Office of the Governor

Regulatory Compliance Division

Rule Submission Memorandum

To:    Erin Bennett, Regulatory Compliance Division Director

From: Tracey Beaver, General Counsel

Date: December 20, 2019


The Texas Department of Motor Vehicles has proposed a rulemaking for amendments to 43 TAC §§217.3 and 217.141-217.143, and new sections §§217.401-217.407, in the December 20, 2019 issue of the Texas Register (44 TexReg XXXX). 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 rule amends §217.3 to conform with statutory changes; amends 217.141-217.143 concerning assembled vehicle, custom vehicle and street rod inspections under Transportation Code §§504.501, 731.101, and 731.102; and adds new Subchapter L, §§217.401 - 217.407 concerning the titling and registration of assembled vehicles under Transportation Code Chapter 731.

2. What is the purpose of the proposed rule?

The primary purpose of the proposal is to implement House Bill 1755, 86th Legislature, Regular Session (2019), concerning assembled vehicles. The proposal also makes changes in §217.3 to conform with statutory changes in HB 1548 concerning off-highway vehicles; HB 3171 concerning motor driven cycles; and Transportation Code §501.036 and §501.037 concerning farm trailers, farm semitrailers, trailers, and semitrailers.

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 House Bills 1548, 1755, and 3171 enacted in the 86th Legislature, Regular Session (2019), and changes to Transportation Code §§501.036, 501.037, and 504.501.
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 §§731.051, 731.052, and 731.101.

   Transportation Code §731.051 authorizes the board to adopt rules under Transportation Code Chapter 731 for owners to apply for a title and register as provided by Chapters 501 and 502, as applicable, regardless of whether the assembled vehicle was built or assembled using a vehicle that was previously titled in this state or another jurisdiction.

   Transportation Code §731.052 requires the board to adopt rules establishing procedures and requirements for: (1) issuance of a title for an assembled vehicle; and (2) registration of an assembled vehicle. Rules adopted under this section may not exclude a type of assembled vehicle, other than an assembled vehicle described by Section 731.051(b), from eligibility for title and registration; must establish the form of a title issued for an assembled vehicle; and must exempt an assembled vehicle or a type of assembled vehicle from any provision of Chapter 501 or 502 that an assembled vehicle or type of assembled vehicle, by its nature, cannot comply with or otherwise meet the requirements of.

   Transportation Code §731.101 requires the board to adopt rules establishing procedures and requirements for the inspection required by Transportation Code §731.101. Rules adopted under Transportation Code §731.101: (1) must establish inspection criteria; (2) may specify additional items of equipment that must be inspected by a master technician and may specify different items of equipment that must be inspected based on the type of assembled vehicle; and (3) must require an owner of an assembled vehicle that is being inspected under this section to pay all fees required for the inspection, including any reinspection, in addition to all applicable fees required under Chapter 548 for an inspection or reinspection conducted under that chapter.

   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).


   Occupations Code §2301.155 authorizes the board of the Texas Department of Motor Vehicles to adopt rules as necessary or convenient to administer this chapter and to govern practice and procedure before the board.

   Occupations Code §2302.051 authorizes the board to adopt rules as necessary to administer this chapter.

   Transportation Code §501.0041 authorizes the department to adopt rules to administer Chapter 501.

   Transportation Code §502.0021 authorizes the department to adopt rules to administer Chapter 502.
Transportation Code §504.0011 authorizes the board to adopt rules to implement and administer Transportation Code Chapter 504.

Transportation Code §731.002 authorizes the board to adopt rules as necessary to implement and administer Transportation Code Chapter 731.

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 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 creates a process for persons to inspect, title and register an assembled vehicle as authorized in Transportation Code Chapter 731 and HB 1755. The proposal also conforms provisions in §217.3 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 731 and HB 1755.

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

The proposal:

- allows for the construction and sale, of assembled vehicles by persons other than a licensed manufacturer under Occupations Code Chapter 2301 and the related existing franchise dealer network system;

- does not require assembled to meet National Highway Traffic Safety Administration (NHTSA) issued Federal Motor Vehicle Safety Standards (FMVSS) that are required for other vehicles built by licensed manufacturers;

- allows an “owner,” as defined in Transportation Code §731.001, to title and register an assembled vehicle not built by a hobbyist;

- establishes assembled vehicle construction, titling, and registration, requirements;

- establishes inspection requirements for assembled vehicles, custom vehicles, and street rods.
It creates a barrier to market participation in the state.

It results in higher prices or reduced competition for a product or service provided by or to a license holder in the state.

It both creates a barrier to market participation in the state and results in higher prices or reduced competition for a product or service provided by or to a license holder in the state.

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:
- House Bill 1755 and Transportation Code Chapter 731 allow for the construction and sale of assembled vehicles by persons other than a licensed manufacturer under Occupations Code Chapter 2301 and the related existing franchise dealer network system;

- House Bill 1755 and Transportation Code Chapter 731 do not require assembled vehicles to meet National Highway Traffic Safety Administration (NHTSA) issued Federal Motor Vehicle Safety Standards (FMVSS) that are required for other vehicles built by licensed manufacturers;

- Transportation Code §731.051 allows an “owner,” as defined in Transportation Code §731.001, to title and register an assembled vehicle not built by a hobbyist;

- Transportation Code §§731.051 - 731.054 require the department to implement assembled vehicle construction, titling, and registration, requirements by rule;

- Transportation Code §§504.501, 731.101, 731.102, require the department to establish inspection requirements for assembled vehicles, custom vehicles, and street rods, by rule.

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?
A copy of the executive summary for the proposal that was submitted to the board of the Texas Department of Motor Vehicles is attached.

Sincerely,

[Signature]

Tracey Beaver
General Counsel
Texas Department of Motor Vehicles
(a) Definitions.

(1) Knowledge exam--Written, computerized, or automated exam.
(2) Skills exam--Driving or road exam.
(3) Unrestricted Class A, B, and C license--A license that allows a person 18 years of age or older to operate a motor vehicle without having a restriction that requires a licensed driver 21 years of age or older in the front seat.
(b) Required completion of the knowledge and/or skills exams.

(1) The skills exam will not be waived for applicants under the age of 18.
(2) Applicants younger [less] than 25 years of age who present driver education completion certificates dated two or more years prior to the date of application will not have any examinations waived. These certificates are acceptable as proof of driver education completion.
(3) If an advance in grade is applied for, the applicant must pass the vision exam and appropriate knowledge and skills exams.
(4) For applicants with an expired out-of-state license or no license, the applicant must pass the vision, knowledge, and skills exams.
(c) Waiver of the knowledge and/or skills exams.

(1) Noncommercial driver license:

   (A) Knowledge and skills exams are waived for applicants who hold a valid license from another U.S. state, U.S. territory, or province of Canada when applying for a Texas license of the same or lower type. An applicant with a valid license will be required to pass the vision exam.
   
   (B) The skills exam is waived for applicants who hold a valid U.S. military or Armed Forces license.

   (2) [Class M license restricted to Moped.] [Class M knowledge exam is required for all applicants.]

   (2) [Class M License:

   (A) The Class M knowledge exam is waived for applicants who have successfully completed a department approved motorcycle operator training course.
   
   (B) The skills exam is waived for individuals age 18 and older [over] who have a valid, unrestricted Class A, B, or C Texas driver license and have successfully completed a department approved motorcycle operator training course.
   
   (C) All other applicants must take and pass a skills exam for a motorcycle license.

