Office of the Governor

Regulatory Compliance Division

Rule Submission Memorandum

To: Erin Bennett, Regulatory Compliance Division Director

From: Tracey Beaver, General Counsel

Date: April 16, 2020

Subject: §§217.22, 217.27, 217.32, 217.38, 217.41, 217.55 and 217.58-217.64

The Texas Department of Motor Vehicles has proposed a rulemaking for amendments to 43 TAC §§217.22, 217.27, 217.32, 217.38, 217.41, 217.55, and new sections §§217.58-217.64, in the April 17, 2020, issue of the Texas Register. The proposed rule affects market competition and is, thus, submitted to the Regulatory Compliance Division for review. The proposed rule, as it appeared in the Texas Register in its entirety, is attached to this memorandum.

To facilitate the Regulatory Compliance Division’s review of the proposed rule, the Texas Department of Motor Vehicles provides answers to the following questions.

1. Briefly describe the proposed rule.

The proposed rules amend §§217.22, 217.27, 217.32, 217.38, 217.41, 217.55 to conform with statutory changes and adds new §§217.58-217.64 to specify the requirements for digital license plates in Texas.

2. What is the purpose of the proposed rule?

The primary purpose of the proposal is to implement Senate Bill (SB) 604, 86th Legislature, Regular Session (2019), which amended Transportation Code Chapter 504, which requires the adoption of rules for the issuance of digital license plates in Texas, outlines the requirements for digital license plates, and authorizes the department to adopt rules to implement and administer the statutory requirements.

3. Describe any relevant factual background to the proposed rule and the impetus for the state agency to consider rulemaking.

The impetus was the enactment of SB 604, 86th Legislature, Regular Session (2019), which amended Transportation Code Chapter 504 to allow for digital license plates.

4. Describe the legal authority for the proposed rule.

   a. Is the proposed rule specifically required or authorized by state statute? If so, list the statute(s).

Yes. Transportation Code §§504.151-504.157 which authorize digital license plates while giving the department rulemaking authority to implement the statutory provisions including setting specifications and requirements for digital plates and establishing a fee.
Transportation Code §504.153 requires the board to adopt to implement and administer the subchapter.

Transportation Code §504.154 requires the board to adopt a rule allowing eligible vehicles to be equipped with a digital license plate and permits the board to authorize through rule the display of the vehicle's registration insignia on a digital license plate issued for the vehicle in lieu of attaching the registration insignia to the inside of the vehicle's windshield, establish a fee in an amount necessary to cover any administrative costs incurred that relate to the issuance of a digital license plate and exceed the administrative costs incurred for the issuance of a physical license plate; and prohibit a digital license plate provider from contracting with the department under Subchapter J. Transportation Code §504.155 requires the board to set the specifications and requirements for digital license plates, including requirements for the placement of digital license plates.

b. Is the proposed rule within the scope of the state agency’s general authority to regulate in a given occupation or industry? If so, describe how the rule is within the scope, and reference the applicable state statute(s).

Yes. Transportation Code §504.0011 authorizes the board to adopt rules to implement and administer Transportation Code Chapter 504.

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

5. Describe the process that the state agency followed in developing the proposed rule, including any public hearings held, public comments invited, studies conducted, and data collected or analyzed.

The Texas Department of Motor Vehicles reviewed legislation and drafted the proposed rule. The department’s Vehicle Titles and Registration Advisory Committee met and adopted recommendations for the rules, which were adopted by the Board. The department consulted with the Department of Public Safety multiple times throughout the drafting of the proposal. The board of the Texas Department of Motor Vehicles considered the proposed rule in an open meeting, requested comments from stakeholders at the open meeting, and authorized the department to publish the proposed rule for public comment in the Texas Register.

6. Describe the harm that the proposed rule is intended to address and how the proposed rule will address the harm. If applicable, attach any documentation or records of the harm.

The proposed rule set the specifications and requirements for digital license plates as authorized in Transportation Code Chapter 504 and SB 604. The proposal also conforms provisions in Chapter 504 with statute.

7. Summarize any less restrictive alternatives that the state agency identified for addressing the same harm, including a comparison of the proposed rule to the alternatives, and provide a justification for not pursuing a less restrictive alternative.

A less restrictive alternative was not identified. The proposal is based on the statutory requirements in Transportation Code Chapter 504 and SB 604.

8. Indicate how the proposed rule affects market competition (See Section 57.105(d), Texas Occupations Code).

The proposal:
- establishes the specifications and requirements for digital license plates;

- establishes the requirements for testing for digital license plates.

9. Describe the specific impact that the proposed rule will have on market competition and how that effect is consistent with state policy as established by the Legislature in state statute.

The proposal affects market competition to the extent that:

- Transportation Code §504.155 requires the board to set the specifications and requirements for digital license plates, including requirements for the placement of digital license plates.

- Transportation Code §504.155 requires that a digital license plate issued under the subchapter must include the information required to be included on a physical license plate and legibly display that information at all times and in all light conditions, provided that the license plate may display the information in a smaller typeface when the vehicle is parked; have wireless connectivity capability; and provide benefits to law enforcement that meet or exceed the benefits provided by physical license plates as of the time of enactment of this subchapter and as determined by the Department of Public Safety.

10. Did the state agency self-determine that the proposed rule affects market competition or did the Regulatory Compliance Division identify the proposed rule as possibly affecting market competition?

The Texas Department of Motor Vehicles identified the proposed rule as affecting market competition.

11. Does the proposed rule relate to a question that is the subject of an opinion request pending before the Office of the Attorney General? Does the proposed rule relate to an opinion previously issued by the Office of the Attorney General?

The proposed rule does not relate to a question that is the subject of an opinion request pending before the Office of the Attorney General or to an opinion previously issued by the Office of the Attorney General.

12. Does the proposed rule relate to a matter on which there is pending litigation?

The proposed rule does not relate to a matter on which there is pending litigation.

13. Is there anything else that you would like the Regulatory Compliance Division to know about the proposed rule?

The department has attached a copy of the proposed rule.

Sincerely,

Tracey Beaver
General Counsel
Texas Department of Motor Vehicles
PROPOSAL OF

SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

43 TAC §§217.22, 217.27, 217.32, 217.38, 217.41, 217.55, and 217.58-217.64

INTRODUCTION. The Texas Department of Motor Vehicles (department) proposes amendments to 43 TAC §§217.22, 217.27, 217.32, 217.38, 217.41, 217.55 and new 43 TAC §§217.58 - 217.64. These new and amended sections implement Senate Bill 604, 86th Legislature, Regular Session (2019), which amended Transportation Code Chapter 504 by adding Subchapter B-1 to allow for digital license plates.

EXPLANATION.

§217.22

The proposed amendments to §217.22 are necessary to add definitions that relate to digital license plates.

Proposed new §217.22(11) defines "digital license plate owner" to create a conforming reference to Transportation Code §504.151.

Proposed new §217.22(12) defines "digital license plate" to create a conforming reference to Transportation Code §504.151.

Proposed new §217.22(21) defines "GPS" as a global positioning system (GPS) tracking device to address the collection of information by a receiver in a digital license plate that can determine the location of the digital license plate. GPS features are not expressly addressed in Transportation Code Chapter 504 Subchapter B-1.

Proposed new §217.22(25) defines "legend" to clarify the meaning of the term as it is used in the definition of the phrase "required digital license plate information" in these proposed rules. The term "legend" is defined as a name, motto, slogan, or registration expiration notification appearing on and
centered horizontally at the bottom of the license plate. The definition is also necessary to clarify that a
digital license plate must display a registration expiration notification.

Proposed new §217.22(27) defines "metal license plate" to differentiate between a metal license
plate and a digital license plate.

Proposed new §217.22(30) defines "optional digital license plate information" as any information
authorized to be displayed on a digital license plate in addition to required digital license plate
information. Proposed new §217.22(30)(a)-(d) list examples of optional digital license plate information.

Proposed new §217.22(31) defines "park" to conform with the statutory meaning in
Transportation Code §541.401.

Proposed new §217.22(33) defines "primary region of interest" to describe the size requirements
of the alphanumeric character representing the plate number.

Proposed new §217.22(35) defines "required digital license plate information" to clarify the
minimum information that must be displayed on a digital license plate. This definition is necessary to
clarify that the same information required to be displayed on a metal license plate must also be displayed
on a digital license plate: alphanumeric characters representing the plate number, the word "Texas," the
legend, the registration expiration notification if the vehicle’s registration is expired, and the registration
expiration month and year, if applicable. The department has sole control over the design, typeface, color,
and alphanumeric pattern for all license plates under Transportation Code §504.005.

