



Texas Department of Transportation

VEHICLE TITLES AND REGISTRATION DIVISION • AUSTIN, TEXAS 78779-0001 • (512) 465-7611

March 21, 2001

REGISTRATION AND TITLE BULLETIN # 030-01

TO: All County Tax Assessor-Collectors

SUBJECT: Final Adoption of Rules Concerning Certificates of Title

PURPOSE

To provide a copy of amended sections of Title 43, Texas Administrative Code, Chapter 17.

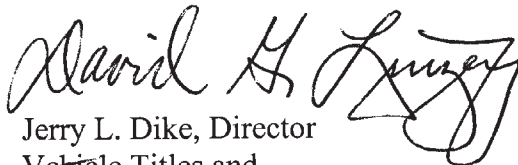
DETAILS

Attached are copies of amended §§17.2, 17.3, and 17.8, concerning Motor Vehicle Certificates of Title. The amended sections were adopted by the Texas Transportation Commission on January 25, 2001, and became effective February 16, 2001. However, the procedural changes that affect mail-in requests for certified copies of titles are targeted for implementation June 1, 2001.

CONTACT(S)

Questions regarding these rules may be directed to your local Vehicle Titles and Registration Division Regional Office or to Mr. David Linzey, Director of Headquarter Operations, at (512) 465-7719. Thank you.

Sincerely,


Jerry L. Dike, Director
Vehicle Titles and
Registration Division

cc: TxDOT Administration
TxDOT Office of General Counsel
TxDOT Motor Vehicle Division
Texas Department of Public Safety
Texas Comptroller of Public Accounts
Tax Assessor-Collectors Association (TACA)
Texas Dealer Associations
Financial Industry Partners
Salvage Industry Partners
Texas Department of Insurance

Filed with the Office of the Secretary of State on January 26, 2001.

TRD-200100468

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: March 1, 2001

Proposal publication date: December 15, 2000

For further information, please call: (512) 438-3437

CHAPTER 742. CONTINUING EDUCATION SUBCHAPTER A. POLICY AND PROCEDURES

40 TAC §§742.1 - 742.5, 742.9 - 742.12

The Texas Department of Protective and Regulatory Services (PRS) adopts the repeal of Chapter 742, Continuing Education, consisting of §§742.1-742.5, and 742.9-742.12, without changes to the proposed text published in the December 15, 2000, issue of the *Texas Register* (25 TexReg 12350).

As part of the rule review required by the Texas Government Code, §2001.039 and the General Appropriations Act of 1997, Article IX, §167, PRS is deleting the obsolete rules in this chapter. Also in this issue of the *Texas Register*, PRS is adopting new training and education rules in Chapter 702, General Administration.

The repeals will function by deleting obsolete rules.

No comments were received regarding adoption of the repeals.

The repeals are adopted under the Human Resources Code (HRC), §40.029, which authorizes the department to adopt rules that facilitate the implementation of departmental programs.

The repeals implement the Human Resources Code, §40.029.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on January 26, 2001.

TRD-200100477

C. Ed Davis

Deputy Director, Legal Services

Texas Department of Protective and Regulatory Services

Effective date: March 1, 2001

Proposal publication date: December 15, 2000

For further information, please call: (512) 438-3437

TITLE 43. TRANSPORTATION

PART 1. TEXAS DEPARTMENT OF TRANSPORTATION

CHAPTER 17. VEHICLE TITLES AND REGISTRATION

SUBCHAPTER A. MOTOR VEHICLE CERTIFICATES OF TITLE

43 TAC §§17.2, 17.3, 17.8

The Texas Department of Transportation adopts amendments to §17.2, §17.3, and §17.8 concerning motor vehicle certificates of title. The amendments to §17.2 are adopted without changes to the text as proposed by publication in the November 10, 2000, issue of the *Texas Register* (25 TexReg 11256) and will not be republished. The amendments to §17.3 and §17.8 are adopted with changes.

EXPLANATION OF ADOPTED AMENDMENTS

The current procedures for processing an application for a certified copy of an original Texas certificate of title (CCO) do not ensure that the identity and authority of applicants can be verified. These amendments will allow the department to require verifiable proof from the owner, lienholder, or agent applying for a CCO. In addition, the amendments revise several definitions that currently follow outdated language originally based on a prior version of the Certificate of Title Act; these definitions are updated to reflect the language found in the recodified version of Transportation Code, Chapter 501. Throughout these sections, additional nonsubstantive changes are made to enhance readability, clarity, and consistency, to improve grammar and spelling, and to correct references and cross-references.

Section 17.2(31) is reworded to follow the definition of "motor vehicle" now found in Transportation Code, §501.002(14).

Section 17.2(56) is reworded to follow the definition of "subsequent sale" now found in Transportation Code, §501.002(20).

Section 17.2(61) is added to define "verifiable proof." This new term is used in establishing the required additional documentation that must be submitted with an application for a certified copy of a certificate of title or for a certified copy of a salvage or non-repairable certificate of title.

