

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

Page 1 of 1

ALL Districts

The Texas Transportation Commission (commission) finds it necessary to propose the repeal of §17.40, new §17.40 and §17.41, and amendments to §17.51, relating to specialty license plates to be codified under Title 43, Texas Administrative Code, Part 1.

The preamble and the proposed repeal, new sections, and amendments, attached to this minute order as Exhibits A - C, are incorporated by reference as though set forth at length verbatim in this minute order.

IT IS THEREFORE ORDERED by the commission that the repeal of §17.40, new §17.40 and §17.41 and amendments to §17.51 are proposed for adoption and are authorized for publication in the *Texas Register* for the purpose of receiving public comments.

The executive director is directed to take the necessary steps to implement the actions as ordered in this minute order, pursuant to the requirements of the Administrative Procedure Act, Government Code, Chapter 2001.

Submitted and reviewed by:

Director, Vehicle Titles and  
Registration Division

Recommended by:

Executive Director

**111404 JUN 26 08**

Minute Number      Date Passed

Proposed Preamble

The Texas Department of Transportation (department) proposes the repeal of §17.40, Marketing of Specialty License Plates through a Private Vendor and simultaneously proposes new §17.40, Marketing of Specialty License Plates through a Private Vendor; new §17.41, Removal of License Plates and Registration Insignia upon Sale of Motor Vehicle; and amendments to §17.51, Registration Reciprocity Agreements.

EXPLANATION OF PROPOSED REPEAL, AMENDMENTS, AND NEW SECTIONS

The proposed repeal, amendments, and new sections are necessary to implement the provisions of House Bill 310, 80th Legislature, Regular Session, 2007; update and clarify existing information regarding specialty license plates that are marketed by a private vendor; and update or clarify existing information regarding apportioned registration.

House Bill 310 provided for the removal of license plates and registration insignia upon the sale or transfer of a motor vehicle, the disposition of the removed license plates, the transfer of removed license plates to another vehicle, and the process for issuance of a vehicle transit permit to buyers of vehicles from which the license plates were removed.

Section 17.40 is repealed and replaced with new §17.40.

1 Extensive rearrangement of the existing subsections is made to  
2 improve readability. Numerous other subsections are added. New  
3 §17.40 provides the application requirements and process for  
4 approval of new designs submitted by the marketing vendor;  
5 clarifies the different types of replacements and the associated  
6 fees; provides the vendor the ability to request a redesign of a  
7 previously-approved vendor specialty license plate design;  
8 establishes the requirements for replacement and associated  
9 replacement fees, including replacement of stolen license  
10 plates; and adds a process and fees for a person requesting  
11 "restyled" license plates. The process for application review  
12 and approval of vendor specialty license plates is intended to  
13 be similar to the process described in 43 TAC §17.28(i) for  
14 development of new non-vendor specialty license plates.  
15 Throughout new §17.40, the term "vendor-marketed specialty  
16 license plates" has been simplified to "vendor specialty license  
17 plates."

18

19 New §17.40(a), Purpose and scope, provides a general description  
20 of the section, the statutory citations that authorize the  
21 vendor marketing program, and clarification of terminology used  
22 in the section.

23

24 New §17.40(b), Application for approval of vendor specialty  
25 license plate designs, clarifies that each license plate design

1 the vendor proposes to market must be approved by the  
2 department. This subsection also provides the requirements for  
3 submission of a written application by the vendor and the items  
4 that must accompany the application.

5  
6 New §17.40(c), Review and approval process, establishes that the  
7 specialty license plate committee established under 43 TAC  
8 §17.28(i) will review the applications and additional  
9 documentation provided with the vendor's application. It allows  
10 the committee to request additional information and provides  
11 that a decision on an application may be postponed until the  
12 next committee meeting if the requested additional information  
13 is not received.

14  
15 New §17.40(d), Committee recommendation and public comment,  
16 provides the criteria that the committee will use when reviewing  
17 and making a recommendation on the proposed vendor specialty  
18 license plate designs. Section 17.40(d) also provides that if  
19 the committee recommends the issuance of the vendor's proposed  
20 specialty license plate design, the design will be posted on the  
21 department's website for a 10-day period to receive public  
22 comments. The department will notify all specialty plate  
23 organizations and the sponsoring agencies who administer license  
24 plates issued in accordance with Transportation Code, Chapter  
25 504, Subchapter G, of the posting, comment period, and manner

1 for submitting public comments.

2

3 New §17.40(e), Final approval and specialty license plate  
4 issuance, provides that the executive director will make the  
5 final decision on the proposed vendor specialty license plate  
6 design. If approved, the vendor must submit a non-refundable  
7 start-up fee before any action may be taken to process the  
8 license plate design. The approved license plate design may not  
9 be the final design and the department will work with the vendor  
10 to finalize the design to ensure it complies with all format and  
11 license plate specifications.

12

13 New §17.40(f), Redesign of vendor specialty license plates,  
14 allows the vendor to redesign a department-approved vendor  
15 license plate by submitting a request and paying a fee that  
16 covers the administrative costs of the redesign.

17

18 New §17.40(g), Multi-year vendor specialty license plates,  
19 allows purchasers the option of purchasing vendor license plates  
20 for a one, five, or ten-year period which is the same option as  
21 under the repealed §17.40(b).

22

23 New §17.40(h), License plate categories and associated fees,  
24 provides the categories of specialty license plates that will be  
25 marketed by the vendor and the schedule of fees for each

1 category. The vendor will offer the same three categories of  
2 specialty license plates as under repealed §17.40(d), but with  
3 different names: custom, premium, and luxury. The new names  
4 more clearly describe the type of license plates. The name for  
5 "Color/Themed" license plates in new paragraph §17.40(h)(1) is  
6 changed to "custom" license plates because the customer will be  
7 able to customize their license plates using the colors and  
8 themes available. In new paragraph §17.40(h)(2) the name for  
9 "Limited Edition/Special Event" license plates is changed to  
10 "premium" license plates because a premium choice for  
11 personalization will be available. The name for  
12 "Luxury/Prestige" license plates in new paragraph §17.40(h)(3)  
13 is shortened to "luxury" license plates. The fee schedule  
14 remains the same as it was in repealed §17.40(d).

15  
16 New §17.40(i), Payment of fees, contains the same substance as  
17 repealed §17.40(c). It provides that the specialty license  
18 plate fee is paid directly to the vendor and that the fees for  
19 multi-year specialty license plate fees must be paid at one time  
20 to benefit from the reduced fee. The language also provides  
21 that specialty license plate fees are in addition to the annual  
22 registration fees.

23  
24 New §17.40(j), Refunds, contains the same substance as repealed  
25 §17.40(a). This subsection describes a refund policy for vendor

1 specialty license plates that is identical to the policy for  
2 specialty license plates approved by the department.

