

1 that provides status updates on the submitted complaint that may be used to request the letter. The
2 department may be contacted directly weekdays between 8:00 a.m. and 4:30 p.m. at 1-888-368-4689 for
3 questions regarding a complaint submission, or a customer may go into the online system to find out the
4 status of the submission. Additionally, once the department is made aware of a dealer closure through an
5 initial customer's request for a letter, individuals requesting a letter could receive a letter very quickly as
6 subsequent requests would not require additional research on the dealer. The department's Regional
7 Service Center staff will coordinate issuance of the letter to the customer. Proposed §217.16(d) requires
8 an applicant to comply with all requirements for title application under §217.4, Initial Application for Title,
9 except that an applicant may provide either the sales contract, retail installment agreement, or buyer's
10 order in lieu of the assigned manufacturer's certificate of origin or title required under §217.5(a), Evidence
11 of Motor Vehicle Ownership. The applicant must also provide the letter stating the dealer has gone out
12 of business, but is not required to provide a release of lien if the only recorded lienholder is the dealer
13 that has gone out of business. The applicant will have their transaction completed at the county tax
14 assessor-collector's office at the time they submit their application if the proper documentation is
15 presented. Proposed §217.16(e) provides that a title application under the new section must include a
16 properly completed odometer disclosure statement, if applicable, or the odometer brand will be recorded
17 as "NOT ACTUAL MILEAGE." Lastly, proposed §217.16(f) provides that the department will waive the title
18 application fee, the delinquent transfer penalty, all fees under Transportation Code, Chapter 502, and the
19 buyer's temporary tag fee.

20 The proposed amendment to §217.40 allows for waiver of the fee for one 30-day permit if the
21 applicant is exempt from payment of fees under Transportation Code, §501.0236, and provides the letter
22 on department letterhead stating the dealer has gone out of business.

1 **3. FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Linda M. Flores, Chief Financial Officer,
2 has determined that for each year of the first five years the new section and amendment will be in effect,
3 there will be no significant fiscal impact to state or local governments as a result of the enforcement or
4 administration of the sections, other than any imposed by statute. The department cannot reasonably
5 quantify the number of dealerships that may go out of business without applying for a title on behalf of a
6 customer. Removing the requirement to pay the fee will save consumers time and money. Any change
7 in revenue or expenditures is the result of the amended statute and not the rules. In addition, while fees
8 may be waived under the proposed rules, Transportation Code, §501.0236(e) authorizes the department
9 to recover against a dealer's surety bond for any title or permit fee waived.

10 Jeremiah Kuntz, Director of Vehicle Titles and Registration Division, has determined that there will
11 be no measurable effect on local employment or the local economy as a result of the proposal.

12 **4. PUBLIC BENEFIT AND COST NOTE.** Mr. Kuntz has also determined that, for each year of the first five
13 years the new section and amended section are in effect, the public benefits anticipated as a result of the
14 proposal include a remedy for a purchaser of a vehicle to obtain a title and one 30-day permit when the
15 dealer from which the person purchased the vehicle goes out of business and fails to apply for title on the
16 purchaser's behalf. Prior to House Bill 3842, a purchaser in this circumstance had no clear path to obtain
17 title, despite having purchased the vehicle and paid the required title and registration fees, and had to
18 pay for an additional 30-day permit when the buyer's temporary tag expired. Another public benefit
19 anticipated as a result of the proposal is that a purchaser will not have to pay title and registration fees
20 twice in this scenario.

21 Mr. Kuntz anticipates that there will be no significant costs to comply with the proposed new
22 section and amendment.

1 **5. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** Mr. Kuntz has also
2 determined there will be no impact on small businesses, micro-business, or rural communities as a result
3 of implementing these rules. Therefore, the department is not required to prepare a regulatory flexibility
4 analysis as specified in Government Code, §2006.002.

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

9 **7. GOVERNMENT GROWTH IMPACT STATEMENT.** The department has determined that during the first
10 five years the proposed new section and amendment are in effect, no government program would be
11 created or eliminated. Implementation of the proposed new section and amendment would not require
12 the creation of new employee positions or elimination of existing employee positions. Implementation
13 would not require an increase or decrease in future legislative appropriations to the department.
14 Implementation may cause a decrease of fees paid to the department; however, Transportation Code,
15 §501.0236(e) authorizes the department to recover against a dealer's surety bond for any title or permit
16 fee waived. The proposed new section and amendment create a new regulation that requires the
17 purchaser to request a letter stating the dealer is out of business. However, the department currently
18 provides a letter to a purchaser, upon request, stating the dealer is out of business. The requirement that
19 a purchaser request the letter and provide the letter to the county tax assessor-collector is a new
20 requirement; however, the department was already providing the information upon request. Additionally,
21 the proposed new section and amendment do not affect the number of individuals subject to the rules'
22 applicability and will not affect this state's economy.