The definition of "verifiable proof" is broken into three parts to specify the documentation required of an individual owner or lienholder, a business owner or lienholder, and a person relying on a power of attorney. For an individual owner or lienholder, "verifiable proof" consists of a copy of valid state or US-issued photo identification. For a business owner or lienholder, "verifiable proof" consists of a letter of signature authority on original letterhead, an actual business card, or a copy of employee identification and a copy of a valid state or US-issued photo identification. For a person relying on a power of attorney, "verifiable proof" consists of the appropriate documentation for the owner or lienholder executing the power of attorney in addition to that of the person relying on the power of attorney.

This definition of "verifiable proof" is intended to place more stringent requirements on applicants for certified copies and thus to reduce the likelihood of fraud. The definition balances this need for greater security against the need for ease of administration with regard both to applications submitted in person and to those submitted through the mail.

Section 17.3(c)(2)(B) is relocated to Subsection (c)(5) because rights of survivorship apply to all motor vehicles and not just to used motor vehicles.

Section 17.3(e)(1) is amended to require that an application for a certified copy be supported with verifiable proof and to specify the procedures available to an unsuccessful applicant.

Section 17.3(e)(4) is amended to clarify the procedures that are followed when an original title is recovered after a certified copy has already been issued. These procedures are specified in Transportation Code, §501.134.

Section 17.8(d) is amended to require the submission of verifiable proof in support of an application for a certified copy of a salvage or nonrepairable certificate of title.

RESPONSE TO COMMENTS

Written comments were received from the Insurance Auto Auctions (IAA) and the Tarrant County Auto Theft Task Force. The commenters did not indicate whether they were in favor of or against the proposed amendments.

Comment: IAA commented on the §17.2(61)(C) definition of "verifiable proof." In connection with total loss settlements by insurers, IAA noted that insureds and claimants may lose titles to vehicles. At present, IAA will obtain a power of attorney from the insured or claimant so that it may apply for a certified copy of the title. If the vehicle owner is an individual, the proposed amendments require that in addition to the power of attorney from the owner, IAA would need a copy of the owner's photo identification. Since insureds and claimants may refuse to provide copies of their driver's licenses, this additional requirement will delay insurers in obtaining titles for many total loss vehicles. The potential for fraud in a total loss context is so remote that insurers should be exempted from the "verifiable proof" requirement.

Response: The Transportation Code does not provide insurers with a blanket exemption from the requirement of verifiable proof, and the department believes that insurers will be able to structure their relations with their insureds and claimants to deal with this problem.

Comment: Regarding §17.2(61)(A) and (B), IAA asked if the exclusion of photo identification issued by other states is intended.

Response: The rule follows the language of the Transportation Code.

Comment: Regarding §17.8(a)(1)(C), IAA noted that the reference to subsection (b)(2)(A), (B), or (C) should instead be to subsection (b)(2)(A), (B), or (D).

Response: The department agrees that a numbering error was made and will correct this cross-reference.

Comment: Regarding §17.8, IAA suggests that the removal of "state or" from the phrase "state or jurisdiction" be made consistently so no implication arises that "state or jurisdiction" includes something that "jurisdiction" does not.

Response: The department agrees and the suggested changes will be made for consistency and to prevent confusion.

Comment: Regarding §17.8(c)(1)(B), IAA commented that Transportation Code, §501.0920 requires that "the nonrepairable motor vehicle certificate must state on its face that, except as provided by §501.0925 and §501.0927." The reference to §501.0925 was omitted from §17.8(c)(1)(B).

Response: The department agrees and has revised §17.8(c)(1)(B) to read "§501.0925 and §501.0927."

Comment: Regarding Section 17.8(d), IAA suggested that the reference to §17.3(e)(1)(A) would be more accurate if it were simply to §17.3(e).

Response: The department agrees with the suggestion and has corrected this cross-reference.

Comment: The Tarrant County Auto Theft Task Force indicated that the majority of suspect CCO applications referred to them involved agents or third parties and were submitted by mail. Therefore, it expressed confusion that §17.3(e)(1)(A)(ii) provides, "An applicant other than the vehicle owner, lienholder, or verified agent must apply for a certified copy of a certificate of title by mail."

Response: The rule follows the language of the Transportation Code.

Comment: Concerning §17.3(e)(1)(A), which states that "an application for certified copy must be properly executed and supported by appropriate verifiable proof for the vehicle owner, lienholder, or agent," the Tarrant County Auto Theft Task Force expressed concern that striking the examples of verifiable proof will not help the situation, but possibly compound it.

Response: To eliminate any possibility of confusion about the requirement that verifiable proof be submitted with all applications, the department has revised §17.3(e)(1)(A) to add "regardless of whether the application is submitted in person or by mail" after the word "agent."

STATUTORY AUTHORITY

The amendments are adopted under Transportation Code, §201.101, which provides the Texas Transportation Commission with the authority to establish rules for the conduct of the work of the Texas Department of Transportation, and more specifically, Transportation Code, §501.131, which authorizes the department to adopt rules governing the issuance of motor vehicle certificates of title.

§17.3. Motor Vehicle Certificates of Title.

(a) Certificates of title. Unless otherwise exempted by law or this chapter, the owner of any vehicle that is required to be registered in accordance with Transportation Code, Chapter 502, shall apply for a Texas certificate of title in accordance with Transportation Code, Chapter 501.

(1) Motorcycles, motor-driven cycles, and mopeds.

(A) The title requirements of a motorcycle are the same requirements prescribed for any motor vehicle.