3

4 New §17.40(k), Replacement, reorganizes repealed §17.40(e) and  
5 adds new substance. The reorganized portion provides a  
6 replacement policy for vendor specialty license plates that is  
7 the same as the replacement policy for specialty license plates  
8 approved by the department. The application for replacement  
9 must be made directly to a county tax assessor-collector. Upon  
10 application and payment of the fee for replacement of a license  
11 plate an interim temporary tag will be issued by the county tax  
12 assessor-collector for use on the vehicle until the vendor  
13 specialty license plate has been remanufactured.

14

15 New §17.40(k) also adds provisions for no-charge replacements  
16 and optional replacements. The term "destroyed" has been  
17 replaced with "mutilated" to be consistent with the statutory  
18 terminology in Transportation Code, §502.184. Additionally, the  
19 fee for lost or mutilated vendor specialty license plates has  
20 been changed to reflect that the \$5.30 statutory replacement  
21 fee, as provided under Transportation Code, §502.184, for all  
22 license plates that are lost or mutilated, will be assessed  
23 rather than the fee for replacement of a personalized license  
24 plate provided in Transportation Code, §504.101(d).

25

1 New §17.40(k)(3) clarifies that vendor specialty license plates  
2 will be replaced at no charge every seven years. This period is  
3 established to ensure that the license plates meet the  
4 requirements established in Transportation Code, §502.052 that  
5 license plates be reflectorized to provide effective and  
6 dependable brightness for the period for which the plates are  
7 issued.

8  
9 New §17.40(k)(4), Optional replacements, establishes that a \$30  
10 optional replacement fee will be required if the owner of a  
11 vendor specialty license plate chooses to obtain a replacement  
12 for any reason, other than the license plate being lost or  
13 mutilated, before the seventh anniversary of the date of initial  
14 issuance.

15  
16 New §17.40(k)(5), Interim replacement tags, establishes that if  
17 the vendor specialty license plates are lost or mutilated to  
18 such an extent that they are unusable, replacement license  
19 plates will need to be remanufactured and the county tax  
20 assessor-collector will issue interim replacement tags until the  
21 replacements are available.

22  
23 New §17.40(k)(6), Stolen vendor specialty license plates,  
24 establishes that a replacement vendor specialty license plate  
25 indicating the same license plate number will not be issued if a

1 vehicle displaying the vendor specialty license plate or the  
2 actual vendor specialty license plate has been stolen. Not  
3 issuing a duplicate of a license plate number that has been  
4 reported stolen aids law enforcement and the vehicle owner by  
5 lessening the possibility of law enforcement incorrectly  
6 identifying a vehicle as stolen and stopping or apprehending the  
7 owner in error.

8  
9 New §17.40(1), Transfer of vendor specialty license plates,  
10 contains the same substance as repealed §17.40(f). This section  
11 includes a transfer policy for vendor specialty license plates  
12 that tracks the provisions of §17.28(e) relating to the transfer  
13 policy for specialty plates approved by the department. The  
14 language explains when vendor specialty license plates may be  
15 transferred between vehicles and prohibits the transfer of  
16 vendor specialty license plates between owners.

17  
18 New §17.40(m), Gift plates, contains the same substance as  
19 repealed §17.40(g). This subsection provides a policy for the  
20 purchase of vendor specialty license plates as a gift and the  
21 procedure for the use of the plates on a motor vehicle. This  
22 procedure includes information that will track the name of the  
23 recipient and the vehicle identification of the recipient's  
24 vehicle.

25

1 New §17.40(n), Restyled vendor specialty license plates, advises  
2 owners that they may request a restyled vendor specialty license  
3 plate and the fees for restyled license plates based on the  
4 category of license plate originally purchased. A restyled  
5 license plate is a license plate of a different style, but one  
6 that is within the same price category and has the same alpha-  
7 numeric characters as the originally purchased vendor specialty  
8 license plate. The fee for a restyled "custom" license plate is  
9 \$95, the fee for a restyled "premium" license plate is \$125, and  
10 the fee for a restyled "luxury" license plate is \$145.

11  
12 New §17.41, Removal of License Plates & Registration Insignia  
13 upon Sale of Motor Vehicle, addresses the provisions of House  
14 Bill 310.

15  
16 New §17.41(a), Purpose, explains the purpose of the section to  
17 facilitate the transfer of plates to another vehicle owned by  
18 the same owner.

19  
20 New §17.41(b), Disposition of removed license plates, provides  
21 information relating to removal and transfer of license plates  
22 when a vehicle is sold, traded, or transferred to a licensed  
23 motor vehicle dealer or in a private transaction between non-  
24 dealers. Subsection 17.41(b) also provides the criteria for  
25 transferring the removed license plates to another vehicle,

1 addresses disposal of removed license plates if they are  
2 retained by the vehicle owner, and retention by the vehicle  
3 owner for future use on another motor vehicle.

4  
5 New §17.41(c), Vehicle transit permit, provides information  
6 about how a motor vehicle buyer may obtain a vehicle transit  
7 permit that authorizes legal movement of the vehicle from the  
8 place of purchase when the seller has removed the license plates  
9 and registration insignia. The vehicle transit permit is valid  
10 for temporary movement of the vehicle for a five-day period, as  
11 provided by Transportation Code, §502.454, and must be kept in  
12 the vehicle at all times.

13  
14 Amendments to §17.51, Registration Reciprocity Agreements, add  
15 provisions for denial or suspension of apportioned registration  
16 as required under the Federal Motor Carrier Safety  
17 Administration's (FMCSA) Performance and Registration  
18 Information Systems Management program (PRISM) and established  
19 by the Transportation Equity Act for the 21st Century (P.L. 105-  
20 178). The PRISM system allows information to be shared among  
21 participating International Registration Plan (IRP) vehicle  
22 registration agencies and the FMCSA to check the safety rating  
23 of motor carriers prior to issuing or renewing apportioned  
24 registration.

25

1 The department will begin piloting the PRISM program in June  
2 2008, including denial or suspension of a registrant's  
3 apportioned registration if the registrant or the commercial  
4 vehicle being registered has been deemed to be unsafe and placed  
5 out of business by the FMCSA. In addition, the department will  
6 begin gathering necessary data as required under PRISM during  
7 this pilot period. Full implementation will not occur until  
8 June 2009.

9  
10 Amendments to §17.51 also delete all references to temporary  
11 operating authority (TOA) permits because the department no  
12 longer issues these permits. The department has implemented an  
13 automated system for credentialing apportioned motor carriers  
14 (TxIRP) that allows for the electronic issuance of a temporary  
15 cab card, eliminating the need for TOA permits. The temporary  
16 cab card is similar to a TOA permit, but enables the department  
17 to better ensure that operating authority is issued only to  
18 legitimate motor carriers. Through the automated system, the  
19 department gained the capability to electronically issue a  
20 temporary cab card to a motor carrier after an interim  
21 application for title or registration is submitted. Before the  
22 implementation of the automated system, paper TOA permits were  
23 issued by multiple entities and could be obtained by a carrier  
24 who had not yet submitted an application for title or  
25 registration to the department. Some carriers used this process

1 to circumvent the title and apportioned registration  
2 requirements and failed to apply for title or pay registration  
3 fees for operation of the vehicle as required. With the  
4 automated system, the department is better able to audit the  
5 temporary cab cards and assist law enforcement in verifying the  
6 validity of a motor carrier's registration.