Proposed new §217.22(36) defines "secondary region of interest" to describe the size
requirements for the field with the word "Texas" centered on the top of the plate.

§217.27

The proposed amendments to §217.27 are necessary to clarify the exclusions for digital license
plates from the existing paragraph, and clarify existing requirements for metal license plates. Proposed
amended §217.27(a)(2) exempts digital license plates from existing requirements for displaying vehicle registration insignia for certain vehicles without a windshield. Proposed new §217.27(a)(3) clarifies that if a vehicle has a digital license plate, then the expiration month and year will appear digitally on the electronic visual display, and any registration insignia issued by the department must be retained in the vehicle. Vehicles with a digital license plate will be issued a voided registration sticker that will not to be affixed to the windshield. Vehicles with metal license plates that do not have a windshield are issued registration stickers that must be adhered to the rear metal license plate. This amendment provides consistency for law enforcement for metal license plates and digital license plates. The amendment also helps the digital license plate owner because they will have the metal license plate in their vehicle and their registration receipt in the event their digital license plate becomes inoperable or unreadable.

Proposed amendments to §217.27(b)(1) add language clarifying that license plates must be clearly visible, readable, and legible and that the rear license plate must be in an upright horizontal position. These amendments are necessary to assist law enforcement by facilitating a quicker replacement of license plates that have become unreadable or illegible due to age or wear and to facilitate enforcement when a license plate is not placed on the vehicle in an upright position. These amendments also help ensure that license plates are readable and legible as required by §217.32, as well as Transportation Code §§502.475, 504.155(b)(2), and 504.945.

§217.32

The proposed amendments to §217.32 are necessary to differentiate between metal license plates and digital license plates. Proposed amended §217.32(a) and (b) add "metal" and "metal license plate" to differentiate between metal license plates and digital license plates. A replacement digital license plate will be obtained from a digital license plate provider, rather than from a county tax assessor-collector.
§217.38
The proposed amendment to §217.38 is necessary to differentiate between metal license plates and digital license plates. Proposed amended §217.38(1) adds "metal" to differentiate between metal license plates and digital license plates. The customer is not required to return the digital license plate to the county tax assessor-collector when applying for a registration fee credit.

§217.41
The proposed amendments to §217.41 are necessary to differentiate between metal plates and digital license plates. A replacement digital license plate will be obtained from a digital license plate provider, rather than from a county tax assessor-collector.

§217.55
The proposed amendments to §217.55 are necessary to differentiate between metal license plates and digital license plates. Amended §217.41(c)(1) and (2) add "metal plate" to differentiate between metal license plates and digital license plates. A replacement digital license plate will be obtained from a digital license plate provider, rather than from a county tax assessor-collector.

§217.58
Proposed new §217.58 lists the types of vehicles that are eligible and ineligible for a digital license plate and the requirements for eligibility verification and issuance of digital plates. Proposed new §217.58(a) lists the statutorily-eligible vehicles as any vehicle owned or operated by a governmental entity, any commercial fleet vehicle, or a truck, motorcycle, moped, trailer, semitrailer, or sport utility vehicle that is not registered as a passenger vehicle.

Proposed new §217.58(b) clarifies that a passenger vehicle is ineligible for a digital license plate, unless the vehicle is owned or operated by a governmental entity or registered as a commercial fleet vehicle. Proposed new §217.58(b) clarifies that any vehicles that are only required to display a metal
license plate on the front of the vehicle are ineligible for a digital license plate because they are not
required to have a rear license plate. New §217.58(a) and (b) are necessary to clarify which vehicles are
eligible and not eligible for a digital license plate under Transportation Code §504.154.

Proposed new §217.58(c) outlines the requirements for eligibility verification and issuance of a
digital license plate. Proposed new §217.58(c)(1) clarifies the steps that must be taken if an applicant for
a digital license plate has not registered their vehicle in Texas. The digital license plate applicant must
register the vehicle in Texas in their name before the applicant may be issued a digital license plate. If
they have not already registered, the applicant must register at the county tax assessor-collector's office
or the department, depending on the type of vehicle. The department will then issue the applicant one or
two metal license plates, depending on the type of vehicle. A person can only apply to the department for
the following types of vehicle registration: 1) commercial fleet vehicle registration under Transportation
Code §502.0023; 2) apportioned vehicle registration under Transportation Code §502.091; 3) forestry
vehicle registration under 43 TAC 217.46(b)(5); and 4) five-year rental trailer registration under 43 TAC
§217.46(d)(1)(B)(i). A person can apply at the county tax assessor-collector's office for all other types of
vehicle registration. A person can apply at either the department or the county tax assessor-collector's
office for the following types of vehicle registration: 1) extended trailer registration under Transportation
Code §502.0024; and 2) token trailer registration under Transportation Code §502.255. Proposed new
§217.58(c)(2) requires a digital license plate provider to obtain the last four digits of the vehicle
identification number and the existing metal license plate number from the digital license plate applicant.
Proposed new §217.58(c)(2) is necessary to ensure that the digital license plate provider has all the
information necessary to confirm eligibility for a digital license plate. Proposed new §217.58(c)(3)
prohibits a digital license plate provider from issuing a digital license plate if the digital license plate
applicant has not registered the vehicle in Texas in their name. Proposed new §217.58(c)(4) requires that
any metal license plates issued by the department must be carried in or on the vehicle at all times when using a digital license plate. Proposed new §217.58(c)(5) clarifies that only one digital license plate may be issued per eligible vehicle during a single registration period. Proposed new §217.58(c) is necessary to ensure that digital license plate providers and applicants are aware that registration is completed separately from digital license plate issuance and that all digital license plate owners are issued their metal license plates to attach to the vehicle in case of digital license plate removal or malfunction.

§217.59

Proposed new §217.59 outlines the requirements for digital license plate testing. Proposed new §217.59 requires a digital plate provider to provide the department with documentation demonstrating that testing was completed on a digital license plate model before the approval and initial deployment of that digital license plate model, and for each subsequent hardware upgrade. A hardware upgrade is any upgrade to any physical aspects of the digital license plate except for the mounting bracket. The documentation demonstrating that testing was completed must be sufficient for the department to be assured that the digital license plate approved for use was tested in a manner set forth by the department. The documentation must include a description of the testing protocols and methods and must be conducted by governmental entities, universities, or independent nonprofit research and development organizations. Proposed new §217.59 is necessary to ensure that digital license plates meet the statutory requirements for license plates and that the testing is conducted by the types of organizations with which the department has established relationships. The department works with these types of entities on a regular basis for different projects and requiring these types of entities to perform testing will ensure consistency and independence in testing. The testing must be conducted for four separate issues: reflectivity, legibility, readability, and network and data security. Proposed new §217.59(1) requires reflectivity testing with results that are consistent with the International Organization for Standardization.
ISO 7591, clauses 6 and 7. This requirement is necessary to be consistent with metal license plates and to comply with the requirement in Transportation Code §504.005(d), which promotes highway safety by requiring that each license plate is made with a reflectorized material that provides effective and dependable brightness for the period for which the plate is issued. Proposed new §217.59(2) requires legibility testing with results demonstrating that digital license plates are legible during daytime and also during nighttime using low beam headlights, under optimal conditions, at a distance of no less than 75 feet. Proposed new §217.59(2) also requires readability testing with results demonstrating that digital license plates are readable with commercially-available automated license plate readers, and in a variety of weather conditions. This is necessary to comply with the industry standard and to comply with the requirement that the digital license plate display be legible under Transportation Code §504.155(b)(2); to ensure that law enforcement can read the digital license plate to determine compliance with Transportation Code §504.945; and to ensure that law enforcement and toll entities can read the digital license plates with commercially-available automated license plate readers. Proposed new §217.59(3) requires commercially-available penetration testing for protection of the digital license plate, the electronic display information, and the digital license plate provider's systems. The penetration testing will be decided by the department and the provider in the contracting process. Proposed new §217.59(3) is necessary to ensure the safety and security of the digital license plates for the benefit of the digital license plate owner, law enforcement, and the public. If the digital license plate or the provider's system are vulnerable to penetration, this could enable fraud and jeopardize public safety. In addition to testing before initial approval and each subsequent hardware upgrade, penetration testing must be completed for each software or firmware upgrade. This requirement is necessary to ensure that new vulnerabilities are not instituted in subsequent updates.
§217.60

Proposed new §217.60 outlines the specifications and requirements for digital license plates. Proposed new §217.60(a) requires digital license plate providers to ensure that the digital license plate meets or exceeds the benefits to law enforcement provided by metal license plates. This requirement is necessary to conform to the statutory requirement in Transportation Code §504.155(b)(4). Subparagraphs §217.60(a)(1) - (4) provide further requirements for the digital license plate. Subparagraph §217.60(a)(1) outlines the physical requirements for a digital license plate. Subparagraph §217.60(a)(2) requires that the digital license plate include one or more security features that verify the plate was issued by an approved digital license plate provider. Subparagraph §217.60(a)(2) is necessary to provide benefits to law enforcement by allowing them to visually ensure that a digital license plate is not a counterfeit. Metal license plates have two security features that law enforcement can visually check to see if the metal license plate is counterfeit. Subparagraphs §217.60(a)(3) - (4) require a digital license plate to display the same information as a metal license plates while not in park. This includes displaying required digital license plate information and the registration expiration month and year in the same font size and location as the information displayed on the corresponding metal license plate; as well as ensuring that the required information continues to display when the digital license plate is not connected to a wireless network. These requirements are necessary to fulfill the requirement under Transportation Code §504.155 for the board of the Texas Department of Motor Vehicles (board) to set the specifications and requirements for digital license plates. By setting consistent standards and features, the department is aiding law enforcement by preventing fraud and aiding consumers by ensuring their digital license plate displays the information required by law.