   (D) An applicant must present either item [items] detailed in clause (i) or clause (ii) of this subparagraph to confirm successful completion of a department approved motorcycle operator training course:

   (i) [A] valid Standardized Motorcycle Operator Training Course completion card (Form MSB-8); or
   
   (ii) [A] valid completion card from a state or military motorcycle safety training program showing that the applicant has completed a course in basic motorcycle safety instruction that meets or exceeds the department approved curriculum standards.

(iii) The course completion cards are valid for 24 months from the date of issuance.

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

Filed with the Office of the Secretary of State on December 9, 2019.

TRD-201904604

D. Phillip Adkins

General Counsel

Texas Department of Public Safety

Earliest possible date of adoption: January 19, 2020

For further information, please call: (512) 424-5848

TITLE 43. TRANSPORTATION

PART 10. TEXAS DEPARTMENT OF MOTOR VEHICLES

CHAPTER 217. VEHICLE TITLES AND REGISTRATION

INTRODUCTION. The Texas Department of Motor Vehicles proposes amendments to 43 TAC §§217.3, 217.141 - 217.143 and new §§217.401 - 217.407, concerning assembled vehicles. The amendments and new sections are necessary to implement Transportation Code Chapter 731, as added by House Bill 1755, 86th Legislature, Regular Session (2019). The department also proposes amendments in §217.3 that are necessary to conform those provisions with statute, including Transportation Code §501.036, concerning farm trailers and farm semitrailers; Transportation Code §501.037, concerning trailers and semitrailers; and Transportation Code §541.201, and other changes made in HB 3171, 86th Legislature, Regular Session (2019), concerning motor-driven cycles.

EXPLANATION. Transportation Code Chapter 731 establishes titling and registration requirements for assembled vehicles. House Bill 1755, Section 12, directs the board of the Texas Department of Motor Vehicles, as soon as practicable after the effective date of HB 1755, to: (1) adopt the rules required under Transportation Code Chapter 731; and (2) adopt or modify any rules necessary to implement the changes in law made by HB 1755. Transportation Code Chapter 731 requires rules concerning eligibility for title and registration in Transportation Code §731.051(a); rules concerning procedures and requirements for title and registration in Transportation Code §731.052(a); and rules concerning inspection requirements for issuance of title in Transportation Code §731.101(c). The proposed amendments to §217.3 and §§217.141 - 217.143 and new §§217.401 - 217.407 provide the necessary rules and implement Transportation Code Chapter 731 as required in HB 1755, Section 12.

Transportation Code §731.051 provides that the owner of an assembled vehicle may apply for a title and register the vehicle in accordance with Transportation Code Chapters 501 and 502 and the rules adopted to implement Chapter 731. The department
applies that provision in these rules to create a certain and workable path for owners to title and register assembled vehicles, but also to maintain the purpose of Transportation Code Chapter 501 that is stated, in part, in Transportation Code §501.003 as to lessen and prevent: (1) the theft of motor vehicles; and (2) the importation into this state of and traffic in motor vehicles that are stolen.

This proposal also makes amendments to §217.3 concerning motor-driven cycles; farm trailers and farm semitrailers; and trailers, semitrailers, and house trailers. The amendments are unrelated to Transportation Code Chapter 731, but are necessary to conform those provisions with statute.

The proposed amendments to §217.3 conform the rules to existing statute, including statutory amendments passed by the 86th Legislature, Regular Session (2019). The proposed amendment to §217.3 conforms the opening sentence with changes in statute made by HB 1548, 86th Legislative Session (2019), that allow for certain vehicles, for example off-highway vehicles, to be titled under Transportation Code Chapter 501 without a registration requirement. The proposed amendment also adds Transportation Code Chapter 731, concerning assembled vehicles, to reflect changes in statutes made by HB 1755.

The proposed amendment to §217.3(1) removes the term "motor-driven cycle." House Bill 3171 repealed the definition of the term in Transportation Code §541.201 and removed all uses of the term in the Transportation Code.

The proposed amendment to §217.3(2)(D) concerning farm trailers and farm semitrailers conforms the subparagraph with Transportation Code §501.004(b)(1) and §501.036. These statutes require a farm trailer or semitrailer with a gross weight of more than 34,000 to be titled, while permissively allowing farm trailers or semitrailers with a gross weight of 34,000 or less to be titled.

The proposed amendment to §217.3(4) conforms the paragraph with Transportation Code §501.037 concerning trailers, semitrailers, and house trailers, by removing terms that are not in that section or the Transportation Code, and makes nonsubstantive changes to conform with department style.

The proposed amendments to §217.3(5) and (6) are necessary to implement Transportation Code Chapter 731 concerning assembled vehicles, as added by HB 1755. The proposed amendment to §217.3(5) removes the existing language and adds a reference to proposed new Subchapter L of Chapter 217, which will implement Transportation Code Chapter 731 concerning assembled vehicles.

The proposed amendment to §217.3(6)(A) conforms the language to Transportation Code §731.051(b)(6), which prohibits titling of a vehicle that has been stripped to the extent that the vehicle loses its original identity. The proposed amendment to §217.3(6)(B) removes the prohibition against titling a dune buggy, because a dune buggy is an assembled vehicle and eligible for title under Transportation Code Chapter 731. The proposed amendment to §217.3(6)(C) redesignates the subparagraph as subparagraph (B) and conforms the language to Transportation Code §731.051(b)(5), which prohibits titling of a vehicle that the manufacturer has designated for off track racing only. Additionally, the proposed amendments to §217.3(6) redesignate the subparagraphs following subparagraph (B), and change "and/or" to "or" to reflect current department style guidelines.

The proposed amendments to §§217.141 - 217.143 implement the assembled vehicle inspection requirements under Transportation Code §731.101 and §731.102 as enacted by HB 1755. The department has proposed amending the existing sections related to the Transportation Code §504.501(e) street rod and custom vehicle registration inspection because it is the same inspection that will be applied to titling assembled vehicles under Transportation Code §731.101.

The proposed amendment to §217.141 accounts for the changed scope of §§217.141 - 217.143. The sections now address the new initial titling inspection of assembled vehicles required under Transportation Code §731.101, and the existing registration inspection required for street rods and custom vehicles under Transportation Code §504.501(e).

The proposed amendments to §217.142 provide definitions for terms used in §§217.141 - 217.143. The proposed amendment to §217.142(a) incorporates terms defined in Transportation Code §731.001. Because Transportation Code §731.001 and the existing text of §217.142(2) and (4) both define the terms "street rod" and "custom vehicle" by reference to Transportation Code §§504.501, the existing definitions of "street rod" and "custom vehicle" in this section have been removed.

The proposed amendment to §217.142(b)(1) adds the term "modification" to clarify that the defined phrase "altered from the manufacturer's original design" is not limited to the "removal, addition, or substitution, of at least one major component part." In addition, the department has proposed amending the definition to include a direct reference to the definition of a major component part under Transportation Code §501.091. The change is to clarify that the term "major component part" continues to apply to making a determination under Transportation Code §504.501(f) of whether a vehicle qualifies as a custom vehicle or street rod, but is not a definition for general application in Subchapter G. The department will remove the existing stand-alone definition of "major component part" in §217.142. The department has also proposed removing the quotation marks around the defined term in accordance with current agency style.