7  
8 Throughout §17.51, the term "mileage" is changed to "distance"  
9 since some carriers measure the distance traveled in kilometers  
10 rather than miles. As defined, the term "distance" encompasses  
11 distances measured in either miles or kilometers. Additionally,  
12 throughout §17.51 the decision-making process for cancellation,  
13 enforcement of cancellation, conference, appeal, and  
14 reinstatement of cancelled registration is amended to add that  
15 in addition to the director, a designee of the director may act.

16  
17 Additional amendments to §17.51 update terminology to be  
18 consistent with the terminology used in the International  
19 Registration Plan (IRP) and update or clarify existing  
20 information.

21  
22 Amendments to §17.51(a), Purpose, clarify that the department  
23 may enter into agreements relating to the apportionment of  
24 registration with foreign countries, as well as with other  
25 jurisdictions.

1

2 Amendments to §17.51(b), Definitions, add a definition of  
3 "distance" established in the IRP Plan that can be applied  
4 regardless of whether the distance traveled is measured in miles  
5 or kilometers. Subsequent paragraphs are renumbered.

6

7 Amendments to §17.51(b)(6) revise the name of the temporary  
8 permit that may be issued to motor carriers from "temporary  
9 operating authority" to "temporary cab card", and update the  
10 length of time for which the permit is valid.

11

12 Amendments to §17.51(c)(2)(A) correct terminology.

13

14 Amendments to §17.51(c)(2)(B) provide that the department adopts  
15 the most currently adopted edition of the International  
16 Registration Plan. The specific version adopted was previously  
17 cited; however, since the plan provisions are continually  
18 amended by plan members, the revised language is more accurate.

19

20 Amendments to §17.51(c)(2)(B)(iv) clarify an "established place  
21 of business" must be located in this state for purposes of  
22 obtaining apportioned registration and delete the specific  
23 location within the IRP plan of the definition of "established  
24 place of business" as the location can change when the plan is  
25 amended.

1  
2 Amendments to §17.51(c)(2)(D) update how the fees associated  
3 with apportioned registration applications may be submitted.  
4 Registrants may now submit funds by personal check or using an  
5 electronic funds transfer process through an automated  
6 clearinghouse.

7  
8 Amendments to §17.51(c)(2)(F) clarify that registrants must  
9 provide operational records for each vehicle in their fleet;  
10 update terminology from "recap" to "summary"; and add that  
11 registrants must provide distance summaries on an annual basis,  
12 as well as on a monthly and quarterly basis in accordance with  
13 the IRP.

14  
15 Amendments to §17.51(c)(2)(G) clarify that if the department  
16 assesses additional registration fees after conducting an audit,  
17 the assessment could be up to 100% of the Texas intrastate  
18 registration fees in accordance with IRP. In addition,  
19 reference to temporary operating authority (TOA) is deleted  
20 since the department no longer issues TOAs.

21  
22 Amendments to §17.51(c)(2)(I) delete the specific location  
23 within the IRP plan of the definition of "established place of  
24 business" as the location can change when the plan is amended.

25

1 Amendments to §17.51(c)(2)(J)(i) clarify that the registrant's  
2 license plates will be cancelled if additional fees assessed are  
3 not paid by the date prescribed in the notice.

4

5 Amendments to §17.51(c)(2)(J)(ii) indicate that conferences will  
6 now be conducted at division headquarters in Austin, rather than  
7 at a regional office. Previously, the scheduling and  
8 conferences were conducted by a VTR Regional Office supervisor  
9 at a regional office. This function has now been centralized so  
10 that the few inquiries will be consistently answered by the same  
11 staff.

12

13 Amendments to §17.51(c)(2)(J)(iii) clarify that an appeal  
14 hearing will only be conducted if the registrant makes the  
15 request for the hearing within the 20-day period prescribed for  
16 submitting the request.

17

18 Amendments to §17.51(c)(2)(K) eliminate the requirement that all  
19 previously issued apportioned license plates, cab cards, and  
20 TOAs have been surrendered to the department before apportioned  
21 registration may be reinstated. Surrender of these items is no  
22 longer required by the department before reinstatement, because  
23 in some cases, such as when the document was lost or destroyed,  
24 surrender is not possible.

25

1 New §17.51(c)(2)(L) adds that the department will deny issuance  
2 of a temporary cab card, suspend apportioned registration, or  
3 deny initial or renewal of a registrant's apportioned  
4 registration in accordance with the Federal Motor Carrier Safety  
5 Administration's (FMCSA) Performance and Registration  
6 Information Systems Management (PRISM) program. This program  
7 provides the ability for the department to check the safety  
8 rating of motor carriers provided by FMCSA before issuing or  
9 renewing a temporary cab card or apportioned license plates. An  
10 approved safety rating from FMCSA will be required before  
11 authorization for or reinstatement of apportioned registration  
12 to a motor carrier that was previously denied or suspended under  
13 the FMCSA's PRISM program. Former §17.51 (c)(2)(L) is deleted  
14 in it's entirety as the department no longer issues TOAs.

15  
16 New §17.51(c)(2)(M) provides the procedure for obtaining a  
17 temporary cab card. Timeframes are established for submission  
18 of the original application documents and fees to the department  
19 after a temporary cab card has been authorized and the penalties  
20 for failure to comply with these timeframes are also prescribed.

21  
22 FISCAL NOTE  
23 James Bass, Chief Financial Officer, has determined that for  
24 each of the first five years the repeal, amendments, and new  
25 sections as proposed are in effect, there will be no fiscal

1 implications for state or local governments as a result of  
2 enforcing or administering the repeal, new §17.41, and  
3 amendments to §17.51. There will be positive, revenue  
4 generating, fiscal implications for the state as a result of  
5 enforcing or administering new §17.40.

6  
7 The contract with the vendor allows the department to recoup all  
8 costs incurred. The non-refundable start-up fee and redesign  
9 fees will be deposited to the State Highway Fund for cost  
10 recoupment. The vendor will also pay \$8 for each set of  
11 optional replacement or restyled vendor specialty license plates  
12 issued, which will also be deposited to the State Highway Fund  
13 for cost recoupment.

14  
15 Revenue to the General Revenue Fund will be generated as a  
16 result of collection of the fees for optional replacement and  
17 restyled license plates. The amount to be deposited to the  
18 General Revenue Fund for each optional replacement vendor  
19 specialty license plate is \$22.00; for a restyled Custom vendor  
20 specialty license plate is \$26.10; for a restyled Premium vendor  
21 specialty license plate is \$35.10; and for a restyled Luxury  
22 vendor specialty license plate is \$41.10. However, the total  
23 revenue that will be generated is unknown at this time since the  
24 volume of optional replacements and requests for restyled  
25 license plates cannot be estimated.

1  
2 Rebecca Davio, Director, Vehicle Titles and Registration  
3 Division, has certified that there will be no significant impact  
4 on local economies or overall employment as a result of  
5 enforcing or administering the repeal, amendments, and new  
6 sections.