Proposed new §217.60(b) outlines the requirements for placement of a digital license plate and the vehicle registration insignia for a vehicle displaying a digital license plate. Proposed new §217.60(b)(1)
requires that the digital license plate must be attached to the exterior rear of the vehicle. This requirement is necessary to comply with the definition of digital license plate defined in Transportation Code §504.151, which states that a digital license plate is designed to be placed on the rear of a vehicle in lieu of a physical, metal license plate. This requirement is also necessary to comply with Transportation Code §504.154(a), which states a digital license plate is placed on the rear of the vehicle in lieu of a physical, metal license plate. Proposed new §217.60(b)(2) requires a metal license plate to be attached to the exterior front of the vehicle, unless the vehicle is not required to display a plate on the front of the vehicle under this chapter. This requirement is necessary to comply with the requirements in Transportation Code §504.943 and 43 TAC §§217.27(b), 217.46(b)(3), and 217.56(c)(2)(E). Proposed new §217.60(b)(3) requires that the vehicle's registration insignia for validation of registration must be displayed in accordance with 43 TAC §217.27. Owners of vehicles with digital license plates will keep their registration receipt in or on the vehicle, and their registration month and year will be displayed on the electronic visual display of the digital license plate. Proposed new §217.60(b)(3) is necessary to provide consistency for law enforcement and limit fraud.

§217.61

Proposed new §217.61 outlines the prohibitions and requirements for digital plate designs and display. Proposed new §217.61(a)(1) prohibits digital license plate providers from creating or designing a specialty license plate under Transportation Code Chapter 504 unless they have a contract with the department under Transportation Code §504.851. This is necessary to ensure that the department is aware of and approves all specialty license plates in the state of Texas. If specialty plates were created without the department’s knowledge and approval it would be difficult to verify the legitimacy of the license plates. Proposed new §217.61(a)(2) requires the digital license plate provider to enter into a licensing agreement, with standard language as approved by the department, for the display of any third
party’s intellectual property on a digital license plate. Proposed new §217.61(a)(2) is necessary to protect third-party intellectual property.

Proposed new §217.61(b) outlines the requirements for the display of information on a digital license plate. Proposed new §217.61(b)(1) requires that the display of electronic information on a digital license plate be approved by the department. Proposed new §217.61(b)(1) provides that the digital license plate may not be personalized under any field of interest except under current rules governing specialty license plates, vehicle registration insignia for vehicles without a windshield, and proposed new §217.61 which permits the display of certain information on a digital license plate. Proposed new §217.61(b)(1) is necessary to maintain consistency between digital license plates and metal license plates which assists law enforcement by ensuring that the digital license plate information is readable and legible. Proposed new §217.61(b)(2) - (4) describe the requirements for the display of optional digital information while the vehicle is in park. These requirements are necessary to permit digital license plates to display an emergency alert, public safety alert, manufacturer or safety recalls, advertising or parking permits, while ensuring that the required digital license plate information remains legible and readable for law enforcement when the vehicle is not in park. This requirement is also necessary to permit optional digital license plate information to be displayed while ensuring that the required digital license plate information remains legible and readable for law enforcement. Proposed new §217.61(b)(5) permits the digital license plate provider to electronically collect tolls with approval by and agreement with the appropriate toll entity. Proposed new §217.61(b)(5) provides a possible benefit to digital license plate owners.

Proposed new §217.61(c) requires that digital license plate providers display an expiration message on the digital license plate if registration has not been renewed at the time of registration expiration, and that the expiration message may not be removed until after the department confirms renewal of expired registration and clarifies that optional digital license plate information may not
encroach on the primary and secondary regions of interest. Proposed new §217.61(c) is necessary because
Transportation Code §504.155(b)(4) requires a digital license plate to provide benefits to law enforcement
that meet or exceed the benefits provided by a metal license plate.

Proposed new §217.61(d) prohibits digital license plate providers from displaying vehicle
manufacturer safety recall notices or advertising on a digital license plate without authorization from the
digital license plate owner. This is necessary to ensure that the digital license plate does not display this
optional digital license plate information without the owner’s approval. For example, a person who
graduated from a university might not like it if they were required to display the logo of a rival university
on their license plate. Proposed new §217.61(d)(2) and (d)(3) discuss the disclosure of GPS data. The
digital license plate provider may not disclose GPS data to any person unless it explains to the digital
license plate owner how the GPS data will be used and to whom it will be disclosed, and the digital license
plate owner consents to its disclosure. This is necessary to protect the privacy and safety of digital license
plate owners. Additionally, the department’s Vehicle Titles and Registration Advisory Committee
recommended these disclosure requirements and their recommendation was adopted by the board at its
February 6, 2020 board meeting. Proposed new §217.61(d)(4) prohibits the digital license plate provider
from requiring the owner to authorize the display of optional digital plate information or the disclosure
of GPS data as a condition of purchase or lease of a digital license plate. This is necessary to protect the
digital license plate owner’s right to decide whether to opt in. Proposed new §217.61(d)(5) and (d)(6)
require the digital license plate provider to immediately discontinue the display of optional digital license
plate information at the digital license plate owner’s request and to have the same mechanism for opting
in and out of the display of the optional digital license plate information. This requirement is necessary to
allow the digital license plate owner a consistent way to opt out of the display of optional digital license
plate information on their digital license plate after they have opted in.
§217.62

Proposed new §217.62 outlines the requirements for a digital license plate provider if a digital license plate is removed or malfunctions. Proposed new §217.62(a) requires that the digital license plate provider have a mechanism to prevent theft and tampering with the digital license plate. Proposed new §217.62(a)(1) and (a)(2) require the digital license plate provider to ensure that the digital license plate ceases the display of required digital license plate information in case of malfunction, if service is terminated, or if it determines that the digital license plate has been compromised, tampered with, or fails to maintain the integrity of registration data. Proposed new §217.62(a) is necessary to prevent fraud and protect consumers if their digital license plate is stolen.

Proposed new §217.62(b) outlines when the digital license plate provider must notify the department. Proposed new §217.62(b)(1) - (4) require digital license plate providers to immediately notify the department in case of digital license plate commencement of service, termination of service, determination that the digital license plate has been compromised, or the digital plate transfer to a new owner. These requirements are necessary to ensure that the department has accurate and current data on the digital license plates.

Proposed new §216.62(c) permits a digital license plate provider to disable the display of a digital license plate if the digital license plate owner fails to pay the provider's fees. This is necessary to allow a digital license plate provider to discontinue service when the digital license plate owner is not paying the fees required by their contract.

§217.63

Proposed new §217.63 outlines the digital plate fees and payment. Proposed new §217.63(a) requires that a person applying for a digital license plate must pay an administrative fee of $95.00 upon application for a digital license plate and annually on renewal of registration for a vehicle with a digital
license plate. The fee will be aligned with the registration period and adjusted to yield the appropriate fee. The administrative fee is necessary to recoup the department’s costs to implement and then administer the digital license plate program for the first five years. The implementation and administration cost is estimated to be $1.8 million. The breakdown of this estimate is as follows:

<table>
<thead>
<tr>
<th>Cost</th>
<th>Amount</th>
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<tr>
<td>Programming – Information Technology</td>
<td>$1,036,550</td>
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<tr>
<td>Program Specialists (two FTEs)</td>
<td>$815,625</td>
</tr>
<tr>
<td><strong>IMPLEMENTATION COST</strong></td>
<td><strong>$1,852,175 Total</strong></td>
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To determine an administrative fee, the total estimated implementation cost was divided by the number of digital license plates issued in California (1,300 plates total), since that is the only jurisdiction with a digital plate program that has been operational for several years. That amount was divided by fifteen with the goal of recouping the implementation and administration cost in approximately fifteen years. The amount of the fee and the time of its collection were recommendations from the department’s Vehicle Titles and Registration Advisory Committee, and the recommendations were adopted by the board at its February 6, 2020 board meeting. Proposed new §217.63(a)(3) clarifies that a digital license plate administrative fee will be refunded only when registration fees are overcharged under Transportation Code §502.195. This is necessary to inform consumers of when a refund will be issued.

