



GOVERNOR GREG ABBOTT

To: Guillermo Treviño, Chair
Whitney Brewster, Executive Director
Tracey Beaver, General Counsel
Texas Department of Motor Vehicles

From: Erin Bennett, Director
Regulatory Compliance Division, Office of the Governor

Date: March 13, 2020

Subject: 43 Texas Administrative Code Sections 217.3, 217.141-.143, and 217.401-.407

I. Preface

The Texas Department of Motor Vehicles (“department”) proposed rules to implement inspection, titling, and registration requirements for assembled motor vehicles, and additional changes related to other vehicles, after the passage of legislation in 2019.¹ The department submitted proposed amended §§217.3 and 217.141-.143 and proposed new §§217.401-.407 to the Regulatory Compliance Division (“division”) for review on December 20, 2019. The division invited public comments on the proposed rules for a 32-day period ending February 6, 2020, but received no public comments. The department supplemented its submission to the division on March 6, 2020, with changes to the proposed rules based on comments received pursuant to publication in the *Texas Register* and at a public hearing requested of the department. Consequently, the division analyzed this amended version of the proposed rules.

II. Analysis

Section 501.003, Texas Transportation Code, requires the department to liberally construe titling requirements to lessen and prevent motor vehicle thefts, the importation and trafficking of stolen motor vehicles, and misleading sales of encumbered motor vehicles. Chapter 731, Texas Transportation Code, establishes a clear policy for the department to inspect, title, and register assembled motor vehicles, and specifies the criteria for inspections, requirements for a certificate of title, and applicability of titling and registration requirements in Chapters 501 and 502, Texas Transportation Code.

¹ 44 Tex. Reg. 7866 (2019) (to be codified at 43 TAC Sections 217.3, 217.141-.143, and 217.401-.407) (proposed December 20, 2019) (Tex. Dep’t Motor Vehicles); Acts of 2019, 86th Leg., R.S., ch. 882 (H.B. 3171), ch. 1079 (H.B. 1755), and ch. 1233 (H.B. 1548).

Proposed §217.3 clarifies definitions related to permitted and required titling of certain trailers and semitrailers, consistent with Sections 501.036-.037, and reflects recently enacted statutory changes to eliminate references to motor-driven cycles and prohibit titling of certain motor vehicles.² The requirements that assembled vehicles be inspected by master technicians and the specific inspection criteria for assembled vehicles in proposed §§217.141-.143 are consistent with Chapter 731. Similarly, the pre-registration inspections for custom vehicles and street rods are consistent with Section 504.501(e), Texas Transportation Code. Thus, proposed §§217.3 and 217.141-.143 are consistent with state policy.

Proposed §§217.401-.407 further statutory requirements as follows: (1) Section 731.052(a) requires the department to adopt rules establishing new requirements and procedures for issuing titles and registrations for assembled vehicles; (2) Section 731.053 requires ownership and other information to be listed in the certificate of title; and (3) Section 501.033 creates a process for assigning vehicle identification numbers. The proposed rules ensure the assembled vehicle or its constituent parts are not stolen and can be traced back to the rightful owner. Finally, the prohibitions in proposed §217.407(c) against the transfer of certain assembled vehicles by or to dealers, and against salvage dealers' rebuilding assembled vehicles, are nondiscretionary limitations in Section 503.013, Texas Transportation Code, and Section 2302.009, Texas Occupations Code, respectively. Thus, §§217.401-.407 are also consistent with state policy.

III. Determination

The department indicated the proposed rules will have multiple effects on market competition as a result of new inspection, titling, and registration requirements for assembled vehicles.³ Based on the reasoning set forth above, the division has determined that proposed §§217.3, 217.141-.143, and 217.401-.407 are consistent with state policy. Accordingly, the rules are approved by the division and may be finally adopted.

² Acts of 2019, 86th Leg., R.S., ch. 882 (H.B. 3171) (removing references to motor-driven cycles) and ch. 1079 (H.B. 1755) (identifying the conditions under which an assembled motor vehicle may not be titled).

³ Rule Submission Memorandum from the Texas Department of Motor Vehicles (December 20, 2019), at 3-4 (on file with the Regulatory Compliance Division of the Office of the Governor).