

1 a uniform value for trailers under 20 feet in length and another value for trailers 20 feet in length or
2 greater. Subsection (e) is amended to clarify the language, including the language in renumbered
3 subsection (e)(6), that says a weight certificate is required only if the department is unable to determine
4 the weight using standard department resources. Nonsubstantive amendments to subsection (e)(1)
5 delete existing duplicative requirements found in renumbered subsection (e)(5).

6

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

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

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

5

6 **Comment:**

7 Two commenters opposed deleting the requirement to produce a weight certificate and another
8 commenter asked whether a weight certificate would still be required.

9 **Agency Response:**

10 The department appreciates the comments and will not delete renumbered subsection (e)(6) in
11 its entirety as originally proposed. The department changed the language to make it clear that a weight
12 certificate will be required only if the weight of the vehicle cannot be determined by the department
13 through standard department resources. Most motor vehicles have a standard weight associated with
14 them that the department can determine through various national reference guides if a weight is not
15 already established on the department's motor vehicle record. However, in the case of trailers, trucks
16 with added modifications, and some commercial vehicles, the department will not be able to determine
17 the weight using a national reference guide. In these cases, the department will require a weight
18 certificate.

19 The changes to the rule will eliminate the cost and expense of obtaining a weight certificate for
20 customers with standard vehicles whose weights can easily be determined, while making certain that
21 owners of trailers weighing over 4,000 pounds register and title their trailers as required.

22 The rule text has been changed in response to the comments as described above.

23

1 **Comment:**

2 The commenter states that the proposed new language in subsection (c), will not be sufficient
3 for victims to recover damages through an action against a bond. Subsection (c) allows a bond amount
4 to be based on the length of the trailers and semitrailers, as an alternative to an appraisal.

5 **Agency Response:**

6 The department disagrees with this comment. Proposed new subsection (c)(4) is intended to
7 address assembled trailers under Chapter 217, Subchapter L. The value of most motor vehicles,
8 including manufactured trailers, will be determined by the department's SPV resources or national
9 reference guides, without issue, even if a motor vehicle lacks an identification number. This would not
10 be the case for assembled trailers that would otherwise need an appraisal. Subsection (c)(4) eliminates
11 the cost and expense of seeking an appraisal when a customer is pursuing a bonded title. The owner of a
12 high value trailer or semitrailer, such as a dump trailer, livestock trailer, or custom barbecue pit trailer,
13 who is applying for a bonded title continues to retain the option of using an appraisal to determine the
14 value of the vehicle in place of the standard amounts in subsection (c)(4).

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

16

17 **Comment:**

18 The commenter is not in favor of the proposed deletion of language stating that SPV can be
19 determined using the department's internet website, and prefers that this language be retained.

20 **Agency Response:**

21 The deletion of language regarding the determination of SPV through the department's internet
22 website and substitution of the language "under Tax Code §152.0412," does not eliminate the authority

1 to determine SPV using the department's internet website, and instead includes SPV resources available
2 on desktop applications currently utilized by the department.

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

4

5 **Comment:**

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

9 **Agency Response:**

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

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

15

16 **Comment:**

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

21 **Agency Response:**

22 The department disagrees with the comment that the amendments will create any liability for
23 government actors. As government actors, law enforcement inspectors and department staff are

1 protected by the doctrine of sovereign immunity when acting under lawfully promulgated statutes and
2 rules such as Transportation Code §501.053 and §217.9. The department does not agree that the
3 amendments will be used to convert stolen property into personal property as the department is
4 confident that well-trained law enforcement inspectors will continue to detect stolen vehicles during the
5 inspection process. No change has been made in response to this comment.

6

7 **Comment:**

8 The commenter also states that the proposed amendments to §217.9 would allow persons to
9 use an appraisal to determine the value for vehicles 25 years or older, and for trailer or semitrailers, use
10 set values in lieu of appraisals. The commenter proposes that the department not adopt the proposed
11 amendment until the department can engage in substantive consultation with Texas law enforcement,
12 NICB, property-casualty insurers, and Texas tax assessor-collectors.

13 **Agency Response:**

14 The department agrees that the proposed amendments would allow persons to use an appraisal
15 in lieu of using a national reference guide for a vehicle 25 years or older, which will result in a more
16 accurate evaluation of a vehicle's value, particularly when a vehicle is not in pristine or even operable
17 condition and not worth the value identified by the national reference guide. The department also
18 agrees the amendments provide for the use of predetermined values for trailers or semitrailers, based
19 on the length of the trailer, but only in situations where the value of the trailer or semitrailer may not be
20 determined using SPV or national reference guides. In those situations, a person is still allowed to use an
21 appraisal if they believed an appraisal would provide a more accurate determination of the value of the
22 trailer.