Proposed new §217.63(b) clarifies that the $95 administrative fee is due upon receipt of an application for a digital license plate and annually on renewal of registration for a vehicle with a digital license plate. This is necessary to ensure that the fees for digital license plates are being paid and timely deposited into the state treasury under Government Code §404.094. It also clarifies that a digital license plate provider that collects the administrative fee must submit payment of the fee to the department in full on behalf of the digital license plate owner.
§217.64

Proposed new §217.64 outlines the services that a digital license plate provider is required to provide, including digital license plate replacement when necessary. Proposed new §217.64(a)(1) requires a digital license plate provider to provide customer support for customers during standard business hours, Central Time. This requirement is necessary to ensure that customers can access support if they have issues with their digital plate and it corresponds to the hours that customer service is available for a metal license plate. Proposed new §217.64(a)(2) clarifies that a customer must go to the digital plate provider for repair, service, and replacement of a digital license plate. This clarification is necessary so that customers are aware of who to contact in case an issue arises with their digital license plate.

Proposed new §217.64(b) informs the customer where they can obtain a replacement license plate. Proposed new §217.64(b)(1) clarifies that if a customer wants a replacement digital license plate they can obtain one from the provider. Proposed new §217.64(b)(2) permits the customer to install the rear metal license plate issued for the vehicle in lieu of the digital license plate. Proposed new §217.64(b)(3) explains how to obtain a replacement metal license plate. Proposed new §217.64(b) is necessary because customers need to know where to obtain replacement plates if their digital license plate malfunctions or is destroyed, or if their metal license plate is lost, stolen, mutilated, or needs to be replaced for cosmetic or readability reasons. Digital plate owners cannot operate their vehicle until the digital license plate is repaired or replaced, or until they remove the digital license plate and replace it with a metal license plate.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Linda M. Flores, Chief Financial Officer, has determined that for each year of the first five years these rules will be in effect, there will be no fiscal impact to state or local governments as a result of the enforcement or administration of the proposal.
The legislature appropriated money to the department to cover the initial costs of implementing and administering the digital license plate program, which include costs to program the Registration and Title System and the cost of additional staff to monitor the new digital license plate providers to ensure compliance with Texas Transportation Code §§504.151-504.156 during the first five years of implementation and administration. The legislature also authorized the department to charge an administrative fee to recoup these costs, and the department proposes a $95 administrative fee to recoup the state's costs in approximately 15 years. Jeremiah Kuntz, Director of the Vehicle Titles and Registration (VTR) Division, has determined that there will be no measurable effect on local employment or the local economy as a result of the proposal.

PUBLIC BENEFIT AND COST NOTE. Mr. Kuntz has also determined that, for each year of the first five years the amended and new sections are in effect, there are public benefits anticipated from authorizing digital plates.

Anticipated Public Benefits. The public benefits anticipated as a result of the proposal include an enhanced awareness of emergency alerts and public safety alerts issued by governmental entities to include Amber Alerts, Silver Alerts, and Blue Alerts; and the creation of a new industry in the state of Texas that may have positive economic impact. Technological advancement in registration display will serve to benefit law enforcement through automated expiration notification. Further, the proposal will provide the public with another license plate option, which includes amenities that aren't available with a metal license plate, such as the toll tag or the electronic display of a parking permit.

Anticipated Costs to Comply With The Proposal. Mr. Kuntz anticipates that there will be costs to comply with these rules. While there is no requirement for vehicles to display a digital license plate (rather than a metal license plate), if a consumer chooses to obtain a digital license plate, the rule establishes a
$95 administrative fee upon initial application and each year on vehicle renewal. Transportation Code §504.154(d)(2) authorizes the department to establish a fee in an amount necessary to cover any administrative costs. The additional optional cost to persons who want to obtain a digital license plate under the proposal will be based on the price point set by the digital license plate provider(s), and are unknown to the department at this time.

Additionally, there may be costs for the digital plate provider associated with entering the Texas market including performing the required testing if the digital plate provider has not already done so. These costs are unknown to the department at this time.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. As required by Government Code §2006.002(c), the department has determined that these sections will have an adverse economic effect economic impact on small or micro businesses if such businesses choose to purchase a digital license plate and are therefore required to pay the department a $95 administrative fee. In accordance with Government Code §2006.002(c-1), the department considered other regulatory methods to accomplish the objectives of the proposal that will also minimize any adverse impact on small and micro businesses.

It is not feasible to determine the number of small or micro businesses that might desire a digital license plate. Further, no small or micro business is required to purchase a digital license plate. Currently the department proposes to charge a $95 administrative fee upon initial application for the digital license plates and annually on renewal of registration. The fee is the same amount that will be charged for individuals that obtain a digital license plate, which is reasonable and necessary to implement the digital license plate program.
The department considered the following other regulatory methods to accomplish the objectives of the digital license plate program while minimizing any adverse impact on small and micro businesses:

(i) not proposing the administrative fee; (ii) proposing a different administrative fee for small and micro businesses; and (iii) exempting small and micro businesses from the administrative fee.

Not proposing the $95 administrative fee would not allow the department to recover its cost in implementing the digital license plate program. In authorizing the fee in Transportation Code §504.154, the legislature was aware if a small or microbusiness wanted to obtain a digital license plate, they would be required to pay the fee. The department rejects this option.

Proposing a different administrative fee for small and micro businesses is not contemplated by Transportation Code §504.154. The legislature did not specifically authorize different fees based on business size or model. Costs associated with implementing the digital license plate program, do not vary by business size. Varying the fee for small and micro businesses would result in either increasing the fee for other businesses and individuals or not recovering the full cost of the program. The Department rejects this option.

Exempting small and micro businesses from the administrative fee would inequitably shift the cost to others. As previously noted, the current methodology is already the most equitable methodology the department can develop. The department rejects this option.

The department, after considering the purpose of the authorizing statutes, does not believe it is legal or equitable to waive or modify the proposed administrative fee for small and micro businesses.

The department has determined that the proposal will not have an adverse economic effect on rural communities. As a result, and in accordance with Government Code §2006.002(c), it is not necessary for the department to address rural communities in its regulatory flexibility analysis.
TAKINGS IMPACT ASSESSMENT. The department has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner’s right to property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking or require a takings impact assessment under the Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT STATEMENT. The department has determined that each year of the first five years the proposed amendments and new sections are in effect, the proposed rule:

will not create or eliminate a government program;

will not require the creation of new employee positions or the elimination of existing employee positions;

will not require an increase or decrease in future legislative appropriations to the department;

will require an increase in fees paid to the department by charging a $95 administrative fee on initial application and an annual $95 administrative fee with registration for digital plate use;

will create new regulations in §§217.58 - 217.64 to implement Transportation Code Chapter 504, Subchapter B-1, concerning digital license plates, enacted in SB 604;

will expand existing regulations §§217.22, 217.27, 217.32, 217.38, 217.41, 217.55 to implement Transportation Code Chapter 504, Subchapter B-1, concerning digital license plates;

will not repeal existing regulations;

will increase the number of individuals subject to the rule’s applicability, because rules concerning digital license plates do not currently exist, but are required under Transportation Code Chapter 504, Subchapter B-1; and

will likely have a positive impact on the Texas economy by authorizing a new industry in Texas.
REQUEST FOR PUBLIC COMMENT.

If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on May 18, 2020. A request for a public hearing must be sent separately from your written comments. Send written comments or hearing requests by email to rules@txdmv.gov or by mail to Office of General Counsel, Texas Department of Motor Vehicles, 4000 Jackson Avenue, Austin, Texas 78731. If a hearing is held, the department will consider written comments and public testimony presented at the hearing.

STATUTORY AUTHORITY. The amendments and new sections are proposed under Transportation Code, §1002.001, which provides the board of the Texas Department of Motor Vehicles with the authority to adopt rules that are necessary and appropriate to implement the powers and the duties of the department; and more specifically, Transportation Code, §§504.151-504.157 which authorize digital license plates while giving the department rulemaking authority to implement the statutory provisions including setting specifications and requirements for digital plates and establishing a fee.

CROSS REFERENCE TO STATUTE. Transportation Code, §§504.151-504.157 and §1002.001.