The terms "basic component part," "equipment," and "major component part" are substantively independent, and each term serves a different purpose in the proposed rules. The term "basic component part" is used in Subchapter L to identify the items for which evidence of ownership will need to be established for titled assembled vehicles. The term "major component part" is only used in the definition of "altered from the manufacturer's original design" in §217.142(b)(1) of Subchapter G to identify the elements of a motor vehicle that, when modified, substituted, removed, or added, are relevant to the classification of a vehicle as a custom vehicle or street rod. The term "equipment" is used in Subchapter G to establish the items and systems that need to be inspected under Transportation Code §504.501(e) or §731.101.

The terminology used in the definitions is based on statute, historical application, and purpose. In scope the definitions all three terms refer to portions of a vehicle. As defined, the term "major component part" would include all items that are "basic component parts," but not all items and systems that are "equipment."

The proposed amendment to §217.142(b)(2) defines the term "applicant." The term clarifies the types of owners that would apply for title to an assembled vehicle. The term is defined in §217.402 with the same meaning and for the same purpose.
The proposed amendment to §217.142(b)(3) defines the new term "equipment" to describe the items and systems that the inspector will need to inspect. The inspection will be of those items and systems required by law to present on the vehicle as inspected, which may not include all the listed items and systems depending on the type of vehicle. The definition also distinguishes "equipment" from "basic component part" and "major component part" as previously discussed in this proposal.

The proposed amendment to §217.142(b)(4) defines the term "manufacturer" by reference to the definition in Occupations Code §2301.002. The definition also clarifies that a hobbyist is not a manufacturer, which is consistent with the definition of hobbyist in Transportation Code §731.001. The term is also defined in §217.402 with the same meaning and for the same purpose.

The proposed amendment to §217.142(b)(5) clarifies that the definition of "master technician" used in this subchapter refers to a Certified Master Automobile and Light Truck Technician, which is required under Transportation Code §731.101(b)(2). The clarification is necessary because Transportation Code §731.101(a) requires an assembled vehicle to pass an inspection based on the type of assembled vehicle being inspected. Transportation Code §731.101(b) requires the applicant to submit proof that the assembled vehicle passed the inspection and a copy of the master technician's Automobile and Light Truck certification. The limitation of the credentialing requirement in §731.101(b)(2) limits the titling inspection requirement to those assembled vehicles types that can be inspected by an individual holding an Automobile and Light Truck master certification. The relevant types of assembled vehicles are assembled motor vehicles, custom vehicles, replicas, and street rods, as described in proposed amendments to §217.143(a). The legislative requirement limiting the inspection to the Automobile and Light Truck certification is also consistent with the consideration that a master certification does not exist for motorcycles or trailers; and the limited number of individuals holding a Medium and Heavy Truck master certification could create an impediment to titling glider kits.

The proposed amendments to §217.143 implement the new initial titling inspection requirements under Transportation Code §731.101 and maintain the existing custom vehicle and street rod registration requirement under Transportation Code §501.504(e). To reflect the change, the department proposes changing the title of §217.143 to "Inspection Requirements."

The proposed amendments to §217.143(a) provide that an assembled motor vehicle, replica, custom vehicle, or street rod must be inspected by a master technician as required under Transportation Code Chapter 731 and 43 Texas Administrative Code, Chapter 217, Subchapter L. For reasons previously discussed regarding the definition of "master technician," the inspection is not required for an assembled motorcycle, assembled trailer, or glider kit. The titling inspection is only required when the assembled vehicle is titled for the first time. A subsequent titling inspection would be required if the vehicle is disassembled and reassembled as described in proposed §217.407.

The proposed amendment to §217.143(b) requires a custom vehicle or street rod to have a safety inspection performed by a master technician as required under Transportation Code §504.501(e) for initial registration. As with the current requirement, the inspection is required each time the vehicle is initially registered in the name of a new owner. However, because the titling and registration inspections are the same, two inspections will not be required if an assembled vehicle designated as a street rod or custom vehicle is titled and registered in the same transaction.

The proposed amendments to §217.143(c) and (d) provide the inspection requirements for assembled vehicles. The amendment to existing §217.143(c) states that the inspection of an assembled vehicle must evaluate the structural integrity of the equipment. The proposed amendments to §217.143(d)(1), (2), and (4) amend the style of existing text in §217.143(b) requiring the inspector to certify that the vehicle is structurally stable, meets the necessary conditions to be operated safely on the roadway, and is equipped and operational with all equipment required by statute as a condition of sale during the year the vehicle was manufactured or resembles. The proposed amendments to §217.143(d) also add new §217.143(d)(3) that tracks the safety requirement in Transportation Code §731.051(b)(7). The department proposes removing the existing text of §217.143(c) because it is duplicative of the requirement in proposed §217.143(d)(4).

The proposed amendments to §217.143 also add new §217.143(e), which provides that an inspection under §217.143(a) is in addition to any other required inspection of an assembled vehicle, including an inspection required under Transportation Code Chapter 548. An assembled vehicle designated as a custom vehicle or street rod is not subject to the annual Transportation Code Chapter 548 inspection. Other assembled vehicles may be subject to the Chapter 548 inspection requirement.

The proposed amendments to §217.143 also add new §217.143(f) and (g) relating to the payment of fees. Under proposed new §217.143(f), the applicant must pay all fees to the master technician for the inspection of an assembled vehicle required under subsection (a) of this section, including any reinspection. Under proposed new §217.143(g), any additional fees must be paid to the inspector or as otherwise required by law. The subsections clarify that inspection fees under this section are not to be paid to the department. The department does not set any of the inspection fees for an inspection required under this section.

The proposed new Chapter 217, Subchapter L, §§217.401 - 217.407 implements the assembled vehicle titling and registration requirements under Transportation Code Chapter 731, as enacted by HB 1755.

Proposed new §217.401(a) describes the purpose and scope of proposed new Subchapter L. Proposed new §217.401(b) provides that for the purposes of this subchapter a glider kit issued a title with a "RECONSTRUCTED" remark is a replica. The purpose of this is to state the department's interpretation that a dealer may transfer, or be transferred ownership, of a glider kit under new Transportation Code §503.013.

Proposed new §217.402 defines terms that will be used in the subchapter. Proposed new §217.402(a) incorporates terms defined in Transportation Code §731.001.

Proposed new §217.402(b)(1) defines the term "applicant." The term clarifies the types of owners that would apply for title of an assembled vehicle. The term is defined in §217.142 with the same meaning and for the same purpose.

Proposed new §217.402(b)(2) defines the term "basic component part" for use in this chapter. The term is limited to the vehicle's motor, body, and frame, as applicable for the type of vehicle. For example, an automobile would have all three parts;
 Proposed new §217.404(a)(2) requires evidence of ownership of the basic component parts of the assembled vehicle as described in §217.405. Evidence of ownership is necessary to establish title to the vehicle or process an application for assignment or reassignment of a vehicle identification number under Transportation Code §501.033 as required by Transportation Code §731.054.

Proposed new §217.404(a)(3) requires, if applicable, proof, on a form prescribed by the department, of a safety inspection required under §217.143. Under the proposal, the requirement is applicable only to assembled motor vehicles, custom vehicles, replicas, and street rods.

Proposed new §217.404(a)(4) requires a copy of the Automobile and Light Truck certification, or a successor certification, for the master technician who completed the inspection described in §217.404(a)(3), if the inspection was required.

Proposed new §217.404(a)(5) requires a copy of the inspection that may be required under Transportation Code Chapter 548 if the assembled vehicle is to be registered for operation on the roadway.

Proposed new §217.404(a)(6) (requires a rebuilt vehicle statement; (7) a weight certificate; and (8) the applicant's identification information as required in §217.5(d).

