

1 The department has determined that a surety bond will eliminate these issues, while providing
2 adequate evidence of ownership. An interested person damaged by the issuance of title on a motor
3 vehicle will be protected under Transportation Code §501.053(c), which affords a right of action to recover
4 on the bond. The department’s proposed process will allow applicants with vehicles needing an
5 identification number to have a surety bond serve as evidence of ownership which will allow for the
6 assignment or reassignment of an identification number and the issuance of title.

7 **SUMMARY OF COMMENTS.**

8 The department received six written comments on the proposal from the Texas Association of
9 Vehicle Theft Investigators, the Panhandle Auto Burglary and Theft Unit, the National Insurance Crime
10 Bureau, the Lubbock County Tax Assessor-Collector, the Laredo Police Department Auto Theft Task Force,
11 and the Tax Assessor-Collectors Association of Texas.

12

13 **Comment:**

14 A commenter expressed concern that law enforcement was not consulted during the
15 development of the amendments because the amendments would have an impact on law enforcement
16 personnel qualified to perform identification number inspections.

17 **Agency Response:**

18 The department did not consult law enforcement personnel prior to drafting the amendments
19 because the amendments do not change how or when law enforcement personnel conduct
20 identification number inspections. Instead, the changes deal with evidence of ownership presented to
21 the department as part of an application for an identification number assignment or reassignment under
22 Transportation Code §501.033(b). However, after seeing the concerns expressed by law enforcement
23 personnel and tax assessor-collectors, the department reached out to each of the commenters to clarify

1 the intent and purpose of the amendments and to address the concerns raised in their comments. These
2 discussions were fruitful and helped to clear up misunderstandings regarding the purpose and
3 implementation of the amendments.

4 No change has been made in response to this comment.

5

6 **Comment:**

7 The commenter also stated allowing a bond to serve as valid evidence of ownership would allow
8 criminals to apply for an identification number and receive a title to a stolen vehicle without a judicial
9 review of evidence of ownership.

10 **Agency Response:**

11 The department disagrees with this comment. Any application for an identification number
12 assignment or reassignment requires an identification number inspection under Transportation Code
13 §501.0321. If during an identification number inspection, a law enforcement inspector develops
14 probable cause that a vehicle or part is stolen, or has had the serial number removed, altered, or
15 obliterated, the law enforcement inspector may seize the vehicle or part and treat it as stolen property
16 for purposes of custody and disposition of the vehicle under the authority of Transportation Code
17 §501.158. The amendments do not remove the requirement to obtain an identification number
18 inspection nor the authority of law enforcement to seize stolen vehicles.

19 Therefore, any applicant for an identification number assignment or reassignment will have
20 already obtained an identification number inspection during which trained and qualified law
21 enforcement inspectors determined the vehicle was not stolen. Only then will an applicant have the
22 option of obtaining a bond or court order declaring that the applicant is the owner of the vehicle to
23 serve as evidence of ownership for purposes of Transportation Code §501.033(b). The department

1 believes that well-trained, experienced law enforcement inspectors will continue to detect and seize
2 stolen vehicles they inspect, so the department may be confident that applicants for identification
3 number assignment or reassignment do not possess stolen vehicles.

4 The amendments do not eliminate the option of obtaining a court order declaring that the
5 applicant seeking an identification number assignment or reassignment for a vehicle is the owner of the
6 vehicle in question, but only creates a streamlined alternative in the form of a surety bond that will
7 serve to protect any party damaged by the assignment or reassignment of an identification number and
8 issuance of a title.

9 No change has been made in response to this comment.

10

11 **Comment**

12 A commenter expressed support for the amendments and stated that "it seems surety bonds
13 will help streamline the process for our customers."

14 **Agency Response:**

15 The department appreciates the support and agrees with the commenter that allowing surety
16 bonds as evidence of ownership for the purposes of Transportation Code §501.033(b) will streamline
17 the process for customers.