TEXT.

Subchapter B. Vehicle Titles and Registration

43 TAC §§217.22, 217.27, 217.32, 217.38, 217.41, 217.55, and 217.58-64

§217.22. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.
(1) Affidavit for alias exempt registration--A form prescribed by the director that must be executed by an exempt law enforcement agency to request the issuance of exempt registration in the name of an alias.

(2) Agent--A duly authorized representative possessing legal capacity to act for an individual or legal entity.

(3) Alias--The name of a vehicle registrant reflected on the registration, different than the name of the legal owner of the vehicle.

(4) Alias exempt registration--Registration issued under an alias to a specific vehicle to be used in covert criminal investigations by a law enforcement agency.

(5) Axle load--The total load transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

(6) Border commercial zone--A commercial zone established under Title 49, C.F.R., Part 372 that is contiguous to the border with Mexico.

(7) Bus--A motor vehicle used to transport persons and designed to accommodate more than 10 passengers, including the operator; or a motor vehicle, other than a taxicab, designed and used to transport persons for compensation.

(8) Carrying capacity--The maximum safe load that a commercial vehicle may carry, as determined by the manufacturer.

(9) Character--A numeric or alpha symbol displayed on a license plate.

(10) County or city civil defense agency--An agency authorized by a commissioner's court order or by a city ordinance to provide protective measures and emergency relief activities in the event of hostile attack, sabotage, or natural disaster.
(11) Digital license plate owner—A digital license plate owner is a person who purchases or leases a digital license plate from a department-approved digital license plate provider.

(12) Digital license plate—As defined in Transportation Code, §504.151.

(13) Director—The director of the Vehicle Titles and Registration Division, Texas Department of Motor Vehicles.

(14) Division—Vehicle Titles and Registration Division.

(15) Executive administrator—The director of a federal agency, the director of a Texas state agency, the sheriff of a Texas county, or the chief of police of a Texas city that by law possesses the authority to conduct covert criminal investigations.

(16) Exempt agency—A governmental body exempted by statute from paying registration fees when registering motor vehicles.

(17) Exempt license plates—Specially designated license plates issued to certain vehicles owned or controlled by exempt agencies.

(18) Exhibition vehicle—

(A) An assembled complete passenger car, truck, or motorcycle that:

(i) is a collector's item;

(ii) is used exclusively for exhibitions, club activities, parades, and other functions of public interest;

(iii) does not carry advertising; and

(iv) has a frame, body, and motor that is at least 25-years old; or

(B) A former military vehicle as defined in Transportation Code, §504.502.

(19) Fire-fighting equipment—Equipment mounted on fire-fighting vehicles used in the process of fighting fires, including, but not limited to, ladders and hoses.
(20) [(18)] Foreign commercial motor vehicle--A commercial motor vehicle, as defined by 49 C.F.R. §390.5, that is owned by a person or entity that is domiciled in or a citizen of a country other than the United States.

(21) GPS-- A global positioning system tracking device that can be used to determine the location of a digital license plate through data collection by means of a receiver in a digital license plate.

(22) [(19)] Highway construction project--That section of the highway between the warning signs giving notice of a construction area.

(23) [(20)] International symbol of access--The symbol adopted by Rehabilitation International in 1969 at its Eleventh World Congress of Rehabilitation of the Disabled.

(24) [(21)] Legally blind--Having not more than 20/200 visual acuity in the better eye with correcting lenses, or visual acuity greater than 20/200 but with a limitation in the field of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(25) Legend--A name, motto, slogan, or registration expiration notification that is centered horizontally at the bottom of the license plate.

(26) [(22)] Make--The trade name of the vehicle manufacturer.

(27) Metal license plate--A non-digital license plate issued by the department under Transportation Code Chapter 502 or Chapter 504.

(28) [(23)] Nonprofit organization--An unincorporated association or society or a corporation that is incorporated or holds a certificate of authority under the Business Organizations Code.

(29) [(24)] Nominating State Agency--A state agency authorized to accept and distribute funds from the sale of a specialty plate as designated by the nonprofit organization (sponsoring entity).
(30) Optional digital license plate information—Any information authorized to be displayed on a digital license plate in addition to required digital license plate information when the vehicle is in park, including:

(A) an emergency alert or other public safety alert issued by a governmental entity, including an alert authorized under Subchapter L, M, or P of Government Code Chapter 411;

(B) vehicle manufacturer safety recall notices;

(C) advertising; or

(D) a parking permit.

(31) Park—As defined in Transportation Code, §541.401.

(32) [(25)] Political subdivision—A county, municipality, local board, or other body of this state having authority to provide a public service.

(33) Primary region of interest—The field on a metal or digital license plate with alphanumeric characters representing the plate number. The primary region of interest encompasses a field of 5.75 inches in width by 1.75 inches in height on metal license plates manufactured for motorcycles, mopeds, golf carts, or off-highway vehicles. The primary region of interest encompasses a field of 8.375 inches in width by 2.5625 inches in height on metal license plates manufactured for all other vehicles.

(34) [(26)] Registration period—A designated period during which registration is valid. A registration period begins on the first day of a calendar month and ends on the last day of a calendar month.

(35) Required digital license plate information—The minimum information required to be displayed on a digital license plate: the registration expiration month and year (unless the vehicle is a token trailer as defined by Transportation Code, §502.001), the alphanumeric characters representing the
(36) Secondary region of interest--The field on a metal or digital license plate with the word "Texas" centered horizontally at the top of the plate. The secondary region of interest encompasses a field of 2.5 inches in width by 0.5625 inches in height on metal license plates manufactured for motorcycles, mopeds, golf carts, or off-highway vehicles. The secondary region of interest encompasses a field of 6 inches in width by 1.9375 inches in height on metal license plates manufactured for all other vehicles.

(37) Service agreement--A contractual agreement that allows individuals or businesses to access the department's vehicle registration records.

(38) Specialty license plate--A special design license plate issued by the department under SA.

(39) Specialty license plate fee--Statutorily or department required fee payable on submission of an application for a specialty license plate, symbol, tab, or other device, and collected in addition to statutory motor vehicle registration fees.

(40) Sponsoring entity--An institution, college, university, sports team, or any other non-profit individual or group that desires to support a particular specialty license plate by coordinating the collection and submission of the prescribed applications and associated license plate fees or deposits for that particular license plate.

(41) Street or suburban bus--A vehicle, other than a passenger car, used to transport persons for compensation exclusively within the limits of a municipality or a suburban addition to a municipality.
Tandem axle group--Two or more axles spaced 40 inches or more apart from center to center having at least one common point of weight suspension.

Unconventional vehicle--A vehicle built entirely as machinery from the ground up, that is permanently designed to perform a specific function, and is not designed to transport property.

Vehicle classification--The grouping of vehicles in categories for the purpose of registration, based on design, carrying capacity, or use.

Vehicle description--Information regarding a specific vehicle, including, but not limited to, the vehicle make, model year, body style, and vehicle identification number.

Vehicle identification number--A number assigned by the manufacturer of a motor vehicle or the department that describes the motor vehicle for purposes of identification.

Vehicle inspection sticker--A sticker issued by the Texas Department of Public Safety signifying that a vehicle has passed all applicable safety and emissions tests.

Vehicle registration insignia--A license plate, symbol, tab, or other device issued by the department evidencing that all applicable fees have been paid for the current registration period and allowing the vehicle to be operated on the public highways.

Vehicle registration record--Information contained in the department's files that reflects, but is not limited to, the make, vehicle identification number, model year, body style, license number, and the name of the registered owner.

Volunteer fire department--An association that is organized for the purpose of answering fire alarms, extinguishing fires, and providing emergency medical services.

§217.27. Vehicle Registration Insignia.
(a) On receipt of a complete initial application for registration with the accompanying documents and fees, the department will issue vehicle registration insignia to be displayed on or kept in the vehicle for which the registration was issued for the current registration period.

(1) If the vehicle has a windshield, the symbol, tab, or other device prescribed by and issued by the department shall be attached to the inside lower left corner of the vehicle’s front windshield in a manner that will not obstruct the vision of the driver, unless the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1.

(2) If the vehicle has no windshield, the symbol, tab, or other device prescribed by and issued by the department shall be attached to the rear license plate unless the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1, except that registration receipts, retained inside the vehicle, may provide the record of registration for vehicles with permanent trailer plates.

(3) If the vehicle is registered under Transportation Code, Chapter 504, Subchapter B-1, the registration receipt, symbol, tab, or other device prescribed by and issued by the department must be retained with the vehicle and may provide the record of registration for vehicles with a digital license plate. The expiration month and year must appear digitally on the electronic visual display of the rear digital license plate.