Proposed new §217.404(a)(9) requires a vehicle identification number to be established by one of the four listed means. The means are authorized in Transportation Code §731.054. Proposed new §217.404(a)(9)(A) and (B) allow for the process of applying for an application for assignment or reassignment of a vehicle identification number. That process is under Transportation Code §501.033 and requires a vehicle identification number inspection under Transportation Code §501.032. The inspection is consistent with Transportation Code §731.051 which requires titling to be done under Chapter 501 and Chapter 731. Transportation Code §501.003 states that Transportation Code Chapter 501 is to be liberally construed to lessen and prevent (1) the theft of motor vehicles, and (2) the importation into this state of and traffic in motor vehicles that are stolen. Proposed new §217.404(a)(9)(C) and (D) are based on the vehicle identification numbers assigned by the maker of a kit or the manufacturer of the assembled vehicle respectively authorized in Transportation Code §731.054.

Proposed new §217.404(b) provides that the department will review the documents and determine that the application is complete and the vehicle meets the qualifications to be titled as an assembled vehicle.

Proposed new §217.404(c) provides that the department will notify the applicant in writing if the department determines the application is complete and the vehicle is determined to qualify for titling as an assembled vehicle.

Proposed new §217.404(d) provides that upon the receipt of the department's written approval, the applicant may proceed to the county tax assessor collector for submission and processing of the application. Proposed new §217.404(d) lists that the applicant must provide the county tax assessor with the department's written letter, a copy of the items required under §217.404(a)(1) - (9) that were submitted to the department, and, if the vehicle is being registered, the requirements identified in §217.23.

Proposed new §217.405 addresses evidence of ownership and how it may be demonstrated either from a manufacturer, a hobbyist or other owner, or with a bond. Proposed new §217.405(a)
provides that evidence of ownership must accompany the title application submitted to the department, which is consistent with the requirement in §217.404(a)(2).

Proposed new §217.405(b) provides that evidence of ownership for a replica, custom vehicle, street rod, or glider kit built by a manufacturer must be provided on a manufacturer's certificate of origin and contain the information listed in that subsection.

Proposed new §217.405(c) describes the evidence of ownership requirements for an assembled vehicle that has been built by a hobbyist, or has not otherwise been previously titled by the owner. Evidence is required for the basic component parts of the vehicle. If the basic component parts are from vehicles titled in the name of the owner, evidence of ownership will be based on the identifying numbers on the parts. These will vary based on the type of part and the year of manufacture. Additionally, component parts not titled in the name of the owner may be used with proper documentation, such as a bill of sale.

Proposed new §217.405(d) provides that an owner unable to obtain evidence of ownership may file a bond with the department under Transportation Code §501.053 and §217.9. Proposed new §217.405(e) lays out the process of obtaining the vehicle identification number and the bond. The bond will be the evidence of ownership to obtain the title.

The process is similar to that of any other applicant, in that the applicant must take or deliver the documentation required under §217.404(a)(1) - (9) to the department's regional service center for review, except that the applicant utilizing the bond procedure will not be required to have evidence of ownership under §217.405(a) - (c). The documentation requirements for the bond procedure would include a vehicle identification number inspection report if the applicant intends to establish a vehicle identification number under §217.404(a)(9)(A) or (B). The department will review the vehicle identification number inspection report and other documents.

A vehicle identification number will be reassigned based on the report and documentation if a vehicle identification number by which the assembled vehicle will be identified can be determined. If the vehicle identification number cannot be reassigned based on the lack of a number, the department will assign a department-issued number.

The applicant will then need to complete a statement of fact concerning the acquisition of the vehicle. If the application is complete, the department will use the assigned or reassigned number to issue a letter for the applicant to obtain a bond. The applicant will take the bond as evidence of ownership and other required documents to the county tax assessor-collector.

Proposed new §217.406 describes the issuance and form of title. Proposed new §217.406 provides that the county tax assessor-collector will process the transaction and issue a receipt upon receiving the completed application, all required documents, and all required fees.

Proposed new §217.406(b) describes the form of the title. As described in that subsection, the title will comply with the requirements of Transportation Code §731.053 and be issued with the make of "ASVE" unless original parts are used that reflect an established year and make of a manufactured vehicle and will contain the remarks "RECONSTRUCTED" or "REPLICA," as applicable, except for assembled trailers which will be titled with a make of "HMDE."

Proposed new §217.406(c) provides that the department will issue and mail or deliver the title to the owner or lienholder disclosed in the application.

Proposed new §217.406(d) provides that the receipt issued at the time of application for title may be used only as evidence of title and may not be used to transfer any interest or ownership in a motor vehicle or to establish a new lien.

Proposed new §217.407 provides for subsequent transfer of title for a titled assembled vehicle. Proposed new §217.407(a) provides that after an assembled vehicle is titled under Transportation Code Chapter 731 and Subchapter L, the vehicle is then subject to Transportation Code Chapters 501 and 502, and 43 Texas Administrative Code, Chapter 217, Subchapter L. The vehicle may be transferred similarly to any other vehicle, except as provided in §217.407(c).

Proposed new §217.407(b) provides that an assembled vehicle titled or registered in another jurisdiction may be titled and registered in this jurisdiction subject to Transportation Code Chapters 501 and 502, and 43 Texas Administrative Code Chapter 217, Subchapter L, except as provided in §217.407(c). As such, the vehicle does not have to go through the initial title process in Transportation Code Chapter 731 or Subchapter L.

Proposed new §217.407(c) states two statutory limitations that apply to the transfer and construction of assembled vehicles. Proposed new §217.407(c) states the limitation in new Transportation Code §503.013 that ownership of an assembled vehicle may not be transferred to or by a dealer unless the assembled vehicle is a "replica" as that term is defined in Transportation Code §731.001. As defined, a "replica" includes a street rod or custom vehicle. Proposed new §217.407(c) states the limitation in new Occupations Code §2302.009 that a salvage vehicle dealer may not rebuild an assembled vehicle.

Proposed new §217.407(d) provides that if an assembled vehicle is disassembled and then reassembled, the resulting vehicle is subject to the initial titling requirements in Transportation Code Chapter 731 and 43 Texas Administrative Code Chapter 217, Subchapter L.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Linda M. Flores, Chief Financial Officer, has determined that for each year of the first five years the proposed amendments and new sections will be in effect, there will be no significant fiscal impact to state or local governments as a result of the enforcement or administration of the proposal. The proposal requires a review of the title application before it is submitted to county tax assessor-collector. While creating some additional work for the department on the front end of the transaction, the review process will not require additional department employees and should reduce county tax assessor-collector processing time and associated costs to issue the title and registration, and department costs related to canceling titles and registrations that may be issued in error. Other fiscal costs related to allowing hobbyist and other owners to title and register assembled vehicles under Transportation Code Chapter 731 are a result of statute and not a cost of this proposal. Jeremiah Kunz, Director of the Vehicle Titles and Registration 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. Kunz has also determined that for each year of the first five years the proposed sections are in effect, public benefits are expected as a result of enforcing the proposed amendments and new sections. The pub-
lic benefits resulting from the adoption of the proposed amendments and new sections will be the implementation of HB 1755 and conforming rule text with statute. The benefits resulting from the implementation of HB 1755 include allowing hobbyists and owners of assembled vehicles to register and receive a title for vehicles they may have put significant amounts of time, money, and effort into building and that do not present a public danger.