18

19 **Comment:**

20 The commenter stated that the proposal to eliminate inspections in order to streamline the
21 process of getting a number assigned while keeping courts out of the process will lead to stolen
22 property being assigned an identifying number.

23 **Agency Response:**

1 The department disagrees with the comment that keeping courts out of the process will lead to
2 stolen property being assigned an identifying number. The department believes that well-trained,
3 experienced law enforcement inspectors will continue to detect and seize stolen vehicles they inspect,
4 so the department may be confident that applicants for identification number assignment or
5 reassignment do not possess stolen vehicles.

6 Courts are not in a strong position to assess whether a vehicle may be stolen based on the
7 pleadings in court cases related to identification number assignments or reassignments.

8 Unlike proceedings under Chapter 47 of the Code of Criminal Procedure, where law
9 enforcement officers are necessary parties, lawsuits brought to establish ownership of a vehicle to
10 obtain an identification number assignment or reassignment most often do not involve testimony by law
11 enforcement officers or parties disputing ownership. It is often unclear who should be named as a party
12 in these cases as most of these cases do not involve disputes over ownership, but rather deal with lost
13 ownership evidence. The Transportation Code, other statutes, and case law, provide little or no
14 guidance or standards for courts to determine who is the owner of a vehicle in the absence of a title or
15 vehicle identification number. Evidence presented is generally limited to a bill of sale, a completed
16 identification number inspection, and testimony by the applicant.

17 The legislature provided the option of obtaining a title by filing a bond in Transportation Code
18 §501.053 to address situations in which an applicant for title is not able to produce evidence of
19 ownership in the form of a title. The surety bond purchased under §501.053 is intended to provide a
20 recovery for any person damaged because of the issuance of a title to a vehicle or for a defect in or
21 undisclosed security interest on the right, title, or interest of the applicant to the vehicle.

22 Transportation Code §501.074 only addresses court orders, which require the department to
23 issue a new title for a motor vehicle registered in this state when ownership is transferred by operation

1 of law or other involuntary divestiture of ownership. This section is intended mainly to cover transfers of
2 title through operation of law by death, divorce decrees, judicial sales, non-judicial foreclosures, and
3 foreclosures of constitutional or statutory liens. Section 501.074 does not squarely address situations
4 where there is no dispute as to a sale and ownership of a motor vehicle and offers no standards for a
5 court to use in evaluating cases in the absence of evidence of ownership in the form of a title.

6 No change has been made in response to this comment.

7 **Comment:**

8 The commenter requested that language be inserted into new proposed subsection (a)(3)
9 allowing an applicant for assignment or reassignment of an identification number under Transportation
10 Code §501.033 to use a tax assessor-collector hearing order under Transportation Code §501.052 as
11 evidence of ownership for the purposes of §501.033(b).

12 **Agency Response:**

13 The Transportation Code does not authorize tax assessor-collector hearings under §501.052 for
14 denials of applications for identification number assignments or reassignments. Transportation Code
15 §501.052(a) authorizes persons aggrieved by a refusal, rescission, or cancellation, of a title under
16 §501.051 to apply for a tax assessor-collector hearing. Section 501.051 applies to department action
17 related to titles, and does not apply to actions related to applications for identification number
18 assignments and reassignments under Transportation Code §501.033. If a tax assessor-collector hearing
19 identifies that an applicant meets requirements under Transportation Code, Chapter 501, then a hearing
20 would be acceptable for an applicant to obtain an identification number assignment or reassignment
21 using the ownership evidence the applicant provided. The department will not be incorporating the
22 proposed language allowing a tax assessor-collector hearing as evidence of ownership for an
23 identification number assignment or reassignment under Transportation Code §501.033.

1 No change has been made in response to this comment.

2 **Comment:**

3 The commenter recommends that the department delay adoption of the amendments to
4 consult with law enforcement, the National Insurance Crime Bureau (NICB), and tax assessor-collectors
5 to allow law enforcement teams to determine what impact these amendments have on operations.