(4) If the vehicle is registered as a former military vehicle as prescribed by Transportation Code, §504.502, the vehicle's registration number shall be displayed instead of displaying a symbol, tab, or license plate.

(A) Former military vehicle registration numbers shall be displayed on a prominent location on the vehicle in numbers and letters of at least two inches in height.

(B) To the extent possible, the location and design of the former military vehicle registration number must conform to the vehicle's original military registration number.
(b) Unless otherwise prescribed by law, each vehicle registered under this subchapter:

(1) must display two license plates that are clearly visible, readable, and legible, one at the exterior front and one at the exterior rear of the vehicle that are securely fastened at the exterior front and rear of the vehicle in an upright [a] horizontal position of not less than 12 inches from the ground, measuring from the bottom, except that a vehicle described by Transportation Code, §621.2061 may place the rear plate so that it is clearly visible, readable, and legible; or

(2) must display one plate that is securely fastened at or as close as practical to the exterior rear of the vehicle in a position not less than 12 inches from the ground, measuring from the bottom if the vehicle is a road tractor, motorcycle, trailer or semitrailer.

(c) Each vehicle registered under this subchapter must display license plates:

(1) assigned by the department for the period; or

(2) validated by a registration insignia issued by the department for a registration period consisting of 12 consecutive months at the time of application for registration, except that:

   (A) trailers, semitrailers, or pole trailers not subject to inspection under §548.052(3) may obtain a registration insignia for a period consisting of 12, 24, 36, 48 or 60 consecutive months on payment of all fees for each full year of registration; and

   (B) vehicles may be registered for 24 consecutive months in accordance with Transportation Code, §548.102 on payment of all fees for each year of registration, regardless of the number of months remaining on the inspection at the time of registration, provided:

   (i) the vehicle receives a two-year inspection under Transportation Code, §548.102; and

   (ii) the application for registration is made in the name of the purchaser under Transportation Code, §501.0234.
(d) The department may cancel any personalized alpha-numeric pattern that was issued if the department subsequently determines or discovers that the personalized license plate was not in compliance with these guidelines when issued, or if due to changing language usage, meaning or interpretation, the personalized license plate has become non-compliant with these guidelines. When reviewing a personalized alpha-numeric pattern, the department need not consider the applicant's subjective intent or declared meaning. The department will not issue any license plate containing an alpha-numeric pattern that meets one or more of the following criteria.

(1) The alpha-numeric pattern conflicts with the department's current or proposed regular license plate numbering system.

(2) The director of the department's Vehicle Titles and Registration Division or the director's designee finds that the personalized alpha-numeric pattern, including plate patterns that feature foreign or slang words or phrases, use phonetic, numeric or reverse spelling, acronyms, patterns viewed in mirror image, or use a code which only a small segment of the community may be able to readily decipher, that may be considered objectionable or misleading, including that the pattern may be viewed as, directly or indirectly:

(A) indecent (defined as including a reference or connotation to a sexual act, sexual body parts, excrement, or bodily fluids or functions. Additionally, "69" formats are prohibited unless used in combination with the vehicle make, for example, "69 CHEV");

(B) a vulgarity (defined as profane, swear, or curse words);

(C) derogatory (defined as an expression that is demeaning to, belittles, or disparages any person, group, race, ethnicity, nationality, gender, sexual orientation, or refers to an organization that advocates such expressions);
(D) a reference to race, ethnicity, gender or sexual orientation whether the reference is derogatory or not;

(E) a reference to gangs, illegal activities, violence, implied threats of harm, or expressions that describe, advertise, advocate, promote, encourage, glorify, or condone violence, crime or unlawful conduct;

(F) a reference to illegal drugs, controlled substances, the physiological state produced by such substances, intoxicated states, or references that may express, describe, advertise, advocate, promote, encourage, glorify such items or states;

(G) a representation of, or reference to, law enforcement, military branches, or other governmental entities and their titles, including any reference to public office or position, military or law enforcement rank or status, or any other official government position or status; or

(H) deceptively similar to a military, restricted distribution, or other specialty plate.

(3) The alpha-numeric pattern is currently issued to another owner.

(4) Notwithstanding the limitations on issuance of plate patterns in this subsection, the department may issue patterns that refer to publicly and privately funded institutions of higher education, including military academies, whether funded by state or federal sources, or both.

(e) A decision to cancel or not issue a personalized alpha-numeric pattern under subsection (d) of this section may be appealed to the executive director of the department or the executive director's designee within 20 days of notification of the cancellation or non-issuance. All appeals must be in writing and the requesting party may include any written arguments, but shall not be entitled to a contested case hearing. The executive director or the executive director's designee will consider the requesting party's arguments and issue a decision no later than 30 days after the submission of the appeal, unless additional
information is sought from the requestor, in which case the time for decision is tolled until the additional
information is provided. The decision of the executive director or the executive director's designee is final
and may not be appealed. An appeal is denied by operation of law 31 days from the submission of the
appeal, or if the requestor does not provide additional requested information within ten days of the
request.

(f) The provisions of subsection (a) of this section do not apply to vehicles registered with annual
license plates issued by the department.

(g) A person whose initial application has been denied may either receive a refund or select a new
alpha-numeric pattern. If an existing personalized alpha-numeric pattern has been cancelled, the person
may choose a new personalized alpha-numeric pattern which will be valid for the remainder of the term
or will forfeit the remaining term purchased.

§217.32. Replacement of License Plates, Symbols, Tabs, and Other Devices.

(a) When a metal license plate, symbol, tab, or other registration device is lost, stolen, mutilated,
or needs to be replaced for cosmetic or readability reasons, a metal license plate replacement may be
obtained from any county tax assessor-collector upon:

(1) the payment of the statutory replacement fee prescribed by Transportation Code,
§502.060 or §504.007; and

(2) the provision of a signed statement, on a form prescribed by the department, that
states:

(A) the license plate, symbol, tab, or other registration device furnished for the
described vehicle has been lost, stolen, mutilated, or needs to be replaced for cosmetic or readability
reasons, and if recovered, will not be used on any other vehicle; and
(B) the replaced license plate, symbol, tab, or other device will only be used on the vehicle to which it was issued.

(b) If the owner remains in possession of any part of the lost, stolen, or mutilated metal license plate, symbol, tab, or other registration device, that remaining part must be removed and surrendered to the department on issuance of the replacement and request by the county tax assessor-collector.

§217.38. Registration Fee Credit: Application.

An application for registration fee credit must be accompanied by:

(1) the current metal license plate(s) and license receipt issued for the destroyed vehicle;

(2) the negotiable certificate of title covering the destroyed vehicle; and

(3) evidence that the vehicle has been destroyed to such an extent that it cannot thereafter be operated on the highways.

§217.41. Disabled Person License Plates and Identification Placards.

(a) Purpose. Transportation Code, Chapters 504 and 681, charge the department with the responsibility for issuing specially designed license plates and identification placards for disabled persons. For the department to perform these duties efficiently and effectively, this section prescribes the policies and procedures for the application, issuance, and renewal of Disabled Person license plates and placards.

(b) Issuance.

(1) Disabled Person license plates.

(A) Eligibility. In accordance with Transportation Code, §504.201, the department will issue specially designed license plates displaying the international symbol of access to permanently disabled persons or their transporters instead of regular motor vehicle license plates.
(B) Specialty license plates. The department will issue Disabled Person insignia on those specialty license plates that can accommodate the identifying insignia and that are issued in accordance with §217.45 of this title (relating to Specialty License Plates, Symbols, Tabs, and Other Devices).

(C) License plate number. Disabled Person license plates will bear a license plate number assigned by the department or will bear a personalized license plate number issued in accordance with §217.45.

(2) Windshield identification placards. The department will issue removable windshield identification placards to temporarily or permanently disabled persons and to the transporters of permanently disabled persons. A person who has been issued a windshield identification placard shall hang the placard from a vehicle's rearview mirror when the vehicle is parked in a disabled person parking space or shall display the placard on the center portion of the dashboard if the vehicle does not have a rearview mirror.

(c) Renewal of Disabled Person license plates. Disabled Person license plates are valid for a period of 12 months from the date of issuance, and are renewable as specified in §217.28 of this title (relating to Vehicle Registration Renewal).

(d) Replacement.

(1) License plates. If a Disabled Person metal license plate is lost, stolen, or mutilated, the owner may obtain a replacement metal license plate by applying with a county tax assessor-collector.

(A) Accompanying documentation. To replace permanently Disabled Person metal license plates, the owner must present the current year's registration receipt and personal identification acceptable to the county tax assessor-collector.
(B) Absence of accompanying documentation. If the current year’s registration receipt is not available and the county cannot verify that the Disabled Person metal license plates were issued to the owner, the owner must reapply in accordance with this section.