7

8 PUBLIC BENEFIT AND COST

9 Ms. Davio has also determined that for each year of the first  
10 five years the repeal, amendments, and new sections are in  
11 effect, the public benefit anticipated as a result of enforcing  
12 or administering the repeal, new sections, and amendments will  
13 be to provide the public with updated information regarding the  
14 vendor specialty license plate program including the process for  
15 application and department approval of the new designs the  
16 vendor submits, the requirements and fees for replacement of  
17 vendor plates, and how to obtain restyled license plates. New  
18 §17.41 and amended §17.51 also provide vehicle sellers and motor  
19 vehicle dealers current information regarding the removal of  
20 license plates when a vehicle is sold; inform vehicle buyers of  
21 the availability of a vehicle transit permit when the seller has  
22 removed the license plates; advise motor carriers of the  
23 provisions for denial or suspension of apportioned registration  
24 for safety reasons; and notify motor carriers of the expedited  
25 process that may be utilized to obtain authorization to operate

1 a newly acquired commercial motor vehicle or one that has been  
2 added to their fleet.

3

4 There are no anticipated economic costs for persons required to  
5 comply with the repeal of §17.40, new §17.40 and §17.41, or  
6 amended §17.51, with the exception of subparagraph  
7 §17.51(c)(2)(L), Denial of apportioned registration for safety  
8 reasons, which will have an adverse economic effect on small  
9 businesses that are not currently complying with current safety  
10 regulations and are placed out of service by the Federal Motor  
11 Carrier Safety Administration (FMCSA). There are no anticipated  
12 economic costs for persons required to comply with §17.51  
13 (c)(2)(J)(ii) which changes the venue for a complaint conference  
14 from the regional office to department headquarters because such  
15 a conference is extremely infrequent and none are expected. The  
16 provision remains in the rule because it is part of the IRP.  
17 Since July 2006, the department has had a few registrants raise  
18 some questions or concerns about additional registration fees or  
19 cancellation of a registrant's apportioned license plates or  
20 privileges, but these have been addressed over the phone or  
21 through correspondence.

22

23 Government Code, §2006.002 requires that, before adopting a rule  
24 that may have an adverse economic effect on small businesses, a  
25 state agency must prepare an economic impact statement and a

1 regulatory flexibility analysis. The statute defines "small  
2 business" as a legal entity, including a corporation,  
3 partnership, or sole proprietorship, that is formed for the  
4 purpose of making a profit; is independently owned and operated;  
5 and has fewer than 100 employees or less than \$6 million in  
6 annual gross receipts. A "micro-business" is a legal entity,  
7 including a corporation, partnership, or sole proprietorship,  
8 that is formed for the purpose of making a profit; is  
9 independently owned and operated; and has not more than 20  
10 employees.

11  
12 Approximately 18,000 active apportioned accounts (fleets) were  
13 recorded in the TxIRP data base at the end of calendar year  
14 2007. Of these accounts, approximately 13,830 indicated they  
15 consist of two trucks/units or less and the department assumes  
16 these are independently owned. The department does not maintain  
17 data of a nature that would allow the categorization of a  
18 particular account under Government Code, Chapter 2006, such as  
19 the number of employees or gross receipts. However, the nature  
20 of the trucking industry indicates that a large majority of the  
21 accounts consist principally of independent owner/operator  
22 accounts that would be categorized as small businesses. For the  
23 purposes of this impact statement and flexibility analysis, the  
24 distinction between "small business" and "micro-business" under  
25 Government Code, Chapter 2006 is insignificant and "small

1 business" will be used for both.

2

3 The Performance and Registration Information Systems Management  
4 (PRISM) is a cooperative effort between state and federal  
5 programs to link the vehicle safety performance to the vehicle  
6 registration to improve the safety of high risk motor carriers  
7 through more accurate identification, treatment, and assessment.  
8 The PRISM system will be used by participating states to verify  
9 the safety records for commercial truck operators and the  
10 commercial vehicles they operate. If it is found that the  
11 driver or vehicle has been put out of service (OOS) for safety  
12 reasons, the department will deny issuance of apportioned  
13 registration (initial or renewal), will suspend existing  
14 apportioned registration, or will deny issuance of a temporary  
15 cab card.

16

17 Although full implementation of PRISM will not begin until June  
18 2009, the department has elected to join the pilot program of  
19 the FMCSA system and to begin gathering information required by  
20 the FMCSA, beginning July 1, 2008. In addition, to protect the  
21 safety of the traveling public, the department will also deny or  
22 suspend apportioned registration during this pilot period if a  
23 driver or motor carrier has been put OOS by FMCSA for safety  
24 violations.

25

1 According to FMCSA the average fine that a carrier can be  
2 assessed for being put OOS is \$1,500.

3

4 According to the Owner Operator Independent Drivers Association  
5 (OOIDA) the average per year net income that a motor carrier  
6 makes is \$38,000. Based on the assumption that it will take a  
7 motor carrier approximately two weeks to comply with safety  
8 requirements after being put OOS, the motor carrier would lose  
9 approximately \$1,462 in net income, calculated as follows:  
10  $\$38,000$  (yearly net income)  $\div$  52 weeks/year X 2 weeks (to  
11 comply) =  $\$1,462$  (net income loss).

12

13 Also, based on the typical repairs necessary to bring a  
14 commercial vehicle into compliance and any administrative costs  
15 involved, the department assumes it will cost carriers  
16 approximately \$1,000 to come into compliance with the OOS order.

17

18 The total economic impact of \$3,962 is calculated as follows:  
19  $\$1,500$  (average fine) +  $\$1,462$  (net income loss) +  $\$1,000$  (cost  
20 to comply) =  $\$3,962$ .

21

22 This cost will only be experienced by carriers who are not  
23 complying with the existing safety regulations. If a carrier is  
24 already complying, then it will not be affected.

25

1 Government Code, §2006.002, also requires that agencies prepare  
2 a regulatory flexibility analysis to analyze alternatives to the  
3 proposed rule. These alternatives should be consistent with the  
4 health, safety, and environmental and economic welfare of the  
5 state; accomplish the objectives of the rule; and minimize  
6 adverse impacts on small businesses. The department analyzed  
7 several alternatives to meet the goals outlined above.

8

9 In preparing the amendments to 17.41 the department considered  
10 delaying implementation for three months. With six months left  
11 in the end of the calendar year, the effect on small businesses  
12 would be that approximately half of the small businesses that  
13 require safety improvements would not be denied issuance of  
14 apportioned registration, have their existing apportioned  
15 registration suspended, or be denied the issuance of a temporary  
16 cab card this calendar year, temporarily saving these businesses  
17 \$3,962 each. Another alternative is to delay implementation for  
18 six months. The effect on small businesses is that none of the  
19 small businesses that require safety improvements would have any  
20 economic costs this calendar year, temporarily saving a business  
21 with an unsafe motor carrier \$3,962. However, assuming, that  
22 these businesses would later be denied issuance of apportioned  
23 registration, have their existing apportioned registration  
24 suspended, or be denied the issuance of a temporary cab card,  
25 the out-of-pocket savings would be the temporary use of the

1 \$3,962. The third alternative is for the department not to  
2 implement the program. In that case, there would be no economic  
3 costs to the small businesses. While the three alternatives  
4 would decrease or eliminate costs to small businesses, allowing  
5 known, unsafe motor carriers to continue to operate on Texas  
6 highways would not be consistent with the health, safety, and  
7 environmental and economic welfare of the state, nor would it  
8 accomplish the objectives of the rule to ensure the safety of  
9 Texas motorists.