Mr. Kuntz has also determined that for each year of the first five years the proposed sections are in effect, no additional costs are expected as a result of enforcing the proposed amendments and new sections.

The department anticipates that there are no additional costs under these rules resulting from the initial titling application review process under proposed §217.404(a). The information necessary to complete the application consists of information known to the applicant, obtained based on a required inspection, or obtained by the applicant from parts suppliers or the builder of the assembled vehicle. The information should be readily available to the individual completing the application and requires no additional cost to obtain. The applicant may submit the required documents for review by email at no cost to the applicant. The decision of how to submit the application to the service center for review will be the applicant's and is not a requirement of these rules.

Other costs related to initially titling an assembled vehicle result are required by statute and are not a direct cost of the proposed sections. This includes the cost of inspections under §217.143, the cost of a vehicle identification number inspection under §217.404, and the cost of a bond if necessary.

The inspections under §217.143 are required under Transportation Code §§504.501(e) and §731.101. The costs of those inspections result from these statutory requirements.

Costs for applicants needing to assign or reassign a vehicle identification number result from Transportation Code §§731.054, 501.032, and 501.033. Transportation Code §731.054 provides that the department shall assign or reassign a vehicle identification number under Transportation Code §501.033. Sections 501.032(a)(1) and (3) requires a vehicle to have a vehicle identification number inspection if the owner is needing an assigned or reassigned vehicle identification number under 501.033. The costs of submitting the application and the inspection result from those statutory requirements.

Additionally, if the applicant has neither evidence of ownership nor the vehicle identification number, the department will assign or reassign a vehicle identification number to the vehicle based on the same inspection so that the applicant may obtain a bond under Transportation Code §501.053. 43 Texas Administrative Code §217.9, and proposed §217.405(e). This would result in no additional inspection cost for an applicant. The cost of a bond is not a requirement of this rule, but is instead a reflection of Transportation Code §501.053 as applied to assembled vehicles. This procedure is an option for the applicant to obtain a title should the vehicle otherwise not be eligible for title based on lack of evidence of ownership.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS. The department has determined that the proposed amendments will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities. As a result, and in accordance with Government Code §2006.002(c), the department is not required to prepare a 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 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 not require an increase or decrease in fees paid to the department, however, the department will collect more title and registration fees if additional vehicles are titled and registered;
- will create new regulations in §§217.401 - 217.407 to implement Transportation Code Chapter 731, concerning assembled vehicles, enacted in HB 1755;
- will expand existing regulations §§217.141 - 217.143 to implement Transportation Code Chapter 731, concerning assembled vehicles, enacted in HB 1755;
- will repeal existing regulations in §217.3, because regulations implementing Transportation Code Chapter 731, concerning assembled vehicles, will be in §§217.141 - 217.143 and 217.401 - 217.407;
- will increase the number of individuals subject to the rule's applicability, because rules concerning assembled vehicles do not currently exist, but are required under Transportation Code Chapter 731; and
- will not positively or adversely affect the Texas economy.

REQUEST FOR PUBLIC COMMENT. If you want to comment on the proposal, submit your written comments by 5:00 p.m. CST on January 21, 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.

SUBCHAPTER A. MOTOR VEHICLE TITLES
43 TAC §217.3

STATUTORY AUTHORITY. The department proposes amendments to §217.3 under Transportation Code §§501.0041, 502.0021, 731.002, and 1002.001.

Transportation Code §501.0041 authorizes the department to adopt rules to administer Chapter 501.

Transportation Code §502.0021 authorizes the department to adopt rules to administer Chapter 502.

Transportation Code §731.002 authorizes the board to adopt rules as necessary to implement and administer Transportation Code Chapter 731.
Transportation Code §1002.001 authorizes the board of the Texas Department of Motor Vehicles to adopt rules that are necessary and appropriate to implement the powers and the duties of the department.

CROSS REFERENCE TO STATUTE. Transportation Code §§501.003, 501.036, and 501.037.

§217.3  Motor Vehicle Titles.

Unless otherwise exempted by law or this chapter, the owner of any motor vehicle that is required to be titled, including any motor vehicle required to be registered in accordance with Transportation Code[c][] Chapter 502, shall apply for a Texas title in accordance with Transportation Code[c] Chapter 501 or 731.

(1) Motorcycles, [motor driven cycles], autocycles, and mopeds.

(A) The title requirements for [or] a motorcycle, [motor driven cycle] autocycle, and moped are the same requirements prescribed for any motor vehicle.

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

(2) Farm vehicles.

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

(B) Farm tractors owned by agencies exempt from registration fees in accordance with Transportation Code[c][] §502.453, are required to be titled and registered with "Exempt" license plates issued in accordance with Transportation Code[c][] §502.451.

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

(D) A farm trailer or farm semitrailer is any trailer or semitrailer registered in accordance with Transportation Code §502.146. Owners of farm trailers and farm semitrailers with a gross weight of 34,000 pounds or less may apply for a Texas title. Owners of farm trailers and farm semitrailers with a gross weight in excess of 34,000 pounds shall apply for a Texas title. If a farm trailer or farm semitrailer with a gross weight of 34,000 pounds or less has been titled previously, any subsequent owner shall apply for a Texas title for the farm trailer or farm semitrailer. [Farm semitrailers with a gross weight of more than 40,000 pounds that are registered in accordance with Transportation Code, §502.146, may be issued a Texas title.]

(3) Neighborhood electric vehicles. The title requirements of a neighborhood electric vehicle (NEV) are the same requirements prescribed for any motor vehicle.

(4) Trailers, semitrailers, and house trailers. Owners of trailers and semitrailers shall apply for [and receive] a Texas title for any [stand alone [full]] trailer[, including homemade or shopmade full trailers,] or any semitrailer with [having] a gross weight in excess of 4,000 pounds. Owners of trailers and semitrailers with [having] a gross weight of 4,000 pounds or less may apply for [and receive] a Texas title. If a trailer or semitrailer with a gross weight of 4,000 pounds or less has been titled previously, any subsequent owner shall apply for a Texas title for the trailer or semitrailer. House trailer-type vehicles must meet the criteria outlined in subparagraph (C) of this paragraph to be titled; [c]}

(A) The rated carrying capacity will not be less than one-third of its empty weight.

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

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

(i) A house trailer-type vehicle that is less than eight feet six inches in width or less than 45 feet in length is classified as a travel trailer and shall be registered and titled.

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

(iii) A recreational park model type trailer that is primarily designed as temporary living quarters for recreational, camping or seasonal use, is built on a single chassis, and is 400 square feet or less when measured at the largest horizontal projection when in the set up mode shall be titled as a house trailer and may be issued travel trailer license plates.

(5) Assembled vehicles. The title requirements for assembled vehicles are prescribed in Subchapter L of this title (relating to Assembled Vehicles).

[[A]] An assembled vehicle is a vehicle assembled from the three basic component parts (motor, frame, and body), except that a motorcycle must have a frame and motor, and a trailer or travel trailer will have no motor, and that is:

[[ii]] assembled from new or used materials and parts by someone not regulated as a motor vehicle manufacturer;

[[iii]] altered or modified to the extent that it no longer reflects the original manufacturer's configuration; or

[[iii]] assembled from a kit even if a Manufacturer's Certificate of Origin or Manufacturer's Statement of Origin is provided.