(B) A motorcycle, motor-driven cycle, or moped designed for or used exclusively on golf courses is not classified as a motor vehicle and, therefore, title cannot be issued until the unit is registered.

(C) A vehicle that meets the criteria for a moped and has been certified as a moped by the Department of Public Safety will be registered and titled as a moped. If the vehicle does not appear on the list of certified mopeds published by that agency, the vehicle will be treated as a motorcycle for title and registration purposes.

(D) A motor installed on a bicycle must be certified by the Department of Public Safety before the vehicle may be classified as a moped.

(2) Farm vehicles.

(A) The term motor vehicle does not apply to implements of husbandry, which may not be titled.

(B) Farm tractors owned by agencies exempt from registration fees in accordance with Transportation Code, §502.202, are

required to be titled and registered with "Exempt" license plates issued in accordance with Transportation Code, §502.201.

(C) Farm tractors used as road tractors to mow rights of way or used to move commodities over the highway for hire are required to be registered and titled.

(3) Exemptions from title. Vehicles registered with the following distinguishing license plates may not be titled under Transportation Code, Chapter 501:

(A) vehicles eligible for machinery license plates in accordance with Transportation Code, §502.276 and §502.278;

(B) vehicles eligible for farm trailer license plates in accordance with Transportation Code, §502.163; and

(C) vehicles eligible for permit license plates in accordance with Transportation Code, §§502.351-502.353.

(4) Trailers, semitrailers, and house trailers. Owners of trailers and semitrailers shall apply for and receive a Texas certificate of title for any stand alone (full) trailer, including homemade full trailers, having an empty weight in excess of 4,000 pounds or any semitrailer having a gross weight in excess of 4,000 pounds. House trailer-type vehicles must meet the criteria outlined in subparagraph (C) of this paragraph in order to be titled.

(A) In the absence of a manufacturer's rated carrying capacity for a trailer or semitrailer, the rated carrying capacity will not be less than one-third of its empty weight.

(B) Mobile office trailers, mobile oil field laboratories, and mobile oil field bunkhouses are not designed as dwellings, but are classified as commercial semitrailers and must be registered and titled as commercial semitrailers if operated upon the public streets and highways.

(C) House trailer-type vehicles and camper trailers must meet the following criteria in order to be titled.

(i) A house trailer-type vehicle designed for living quarters and that is eight body feet or more in width or forty body feet or more in length (not including the hitch), is classified as a mobile home and is titled under the Texas Manufactured Housing Standards Act, Texas Civil Statutes, Article 5221f, administered by the Department of Housing and Community Affairs.

(ii) A house trailer-type vehicle that is less than eight feet in width and less than forty feet in length is classified as a travel trailer and shall be registered and titled.

(iii) A camper trailer shall be titled as a house trailer and shall be registered with travel trailer license plates.

(b) Initial application for certificate of title.

(1) Place of application. When motor vehicle ownership is transferred, except as provided by Transportation Code, Chapters 501 and 502 and by §17.8(a)(1) of this subchapter, a certificate of title application must be filed with the county tax assessor-collector in the county in which the applicant resides or in the county in which the motor vehicle was purchased or encumbered, within 20 working days of the date of sale.

(2) Information to be included on application. An applicant for an initial certificate of title must file an application on a form prescribed by the department. The form will at a minimum require the:

(A) motor vehicle description including, but not limited to, the motor vehicle's:

(i) year;

(ii) make;

(iii) model;

(iv) identification number;

(v) body style;

(vi) manufacturer's rated carrying capacity in tons for commercial motor vehicles; and

(vii) empty weight;

(B) license plate number, if the motor vehicle is subject to registration under Transportation Code, Chapter 502;

(C) the odometer reading and brand, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements;

(D) previous owner's name and city and state of residence;

(E) name and complete address of the applicant;

(F) name and mailing address of any lienholder and the date of lien, if applicable;

(G) signature of the seller of the motor vehicle or the seller's authorized agent and the date the certificate of title application was signed;

(H) signature of the applicant or the applicant's authorized agent and the date the certificate of title application was signed; and

(I) applicant's social security number, if the application is filed in a county in which the department's automated registration and title system has been implemented, with the following exceptions:

(i) an application filed in the name of an entity that does not have a social security number, or

(ii) an individual applicant who does not have a social security number, in which case the applicant must execute a statement to that effect on a form prescribed by the department.

(3) Serial number. If no serial number is die-stamped by the manufacturer on a motor vehicle, house trailer, trailer, semi-trailer, or item of equipment required to be titled, or if the serial number assigned and die-stamped by the manufacturer has been lost, removed, or obliterated, the department will upon proper application, presentation of evidence of ownership, and presentation of evidence of a law enforcement physical inspection, assign a serial number to the motor vehicle, trailer, or equipment. The manufacturer's serial number or the assigned serial number will be used by the department as the major identification of the motor vehicle or trailer in the issuance of a certificate of title.

(4) Accompanying documentation. The certificate of title application must be supported by, at a minimum, the following documents:

(A) evidence of vehicle ownership, as described in subsection (c) of this section;

(B) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if applicable;

(C) the identification certificate required by Transportation Code, §548.256, and Transportation Code, §501.030, if the vehicle was last registered in another state or country; and

(D) a release of any liens, provided that if any liens are not released, they will be carried forward on the new certificate of title application with the following limitations.