6 **Agency Response:**

7 The department will not delay the adoption of the amendments as all commenters have been
8 contacted since the publication of the proposed amendments and positive discussions were had
9 regarding the amendments. The department is also responding in detail to all written comments
10 received.

11 No change has been made in response to this comment.

12

13 **Comment:**

14 The commenter disagrees with the impact assessment and states that the amendments, as
15 posted, will result in using governmental processes to convert stolen property "into their own property."
16 The commenter opines this will create liability for the state and local agencies conducting identification
17 number inspections.

18 **Agency Response:**

19 The department disagrees that the amendments will create any liability for government actors.
20 Law enforcement inspectors and the department are protected by the doctrine of sovereign immunity
21 when acting under lawfully promulgated statutes and rules. The department does not agree that the
22 amendments as posted will be used to convert stolen property into personal property as the

1 department is confident that well-trained law enforcement inspectors will continue to detect stolen
2 vehicles during the inspection process.

3

4 **Comment:**

5 The commenter expresses concern that the amendments remove qualified courts from making
6 determinations of evidence of ownership. The commenter stated that judicial review allows for a
7 controlled setting where all evidence of ownership can be presented.

8 **Agency Response:**

9 The department disagrees with this comment. As described in detail in responses above, courts
10 are not in a good position to determine ownership of a vehicle where there is no active dispute of
11 ownership between two parties. Further, the amendments do not eliminate the option of obtaining a
12 court order to serve as evidence of ownership for the purpose of an identification number assignment
13 or reassignment.

14

15 **Comment:**

16 The commenter states that proposed amendments to §217.5 would allow applicants to file a
17 bond without any other evidence in order to prove ownership, where no title exists.

18 **Agency Response:**

19 The department disagrees with this comment. Applicants must complete an identification
20 number inspection before they may apply for an identification number assignment or reassignment and
21 bond to serve as evidence of ownership. Additionally, in drafting Transportation Code §501.053, the
22 legislature understood that applicants applying for a bonded title will not have evidence of ownership in

1 the form of a title, and the surety bond backing the title will provide a means of recovery for any person
2 damaged by the issuance of the title.

3

4 **STATUTORY AUTHORITY.** The department proposes amendments to §217.5 under Transportation Code
5 §501.0041 and §1002.001.

6 Transportation Code §501.0041 authorizes the department to adopt rules to administer Chapter
7 501.

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

10 **CROSS REFERENCE TO STATUTE.** Transportation Code §501.033 and §501.053.

11 **TEXT.**

12 **SUBCHAPTER A. MOTOR VEHICLE TITLES**

13 **43 TAC §217.5**

14 §217.5. Evidence of Motor Vehicle Ownership

15 (a) Evidence of motor vehicle ownership properly assigned to the applicant must accompany the title
16 application. Evidence must include, but is not limited to, the following documents.

17 (1) New motor vehicles. A manufacturer's certificate of origin assigned by the manufacturer or
18 the manufacturer's representative or distributor to the original purchaser is required for a new motor
19 vehicle that is sold or offered for sale.

20 (A) The manufacturer's certificate of origin must be in the form prescribed by the
21 department and must contain, at a minimum, the following information:

22 (i) motor vehicle description including, but not limited to, the motor vehicle year,
23 make, identification number, and body style;

- 1 (ii) the empty or shipping weight;
- 2 (iii) the gross vehicle weight when the manufacturer's certificate of origin is
3 invoiced to a licensed Texas motor vehicle dealer and is issued for commercial motor vehicles as that term
4 is defined in Transportation Code, Chapter 502;
- 5 (iv) a statement identifying a motor vehicle designed by the manufacturer for off-
6 highway use only; and
- 7 (v) if the vehicle is a "neighborhood electric vehicle," a statement that the vehicle
8 meets Federal Motor Vehicle Safety Standard 500 (49 C.F.R. §571.500) for low-speed vehicles.

9 (B) When a motor vehicle manufactured in another country is sold directly to a person
10 other than a manufacturer's representative or distributor, the manufacturer's certificate of origin must
11 be assigned to the purchaser by the seller.