23

1 **8. REQUEST FOR PUBLIC COMMENT.**

2 If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on September
3 30, 2019. A request for a public hearing must be sent separately from your written comments. Send
4 written comments or hearing requests by email to *rules@txdmv.gov* or by mail to Office of General
5 Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is
6 held, the department will consider written comments and public testimony presented at the hearing.

7 **9. STATUTORY AUTHORITY.** The new section and amendment are proposed under Transportation Code,
8 §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to
9 adopt rules that are necessary and appropriate to implement the powers and the duties of the
10 department; and more specifically, Transportation Code, §520.003, which allows the department to adopt
11 rules to administer Transportation Code, Chapter 520, including rules that waive the payment of fees if a
12 dealer has gone out of business and the applicant can show that fees were paid to the dealer;
13 Transportation Code, §502.401(g), which authorizes the department to adopt rules necessary to
14 administer registration for a vehicle being registered in a county imposing a fee under the section;
15 Transportation Code, §502.402(f), which authorizes the department to adopt rules necessary to
16 administer registration for a vehicle being registered in a county imposing a fee under the section; and
17 Transportation Code, §501.0236(f), which requires the department to adopt rules necessary to implement
18 the section.

19 **10. CROSS REFERENCE TO STATUTE.** Transportation Code, Chapters 501, 502, 503, and §520.003.

20 **11. TEXT.**

21

1 **Subchapter A. Motor Vehicle Titles**

2 **43 TAC §217.16**

3 §217.16. Application for Title When Dealer Goes Out of Business.

4 (a) A person who purchased a vehicle from a dealer who is required to apply for a title on the
5 purchaser's behalf under Transportation Code, §501.0234 may apply for title as prescribed by this section
6 if the dealer has gone out of business and did not apply for title.

7 (b) For purposes of this section, a dealer has gone out of business if:

8 (1) the dealer's license has been closed or has expired; or

9 (2) operations have ceased at the licensed location as determined by the department.

10 (c) For purposes of this section, a person must obtain a letter on department letterhead stating a
11 dealer has gone out of business. A person may request the letter by contacting the department, including
12 a Regional Service Center, or a county tax assessor-collector's office.

13 (d) An application under subsection (a) of this section must meet the requirements of §217.4 of
14 this title (relating to Initial Application for Title) except the applicant:

15 (1) must provide the sales contract, retail installment agreement, or buyer's order in lieu
16 of evidence of vehicle ownership as described in §217.5(a) of this title (relating to Evidence of Motor
17 Vehicle Ownership);

18 (2) must provide the letter described by subsection (c) of this section; and

19 (3) is not required to provide a release of lien if the only recorded lienholder is the dealer
20 that has gone out of business.

21 (e) If a title application under this section does not include a properly completed odometer
22 disclosure statement, as required by Transportation Code, §501.072, the odometer brand will be recorded
23 as "NOT ACTUAL MILEAGE."

1 (f) The department will waive the payment of the following fees if the applicant can provide
2 evidence showing the fee was paid to the dealer:

3 (1) a title application fee under Transportation Code, §501.138;

4 (2) delinquent transfer penalty under Transportation Code, §501.146;

5 (3) all fees under Transportation Code, Chapter 502; and

6 (4) the buyer's temporary tag fee under Transportation Code, §503.063.

7 **Subchapter B. Motor Vehicle Registration**

8 **43 TAC §217.40**

9 §217.40. Special Registrations.

10 (a) Purpose and scope. Transportation Code, Chapter 502, Subchapters C and I, charge the
11 department with the responsibility of issuing special registration permits which shall be recognized as
12 legal registration for the movement of motor vehicles not authorized to travel on Texas public highways
13 for lack of registration or for lack of reciprocity with the state or country in which the vehicles are
14 registered. For the department to efficiently and effectively perform these duties, this section prescribes
15 the policies and procedures for the application and the issuance of temporary registration permits.

16 (b) Permit categories. The department will issue the following categories of special registration
17 permits.