(i) An out-of-state lien recorded on out-of-state evidence as described in subsection (c) of this section cannot be carried forward to a Texas title when there is a transfer of ownership, unless a release of lien or authorization from the lienholder is attached.

(ii) A lien recorded on out-of-state evidence as described in subsection (c) of this section is not required to be released when there is no transfer of ownership from an out-of-state title and the same lienholder is being recorded on the Texas application as is recorded on the out-of-state title.

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

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

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

(i) motor vehicle description including, but not limited to, the motor vehicle's year, make, model, identification number, body style and empty weight;

(ii) the manufacturer's rated carrying capacity in tons when the manufacturer's certificate of origin is invoiced to a licensed Texas motor vehicle dealer and is issued for commercial motor vehicles as that term is defined in Transportation Code, Chapter 502; and

(iii) a statement identifying a motor vehicle designed by the manufacturer for off-highway use only.

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

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

(3) Imported motor vehicles. An application for certificate of title for a motor vehicle last registered or titled in a foreign country must be supported by documents including, but not limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

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

(i) incomplete or altered vehicle identification number;

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

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

(iv) alteration or strikeover to the manufacturer's rated carrying capacity.

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

(i) where the date of sale on an assignment has been erased or altered in any manner; or

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

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

(d) Certificate of title issuance. Upon receiving a completed application for certificate of title, along with the title application fee of \$13 and any other applicable fees, the department or its designated agent will process and issue a certificate of title.

(1) Negotiable titles. The department will issue and mail or deliver negotiable titles, marked "Original," to the applicant or, in the event that there is a lien disclosed in the application, to the first lienholder.

(2) Non-negotiable titles. The department will issue non-negotiable titles, which may be used only as evidence of title and may not be used to transfer any interest or ownership in a motor vehicle or to establish a new lien, in the following circumstances.

(A) In the event that there is a lien disclosed in the application, a duplicate certificate of title marked "Duplicate Original" will be mailed or delivered to the address of the applicant as disclosed upon the application.

(B) In the event that the owner of a vehicle last registered or titled in another state (and subject to registration in this state) cannot or does not wish to relinquish the negotiable out-of-state evidence of ownership to obtain a negotiable Texas title, a duplicate certificate of title marked "Registration Purposes Only" will be mailed or delivered to the address of the applicant as disclosed upon the application. In instances in which the title or registration receipt is assigned to the applicant, an application for "Registration Purposes Only" will not be processed.

(e) Replacement of certificate of title. If a certificate of title is lost or destroyed, the department will issue a certified copy of the title to the owner, the lienholder, or a verified agent of the owner or lienholder in accordance with Transportation Code, Chapter 501, upon proper application and payment of the appropriate fee to the department.

(1) Certified copy.

(A) Issuance. An application for a certified copy must be properly executed and supported by appropriate verifiable proof for the vehicle owner, lienholder, or agent regardless of whether the application is submitted in person or by mail.

(i) If the applicant requests that a certified copy be issued before the fourth business day following application, the application must be made in person.

(ii) An applicant other than the vehicle owner, lienholder, or verified agent must apply for a certified copy of a certificate of title by mail.

(B) Denial. If issuance of a certified copy is denied, the applicant may resubmit the request with the required verifiable proof or may pursue the privileges available in subsection (g)(2)(A) and (B) of this section.

(2) Certified copy designation. A certified copy of an existing certificate of title will be marked "Certified Copy" until ownership of the vehicle is transferred, when the words "Certified Copy" will be eliminated from the new certificate of title.

(3) Fees. The fee for obtaining a certified copy of a certificate of title is \$2.00 if the application is processed at the department's headquarters office and \$5.45 if the application is processed at one of the department's regional offices.

(4) Recovery of lost title. In the event that the "Duplicate Original" or "Original" certificate of title is recovered, the owner shall relinquish the "Duplicate Original" or "Original" certificate of title to the department for cancellation. Thereafter, if a subsequent application

for certificate of title is filed in the current owner's name, the department will issue an "Original" certificate of title.

(f) Department notification of second hand vehicle transfers. A transferor of a motor vehicle may voluntarily make written notification to the department of the sale of the vehicle, in accordance with Transportation Code, Chapter 520, Subchapter C, and this subsection.

(1) Notification form. The department will provide a form for written notice of transfer. The form will include the:

- (A) vehicle identification number of the vehicle;
- (B) license plate number issued to the vehicle, if any;
- (C) full name and address of the transferor;
- (D) full name and address of the transferee;
- (E) date the transferor delivered possession of the vehicle to the transferee;
- (F) signature of the transferor; and
- (G) date the transferor signed the form.

(2) Records. Upon receipt of written notice of transfer and a \$5.00 fee from the transferor of a motor vehicle, the department will mark its records to indicate the date of transfer and the full name and address of the transferee.

(3) Ownership of transferred vehicle. After the date of the transfer of the vehicle as shown in the department records, the transferee of the vehicle is rebuttably presumed to be:

- (A) the owner of the vehicle; and
- (B) subject to civil and criminal liability arising out of the use, operation, or abandonment of the vehicle, to the extent that ownership of the vehicle subjects the owner of the vehicle to criminal or civil liability under another provision of the law.