(2) Disabled Person identification placards. If a Disabled Person identification placard becomes lost, stolen, or mutilated, the owner may obtain a new identification placard in accordance with this section.

(e) Transfer of Disabled Person license plates and identification placards.

(1) License plates.

(A) Transfer between persons. Disabled Person license plates may not be transferred between persons. An owner who sells or trades a vehicle to which Disabled Person license plates have been issued shall remove the Disabled Person license plates from the vehicle. The owner shall return the license plates to the department and shall obtain appropriate replacement license plates to place on the vehicle prior to any transfer of ownership.

(B) Transfer between vehicles. Disabled Person license plates may be transferred between vehicles if the county or the department can verify the plate ownership and the owner of the vehicle is the disabled person or the vehicle is used to transport the disabled person.

(i) Plate ownership verification may include:

(I) a Registration and Title System (RTS) inquiry;

(II) a copy of the department Application for Disabled Person license plates; or

(III) the owner's current registration receipt.

(ii) An owner who sells or trades a vehicle with Disabled Person license plates must remove the plates from the vehicle.
217.55. Exempt and Alias Vehicle Registration.

(a) Exempt plate registration.

(1) Issuance. Pursuant to Transportation Code, §502.453 or §502.456, certain vehicles owned by and used exclusively in the service of a governmental agency, owned by a commercial transportation company and used exclusively for public school transportation services, designed and used for fire-fighting or owned by a volunteer fire department and used in the conduct of department business, privately owned and used in volunteer county marine law enforcement activities, used by law enforcement under an alias for covert criminal investigations, owned by units of the United States Coast Guard Auxiliary headquartered in Texas and used exclusively for conduct of United States Coast Guard or Coast Guard Auxiliary business and operations, or owned or leased by a non-profit emergency medical service provider is exempt from payment of a registration fee and is eligible for exempt plates.
(2) Application for exempt registration.

(A) Application. An application for exempt plates shall be made to the county tax assessor-collector, shall be made on a form prescribed by the department, and shall contain the following information:

(i) vehicle description;

(ii) name of the exempt agency;

(iii) an affidavit executed by an authorized person stating that the vehicle is owned or under the control of and will be operated by the exempt agency; and

(iv) a certification that each vehicle listed on the application has the name of the exempt agency printed on each side of the vehicle in letters that are at least two inches high or in an emblem that is at least 100 square inches in size and of a color sufficiently different from the body of the vehicle as to be clearly legible from a distance of 100 feet.

(B) Emergency medical service vehicle.

(i) The application for exempt registration must contain the vehicle description, the name of the emergency medical service provider, and a statement signed by an officer of the emergency medical service provider stating that the vehicle is used exclusively as an emergency response vehicle and qualifies for registration under Transportation Code, §502.456.

(ii) A copy of an emergency medical service provider license issued by the Department of State Health Services must accompany the application.

(C) Fire-fighting vehicle. The application for exempt registration of a fire-fighting vehicle or vehicle owned privately by a volunteer fire department and used exclusively in the conduct of department business must contain the vehicle description, including a description of any fire-fighting
equipment mounted on the vehicle if the vehicle is a fire-fighting vehicle. The affidavit must be executed by the person who has the proper authority and shall state either:

(i) the vehicle is designed and used exclusively for fire-fighting; or
(ii) the vehicle is owned by a volunteer fire department and is used exclusively in the conduct of its business.

(D) County marine law enforcement vehicle. The application for exempt registration of a privately owned vehicle used by a volunteer exclusively in county marine law enforcement activities, including rescue operations, under the direction of the sheriff's department must include a statement signed by a person having the authority to act for a sheriff's department verifying that fact.

(E) United States Coast Guard Auxiliary vehicle. The application for exempt registration of a vehicle owned by units of the United States Coast Guard Auxiliary headquartered in Texas and used exclusively for conduct of United States Coast Guard or Coast Guard Auxiliary business and operation, including search and rescue, emergency communications, and disaster operations, must include a statement by a person having authority to act for the United States Coast Guard Auxiliary that the vehicle or trailer is used exclusively in fulfillment of an authorized mission of the United States Coast Guard or Coast Guard Auxiliary, including search and rescue, emergency communications, or disaster operations.

(3) Exception. A vehicle may be exempt from payment of a registration fee, but display license plates other than exempt plates if the vehicle is not registered under subsection (b) of this section.

(A) If the applicant is a law enforcement office, the applicant must present a certification that each vehicle listed on the application will be dedicated to law enforcement activities.
(B) If the applicant is exempt from the inscription requirements under Transportation Code, §721.003, the applicant must present a certification that each vehicle listed on the application is exempt from inscription requirements under Transportation Code, §721.003. The applicant must also provide a citation to the section that exempts the vehicle.

(C) If the applicant is exempt from the inscription requirements under Transportation Code, §721.005 the applicant must present a certification that each vehicle listed on the application is exempt from inscription requirements under Transportation Code, §721.005. The applicant must also provide a copy of the order or ordinance that exempts the vehicle.

(D) If the applicant is exempt from the inscription requirements under Education Code, §51.932, the applicant must present a certification that each vehicle listed on the application is exempt from the inscription requirements under Education Code, §51.932. Exempt plates will be marked with the replacement year.

(b) Affidavit for issuance of exempt registration under an alias.

(1) On receipt of an affidavit for alias exempt registration, approved by the executive administrator of an exempt law enforcement agency, the department will issue alias exempt license plates for a vehicle and register the vehicle under an alias for the law enforcement agency's use in covert criminal investigations.

(2) The affidavit for alias exempt registration must be in a form prescribed by the director and must include the vehicle description, a sworn statement that the vehicle will be used in covert criminal investigations, and the signature of the executive administrator or the executive administrator's designee as provided in paragraph (3) of this subsection. The vehicle registration insignia of any vehicles no longer used in covert criminal investigations shall be surrendered immediately to the department.
(3) The executive administrator, by annually filing an authorization with the director, may appoint a staff designee to execute the affidavit. A new authorization must be filed when a new executive administrator takes office.

(4) The letter of authorization must contain a sworn statement delegating the authority to sign the affidavit to a designee, the name of the designee, and the name and the signature of the executive administrator.

(5) The affidavit for alias exempt registration must be accompanied by a title application under §217.103 of this title (relating to Restitution Liens). The application must contain the information required by the department to create the alias record of vehicle registration and title.

(c) Replacement of exempt registration.

(1) If an exempt metal license plate is lost, stolen, or mutilated, a properly executed application for exempt metal license plates must be submitted to the county tax assessor-collector.

(2) An application for replacement exempt metal license plates must contain the vehicle description, original license number, and the sworn statement that the license plates furnished for the vehicle have been lost, stolen, or mutilated and will not be used on any other vehicle.

(d) Title requirements. Unless exempted by statute, a vehicle must be titled at the time the exempt registration is issued.

§217.58. Digital License Plate Eligibility.

(a) Vehicles eligible for a digital license plate. The following vehicles are eligible for a digital license plate:

(1) any vehicle owned or operated by a governmental entity; or
(2) a vehicle owned or operated by a person other than a governmental entity if the
vehicle is:

(A) registered as part of a commercial fleet under Transportation Code,
§502.0023; or

(B) a truck, motorcycle, moped, trailer, semitrailer, or sport utility vehicle, unless
the vehicle is registered as a passenger vehicle.

(b) Vehicles not eligible for a digital license plate. Notwithstanding §217.58(a), the following
vehicles are not eligible for a digital license plate:

(1) a vehicle registered as a passenger vehicle, including a truck, motorcycle, moped,
trailer, semitrailer, or sport utility vehicle; or

(2) a vehicle not required to display a metal license plate on the rear of the vehicle,
including:

(A) truck-tractors; or

(B) trucks with combination registration under Transportation Code, §502.255.

(c) Requirements for Eligibility Verification and Issuance of Digital Plates.

(1) An applicant for a digital license plate may not obtain a digital license plate from a
digital license plate provider if the vehicle for which digital license plate is being sought is not registered.
The individual must first submit a complete initial application for registration and the accompanying
documents and fees at the county tax assessor-collector’s office, or at the department for vehicles that
must be registered directly through the department under this chapter. After receipt of the necessary
documentation and fees, the department will issue one or two metal license plates, in accordance with
this chapter, to the applicant for the digital license plate, depending on the type of vehicle. After the
department issues the metal license plate or plates to the applicant, the applicant may then proceed with obtaining a digital license plate from a digital license plate provider.

(2) A digital license plate provider must obtain the following information from a digital license plate applicant before it verifies the vehicle's eligibility for a digital license plate:

(A) the last four digits of the vehicle identification number; and

(B) the existing metal license plate number.