18 (1) Additional weight permits. The owner of a truck, truck tractor, trailer, or semitrailer
19 may purchase temporary additional weight permits for the purpose of transporting the owner's own
20 seasonal agricultural products to market or other points for sale or processing in accordance with
21 Transportation Code, §502.434. In addition, such vehicles may be used for the transportation without
22 charge of seasonal laborers from their place of residence, and materials, tools, equipment, and supplies
23 from the place of purchase or storage, to a farm or ranch exclusively for use on such farm or ranch.

1 (A) Additional weight permits are valid for a limited period of less than one year.

2 (B) An additional weight permit will not be issued for a period of less than one
3 month or extended beyond the expiration of a license plate issued under Transportation Code, Chapter
4 502.

5 (C) The statutory fee for an additional weight permit is based on a percentage of
6 the difference between the owner's annual registration fee and the annual fee for the desired gross
7 vehicle weight computed as follows:

8 (i) one-month (or 30 consecutive days)--10%;

9 (ii) one-quarter (three consecutive months)--30%;

10 (iii) two-quarters (six consecutive months)--60%; or

11 (iv) three-quarters (nine consecutive months)--90%.

12 (D) Additional weight permits are issued for calendar quarters with the first
13 quarter to begin on April 1st of each year.

14 (E) A permit will not be issued unless the registration fee for hauling the additional
15 weight has been paid prior to the actual hauling.

16 (F) An applicant must provide proof of the applicant's Texas Agriculture or Timber
17 Exemption Registration Number issued by the Texas Comptroller of Public Accounts. Proof of the
18 registration number must be:

19 (i) legible;

20 (ii) current;

21 (iii) in the name of the person or dba in which the vehicle is or will be
22 registered; and

23 (iv) verifiable through the online system established by the Comptroller.

1 (2) Annual permits.

2 (A) Transportation Code, §502.093 authorizes the department to issue annual
3 permits to provide for the movement of foreign commercial vehicles that are not authorized to travel on
4 Texas highways for lack of registration or for lack of reciprocity with the state or country in which the
5 vehicles are registered. The department will issue annual permits:

6 (i) for a 12-month period designated by the department which begins on
7 the first day of a calendar month and expires on the last day of the last calendar month in that annual
8 registration period; and

9 (ii) to each vehicle or combination of vehicles for the registration fee
10 prescribed by weight classification in Transportation Code, §502.253 and §502.255.

11 (B) The department will not issue annual permits for the importation of citrus fruit
12 into Texas from a foreign country except for foreign export or processing for foreign export.

13 (C) The following exemptions apply to vehicles displaying annual permits.

14 (i) Currently registered foreign semitrailers having a gross weight in
15 excess of 6,000 pounds used or to be used in combination with commercial motor vehicles or truck
16 tractors having a gross vehicle weight in excess of 10,000 pounds are exempted from the requirements to
17 pay the token fee and display the associated distinguishing license plate provided for in Transportation
18 Code, §502.255. An annual permit is required for the power unit only. For vehicles registered in
19 combination, the combined gross weight may not be less than 18,000 pounds.

20 (ii) Vehicles registered with annual permits are not subject to the optional
21 county registration fee under Transportation Code, §502.401; the optional county fee for transportation
22 projects under Transportation Code, §502.402; or the optional registration fee for child safety under
23 Transportation Code, §502.403.

1 (3) 72-hour permits and 144-hour permits.

2 (A) In accordance with Transportation Code, §502.094, the department will issue
3 a permit valid for 72 hours or 144 hours for the movement of commercial motor vehicles, trailers,
4 semitrailers, and motor buses owned by residents of the United States, Mexico, or Canada.

5 (B) A 72-hour permit or a 144-hour permit is valid for the period of time stated
6 on the permit beginning with the effective day and time as shown on the permit registration receipt.

7 (C) Vehicles displaying 72-hour permits or 144-hour permits are subject to vehicle
8 safety inspection in accordance with Transportation Code, §548.051, except for:

9 (i) vehicles currently registered in another state of the United States,
10 Mexico, or Canada; and

11 (ii) mobile drilling and servicing equipment used in the production of gas,
12 crude petroleum, or oil, including, but not limited to, mobile cranes and hoisting equipment, mobile lift
13 equipment, forklifts, and tugs.