(4) Certificate of title issuance. A certificate of title will not be issued in the name of a transferee until the transferee files an application for the certificate of title as described in this section.

(g) Suspension, revocation, or refusal to issue Certificates of Title.

(1) Grounds for title suspension, revocation, or refusal to issue. The department will refuse issuance of a certificate of title, or having issued a certificate of title, will suspend or revoke the certificate of title if the:

- (A) application contains any false or fraudulent statement;
- (B) applicant has failed to furnish required information requested by the department;
- (C) applicant is not entitled to the issuance of a certificate of title under Transportation Code, Chapter 501;
- (D) department has reasonable grounds to believe that the vehicle is a stolen or converted vehicle or that the issuance of a certificate of title would constitute a fraud against the rightful owner or a mortgagee;
- (E) registration of the vehicle stands suspended or revoked; or
- (F) required fee has not been paid.

(2) Contested case procedure. Any person who has an interest in a motor vehicle to which the department has refused to issue a certificate of title or has suspended or revoked the certificate of title

may contest the department's decision in accordance with Transportation Code, §501.052 and §501.053, in the following manner.

(A) Hearing. Any person who has an interest in a motor vehicle to which the department has refused to issue a certificate of title or has suspended or revoked the certificate of title may apply for a hearing to the designated agent of the county in which the applicant resides. At the hearing the applicant and the department may submit evidence, and a ruling of the designated agent will bind both parties. An applicant wishing to appeal the ruling of the designated agent may do so to the County Court of the county in which the applicant resides.

(B) Alternative to hearing. In lieu of a hearing, any person who has an interest in a motor vehicle to which the department has refused to issue a certificate of title or has suspended or revoked a certificate of title may file a bond with the department, in an amount equal to one and one-half times the value of the vehicle as determined by the department, and in a form prescribed by the department. Upon the filing of the bond, the department may issue a certificate of title. The bond shall expire three years after the date it becomes effective and will be returned to the person posting bond, upon expiration, unless the department has been notified of the pendency of an action to recover on the bond.

(h) Discharge of lien. A lienholder shall provide the owner, or the owner's designee, a discharge of the lien after receipt of the final payment within the time limits specified in Transportation Code, Chapter 501. The lienholder shall submit one of the following documents:

(1) the certificate of title including an authorized signature in the space reserved for release of lien;

(2) a release of lien form prescribed by the department, with the form filled out to include the:

(A) certificate of title or document number, or a description of the motor vehicle including, but not limited to, the motor vehicle's:

(i) year;

(ii) make;

(iii) vehicle identification number; and

(iv) license plate number, if the motor vehicle is subject to registration under Transportation Code, Chapter 502;

(B) printed name of lienholder;

(C) signature of lienholder or an authorized agent;

(D) printed name of the authorized agent if the agent's signature is shown;

(E) telephone number of lienholder; and

(F) date signed by the lienholder;

(3) signed and dated correspondence submitted on company letterhead that includes:

(A) a statement that the lien has been paid;

(B) a description of the vehicle as indicated in paragraph (2)(A) of this subsection;

(C) a certificate of title or document number; or

(D) lien information;

(4) any out-of-state prescribed release of lien form, including an executed release on a lien entry form;

(5) out-of-state evidence with the word "Paid" or "Lien Satisfied" stamped or written in longhand on the face, followed by the name of the lienholder, countersigned or initialed by an agent, and dated; or

(6) original security agreements or copies of the original security agreements if the originals or copies are stamped "Paid" or "Lien Satisfied" with a company paid stamp or if they contain a statement in longhand that the lien has been paid followed by the company's name.

§17.8. Certificates of Title for Salvage Vehicles.

(a) Certificate of title applications for salvage vehicles.

(1) Place of application.

(A) When a new or late model salvage motor vehicle or nonrepairable motor vehicle has not been issued a salvage motor vehicle certificate of title, a nonrepairable motor vehicle certificate of title, or a comparable ownership document issued by another jurisdiction, and the vehicle will not be dismantled, scrapped, or destroyed, a person who acquires ownership shall submit a salvage and nonrepairable motor vehicle certificate of title application to the department along with the applicable fee within 10 days of receiving the title document that transfers ownership.

(B) A person who acquires ownership of a motor vehicle other than a new or late model salvage motor vehicle or a nonrepairable motor vehicle may voluntarily submit a salvage and nonrepairable motor vehicle certificate of title application to the department along with the applicable fee for issuance of a salvage or nonrepairable motor vehicle certificate of title.

(C) When a new or late model salvage or nonrepairable motor vehicle has been rebuilt and the vehicle's and parts' identification numbers, as well as compliance with state safety standards, have been certified to by a specially trained commissioned officer of the Department of Public Safety, the owner shall file a certificate of title application with the county tax assessor-collector in the county in which the applicant resides or in the county in which the motor vehicle was purchased or encumbered. The application must be supported by the evidence required by subsection (b)(2)(A), (B), or (D) of this section.

(2) Information to be included on application.