(3) A digital license plate provider may not issue a digital license plate for a vehicle that has not been issued Texas registration in the name of the applicant for the digital license plate.

(4) Any metal license plate issued for the rear of the vehicle and any associated plate sticker issued for a rear metal license plate must be carried in or on the vehicle at all times when using a digital license plate.

(5) A digital license plate provider may only issue one digital license plate per eligible vehicle during a single registration period.

§217.59. Digital License Plate Testing

Before the initial deployment of a digital license plate model and for each subsequent hardware upgrade, which includes all physical aspects of the digital license plate except for the mounting bracket, a digital license plate provider must provide the department with documentation sufficient for the department to be assured that the digital license plate model for which approval is sought was tested in a manner set forth by the department. The documentation must include a description of the testing protocols and methods. Digital license plate testing must be conducted by governmental entities, universities, or independent nonprofit research and development organizations. Testing must include:
(1) reflectivity testing with results that are consistent with the International Organization for Standardization ISO 7591, clauses 6 and 7;

(2) legibility and readability testing with results demonstrating that digital license plates are legible in daytime, as defined in Transportation Code, §541.401 and nighttime, as defined in Transportation Code, §541.401, using low beam headlights, under optimal conditions at a distance of no less than 75 feet; and are readable with commercially-available automated license plate readers and in a variety of weather conditions; and

(3) commercially-available penetration testing, as approved by the department, for the protection of the digital license plate, the electronic display information, and the digital license plate provider's systems. In addition to testing before initial approval and each subsequent hardware upgrade, testing described in this paragraph must be completed for each software or firmware upgrade.

$217.60. Digital License Plate Specifications and Requirements.

(a) In addition to ensuring that the digital license plate meets or exceeds the benefits for law enforcement that are provided by metal license plates, a digital license plate provider must ensure that digital license plates submitted for department approval and provided for customer use comply with the following requirements:

(1) provide an electronic visual display resistant to breakage, and in cases when the electronic visual display is scratched, chipped, cracked, or weather damaged, a digital license plate must continue to legibly display digital license plate information and the physical security feature defined in paragraph 2 of this subsection;

(2) include one or more physical security features to verify the plate was issued by an approved digital license plate provider;
(3) continue to display digital license plate information when the digital license plate does not maintain connectivity to a wireless network; and

(4) when the vehicle is not in park:

(A) display required digital license plate information on the plate in the same font size and location as the information displayed on a corresponding metal license plate; and

(B) display the registration expiration month and year, as determined by the department, in the same font size and location as displayed on a corresponding metal license plate when a vehicle does not have a windshield; and

(b) Placement of license plate and vehicle registration insignia.

(1) The digital license plate must be attached to the exterior rear of the vehicle.

(2) A metal license plate must be attached to the exterior front of the vehicle in compliance with this chapter, unless the vehicle is not required to display a plate on the front of the vehicle under this chapter.

(3) The vehicle's registration insignia for validation of registration must be displayed on or kept in a vehicle in accordance with §217.27.

§217.61. Digital License Plate Designs and Displays.

(a) Digital license plate designs.

(1) A digital license plate provider is prohibited from designing or creating specialty license plates under Transportation Code Chapter 504, unless the provider has a contract with the department under Transportation Code, §504.851.
(2) A digital license plate provider must enter into a licensing agreement, with standard
language as approved by the department, for the display of any third party's intellectual property on a
digital license plate.

(b) Digital license plate displays.

(1) Electronic information to be displayed on a digital license plate, including the content
and design of both required and optional digital license plate information, must be approved by the
department. A digital license plate may not be personalized or customized in any region of interest,
including the legend area, except as provided by the department under this chapter.

(2) Optional digital license plate information when in park. When the vehicle is in park, optional digital license plate information may include any of the following optional digital license plate information as approved by the department and the digital license plate owner:

(A) an emergency alert or other public safety alert issued by a governmental entity, including an alert authorized under Subchapter L, M, or P of Government Code Chapter 411;

(B) vehicle manufacturer safety recall notices;

(C) advertising; or

(D) a parking permit pursuant to an agreement between a digital license plate provider and the entity that issues the parking permit.

(3) When the vehicle is in park, required digital license plate information may be reduced in size but must be in a field no smaller than 4.5 inches by 2.5 inches in the upper right-hand corner. The alphanumeric characters and any symbols in the reduced field must be black. The background in the reduced field must be white. There must be two adjoining borders outlining the field. The inside border must be black and the outside border must be white.
(4) If more than one category of optional digital information in subsection (b)(2) could be displayed at one time, the department may determine the order of display on the digital license plate.

(5) A digital license plate may be authorized for electronic toll collection with approval from, and agreement between, a digital license plate provider and the appropriate toll entity.

(c) Registration Expiration Notification.

(1) Digital license plate providers must display the word "EXPIRED" as approved by the department on a digital license plate if registration has expired.

(2) If a digital license plate is displaying a registration expiration notification, the registration notification and optional digital license plate information may not encroach upon the primary or secondary regions of interest.

(3) Unless otherwise prescribed by this chapter, the digital license plate provider must not remove an expired registration notification until after the department confirms registration is current.

(d) Owner authorizations.

(1) The digital license plate provider may not display optional digital license plate information on a digital license plate unless the digital license plate owner authorizes the display.

(2) The digital license plate provider may not disclose GPS data to any person unless the digital license plate owner authorizes its disclosure or the disclosure of the GPS data is required or permitted under other law.

(3) The digital license plate provider must disclose to potential and current digital license plate owners how GPS data authorized for disclosure by the owner or by law will be used and to whom it will be disclosed.

(4) The digital license plate provider may not require the owner to authorize the display or disclosure under paragraphs (1) or (2) as a condition of purchase or lease of a digital license plate.
(5) The digital license plate provider must immediately discontinue the display of optional digital license plate information if the digital license plate owner requests for the display of the optional digital license plate information to be discontinued.

(6) The digital license plate provider must provide a single mechanism (or method or means) by which the digital license plate owner may opt in or opt out of the display of optional digital license plate information.

§217.62. Digital license plate removal and malfunction.

(a) A digital license plate provider must have a mechanism to prevent potential theft of and tampering with the digital license plate. At a minimum, a digital license plate provider must ensure the digital license plate ceases the display of digital license plate information:

(1) when a digital license plate malfunctions or termination of services between a digital license plate provider and owner; or

(2) if a digital license plate provider determines that the digital license plate has been compromised, tampered with, or fails to maintain integrity of registration data.

(b) Digital license plate providers must immediately notify the department in the following circumstances:

(1) commencement of services by the digital license plate provider;

(2) termination of services by the digital license plate provider;

(3) determination that the digital license plate has been compromised; or

(4) the transfer of a digital license plate to a different owner.

(c) The digital license plate provider is authorized to disable the display of a digital license plate for failure of the digital license plate owner to pay the fees due to the digital license plate provider.
§217.63. Digital License Plate Fees and Payment.

(a) Fees.

(1) A person issued a digital license plate must pay an administrative fee of $95.00 to the digital license plate provider upon initial application for a digital license plate, and to the county tax-assessor collector or the department, as applicable, on renewal of registration for a vehicle with a digital license plate.

(2) The expiration date of the digital license plate will be aligned with the registration period and the administrative fee due under subsection (a) will be adjusted to yield the appropriate fee.

(3) A digital license plate administrative fee will be refunded only when registration fees are overcharged under Transportation Code, §502.195.

(b) Payment.

(1) All state, county, local, and other applicable fees are due at the time of registration of a vehicle with a digital license plate.

(2) Digital license plate providers that have received the administrative fee under subsection (a) must submit payment of the administrative fee due in full to the department upon receipt of an application for a digital license plate.

§217.64. Digital License Plate Provider Services and Replacement.

(a) Digital license plate provider services.

(1) A digital license plate provider must provide customer support for digital license plate customers that is available at least during standard business hours Central Time.

(2) An individual who seeks the repair, service, or replacement of a digital license plate must contact a digital license plate provider.
(b) When a digital license plate is lost, stolen, mutilated, or needs to be replaced for cosmetic or readability reasons, including invalidation by the digital license plate provider or plate malfunction:

(1) a digital license plate replacement may be obtained from the digital license plate provider; or

(2) the metal license plate issued for the vehicle may be installed on the rear of the vehicle in lieu of the digital license plate.

(c) Unless a metal license plate was obtained directly from the department, a replacement metal license plate must be obtained from a county tax assessor-collector's office.

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

Issued at Austin, Texas, on April 2, 2020.

/s/ Tracey Beaver
Tracey Beaver