10

11 FMCSA and the department are not adding to the safety  
12 regulations; an enforcement mechanism is added to ensure unsafe  
13 motor carriers are not granted operating privileges by the State  
14 of Texas. For a small business that is already complying with  
15 the safety laws, there would be no economic cost no matter when  
16 the program is implemented.

17

#### 18 SUBMITTAL OF COMMENTS

19 Written comments on the proposed repeal of §17.40, new §17.40  
20 and §17.41, and amendments to §17.51 may be submitted to Rebecca  
21 Davio, Director, Vehicle Titles and Registration Division, Texas  
22 Department of Transportation, 125 East 11th Street, Austin,  
23 Texas 78701-2483. The deadline for receipt of comments is 5:00  
24 p.m. on August 18, 2008.

25

1 STATUTORY AUTHORITY

2 The repeal, amendments, and new sections are proposed under  
3 Transportation Code, §201.101, which provides the Texas  
4 Transportation Commission with the authority to establish rules  
5 for the conduct of the work of the department, and more  
6 specifically, Transportation Code, §502.0021, which authorizes  
7 the department to adopt rules governing the issuance of motor  
8 vehicle registration; and Transportation Code, §502.054, which  
9 authorizes the department to adopt rules to carry out the  
10 International Registration Plan.

11

12 CROSS REFERENCE TO STATUTE

13 Transportation Code, §502.052, §502.054, §502.184, §§502.451-  
14 502.456, and §§504.851-504.852.

1 SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

2 §17.40. Marketing of Specialty License Plates through a Private  
3 Vendor.

4 (a) Refunds. Fees for vendor-marketed specialty license  
5 plate fees will not be refunded after an application is  
6 submitted to the vendor and the department has approved issuance  
7 of the license plate.

8 (b) Multi-year vendor-marketed specialty license plates.  
9 Purchasers will have the option of purchasing vendor-marketed  
10 specialty license plates for one-year, five-year or ten-year  
11 periods.

12 (c) Payment of fees.

13 (1) Payment of specialty license plate fees. The fees  
14 for issuance of vendor-marketed specialty license plates will be  
15 paid directly to the vendor for the license plate category and  
16 period selected by the purchaser. A person who purchases a  
17 multi-year vendor-marketed specialty license plate must pay upon  
18 purchase the full fee which includes the renewal fees.

19 (2) Payment of statutory registration fees. To be valid  
20 for use on a motor vehicle, the license plate owner is required  
21 to pay, in addition to the vendor-marketed specialty license  
22 plate fees, any statutorily required registration fees in the  
23 amount as provided by Transportation Code, Chapter 502, and this

1 subchapter.

2 (d) License plate categories and associated fees. The  
3 vendor will design, market, and offer for sale categories of  
4 customized specialty license plates that meet legibility and  
5 reflectivity standards established by the department. The  
6 categories and the associated fees are provided in this  
7 subsection.

8 (1) Color/Themed license plates. Color/Themed license  
9 plates include license plates with a variety of pre-approved  
10 background and character color combinations that may be  
11 customized with five characters that are either three alpha and  
12 two numeric characters or two numeric and three alpha  
13 characters. The fees for issuance of Color/Themed license  
14 plates are \$95 for one year; \$295 for five years; and \$395 for  
15 ten years.

16 (2) Limited Edition/Special Event license plates.  
17 Limited Edition/Special Event license plates may be customized  
18 with any six alphanumeric characters on department-approved  
19 colored backgrounds or designs approved by the department.  
20 Special Event license plates will be made available to coincide  
21 with extraordinary events of public interest to Texas  
22 registrants. The fees for issuance of Limited Edition/Special  
23 Event license plates are \$195 for one year; \$495 for five years;

1 and \$595 for ten years.

2 (3) Luxury/Prestige license plates. Luxury/Prestige  
3 license plates may be customized with up to six alphanumeric  
4 characters on colored backgrounds or designs approved by the  
5 department. The fees for issuance of Luxury/Prestige license  
6 plates are \$395 for one year; \$695 for five years; and \$795 for  
7 ten years.

8 (e) Replacement.

9 (1) Application and fees. When vendor-marketed specialty  
10 license plates are lost, destroyed, or mutilated, the owner  
11 shall apply directly to the county tax assessor-collector for  
12 the issuance of replacement license plates and pay the statutory  
13 replacement fee for personalized license plates provided in  
14 Transportation Code, §504.101(d).

15 (2) Interim replacement tags. If the vendor-marketed  
16 specialty license plates are lost, destroyed, or mutilated to  
17 such an extent that they are unusable, replacement license  
18 plates will need to be remanufactured. The county tax assessor-  
19 collector will issue interim replacement tags for use until the  
20 replacements are available. The owner's vendor-marketed  
21 specialty license plate number will be shown on the interim  
22 replacement tags.

23 (f) Transfer of vendor-marketed specialty license plates.

1           (1) Transfer between vehicles. The owner of a vehicle  
2 with vendor-marketed specialty license plates may transfer the  
3 license plates between vehicles by filing an application through  
4 the county tax assessor-collector if the vehicle to which the  
5 plates are transferred:

6           (A) is titled or leased in the owner's name; and

7           (B) meets the vehicle classification requirements for  
8 that particular specialty license plate.

9           (2) Transfer between owners. Vendor-marketed specialty  
10 license plates may not be transferred between persons.

11          (g) Gift plates.

12           (1) A person may purchase plates as a gift for another  
13 person if the purchaser submits a statement that provides:

14           (A) the purchaser's name and address;

15           (B) the name and address of the person who will receive  
16 the plates; and

17           (C) the vehicle identification number of the vehicle on  
18 which the plates will be displayed or a statement that the  
19 plates will not be displayed on a vehicle.

20           (2) To be valid for use on a motor vehicle, the recipient  
21 of the plates must file an application with the county tax  
22 assessor-collector and pay the statutorily required registration  
23 fees in the amount as provided by Transportation Code, Chapter

1 502, and this subchapter.

REPEAL

1 SUBCHAPTER B. MOTOR VEHICLE REGISTRATION

2 §17.40. Marketing of Specialty License Plates through a Private  
3 Vendor.

4 (a) Purpose and Scope. The department will enter into a  
5 contract with a private vendor to market department-approved  
6 specialty license plates in accordance with Transportation Code,  
7 §§504.851-504.852. This section sets out the procedure for  
8 approval of the design, purchase, and replacement of vendor  
9 specialty license plates. In this section, the license plates  
10 marketed by the vendor are referred to as vendor specialty  
11 license plates.