(A) An applicant for a salvage or nonrepairable motor vehicle certificate of title must submit an application on a form prescribed by the department. A completed form, in addition to any other information required by the department, must at a minimum include:

(i) the name and current address of the owner;

(ii) a description of the vehicle, including the motor vehicle's model year, make, model, identification number, body style, manufacturer's rated carrying capacity in tons for commercial motor vehicles, and empty weight;

(iii) a description of the damage to the vehicle;

(iv) the predamaged actual cash value of the vehicle;

(v) the odometer reading and brand, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements;

(vi) the previous owner's name and city and state of residence;

(vii) the name and mailing address of any lienholder and the date of lien (applicable only in instances of salvage motor vehicle certificate of title issuance);

(viii) the signature of the applicant or the applicant's authorized agent and the date the certificate of title application was signed; and

(ix) the adjusted estimated cost of repair parts and labor.

(I) In this clause the estimated cost of repair parts shall be determined by using a manual of repair costs or another instrument that is generally recognized and commonly used in the motor vehicle insurance industry to determine those costs, or an estimate of the actual cost of the repair parts and the estimated labor costs shall be computed by using hourly rate and time allocations that are reasonable and commonly assessed in the repair industry in the community in which the repairs are performed.

(II) The adjusted estimated cost of repairs is equal to the estimated cost of repairs, less any applicable deductions for late model salvage vehicles or nonrepairable motor vehicles.

(B) An applicant for a certificate of title involving a transaction for a rebuilt salvage motor vehicle must submit an application on a form prescribed by the department, and must present the application to the tax assessor-collector in the county in which the applicant resides or in the county in which the motor vehicle was purchased or encumbered. A completed form, in addition to any other information required by the department, must at a minimum include:

(i) the name and current address of the owner;

(ii) a description of the vehicle, which includes, but is not limited to, the motor vehicle's model year, make, model, identification number, body style, manufacturer's rated carrying capacity in tons for commercial motor vehicles, and empty weight;

(iii) a description of each major component part used to repair the vehicle and showing the identification number required by federal law to be affixed to or inscribed on the part;

(iv) a description or disclosure of the vehicle's former condition in a manner that is understandable to a potential purchaser of the vehicle;

(v) the license plate number, if the motor vehicle is subject to registration under Transportation Code, Chapter 502;

(vi) the odometer reading and brand, or the word "exempt" if the motor vehicle is exempt from federal and state odometer disclosure requirements;

(vii) the previous owner's name and city and state of residence;

(viii) the name and mailing address of any lienholder and the date of lien, if applicable;

(ix) the signature of the seller of the motor vehicle or the seller's authorized agent and the date the certificate of title application was signed; and

(x) the signature of the applicant or the applicant's authorized agent and the date the certificate of title application was signed.

(3) Accompanying documentation.

(A) A salvage and nonrepairable motor vehicle certificate of title application must be supported by, at a minimum, the following documents:

(i) evidence of vehicle ownership, as described in subsection (b)(1) of this section;

(ii) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if applicable;

(iii) a release of any liens.

(B) The application for certificate of title for a rebuilt salvage vehicle must be supported by, at a minimum, the following documents:

(i) evidence of vehicle ownership, as described in subsection (b)(2) of this section;

(ii) an odometer disclosure statement properly executed by the seller of the motor vehicle and acknowledged by the purchaser, if applicable;

(iii) proof of financial responsibility in the title applicant's name, as required by Transportation Code, §502.153;

(iv) the identification certificate required by Transportation Code, §548.256, and Transportation Code, §501.030, if the vehicle was last registered in another state or country;

(v) a release of any liens, unless there is no transfer of ownership from an out-of-state title and the same lienholder is being recorded on the Texas application as is recorded on the out-of-state title, and except that if a lien recorded on out-of-state evidence is not released and transfer is not authorized by the lienholder, the lien will not be carried forward to a Texas title for a rebuilt salvage vehicle when there is a transfer of ownership; and

(vi) a written statement signed by a specially trained commissioned officer of the Department of Public Safety certifying to the department that the vehicle identification numbers and parts identification numbers are accurate, that the applicant has proof that the applicant owns the parts used to repair the vehicle, that the vehicle can be safely operated, and that the vehicle complies with all applicable motor vehicle safety standards of this state, except that Texas Salvage Certificates or comparable Salvage Certificates or Salvage Certificates of Title issued by another jurisdiction prior to March 1, 1996, are exempt from this requirement if an affidavit for a rebuilt motor vehicle, as prescribed by the department, is submitted with the application for certificate of title and the rebuilt salvage vehicle complies with all applicable motor vehicle safety standards of this state.

(b) Evidence of salvage motor vehicle ownership.

(1) Evidence of salvage motor vehicle ownership properly assigned to the applicant must accompany the salvage and nonrepairable motor vehicle certificate of title application. Evidence must include documentation sufficient to show ownership, such as one of the following documents:

(A) an Original Texas Certificate of Title;

(B) a Certified Texas Certificate of Title;

(C) a Texas Salvage Certificate; or

(D) a comparable ownership document issued by another jurisdiction.

(2) Evidence of motor vehicle ownership of a rebuilt salvage vehicle must be properly assigned to the applicant and must accompany the certificate of title application. Evidence must include one of the following documents:

(A) a Texas Salvage Motor Vehicle Certificate of Title;

(B) a Texas Nonrepairable Motor Vehicle Certificate of Title;

(C) a Texas Salvage Certificate; or

(D) a comparable Salvage Certificate or Salvage Certificate of Title issued by another jurisdiction, except that this ownership document will not be accepted if it indicates that the vehicle may not be rebuilt in the jurisdiction that issued the ownership document.

