alphanumeric [alpha-numeric] pattern has been
22 canceled [cancelled], the person may choose a new personalized alphanumeric [alpha-numeric] pattern

1 ~~that [which]~~ will be valid for the remainder of the term, or the remaining term of the canceled license
2 plate will be forfeited ~~[forfeit the remaining term purchased].~~

3

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

6 Issued at Austin, Texas, on June 30, 2022.

7

/s/ Elizabeth Brown Fore
Elizabeth Brown Fore, General Counsel

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