12 (b) Application for approval of vendor specialty license  
13 plate designs.

14 (1) Approval required. The vendor shall obtain the  
15 approval of the department for each license plate design the  
16 vendor proposes to market in accordance with this section and  
17 the contract entered into between the vendor and the department.

18 (2) Application. The vendor must submit a written  
19 application on a form approved by the director to the department  
20 for approval of each license plate design the vendor proposes to  
21 market. The application must include:

22 (A) a draft design of the specialty license plate;

23 (B) projected sales of the plate, including an

1 explanation of how the projected figure was determined;

2 (C) a marketing plan for the plate including a

3 description of the target market;

4 (D) a licensing agreement from the appropriate third

5 party for any design or design element that is intellectual

6 property; and

7 (E) other information necessary for the specialty

8 license plate committee to reach a decision regarding approval

9 of the requested vendor specialty plate.

10 (c) Review and approval process. The specialty license

11 plate committee established under §17.28(i) of this subchapter

12 will review vendor specialty license plate applications.

13 (1) Committee review. The committee:

14 (A) will not consider incomplete applications; and

15 (B) may request additional information from the vendor

16 to reach a decision.

17 (2) Postponement of decision for additional information.

18 (A) If the committee reviews an application and

19 determines that additional information is needed, it will

20 postpone the decision on the application until its next meeting.

21 (B) If the additional requested information is not

22 received before the next committee meeting, the committee will

23 not consider the application and will return it to the vendor as

1 incomplete.

2 (d) Committee recommendation and public comment.

3 (1) Recommendation. The recommendation of the committee  
4 will be based on:

5 (A) projected sales of the license plate as  
6 demonstrated in the marketing plan and by the listing of target  
7 purchasers;

8 (B) compliance with Transportation Code, §504.851 and  
9 §504.852;

10 (C) the proposed license plate design, including:

11 (i) whether the design meets the legibility and  
12 reflectivity standards established by the department;

13 (ii) whether the design meets the standards  
14 established by the department for uniqueness to ensure that the  
15 proposed plate complies with Transportation Code, §504.852(c);  
16 and

17 (iii) other information provided during the  
18 application process.

19 (2) Public comment on proposed design. If the committee  
20 recommends the issuance of the proposed vendor specialty license  
21 plate design, notice of the proposed design will be posted on  
22 the department's web site for public comment. The department  
23 simultaneously will notify all specialty plate organizations and

1 the sponsoring agencies who administer specialty license plates  
2 issued in accordance with Transportation Code, Chapter 504,  
3 Subchapter G, of the posting. A comment on the proposed design  
4 must be submitted in writing and must be received within 10 days  
5 after the date that the notice is first posted on the  
6 department's web site.

7 (e) Final approval and specialty license plate issuance.

8 (1) Approval. The executive director of the department  
9 will make the final decision on the vendor's specialty license  
10 plate application based on the committee's recommendation and on  
11 all comments received during the period prescribed by subsection  
12 (d)(2) of this section.

13 (2) Application not approved. If the vendor's  
14 application is not approved by the executive director, the  
15 vendor must submit a new application and supporting  
16 documentation for the design to be considered again by the  
17 committee.

18 (3) Issuance of approved specialty plates.

19 (A) If the vendor's specialty license plate is  
20 approved, the applicant must submit the non-refundable start-up  
21 fee before any further design and processing of the license  
22 plate.

23 (B) Approval of the plate does not guarantee that the

1 submitted draft plate design will be used. The department has  
2 final approval of all specialty license plate designs and will  
3 provide guidance on the submitted draft design to ensure  
4 compliance with the format and license plate specifications.

5 (f) Redesign of vendor specialty license plates.

6 (1) On receipt of a written request from the vendor, the  
7 department will allow a redesign of a vendor specialty license  
8 plate.

9 (2) The vendor must pay the redesign administrative costs  
10 as provided in the contract between the vendor and the  
11 department.

12 (g) Multi-year vendor specialty license plates. Purchasers  
13 will have the option of purchasing vendor specialty license  
14 plates for a one-year, five-year, or ten-year period.

15 (h) License plate categories and associated fees. The  
16 categories and the associated fees for vendor specialty plates  
17 are set out in this subsection.

18 (1) Custom license plates. Custom license plates include  
19 license plates with a variety of pre-approved background and  
20 character color combinations that may be customized with either  
21 three alpha and two numeric characters or two numeric and three  
22 alpha characters. The fees for issuance of custom license  
23 plates are \$95 for one year, \$295 for five years, and \$395 for

1 ten years.

2 (2) Premium license plates. Premium license plates may  
3 be customized with up to six alphanumeric characters on colored  
4 backgrounds or designs approved by the department. Premium  
5 license plates will be made available to coincide with  
6 extraordinary events of public interest to Texas registrants.  
7 The fees for issuance of premium license plates are \$195 for one  
8 year, \$495 for five years, and \$595 for ten years.

9 (3) Luxury license plates. Luxury license plates may be  
10 customized with up to six alphanumeric characters on colored  
11 backgrounds or designs approved by the department. The fees for  
12 issuance of luxury license plates are \$395 for one year, \$695  
13 for five years, and \$795 for ten years.

14 (i) Payment of fees.

15 (1) Payment of specialty license plate fees. The fees  
16 for issuance of vendor specialty license plates will be paid  
17 directly to the vendor for the license plate category and period  
18 selected by the purchaser. A person who purchases a multi-year  
19 vendor specialty license plate must pay upon purchase the full  
20 fee which includes the renewal fees.

21 (2) Payment of statutory registration fees. To be valid  
22 for use on a motor vehicle, the license plate owner is required  
23 to pay, in addition to the vendor specialty license plate fees,

1 any statutorily required registration fees in the amount as  
2 provided by Transportation Code, Chapter 502, and this  
3 subchapter.

4 (j) Refunds. Fees for vendor specialty license plate fees  
5 will not be refunded after an application is submitted to the  
6 vendor and the department has approved issuance of the license  
7 plate.

8 (k) Replacement.

9 (1) Application. An owner must apply directly to the  
10 county tax assessor-collector for the issuance of replacement  
11 vendor specialty license plates and must pay the fee described  
12 in paragraph (2), (3) or (4) of this subsection, whichever  
13 applies.

14 (2) Lost or mutilated vendor specialty license plates.  
15 To replace vendor specialty license plates that are lost or  
16 mutilated, the owner must pay the statutory replacement fee  
17 provided in Transportation Code, §502.184.

18 (3) No-charge replacement. The owner of vendor specialty  
19 license plates will receive at no charge replacement license  
20 plates as follows:

21 (A) one set of replacement license plates on or after  
22 the seventh anniversary after the date of initial issuance; and

23 (B) one set of replacement license plates seven years

1 after the date the set of license plates were issued in  
2 accordance with subparagraph (A) of this paragraph.

3 (4) Optional replacements. An owner of a vendor  
4 specialty license plate may replace vendor specialty license  
5 plates before the seventh anniversary after the date of issuance  
6 by submitting a request to the county tax assessor-collector  
7 accompanied by the payment of a \$30 fee.