(c) Certificate of title issuance for salvage vehicles.

(1) Upon receipt of a completed salvage and nonrepairable motor vehicle certificate of title application, along with the prescribed fee of \$3.00 and the required documentation, the department will, before the sixth business day after the date of receipt, issue the applicant a salvage or nonrepairable motor vehicle certificate of title, as appropriate. If the condition of salvage is caused exclusively by flood, a "Flood Damage" notation will be reflected on the face of the document and will be carried forward upon subsequent title issuance.

(A) Transportation Code, §501.0921(a), provides that a person who holds a salvage motor vehicle certificate of title is entitled to record a lien on the vehicle. If a salvage and nonrepairable motor vehicle certificate of title application records a lien, the lien is only applicable with the issuance of a salvage motor vehicle certificate of title. Presentation of the application disclosing the lien and surrender of the current salvage motor vehicle certificate of title, along with the applicable fee, to the department will constitute the notation of a lien on a salvage motor vehicle certificate of title. When a salvage motor vehicle certificate of title recording a lien is issued, the original will be mailed to the lienholder. For proof of ownership purposes, the applicant will be mailed a receipt or printout of the newly established motor vehicle record, which will record the lien.

(B) A nonrepairable motor vehicle certificate of title will state on its face that, except as provided by Transportation Code, §501.0925 and §501.0927, the vehicle:

(i) may not be issued a regular certificate of title and may not be registered in this state; and

(ii) may only be used for parts or scrap metal.

(2) Upon receiving a completed certificate of title application for a rebuilt salvage transaction, along with the applicable fees and required documentation, the department or its designated agent will process and issue a certificate of title that will include a "Rebuilt Salvage" remark on its face and describes or discloses the vehicle's former condition in a manner that is understandable to a potential purchaser of the vehicle. If the application is for a new or late model salvage vehicle that has been assembled from component parts or a new or late model salvage vehicle for which a Texas Salvage Certificate is being surrendered, only the "Rebuilt Salvage" remark will be reflected on the face of the certificate of title.

(3) On proper application by the owner of a vehicle that is brought into this state from another jurisdiction and for which a certificate of title issued by the other jurisdiction contains a "Rebuilt," "Salvage," "Nonrepairable," or analogous notation, the department will issue the applicant a certificate of title or other appropriate document for the vehicle. A certificate of title or other appropriate document issued under this subsection will show on its face:

(A) the date of issuance;

(B) the name and address of the owner;

(C) any registration number assigned to the vehicle;

(D) a description of the vehicle as determined by the department; and

(E) any notation the department considers necessary or appropriate.

(d) Replacement of certificates of title for salvage vehicles. If a salvage or nonrepairable certificate of title is lost, the department will issue a certified copy of the certificate of title to the vehicle owner, lienholder, or verifiable agent on submission of verifiable proof and payment of the appropriate fee as provided in §17.3(e). An application for a certified copy of a salvage and nonrepairable certificate of title will only be processed at the department's Austin Headquarters Office. The certified copy will contain the words "Certified Copy" and the date issued. The motor vehicle record will be noted accordingly until ownership of the vehicle is transferred, when the notation will be eliminated from the new certificate of title.

(e) Transfer of ownership.

(1) New or late model salvage motor vehicles.

(A) Transfer of a salvage or nonrepairable motor vehicle without a salvage or nonrepairable motor vehicle certificate of title. A person who owns a new or late model salvage motor vehicle may not sell, transfer, or release the vehicle to a person other than a salvage vehicle dealer, the former owner of the vehicle, a governmental entity, an out-of-state licensed buyer, a buyer in a casual sale at auction, or a person described by Texas Civil Statutes, Article 6687-2b(g), and shall deliver to that person a properly assigned certificate of title for the vehicle. If the assigned certificate of title is not a salvage motor vehicle certificate of title, a nonrepairable motor vehicle certificate of title, or a comparable ownership document issued by another jurisdiction, the purchaser shall follow the procedures described in subsections (a)(1)(A), (a)(2)(A), (a)(3)(A), and (b)(1) of this section.

(B) Transfer of a salvage or nonrepairable motor vehicle by assignment of a salvage or nonrepairable motor vehicle certificate of title. An owner, including an insurance company, may sell a new or late model salvage motor vehicle by assignment of a salvage or nonrepairable motor vehicle certificate of title for the vehicle only to a salvage vehicle dealer in this state, an out-of-state licensed buyer, a buyer in a casual sale at auction, or a person described by Texas Civil Statutes, Article 6687-2b(g).

(C) Exemption. The owner of a new or late model salvage motor vehicle or a nonrepairable motor vehicle so classified solely because of water damage caused by flood conditions is not prohibited from selling the vehicle to any person.

(2) Motor vehicle other than a new or late model salvage or nonrepairable motor vehicle.

(A) If an insurance company acquires ownership of a motor vehicle other than a new or late model salvage or nonrepairable motor vehicle through payment of a claim, the company shall, on delivery of the vehicle to a buyer of the vehicle, deliver to the buyer a properly assigned certificate of title for the vehicle.

(B) An insurance company or other person who acquires ownership of a motor vehicle other than a new or late model salvage or nonrepairable motor vehicle may voluntarily and upon proper application obtain a salvage or nonrepairable motor vehicle certificate of title.