[[B]] A newly assembled vehicle, for which a title has never been issued in this jurisdiction or any other, may be titled if:

[[ii]] it is assembled and completed with a body, motor, and frame, except that a motorcycle must have a frame and motor, and a trailer or travel trailer will have no motor;

[[iii]] it is not created from different vehicle choices, (as established by the Federal Highway Administration, except as provided by subparagraph (C) of this paragraph), that were never engineered or manufactured to be combined with one another;

[[iii]] it has all safety components required by federal law during the year of assembly, unless the vehicle qualifies and is registered as a custom vehicle or street rod in accordance with Transportation Code, §§504.501;

[[iv]] it is not a vehicle described by paragraph (6) of this section;

[[v]] for a vehicle assembled with a body, motor, and frame, the applicant provides proof, on a form prescribed by the department, of a safety inspection performed by an Automotive Service Excellence (ASE) technician with valid certification as a Certified Master Automobile and Light Truck Technician, certifying that the vehicle:

[[v]] is structurally stable;]
(iii) meets the necessary conditions to be operated safely on the roadway; and

(iv) is equipped and operational with all equipment required by statute or rule as a condition of sale during the year the vehicle was assembled unless it is being inspected pursuant to Subchapter C of this chapter;

(v) for a vehicle assembled with a body, motor, and frame, the applicant submits a copy of the Certified Master Automobile and Light Truck Technician’s ASE certification;

(vi) the applicant submits a Rebuilt Vehicle Statement; and

(vii) the applicant submits the following to establish the vehicle’s vehicle identification number:

(a) an Application for Assigned or Reassigned Number, and Notice of Assigned Number or Installation of Reassigned Vehicle Identification Number, on forms prescribed by the department; or

(b) acceptable proof, as established by the department, of a vehicle identification number assigned by the manufacturer of the component part by which the vehicle will be identified;

(b) Component parts from the following vehicle classes may be interchanged with one another or used in the creation of an assembled vehicle:

1. 2-axle, 4-tire passenger cars;

2. 2-axle, 4 tire pickups; panels and vans;

3. 6-tire dualy pickups, of which the rear tires are dual tires;

(D) The ASE inspection for a newly assembled vehicle required under subparagraph (B) of this paragraph is in addition to the inspection required by Transportation Code, Chapter 548, except a vehicle that qualifies and is registered as a custom vehicle or street rod in accordance with Transportation Code, §504.501, is exempt from the inspection required under Transportation Code, Chapter 548, for the duration the vehicle is registered as such.

(E) An assembled vehicle which has previously been titled and/or registered in this or any other jurisdiction is subject to subparagraph (B)(i) - (iv) of this paragraph, but is not subject to subparagraph (B)(v) - (vii); however, it is subject to the inspection required by Transportation Code, Chapter 548, except a vehicle that qualifies and is registered as a custom vehicle or street rod in accordance with Transportation Code, §504.501.

(F) An assembled vehicle will be titled using the year it was assembled as the model year and “ASSEMBLED” or “ASVE” as the make of the vehicle unless the body of the vehicle is established to the department’s satisfaction to be an original body from a particular year and make. An assembled vehicle utilizing an original body may be titled by the year and the make of the original body but must reflect a “RECONSTRUCTED” remark. An assembled vehicle not utilizing an original body may obtain a title with a “REPLICA” remark featuring the year and make of the replica if the vehicle resembles a prior model year vehicle. This subparagraph applies regardless of how the vehicle’s model year or make was previously identified in this or any other jurisdiction.

(6) Not Eligible for Title. The following are not eligible for a Texas title regardless of the vehicle's previous title or [and/or] registration in any other jurisdiction:

(A) vehicles that are missing or are stripped of their motor, frame, or body, to the extent that [it materially alters] the vehicle loses its original identity [manufacturer's original design] or makes the vehicle unsafe for on-road operation as determined by the department; (B) vehicles designed or determined by the department to be a dune buggy;

(B) [C] vehicles designed by the manufacturer [or determined by the department to be] for on-track racing only, unless such vehicles meet Federal Motor Vehicle Safety Standards (FMVSS) for on-road use and are reported to the National Highway Traffic Safety Administration;

(C) [D] vehicles designed or determined by the department to be for off-highway [off-road] use only, unless specifically defined as a “motor vehicle” in Transportation Code[;] Chapter 501; or

(D) [E] vehicles assembled, built, constructed, rebuilt, or reconstructed in any manner with:

(i) a body or frame from a vehicle which is a "non-repairable motor vehicle" as that term is defined in Transportation Code[;] §501.091(9); or

(ii) a motor or engine from a vehicle which is flood damaged, water damaged, or any other term which may reasonably establish the vehicle from which the motor or engine was obtained is a loss due to a water related event.

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

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Tracey Beaver
General Counsel
Texas Department of Motor Vehicles

Earliest possible date of adoption: January 19, 2020
For further information, please call: (512) 465-5665

SUBCHAPTER G. INSPECTIONS
43 TAC §§217.141 - 217.143

STATUTORY AUTHORITY. The department proposes amendments to §§217.141 - 217.143 under Transportation Code §§504.0011, 731.002, 731.101, and 1002.001.

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

Transportation Code §731.002 authorizes the board to adopt rules as necessary to implement and administer Transportation Code Chapter 731.

Transportation Code §731.101 requires the board to adopt rules establishing procedures and requirements for the inspection required by Transportation Code §731.101. Rules adopted under Transportation Code §731.101: (1) must establish inspection criteria; (2) may specify additional items of equipment that must be inspected by a master technician and may specify different items of equipment that must be inspected based on the type of assembled vehicle; and (3) must require an owner of an assem-
bled vehicle that is being inspected under this section to pay all fees required for the inspection, including any reinspection, in addition to all applicable fees required under Chapter 548 for an inspection or reinspection conducted under that chapter.

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

CROSS REFERENCE TO STATUTE. Transportation Code §§504.501, 731.101, and 731.102.

§217.141. Purpose and Scope. This subchapter prescribes the policies and procedures necessary to protect the public by requiring inspection of assembled vehicles [street rods and custom vehicles], accurately identify the identity of a motor vehicle, and provides department approved training programs which if successfully completed qualify a person to conduct vehicle identification number inspections.

§217.142. Definitions.

(a) The definitions in Transportation Code §731.101 apply to this subchapter.

(b) The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

1. [*Altered from the manufacturer's original design—[2*] as that term is used in §504.501(f), Transportation Code, is defined as the removal, addition, modification, or substitution, of at least one major component part, as defined in Transportation Code §501.091, except that an engine, frame, and body or cab, must be replaced if removed.

2. Applicant--a person applying for title to an assembled vehicle who:

(A) is a hobbyist;

(B) is the owner of an assembled vehicle that has not been previously titled as an assembled vehicle; or

(C) purchased an assembled vehicle constructed and designated by the manufacturer as a replica, custom vehicle, street rod, or glider kit. [*Custom vehicle* has the meaning assigned by §504.501(f)(1), Transportation Code.]

3. Equipment--items and systems, including the connection points of the items and systems, to include the frame; chassis; structural components; wheel assembly; tires; brake system, including each brake, power brake unit, and all integral items of the system; steering system, including power steering, and all integral items of the system; front seat belts if constructed with seat belt anchorages; body; drivetrain; suspension; motor; fuel supply system and all integral items of the system; exhaust system and all integral items of the system; mirrors; windshield; windshield wipers; turn signal lamps; beam indicator; head lamps, minimum of two; tail lamps; stop lamps; and rear red reflectors. This term includes the "basic component parts" of motor, body, and frame, as defined in §217.402 of this chapter; and some "major component parts" as defined in Transportation Code §501.091. The term "basic component parts" is defined by rule to identify the parts that will be used in determining evidence of ownership. The term "major component parts" is defined by statute for use in determining whether the vehicle is a custom vehicle or street rod. [*Major component part* has the meaning assigned by §501.091, Transportation Code.]