8 (5) Interim replacement tags. If the vendor specialty  
9 license plates are lost or mutilated to such an extent that they  
10 are unusable, replacement license plates will need to be  
11 remanufactured. The county tax assessor-collector will issue  
12 interim replacement tags for use until the replacements are  
13 available. The owner's vendor specialty license plate number  
14 will be shown on the interim replacement tags.

15 (6) Stolen vendor specialty license plates. The county  
16 tax assessor-collector will not approve the issuance of  
17 replacement vendor specialty license plates with the same  
18 license plate number if the department's records indicate that  
19 the vehicle displaying that license plate number was reported  
20 stolen or the license plates themselves were reported stolen.

21 (1) Transfer of vendor specialty license plates.

22 (1) Transfer between vehicles. The owner of a vehicle  
23 with vendor specialty license plates may transfer the license

1 plates between vehicles by filing an application through the  
2 county tax assessor-collector if the vehicle to which the plates  
3 are transferred:

4 (A) is titled or leased in the owner's name; and

5 (B) meets the vehicle classification requirements for  
6 that particular specialty license plate.

7 (2) Transfer between owners. Vendor specialty license  
8 plates may not be transferred between persons.

9 (m) Gift plates.

10 (1) A person may purchase plates as a gift for another  
11 person if the purchaser submits a statement that provides:

12 (A) the purchaser's name and address;

13 (B) the name and address of the person who will receive  
14 the plates; and

15 (C) the vehicle identification number of the vehicle on  
16 which the plates will be displayed or a statement that the  
17 plates will not be displayed on a vehicle.

18 (2) To be valid for use on a motor vehicle, the recipient  
19 of the plates must file an application with the county tax  
20 assessor-collector and pay the statutorily required registration  
21 fees in the amount as provided by Transportation Code, Chapter  
22 502, and this subchapter.

23 (n) Restyled vendor specialty license plates. A person who

1 has purchased a multi-year vendor specialty license plate may  
2 request a restyled license plate at any time during the term of  
3 the plate.

4 (1) For the purposes of this subsection, "restyled  
5 license plate" is a vendor specialty license plate that has a  
6 different style from the originally purchased vendor specialty  
7 license plate but:

8 (A) is within the same price category; and

9 (B) has the same alpha-numeric characters and  
10 expiration date as the previously issued multi-year license  
11 plates.

12 (2) The fee for each restyled license plate is:

13 (A) \$95 for a custom license plate as described in  
14 subsection (h)(1) of this section;

15 (B) \$125 for a premium license plate as described in  
16 subsection (h)(2) of this section;

17 (C) \$145 for a luxury license plate as described in  
18 subsection (h)(3) of this section.

19  
20 §17.41. Removal of License Plates and Registration Insignia  
21 upon Sale of Motor Vehicle.

22 (a) Purpose. Transportation Code, Chapter 502, Subchapter  
23 I, provides for the removal of the license plates and

1 registration insignia when a motor vehicle is sold or  
2 transferred. Motor vehicles eligible for this process are  
3 limited to a passenger car or a light truck, as those terms are  
4 defined in Transportation Code, §502.001.

5 (b) Disposition of removed license plates. License plates  
6 removed from a motor vehicle by a licensed motor vehicle dealer,  
7 as provided in Transportation Code, §502.451(a), or by a motor  
8 vehicle owner in a private transaction as provided in  
9 Transportation Code, §502.451(a-1), may be:

10 (1) transferred to another vehicle:

11 (A) that is titled or will be titled in the same owner  
12 name as the vehicle from which the license plates were removed;

13 (B) that is of the same vehicle classification  
14 (passenger car or light truck) as the vehicle from which the  
15 license plates were removed;

16 (C) if the age of the removed license plate is not  
17 greater than provided in §17.22(d)(7)(B) of this subchapter  
18 which would require a new license plate to be issued; and

19 (D) upon:

20 (i) acceptance of a request to transfer the license  
21 plate by the county tax assessor-collector in which the  
22 application is filed as provided by Transportation Code,  
23 §501.023 or §502.002(b), whichever applies; and

1                    (ii) payment of the transfer fee provided in  
2 Transportation Code, §502.453;

3                    (2) disposed of in a manner that renders the license  
4 plates unusable or that ensures the license plates will not be  
5 available for fraudulent use on a motor vehicle; or

6                    (3) retained by the owner of the motor vehicle from which  
7 the license plates were removed.

8                    (c) Vehicle transit permit.

9                    (1) Obtaining a vehicle transit permit. A person who  
10 obtains a motor vehicle in a private transaction may obtain one  
11 vehicle transit permit (temporary single-trip permit), through  
12 the department's website at www.txdot.gov if the seller or  
13 transferor has removed the license plates and registration  
14 insignia.

15                    (2) Restrictions. The permit, which is valid only for  
16 the period shown on the permit, may be used for operation of the  
17 motor vehicle only as provided in Transportation Code, §502.454,  
18 and must be carried in the vehicle at all times.

19

20 §17.51. Registration Reciprocity Agreements.

21                    (a) Purpose. To promote and encourage the fullest possible  
22 use of the highway system and contribute to the economic  
23 development and growth of the State of Texas and its residents,

1 the department is authorized by Transportation Code, §502.054,  
2 to enter into agreements with duly authorized officials of other  
3 jurisdictions, including any state of the United States, the  
4 District of Columbia, a foreign country, a state or province of  
5 a foreign country, or a territory or possession of either the  
6 United States or of a foreign country, and to provide for the  
7 registration of vehicles by Texas residents and nonresidents on  
8 an allocation or distance [~~mileage~~] apportionment basis, and to  
9 grant exemptions from the payment of registration fees by  
10 nonresidents if the grants are reciprocal to Texas residents.

11 (b) Definitions. The following words and terms, when used  
12 in this section, shall have the following meanings, unless the  
13 context clearly indicates otherwise.

14 (1) Cab card--The apportioned vehicle registration  
15 receipt that contains, but is not limited to, the vehicle  
16 description and the registered weight at which the vehicle may  
17 operate in each jurisdiction.

18 (2) Department--The Texas Department of Transportation.

19 (3) Director--The director of the Vehicle Titles and  
20 Registration Division, Texas Department of Transportation.

21 (4) Distance--The distance an apportioned motor vehicle  
22 is:

23 (A) expected to travel in a member jurisdiction during

1 a registration year as reported by an applicant; or

2 (B) actually operated in a member jurisdiction during a  
3 reporting period.

4 (5) [(4)] Executive director--The chief executive officer  
5 of the department.

6 (6) [(5)] Temporary cab card [~~operating authority~~  
7 ~~permit~~]--A temporary registration permit authorized [~~issued~~] by  
8 the department that allows [~~authorizes~~] the operation of a  
9 vehicle for 30 [~~45~~] days subject to all rights and privileges  
10 afforded to a vehicle displaying apportioned registration.

11 (c) Multilateral agreements.

12 (1) Authority. The executive director may on behalf of  
13 the department enter a multilateral agreement with the duly  
14 authorized officials of two or more other jurisdictions to carry  
15 out the purpose of this section.