(f) Notification required of an insurance company. When an insurance company pays a total loss claim on a late model salvage or nonrepairable motor vehicle and does not acquire ownership of that vehicle, the company shall submit to the department, before the 31st day after the date of the payment of the claim, on the form prescribed by the department, a report stating that:

(1) the insurance company has paid a total loss claim on the late model salvage motor vehicle or nonrepairable motor vehicle; and

(2) the insurance company has not acquired ownership of the late model salvage motor vehicle or nonrepairable motor vehicle.

(g) Noting of motor vehicle record with total loss claim information. Upon receipt of the report described in subsection (f) of this section, the department will place an appropriate notation on the motor vehicle record to prevent transfer of ownership prior to the issuance of a salvage or nonrepairable motor vehicle certificate of title.

(h) Acquisition of salvage vehicles for the purpose of dismantling, scrapping, or destruction.

(1) A salvage vehicle dealer that acquires ownership of a new or late model salvage or nonrepairable motor vehicle for the purpose of dismantling, scrapping, or destruction shall, before the 31st day after the date the dealer acquires the vehicle, submit to the department, on the form prescribed by the department, a report stating that the vehicle will be dismantled, scrapped, or destroyed, accompanied by a properly assigned regular certificate of title, a salvage or nonrepairable motor vehicle certificate of title, or a comparable ownership document issued by another jurisdiction for the vehicle.

(2) A salvage vehicle dealer that acquires an older model vehicle for the purpose of dismantling, scrapping, or destruction shall submit the report addressed in paragraph (1) of this subsection and shall keep on the dealer's business premises a record of the vehicle until the third anniversary of the date the report on the vehicle is submitted to the department.

(i) Receipt of the report and the ownership documents by the department. On receipt of the report and the ownership documents, the department will issue the salvage vehicle dealer a receipt.

(j) Noting of motor vehicle records on which ownership documents have been surrendered to the department. The department will place an appropriate notation on motor vehicle records on which ownership documents have been surrendered to the department by salvage vehicle dealers.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on January 26, 2001.

TRD-200100451

Richard D. Monroe

General Counsel

Texas Department of Transportation

Effective date: February 15, 2001

Proposal publication date: November 10, 2000

For further information, please call: (512) 463-8630

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §17.51

The Texas Department of Transportation adopts amendments to §17.51, concerning registration reciprocity agreements. The amendments are adopted without changes to the text as proposed by publication in the November 10, 2000, issue of the *Texas Register* (25 TexReg 11267), and will not be republished.

EXPLANATION OF ADOPTED AMENDMENTS

The International Registration Plan (IRP) is a registration reciprocity agreement among states of the United States and Canada. (Mexico may also join in the near future.) The department has previously adopted by reference the International Registration Plan with Official Commentary. The amended section provides for the adoption by reference of the most recent edition of the International Registration Plan published August 22, 1994 and revised in 1999. Recent changes to this document, including changes associated with the implementation of the "audit netting" program, have necessitated that the department's administrative rules be revised as well. The "audit netting" program is a program under which audit refunds and assessments are "netted," which reduces jurisdictional costs and errors associated with IRP audits. Implementation of the "audit netting" program requires that, if an audit results in a refund being due to a carrier for another jurisdiction, Texas must issue the refund on behalf of the other jurisdiction; however, any refund issued to a carrier for a jurisdiction will be deducted from registration funds collected and transmitted to that same jurisdiction. The department has also determined that certain information contained in §17.51 is unnecessary because the information is already clearly set forth in Transportation Code, Chapter 502. Additionally, certain information is no longer necessary because the jurisdictions to which the information previously applied are now members of the IRP. Finally, some changes have been made throughout the section to enhance readability and clarity, to improve grammar and spelling, and to correct references and cross-references.

Subsection (a) is amended to correct a cross-reference.

Subsection (b) is amended to add definitions previously located in subsection (c)(2)(C). This collects all definitions in one subsection for ease of reference.

Subsection (c)(2)(B) is amended to correct the name and address of the Vehicle Titles and Registration Division.

Existing subsection (c)(2)(C) is eliminated. Three definitions relate to terms that are used in this section and are moved to subsection (b) for clarity. The remaining definitions relate only to terms that are used in the IRP or in other definitions within this subparagraph. The following subsections are renumbered to reflect the deletion of existing subsection (c)(2)(C).

Renumbered subsection (c)(2)(F)(ii) is eliminated because the jurisdictions to which it applied are now members of the IRP.

Renumbered subsection (c)(2)(G)(v) is eliminated because the department no longer assesses additional registration fees if an audit reveals mileage generated in a jurisdiction in which the carrier does not wish to be apportioned for the next year. Clause (vi) is renumbered as clause (iv) and is amended to eliminate the \$10 minimum assessment because it is no longer needed due to implementation of the "audit netting" program.

Renumbered subsection (c)(2)(H) is amended to bring the rules into compliance with IRP guidelines. The \$10 minimum refund is eliminated because it is no longer needed due to implementation of the "audit netting" program. Language is added to permit the department to refund fees for other jurisdictions. Language is also added to reflect that any registration fees refunded to a carrier for another jurisdiction will be deducted from registration fees collected for and transmitted to that jurisdiction.