4. Manufacturer--a person that builds an assembled vehicle and is not a hobbyist, has the meaning as defined in Occupations Code §2301.002, and is subject to the requirements of that chapter applicable to manufacturers, including sale through a franchise dealer network. [*Street rod* has the meaning assigned by §504.501(D)(2), Transportation Code.]

5. Master technician--a person who holds a valid certification as a Certified Master Automobile and Light Truck Technician, or equivalent successor certification, issued by the National Institute for Automotive Service Excellence.

§217.143. [Custom Vehicle and Street Rod] Inspection Requirements.

(a) On initial titling of an assembled vehicle under Transportation Code Chapter 731, and Subchapter E of this chapter (relating to Assembled Vehicles), with the exception of an assembled motorcycle, assembled trailer, and glider kit, an applicant [registration, including registration at the time of title transfer, of a custom vehicle or street rod, the applicant] must provide proof, on a form prescribed [provided] by the department, of a safety inspection performed by a master technician [an Automotive Service Excellence (ASE) technician with valid certification as a Certified Master Automobile and Light Truck Technician].

(b) In addition to the requirement under subsection (a) of this section, an owner applying for initial registration of a custom vehicle or street rod must provide proof, on a form prescribed by the department, of a safety inspection performed by a master technician under this section as required under Transportation Code §504.501(e).

(c) The inspection must evaluate the structural integrity and proper function of the equipment.

(d) The inspector [inspection] must certify that [the vehicle]:

1. the vehicle and equipment are [is] structurally stable;

2. the vehicle and equipment meet [meets] the necessary conditions to be operated safely on the roadway [and];

3. equipment used in the construction of the vehicle, for which a federal motor vehicle safety standard exists, complies with the applicable standard; and

4. if the vehicle is a custom vehicle or street rod, the vehicle is equipped and operational with all equipment required by statute as a condition of sale during the year the vehicle was manufactured or resembles.

(e) A custom vehicle or street rod is not required to be equipped with a specific piece of equipment unless the specific piece of equipment was required by statute as a condition of sale during the year listed as the replica model year.

(f) The inspection of an assembled vehicle required under subsection (a) of this section is in addition to all other required inspections including an inspection required under Transportation Code Chapter 548.

(g) The applicant must pay all fees to the master technician for the inspection of an assembled vehicle required under subsection (a) of this section, including any reinspection.

(h) In addition to the fees in subsection (f) of this section, the applicant must pay all applicable fees for other required inspections as required by law, including an inspection or reinspection required under Transportation Code Chapter 548.

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

43 TAC §§217.401 - 217.407


Occupations Code §2301.155 authorizes the board of the Texas Department of Motor Vehicles to adopt rules as necessary or convenient to administer this chapter and to govern practice and procedure before the board.

Occupations Code §2302.051 authorizes the board to adopt rules as necessary to administer this chapter.

Transportation Code §501.0041 authorizes the department to adopt rules to administer Chapter 501.

Transportation Code §502.0021 authorizes the department to adopt rules to administer Chapter 502.

Transportation Code §731.002 authorizes the board to adopt rules as necessary to implement and administer Transportation Code Chapter 731.

Transportation Code §731.051 authorizes the board to adopt rules under Transportation Code Chapter 731 for owners to apply for a title and register as provided by Chapters 501 and 502, as applicable, regardless of whether the assembled vehicle was built or assembled using a vehicle that was previously titled in this state or another jurisdiction.

Transportation Code §731.052 requires the board to adopt rules establishing procedures and requirements for: (1) issuance of a title for an assembled vehicle; and (2) registration of an assembled vehicle. Rules adopted under this section may not exclude a type of assembled vehicle, other than an assembled vehicle described by Section 731.051(b), from eligibility for title and registration; must establish the form of a title issued for an assembled vehicle; and must exempt an assembled vehicle or a type of assembled vehicle from any provision of Chapter 501 or 502 that an assembled vehicle or type of assembled vehicle, by its nature, cannot comply with or otherwise meet the requirements of.

Transportation Code §731.101 requires the board to adopt rules establishing procedures and requirements for the inspection required by Transportation Code §731.101. Rules adopted under Transportation Code §731.101: (1) must establish inspection criteria; (2) may specify additional items of equipment that must be inspected by a master technician and may specify different items of equipment that must be inspected based on the type of assembled vehicle; and (3) must require an owner of an assembled vehicle that is being inspected under this section to pay all fees required for the inspection, including any reinspections, in addition to all applicable fees required under Chapter 548 for an inspection or reinspection conducted under that chapter.

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.


§217.401. Purpose and Scope.

(a) Transportation Code Chapter 731, charges the department with the responsibility of establishing procedures and requirements for issuance of title and registration for an assembled vehicle. For the department to efficiently and effectively issue motor vehicle titles, maintain records, and collect the applicable fees, this subchapter describes the policies and procedures for the application for and issuance of motor vehicle titles to assembled vehicles.

(b) For purposes of this subchapter, a glider kit issued a title with a "RECONSTRUCTED" remark is a replica.


(a) The definitions in Transportation Code §731.001, apply to this subchapter.

(b) The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Applicant--a person applying for title to an assembled vehicle who:

(A) is a hobbyist;

(B) is the owner of an assembled vehicle that has not been previously titled as an assembled vehicle; or

(C) purchased an assembled vehicle constructed and designated by the manufacturer as a replica, custom vehicle, street rod, or glider kit.

(2) Basic component part--the motor, body, and frame of an assembled vehicle, as applicable to the type of assembled vehicle. This term is a subset of "major component part" as defined in Transportation Code §501.091, but the term "basic component part" is not applicable in determining whether a vehicle qualifies as a custom vehicle or street rod under Transportation Code §504.501(f), which is the purpose of the term "major component part."

(3) Continuous sale--is offering for sale or the sale of five or more assembled vehicles of the same type in a calendar year when such vehicles are not owned and titled in the name of the owner.

(4) Manufacturer--is a person that builds an assembled vehicle and is not a hobbyist, has the meaning as defined in Occupations Code §2301.002, and is subject to the requirements of that chapter applicable to manufacturers, including sale through a franchise dealer network.

(5) Personal use--is the construction of an assembled vehicle by a hobbyist for use by the hobbyist.

§217.403. Assembled Vehicle Titles.

(a) An applicant must apply for initial title in the applicant's name as provided by Transportation Code Chapter 731, and this subchapter in order to register an assembled vehicle for operation on a public roadway or prior to transfer of ownership.
(b) The ownership transfer of an assembled vehicle titled under subsection (a) of this section must be in accordance with §217.407 of this subchapter (relating to Title and Registration of a Titled Assembled Vehicle).

(c) Unless the assembled vehicle is ineligible for title or registration for a reason listed under Transportation Code §731.051(b), the department shall issue a title for an assembled vehicle:

(1) that passes the inspection required under §217.143 of this chapter (relating to Inspection Requirements), and Transportation Code §731.101;

(2) that, in addition to the inspection described in paragraph (1) of this subsection, passes an inspection required by Transportation Code Chapter 548, as applicable; and

(3) following receipt of a fully completed application and all required forms and fees, as identified in §217.404 of this subchapter (relating to Initial Application for Title).

§217.404. Initial Application for Title.