14 (D) The department will not issue a 72-hour permit or a 144-hour permit to a
15 commercial motor vehicle, trailer, semitrailer, or motor bus apprehended for violation of Texas
16 registration laws. Apprehended vehicles must be registered under Transportation Code, Chapter 502.

17 (4) Temporary agricultural permits.

18 (A) Transportation Code, §502.092 authorizes the department to issue a 30-day
19 temporary nonresident registration permit to a nonresident for any truck, truck tractor, trailer, or
20 semitrailer to be used in the movement of all agriculture products produced in Texas:

21 (i) from the place of production to market, storage, or railhead not more
22 than 75 miles from the place of production; or

1 (ii) to be used in the movement of machinery used to harvest Texas-
2 produced agricultural products.

3 (B) The department will issue a 30-day temporary nonresident registration permit
4 to a nonresident for any truck, truck tractor, trailer, or semitrailer used to move or harvest farm products,
5 produced outside of Texas, but:

6 (i) marketed or processed in Texas; or

7 (ii) moved to points in Texas for shipment from the point of entry into
8 Texas to market, storage, processing plant, railhead or seaport not more than 80 miles from such point of
9 entry into Texas.

10 (C) The statutory fee for temporary agricultural permits is one-twelfth of the
11 annual Texas registration fee prescribed for the vehicle for which the permit is issued.

12 (D) The department will issue a temporary agricultural permit only when the
13 vehicle is legally registered in the nonresident's home state or country for the current registration year.

14 (E) The number of temporary agricultural permits is limited to three permits per
15 nonresident owner during any one vehicle registration year.

16 (F) Temporary agricultural permits may not be issued to farm licensed trailers or
17 semitrailers.

18 (5) One-trip permits. Transportation Code, §502.095 authorizes the department to
19 temporarily register any unladen vehicle upon application to provide for the movement of the vehicle for
20 one trip, when the vehicle is subject to Texas registration and not authorized to travel on the public
21 roadways for lack of registration or lack of registration reciprocity.

1 (A) Upon receipt of the \$5 fee, registration will be valid for one trip only between
2 the points of origin and destination and intermediate points as may be set forth in the application and
3 registration receipt.

4 (B) The department will issue a one-trip permit to a bus which is not covered by
5 a reciprocity agreement with the state or country in which it is registered to allow for the transit of the
6 vehicle only. The vehicle should not be used for the transportation of any passenger or property, for
7 compensation or otherwise, unless such bus is operating under charter from another state or country.

8 (C) A one-trip permit is valid for a period up to 15 days from the effective date of
9 registration.

10 (D) A one-trip permit may not be issued for a trip which both originates and
11 terminates outside Texas.

12 (E) A laden motor vehicle or a laden commercial vehicle cannot display a one-trip
13 permit. If the vehicle is unregistered, it must operate with a 72-hour or 144-hour permit.

14 (6) 30-day temporary registration permits. Transportation Code, §502.095 authorizes the
15 department to issue a temporary registration permit valid for 30 days for a \$25 fee. A vehicle operated
16 on a 30-day temporary permit is not restricted to a specific route. The permit is available for:

17 (A) passenger vehicles;

18 (B) motorcycles;

19 (C) private buses;

20 (D) trailers and semitrailers with a gross weight not exceeding 10,000 pounds;

21 (E) light commercial vehicles not exceeding a gross weight of 10,000 pounds; and

22 (F) a commercial vehicle exceeding 10,000 pounds, provided the vehicle is
23 operated unladen.

1 (c) Application process.

2 (1) Procedure. An owner who wishes to apply for a temporary registration permit for a
3 vehicle which is otherwise required to be registered in accordance with this subchapter, must do so on a
4 form prescribed by the department.

5 (2) Form requirements. The application form will at a minimum require:

6 (A) the signature of the owner;

7 (B) the name and complete address of the applicant; and

8 (C) the vehicle description.

9 (3) Fees and documentation. The application must be accompanied by:

10 (A) statutorily prescribed fees, unless the applicant is exempt from fees under
11 Transportation Code, §501.0236 and provides the letter specified in §217.16(c) of this title (relating to
12 Application for Title When Dealer Goes Out of Business);

13 (B) evidence of financial responsibility:

14 (i) as required by Transportation Code, Chapter 502, Subchapter B,
15 provided that all policies written for the operation of motor vehicles must be issued by an insurance
16 company or surety company authorized to write motor vehicle liability insurance in Texas; or

17 (ii) if the applicant is a motor carrier as defined by §218.2 of this title
18 (relating to Definitions), indicating that the vehicle is registered in compliance with Chapter 218,
19 Subchapter B of this title (relating to Motor Carrier Registration); and

20 (C) any other documents or fees required by law.