12 (2) Used motor vehicles. A title issued by the department, a title issued by another state if the
13 motor vehicle was last registered and titled in another state, or other evidence of ownership must be
14 relinquished in support of the title application for any used motor vehicle. A registration receipt is required
15 from a vehicle owner coming from a state that no longer titles vehicles after a certain period of time.

16 (3) Evidence of Ownership for Purpose of Identification Number Assignment or Reassignment. An
17 applicant for assignment or reassignment of an identification number under Transportation Code
18 §501.033 who is unable to produce evidence of ownership under this section, may file a bond with the
19 department in accordance with Transportation Code §501.053 and §217.9 of this title (relating to Bonded
20 Titles). The bond will serve as evidence of ownership for purposes of §501.033(b).

21 (4) [(3)] Motor vehicles brought into the United States. An application for title for a motor vehicle
22 last registered or titled in a foreign country must be supported by documents including, but not limited
23 to, the following:

1 (A) the motor vehicle registration certificate or other verification issued by a foreign
2 country reflecting the name of the applicant as the motor vehicle owner, or reflecting that legal evidence
3 of ownership has been legally assigned to the applicant;

4 (B) the identification number inspection required under Transportation Code
5 §501.032(a)(2), except as provided in §501.032(b); and [unless the applicant is an active-duty member of
6 the U.S. Armed Forces or is from the immediate family of such a member returning to Texas with proof of
7 the active-duty status of the family member, verification of the vehicle identification number of the
8 vehicle, on a form prescribed by the department, executed by a member of:]

9 [(i) the National Insurance Crime Bureau;]

10 [(ii) the Federal Bureau of Investigation; or]

11 [(iii) a law enforcement auto theft unit; and]

12 (C) for motor vehicles that are less than 25 years old, proof of compliance with United
13 States Department of Transportation (USDOT) regulations including, but not limited to, the following
14 documents:

15 (i) the original bond release letter with all attachments advising that the motor
16 vehicle meets federal motor vehicle safety requirements or a letter issued by the USDOT, National
17 Highway Traffic Safety Administration, verifying the issuance of the original bond release letter;

18 (ii) a legible copy of the motor vehicle importation form validated with an original
19 United States Customs stamp, date, and signature as filed with the USDOT confirming the exemption from
20 the bond release letter required in clause (i) of this subparagraph, or a copy thereof certified by United
21 States Customs;

22 (iii) a verification of motor vehicle inspection by United States Customs certified
23 on its letterhead and signed by its agent verifying that the motor vehicle complies with USDOT regulations;

1 (iv) a written confirmation that a physical inspection of the safety certification
2 label has been made by the department and that the motor vehicle meets United States motor vehicle
3 safety standards;

4 (v) the original bond release letter, verification thereof, or written confirmation
5 from the previous state verifying that a bond release letter issued by the USDOT was relinquished to that
6 jurisdiction, if the non United States standard motor vehicle was last titled or registered in another state
7 for one year or less; or

8 (vi) verification from the vehicle manufacturer on its letterhead stationery.

9 (b) Alterations to documentation. An alteration to a registration receipt, title, manufacturer's certificate,
10 or other evidence of ownership constitutes a valid reason for the rejection of any transaction to which
11 altered evidence is attached.

12 (1) Altered lien information on any surrendered evidence of ownership requires a release from
13 the original lienholder or a statement from the proper authority of the state in which the lien originated.
14 The statement must verify the correct lien information.

15 (2) A strikeover that leaves any doubt about the legibility of any digit in any document will not be
16 accepted.

17 (3) A corrected manufacturer's certificate of origin will be required if the manufacturer's
18 certificate of origin contains an:

19 (A) incomplete or altered vehicle identification number;

20 (B) alteration or strikeover of the vehicle's model year;

21 (C) alteration or strikeover to the body style, or omitted body style on the manufacturer's
22 certificate of origin; or

23 (D) alteration or strikeover to the weight.