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

1

2 **Comment:**

3 The commenter states that the proposed amendments strike the requirement "to present the
4 inspection to be submitted as part of the bonded title process."

5 **Agency Response:**

6 The department proposes to delete subsection(e)(1), which requires verification of the vehicle
7 identification number on a form specified by the department and replaces the verification requirement
8 with language in subsection (d) which states, "the vehicle identification number must be verified by an
9 inspection under Transportation Code §501.0321." Transportation Code §501.0321 describes all the
10 requirements of an identification number inspection, including the requirement that the department
11 prescribe a form on which the inspection is to be recorded. The rule still requires proof of a completed
12 identification number inspection as part of the bonded title process, as indicated in subsection (e)(5),
13 and the deleted language is being eliminated as duplicative.

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

15

16 **STATUTORY AUTHORITY.** The department adopts amendments to §217.9 under Transportation Code
17 §501.0041 and §1002.001.

18 Transportation Code §501.0041 authorizes the department to adopt rules to administer Chapter
19 501.

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

22 **CROSS REFERENCE TO STATUTE.** Transportation Code §501.053.

23

1 **TEXT.**

2 **SUBCHAPTER A. MOTOR VEHICLE TITLES**

3 **43 TAC §217.9**

4 §217.9. Bonded Titles

5 (a) Who may file. A person who has an interest in a motor vehicle to which the department has refused
6 to issue a title or has suspended or revoked a title may request issuance of a title from the department
7 on a prescribed form if the vehicle is in the possession of the applicant; and

8 (1) there is a record that indicates a lien that is less than ten years old and the surety bonding
9 company ensures lien satisfaction or release of lien;

10 (2) there is a record that indicates there is not a lien or the lien is ten or more years old; or

11 (3) the department has no previous motor vehicle record.

12 (b) Administrative fee. The applicant must pay the department a \$15 administrative fee in addition to any
13 other required fees.

14 (c) Value. The amount of the bond must be equal to one and one-half times the value of the vehicle as
15 determined under Tax Code §152.0412 regarding Standard Presumptive Value (SPV). If the SPV is not
16 available, then a national reference guide will be used. If the value cannot be determined by the
17 department through either source, then the person may obtain an appraisal. If a motor vehicle is 25 years
18 or older, a person may obtain an appraisal to determine the value instead of using a national reference
19 guide.

20 (1) The appraisal must be on a form specified by the department from a Texas licensed motor
21 vehicle dealer for the categories of motor vehicles that the dealer is licensed to sell or a Texas licensed
22 insurance adjuster who may appraise any type of motor vehicle.

1 (2) The appraisal must be dated and be submitted to the department within 30 days of the
2 appraisal.

3 (3) If the motor vehicle 25 years or older and the appraised value of the vehicle is less than \$4,000,
4 the bond amount will be established from a value of \$4,000.

5 (4) If the motor vehicle is a trailer or semitrailer, the person may, as an alternative to an appraisal,
6 have the bond amount established from a value of:

7 (A) \$4,000, if under 20 feet in length, or

8 (B) \$7,000, if 20 or more feet in length.

9 (d) Vehicle identification number inspection. If the department has no motor vehicle record for the
10 vehicle, the vehicle identification number must be verified by an inspection under Transportation Code
11 §501.0321.

12 (e) Required documentation. An applicant may apply for a bonded title if the applicant submits:

13 (1) any evidence of ownership;

14 (2) the original bond within 30 days of issuance;

15 (3) the notice of determination within one year of issuance and the receipt for \$15 paid to the
16 department;

17 (4) the documentation determining the value of the vehicle;

18 (5) proof of the vehicle identification number inspection, as described in subsection (d) of this
19 section, if the department has no motor vehicle record for the vehicle;

20 (6) a weight certificate if the weight cannot otherwise be determined;

21 (7) a certification of lien satisfaction by the surety bonding company, or a release of lien, if the
22 notice of determination letter states that there may be a lien less than ten years old; and

23 (8) any other required documentation and fees.

1 (f) Report of Judgment. The bond must require that the surety report payment of any judgment to the
2 department within 30 days.

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

5 Issued at Austin, Texas, on August 11, 2022.

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/s/ Elizabeth Brown Fore
Elizabeth Brown Fore
General Counsel