21 (4) Place of application.

22 (A) All applications for annual permits must be submitted directly to the
23 department for processing and issuance.

1 (B) Additional weight permits and temporary agricultural permits may be
2 obtained by making application with the department through the county tax assessor-collectors' offices.

3 (C) 72-hour and 144-hour permits, one-trip permits, and 30-day temporary
4 registration permits may be obtained by making application either with the department or the county tax
5 assessor-collectors' offices.

6 (d) Receipt for permit in lieu of registration. A receipt will be issued for each permit in lieu of
7 registration to be carried in the vehicle during the time the permit is valid. A one-trip or 30-day trip permit
8 must be displayed as required by Transportation Code, §502.095(f). If the receipt is lost or destroyed, the
9 owner must obtain a duplicate from the department or from the county office. The fee for the duplicate
10 receipt is the same as the fee required by Transportation Code, §502.058.

11 (e) Transfer of temporary permits.

12 (1) Temporary permits are non-transferable between vehicles and/or owners.

13 (2) If the owner of a vehicle displaying a temporary permit disposes of the vehicle during
14 the time the permit is valid, the permit must be returned to the county tax assessor-collector office or
15 department immediately.

16 (f) Replacement permits. Vehicle owners displaying annual permits may obtain replacement
17 permits if an annual permit is lost, stolen, or mutilated.

18 (1) The fee for a replacement annual permit is the same as for a replacement number
19 plate, symbol, tab, or other device as provided by Transportation Code, §502.060.

20 (2) The owner shall apply directly to the department in writing for the issuance of a
21 replacement annual permit. Such request should include a copy of the registration receipt and
22 replacement fee.

1 (g) Agreements with other jurisdictions. In accordance with Transportation Code, §502.091, and
2 Chapter 648, the executive director of the department may enter into a written agreement with an
3 authorized officer of a state, province, territory, or possession of a foreign country to provide for the
4 exemption from payment of registration fees by nonresidents, if residents of this state are granted
5 reciprocal exemptions. The executive director may enter into such agreement only upon:

6 (1) the approval of the governor; and

7 (2) making a determination that the economic benefits to the state outweigh all other
8 factors considered.

9 (h) Border commercial zones.

10 (1) Texas registration required. A vehicle located in a border commercial zone must
11 display a valid Texas registration if the vehicle is owned by a person who:

12 (A) owns a leasing facility or a leasing terminal located in Texas; and

13 (B) leases the vehicle to a foreign motor carrier.

14 (2) Exemption for trips of short duration. Except as provided by paragraph (1) of this
15 subsection, a foreign commercial vehicle operating in accordance with Transportation Code, Chapter 648
16 is exempt from the display of a temporary registration permit if:

17 (A) the vehicle is engaged solely in the transportation of cargo across the border
18 into or from a border commercial zone;

19 (B) for each load of cargo transported the vehicle remains in this state for:

20 (i) not more than 24 hours; or

21 (ii) not more than 48 hours, if:

22 (I) the vehicle is unable to leave this state within 24 hours
23 because of circumstances beyond the control of the motor carrier operating the vehicle; and

1 (II) all financial responsibility requirements applying to this
2 vehicle are satisfied;

3 (C) the vehicle is registered and licensed as required by the country in which the
4 person that owns the vehicle is domiciled or is a citizen as evidenced by a valid metal license plate attached
5 to the front or rear exterior of the vehicle; and

6 (D) the country in which the person who owns the vehicle is domiciled or is a
7 citizen provides a reciprocal exemption for commercial motor vehicles owned by residents of Texas.

8 (3) Exemption due to reciprocity agreement. Except as provided by paragraph (1) of this
9 subsection, a foreign commercial motor vehicle in a border commercial zone in this state is exempt from
10 the requirement of obtaining a Texas registration if the vehicle is currently registered in another state of
11 the United States or a province of Canada with which this state has a reciprocity agreement that exempts
12 a vehicle that is owned by a resident of this state and that is currently registered in this state from
13 registration in the other state or province.

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

16 Issued at Austin, Texas, on August 16, 2019.

17

18 /s/ Tracey Beaver
19 **Tracey Beaver, General Counsel**