(a) Prior to applying for title, an applicant must submit to the department a complete application for title. The application may be submitted in person, by mail, or electronically, to the department or a county tax assessor-collector for forwarding to the department. The application must include:

(1) photographs of the front, rear, and side of the assembled vehicle, and if a replica, a photograph of what the vehicle is a replica of;

(2) evidence of ownership of the basic component parts of the assembled vehicle as described in §217.405 of this subchapter (relating to Evidence of Ownership), as applicable to the type of assembled vehicle;

(3) if applicable, proof, on a form prescribed by the department, of a safety inspection required under §217.143 of this chapter (relating to Inspection Requirements), and Transportation Code §731.101;

(4) if applicable, a copy of the Automobile and Light Truck certification, or a successor certification, for the master technician who completed the inspection described in paragraph (3) of this subsection;

(5) a copy of the inspection that may be required under Transportation Code Chapter 548 if the assembled vehicle is to be registered for operation on the roadway;

(6) a Rebuilt Vehicle Statement;

(7) a weight certificate;

(8) identification as required in §217.5(d) of this chapter (relating to Evidence of Motor Vehicle Ownership); and

(9) any of the following means to establish the vehicle identification number:

(A) an Application for Assigned or Reassigned Number, and Notice of Assigned Number or Installation of Reassigned Vehicle Identification Number, on forms prescribed by the department;

(B) an Application for Assigned or Reassigned Number, establishing the vehicle identification number assigned by the manufacturer of the component part by which the assembled vehicle will be identified;

(C) acceptable proof, as established by the department, of a vehicle identification number assigned by the maker of the kit used to construct the assembled vehicle; or

(D) acceptable proof, as established by the department, of a vehicle identification number assigned by the manufacturer of the replica, custom vehicle, street rod, or glider kit.

(b) Following receipt of all information required under subsection (a) of this section, the department will review the application for completeness and to determine that the vehicle meets assembled vehicle qualifications.

(c) If the department determines that the application is complete and the vehicle meets assembled vehicle qualifications, the department will issue a letter to the applicant on department letterhead, stating that the application is complete and that the vehicle qualifies as an assembled vehicle.

(d) Following receipt of the department's letter described in subsection (c) of this section, the applicant may then submit the letter and the completed application to the county tax assessor-collector for processing. The application must include:

(1) the department issued letter;

(2) copies of all items required to be submitted to the department in subsection (a)(1) - (9) of this section; and

(3) the requirements as identified in §217.23 of this chapter (relating to Initial Application for Vehicle Registration) if obtaining registration.

§217.405. Evidence of Ownership.

(a) Evidence of ownership in the name of or properly assigned to the applicant must accompany the title application submitted to the department.

(b) The evidence of ownership for a replica, custom vehicle, street rod, or glider kit built by a manufacturer must be a manufacturer's certificate of origin, indicating:

(1) the vehicle identification number assigned to the vehicle by the manufacturer;

(2) the make as ASVE, unless a glider kit;

(3) a notation the vehicle is a replica and what the vehicle is a replica of if a replica, custom vehicle, or street rod; and

(4) the municipality and state in which the vehicle was completed.

(c) The evidence of ownership for an assembled vehicle not previously titled as an assembled vehicle by the owner, or built by a hobbyist, must contain the identifying number(s) of the corresponding basic component part(s). Evidence of ownership is required for basic component parts used from a vehicle titled in the name of the applicant, depending on the year and manufacturer of the vehicle. The following evidence of ownership is required if the assembled vehicle is constructed with basic component parts from a vehicle not titled in the name of the applicant:

(1) Motor. A bill of sale is required.

(2) Frame. A bill of sale, certificate of origin, or title depending on the year and manufacturer of the frame.

(3) Body. A bill of sale, certificate of origin, or title depending on the year and manufacturer of the body.

(4) Kit. A bill of sale or certificate of origin for the kit.

(5) New fabrication. A bill of sale, invoice, or receipts covering the material used to construct the basic component part.

(d) An owner who is unable to obtain the evidence of ownership required under subsection (a) of this section may:
(1) file a bond with the department in accordance with Transportation Code §501.053, and §217.9 of this chapter (relating to Bonded Titles); and

(2) submit an application for title in the same manner as an applicant in accordance with Transportation Code Chapter 731, and this subchapter.

(e) The department will assign a number or reassign the manufacturer's vehicle identification number to an assembled vehicle based on the result of the vehicle inspection under §217.404(a)(9)(A) or (B) of this subchapter (relating to Initial Application for Title). The owner under subsection (d) of this section establishing the vehicle identification number of an assembled vehicle under §217.404(a)(9)(A) or (B) of this subchapter, may use the vehicle identification number to satisfy the vehicle identification number requirement under §217.9 of this chapter and obtain a bond under §217.9 of this chapter to be filed with the department. The bond will be evidence of ownership under subsection (a) of this section.

§217.406. Title Issuance.

(a) Issuance. The county tax assessor-collector shall process the application for title and issue a receipt upon receiving:

(1) a completed application for title;

(2) required documents identified in §217.404(d) of this subchapter (relating to Initial Application for Title);

(3) the statutory fee for a title application, unless exempt under:

(A) Transportation Code §501.138; or
(B) Government Code §437.217, and copies of official military orders are presented as evidence of the person's active duty status and deployment orders to a hostile fire zone; and

(4) any other applicable fees.

(b) Form of Title. In addition to the requirements under Transportation Code §731.053, an assembled vehicle, other than an assembled trailer, will be titled using the year it was assembled as the model year and "ASVE" for assembled as the make of the vehicle unless it is established to the department's satisfaction to be constructed from original parts that reflect an established year and make of a manufactured vehicle. An assembled vehicle constructed from original parts that reflect an established year and make of a manufactured vehicle will be titled by that year and make, but must reflect a "RECONSTRUCTED" remark if the component parts, excluding the motor, used to construct the vehicle are not original to that vehicle. An assembled vehicle not utilizing an original body may obtain a title with a "REPLICA" remark featuring the year and make of the replica if the vehicle resembles a prior model year vehicle. This subsection applies regardless of how the vehicle's model year or make was previously identified in this or any other jurisdiction. An assembled trailer will be titled using the year it was assembled as the model year and "HMDE" for homemade as the make.

(c) Distribution. The department will issue and mail or deliver a title to the applicant, or if a lien is disclosed in the application, to the first lienholder unless the title is an electronic record of title.

(d) Receipt. The receipt issued at the time of application for title may be used only as evidence of title and may not be used to transfer any interest or ownership in a motor vehicle or to establish a new lien.

§217.407. Title and Registration of a Titled Assembled Vehicle.

(a) After an assembled vehicle is titled under Transportation Code Chapter 731, and this subchapter, the assembled vehicle is subject to Transportation Code Chapters 501 and 502, and this subchapter, except as provided in subsection (c) of this section.

(b) An assembled vehicle that is titled or registered in another jurisdiction, may be titled and registered in this jurisdiction subject to Transportation Code Chapters 501 and 502, and this subchapter, except as provided in subsection (c) of this section.

(c) An assembled vehicle may not be:

(1) transferred to or by a dealer licensed under Transportation Code Chapter 503, unless the assembled vehicle title contains a "REPLICA" remark; or

(2) rebuilt by a salvage dealer licensed under Occupations Code Chapter 2302, as part of engaging in a business or activity regulated under Chapter 2302.

(d) An assembled vehicle previously titled that has been disassembled and reassembled is subject to Transportation Code Chapter 731, and this subchapter.

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

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