



1 trailer or semi-trailer, frame, body, or motor of a motor vehicle under Transportation Code §501.0321.  
2 This is usually done by the inspector verifying a vehicle identification number of the motor vehicle  
3 inspected as well as the corresponding make and year of manufacture of the vehicle. However, in some  
4 cases, most commonly in the cases of trailers or semi-trailers, an inspector may be unable to locate an  
5 identification number for the vehicle—if the identification number has been removed, altered, or  
6 obliterated; or if a permanent identification number was never assigned. Because an identification  
7 number is required on all titles issued by the department under Transportation Code §501.021, the  
8 applicant for title under §501.053 for a vehicle that is missing an identification number is unable to  
9 complete their title application.

10 Transportation Code §501.033 allows the department to assign or reassign a vehicle identification  
11 number upon application by the owner of the motor vehicle. Applications for assignment or reassignment  
12 under §501.033(b) must be accompanied by “valid evidence of ownership in the name of, or properly  
13 assigned to the applicant.” However, in most cases, the applicant does not have the title, and is unable  
14 to work with the former record titleholder to obtain a certified copy.

15 To allow applicants to complete the identification number assignment or reassignment process  
16 and then obtain title, the department has traditionally allowed a court order declaring that the applicant  
17 is the owner of the vehicle to serve as "other evidence of ownership" under 43 Texas Administrative Code  
18 §217.5(a)(2). This allows the applicant to have an identification number assigned or reassigned under  
19 Transportation Code §501.033, so the vehicle will have the requirements for title.

20 The department’s experience has shown that requiring such court orders is impractical and  
21 imposes unnecessary costs on applicants, the department, and the court system. To pursue a court order,  
22 applicants must pay filing fees and the cost of service of process and may also incur costs associated with  
23 legal representation. Many applicants pursuing litigation improperly name the department as a

1 defendant, rather than naming the existing titleholder or handling the case as an In Rem action. This  
2 requires that the department obtain representation from the Office of the Attorney General to raise  
3 sovereign immunity defenses on its behalf in courts all across the state, as the legislature has not waived  
4 sovereign immunity to sue the department in such cases. Additionally, these cases burden the courts with  
5 handling an unfamiliar type of case where there is usually not a true dispute of ownership, and the  
6 plaintiffs are not sure who they need to name as defendants.

7         The department has determined that a surety bond will eliminate these issues, while providing  
8 adequate evidence of ownership. Interested person damaged by the issuance of title on a motor vehicle  
9 will be protected under Transportation Code §501.053(c), which affords a right of action to recover on  
10 the bond. The department’s proposed process will allow applicants with vehicles needing an identification  
11 number to have a surety bond serve as evidence of ownership which will allow for the assignment of an  
12 identification number and the issuance of title.

13  
14         The amendment to §217.5(a)(3) redesignates the paragraph, replaces language describing the  
15 inspection requirement under Transportation Code §501.032(a)(2) and the exemption from the  
16 requirement for military members in Transportation Code §501.032(b), with references to  
17 Transportation Code §501.032(a)(2) and §501.032(b). The changes are made to accurately conform with  
18 the statute and prevent confusion if the statute is subsequently amended. The changes do not to  
19 modify, the exemption to the identification member for military members and their immediate family,  
20 but merely streamline the rule language with a citation to the statutory authority for the exemption.

21  
22 **FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Glenna Bowman, Chief Financial Officer,  
23 has determined that for each year of the first five years the amendments will be in effect, there will be no

1 fiscal impact to state or local governments as a result of the enforcement or administration of the  
2 proposal. Roland Luna, Sr., Director of the Vehicle Titles and Registration Division, has determined that  
3 there will be no measurable effect on local employment or the local economy as a result of the proposal.  
4

5 **PUBLIC BENEFIT AND COST NOTE.** Mr. Luna, Sr. has also determined that, for each year of the first five  
6 years the amended section is in effect, there are several public benefits anticipated because applicants  
7 for identification number assignment or reassignment who are unable to produce evidence of ownership  
8 will not need to file a lawsuit and pursue a court order to be used as evidence of ownership.

9 Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include  
10 providing applicants an option for eliminating litigation costs related to providing evidence of ownership  
11 for identification number assignment or reassignment and issuance of title. Additionally, the amendment  
12 may result in better use of state resources by reducing court dockets.

13 Anticipated Costs To Comply With The Proposal. Mr. Luna, Sr. anticipates that the proposed  
14 amendments do not create additional costs for persons required to comply with these rules, as the rules  
15 are not mandatory, but provide an option for applicants seeking evidence of ownership through litigation.  
16 There will be costs for persons who choose this option, the cost to obtain a surety bond, but the choice  
17 to incur those costs is a business decision of the applicant. The cost of the bond will vary with the value  
18 of the vehicle. The value of the surety bond must be one and one-half times the value of the vehicle, as  
19 determined by 43 Texas Administrative Code §217.9. The costs of the bond is estimated to be two percent  
20 of the value of the bond.

21 **ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** The cost analysis in the  
22 Public Benefit and Cost Note section of this proposal has determined that proposed amendments will not  
23 result in additional costs for applicants unable to produce evidence of ownership for purposes of

1 identification number assignments or reassignment, including any small businesses, micro-businesses, or  
2 rural communities. Therefore, the department is not required to prepare a regulatory flexibility analysis  
3 under Government Code §2006.002.

4

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

9

10 **GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that each year of the  
11 first five years the proposed amendments are in effect, no government program would be created or  
12 eliminated. Implementation of the proposed amendments would not require the creation of new  
13 employee positions or elimination of existing employee positions. Implementation would not require an  
14 increase or decrease in future legislative appropriations to the department or an increase or decrease of  
15 fees paid to the department. The proposed amendments expand an existing regulation by providing an  
16 alternative type of evidence of ownership. Lastly, the proposed amendments do not affect the number  
17 of individuals subject to the rule's applicability and will not affect this state's economy.

18

19 **REQUEST FOR PUBLIC COMMENT.** If you want to comment on the proposal, submit your written  
20 comments by 5:00 p.m. CST on March 28, 2022. A request for a public hearing must be sent separately  
21 from your written comments. Send written comments or hearing requests by email to *rules@txdmv.gov*  
22 or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue,

1 Austin, Texas 78731. If a hearing is held, the department will consider written comments and public  
2 testimony presented at the hearing.

3

4 **STATUTORY AUTHORITY.** The department proposes amendments to §217.05 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

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 of 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.

1 (6) A person who holds a general distinguishing number issued under Transportation Code,  
2 Chapter 503 or Occupations Code, Chapter 2301 is exempt from submitting to the county tax assessor-  
3 collector, but must retain:

4 (A) the owner's identification, as required under paragraph (1) of this subsection; and

5 (B) authorization to sign, as required under paragraph (2) of this subsection.

6 (7) A person who holds a general distinguishing number issued under Transportation Code,  
7 Chapter 503 or Occupations Code, Chapter 2301, is not required to submit photo identification or  
8 authorization for an employee or agent signing a title assignment with a secure power of attorney.

9

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

12 Issued at Austin, Texas, on February 25, 2022.

13

14 /s/ Aline Aucoin  
15 Aline Aucoin, Acting General Counsel