1 (4) A Statement of Fact may be requested to explain errors, corrections, or conditions from which
2 doubt does or could arise concerning the legality of any instrument. A Statement of Fact will be required
3 in all cases:

4 (A) in which the date of sale on an assignment has been erased or altered in any manner;
5 or

6 (B) of alteration or erasure on a Dealer's Reassignment of Title.

7 (c) Rights of survivorship. A signed "rights of survivorship" agreement may be executed by a natural person
8 acting in an individual capacity in accordance with Transportation Code, §501.031.

9 (d) Identification required.

10 (1) An application for title is not acceptable unless the applicant presents a current photo
11 identification of the owner containing a unique identification number and expiration date. The
12 identification document must be a:

13 (A) driver's license or state identification certificate issued by a state or territory of the
14 United States;

15 (B) United States or foreign passport;

16 (C) United States military identification card;

17 (D) North Atlantic Treaty Organization identification or identification issued under a
18 Status of Forces Agreement;

19 (E) United States Department of Homeland Security, United States Citizenship and
20 Immigration Services, or United States Department of State identification document; or

21 (F) concealed handgun license or license to carry a handgun issued by the Texas
22 Department of Public Safety under Government Code, Chapter 411, Subchapter H.

23 (2) If the motor vehicle is titled in:

1 (A) more than one name, then the identification of one owner must be presented;

2 (B) the name of a leasing company, then:

3 (i) proof of the Federal Employer Identification Number/Employee Identification
4 Number (FEIN/EIN) of the leasing company must be submitted, written on the application, and can be
5 entered into the department's titling system. The number must correspond to the name of the leasing
6 company in which the vehicle is being titled; and

7 (ii) the leasing company may submit:

8 (I) a government issued photo identification, required under paragraph
9 (1) of this subsection, of the lessee listed as the registrant; or

10 (II) a government issued photo identification, required under paragraph (1) of this
11 subsection, of the employee or authorized agent who signed the application for the leasing company, and
12 the employee's or authorized agent's employee identification, letter of authorization written on the
13 lessor's letterhead, or a printed business card. The printed business card, employee identification, or letter
14 of authorization written on the lessor's letterhead must contain the name of the lessor, and the
15 employee's or authorized agent's name must match the name on the government issued photo
16 identification;

17 (C) the name of a trust, then a government issued photo identification, required under
18 paragraph (1) of this subsection, of a trustee must be presented; or

19 (D) the name of a business, government entity, or organization, then:

20 (i) proof of the Federal Employer Identification Number/Employee Identification
21 Number (FEIN/EIN) of the business, government entity, or organization must be submitted, written on the
22 application, and can be entered into the department's titling system. The number must correspond to the
23 name of the business, government entity, or organization in which the vehicle is being titled;

1 (ii) the employee or authorized agent must present a government issued photo
2 identification, required under paragraph (1) of this subsection; and

3 (iii) the employee's or authorized agent's employee identification; letter of
4 authorization written on the business', government entity's, or organization's letterhead; or a printed
5 business card. The printed business card, employee identification, or letter of authorization written on
6 the business', government entity's, or organization's letterhead must contain the name of the business,
7 governmental entity, or organization, and the employee's or authorized agent's name must match the
8 name on the government issued photo identification.

9 (3) In addition to the requirements of paragraphs (1) and (2) of this subsection, if a power of
10 attorney is being used to apply for a title, then the applicant must show:

11 (A) identification, required under paragraph (1) of this subsection, matching the person
12 named as power of attorney; or

13 (B) identification, required under paragraph (1) of this subsection, and employee
14 identification or a printed business card or authorization written on the letterhead of the entity named as
15 power of attorney that matches the identification of the employee if the power of attorney names an
16 entity.

17 (4) Within this subchapter, "current" is defined as not to exceed 12 months after the expiration
18 date, except that a state-issued personal identification certificate issued to a qualifying person is
19 considered current if the identification states that it has no expiration.

20 (5) Within this subsection, an identification document such as a printed business card, letter of
21 authorization, or power of attorney, may be an original or a photocopy.