16 (2) International Registration Plan [~~registration plan~~].

17 (A) Applicability. The International Registration Plan  
18 [~~international registration plan~~] is a registration reciprocity  
19 agreement among states of the United States and other  
20 jurisdictions providing for payment of registration [~~license~~]  
21 fees on the basis of fleet distance [~~miles~~] operated in various  
22 jurisdictions. Its purpose is to promote and encourage the  
23 fullest possible use of the highway system by authorizing

1 apportioned registration for commercial motor vehicles and  
2 payment of appropriate vehicle registration fees and thus  
3 contributing to the economic development and growth of the  
4 member jurisdictions.

5 (B) Adoption. The department adopts by reference the  
6 most currently adopted edition of the International Registration  
7 Plan [~~with Official Commentary, August 22, 1994, edition~~] (IRP).  
8 This document will be periodically amended by its members.  
9 Copies of the document are available for review in the Vehicle  
10 Titles and Registration Division, Texas Department of  
11 Transportation, 4000 Jackson Avenue, Austin. Copies are also  
12 available on request. The following words and terms, when used  
13 in the IRP or in this subparagraph, shall have the following  
14 meanings, unless the context clearly indicates otherwise.

15 (i) Apportionable vehicle--Any vehicle, except  
16 recreational vehicles, vehicles displaying restricted plates,  
17 city pickup and delivery vehicles, buses used in transportation  
18 of chartered parties, and government-owned vehicles, used or  
19 intended for use in two or more member jurisdictions that  
20 allocate or proportionally register vehicles and used either for  
21 the transportation of persons for hire or designed, used, or  
22 maintained primarily for the transportation of property and:

23 (I) is a power unit having two axles and a gross

1 vehicle weight or registered gross vehicle weight in excess of  
2 26,000 pounds or 11,793.401 kilograms;

3 (II) is a power unit having three or more axles,  
4 regardless of weight;

5 (III) is used in combination, when the weight of  
6 such combination exceeds 26,000 pounds or 11,793.401 kilograms  
7 gross vehicle weight; or

8 (IV) at the option of the registrant, trucks and  
9 truck tractors, and combinations of vehicles having a gross  
10 vehicle weight of 26,000 pounds or 11,793.401 kilograms or less  
11 and buses used in transportation of chartered parties.

12 (ii) Commercial vehicle--A vehicle or combination  
13 designed and used for the transportation of persons or property  
14 in furtherance of any commercial enterprise, for hire or not for  
15 hire.

16 (iii) Erroneous issuance--Apportioned registration  
17 issued based on erroneous information provided to the  
18 department.

19 (iv) Established place of business--A physical  
20 structure owned[] or leased within the state of Texas [ ~~or~~  
21 ~~rented~~] by the applicant or fleet registrant and maintained in  
22 accordance with the provisions of the International Registration  
23 Plan[~~, Articles II and IX~~].

1           (v) Fleet distance [~~miles~~]~~--All~~ distance [~~mileage~~]  
2 operated by an apportionable vehicle or vehicles used to  
3 calculate registration fees for the various jurisdictions.

4           (C) Application.

5           (i) An applicant must submit an application to the  
6 department on a form prescribed by the director together with  
7 additional documentation as required by the director.

8           (ii) Upon approval of the application, the department  
9 will compute the appropriate registration fees and notify the  
10 registrant.

11           (D) Fees. Upon receipt of the applicable fees in the  
12 form of a check [~~(other than personal)~~], cashier's check, [~~or~~]  
13 money order, or electronic funds transfer through an automated  
14 clearinghouse (ACH) made payable in United States funds, the  
15 department will issue one license plate and cab card for each  
16 vehicle registered.

17           (E) Display.

18           (i) The license plate issued to a power unit shall be  
19 installed on the front of the vehicle, and the license plate  
20 issued for a trailer shall be installed on the rear of the  
21 vehicle.

22           (ii) The cab card shall be carried at all times in  
23 the vehicle in accordance with Transportation Code, §621.002.

1 (F) Audit. An audit of the registrant's vehicle  
2 operational records may be conducted by the department according  
3 to the IRP provisions. Upon request, the registrant shall  
4 provide the operational records of each vehicle for audit in  
5 unit number order, in sequence by date, and including, but not  
6 limited to, a summary [~~recap~~] of distance [~~mileage~~] traveled by  
7 each individual truck on a monthly, [~~or~~] quarterly, and annual  
8 basis with distance [~~mileage~~] totaled separately for each  
9 jurisdiction in which the vehicle traveled.

10 (G) Assessment. The department may assess additional  
11 registration fees of up to 100% of the Texas registration fees,  
12 if an audit conducted under subparagraph (F) of this paragraph  
13 reveals that:

14 (i) the operational records indicate that the vehicle  
15 did not generate interstate distance [~~miles~~] in two or more  
16 member jurisdictions for the distance [~~mileage~~] reporting period  
17 supporting the application being audited, plus the six-month  
18 period immediately following that distance [~~mileage~~] reporting  
19 period;

20 (ii) the registrant failed to provide complete  
21 operational records; or

22 [~~(iii) the company did not comply with the provisions~~  
23 ~~of subparagraph (L) of this paragraph regarding temporary~~

1 ~~operating authority permits; or]~~

2            (iii) [~~iv~~] the distance [~~mileage~~] must be adjusted,  
3 and the adjustment results in a shortage of registration fees  
4 due Texas or any other IRP jurisdiction.

5            (H) Refunds. If an audit conducted under subparagraph  
6 (F) of this paragraph reveals an overpayment of fees to Texas or  
7 any other IRP jurisdiction, the department will refund the  
8 overpayment of registration fees in accordance with  
9 Transportation Code, §502.183, and IRP guidelines. Any  
10 registration fees refunded to a carrier for another jurisdiction  
11 will be deducted from registration fees collected and  
12 transmitted to that jurisdiction.

13            (I) Cancellation. The director or the director's  
14 designee may cancel a registrant's apportioned registration and  
15 all privileges provided by the IRP if the registrant:

16            (i) submits payment in the form of a check that is  
17 dishonored;

18            (ii) files or provides erroneous information to the  
19 department; or

20            (iii) fails to:

21            (I) remit appropriate fees due each jurisdiction in  
22 which the registrant is authorized to operate;

23            (II) meet the requirements [~~of Article II 218 and~~

1 ~~Article IX 906~~] of the IRP concerning established place of  
2 business;

3 (III) provide operational records in accordance  
4 with subparagraph (F) of this paragraph;

5 (IV) provide an acceptable source document as  
6 specified in the IRP; or

7 (V) pay an assessment pursuant to subparagraph (G)  
8 of this paragraph.

9 (J) Enforcement of cancelled registration.

10 (i) Notice. If [~~it is determined that~~] a registrant  
11 is [~~should be~~] assessed additional registration fees, as  
12 provided in subparagraph (G) of this paragraph, and the  
13 additional fees are not paid by the due date provided in the  
14 notice or it is determined that a registrant's apportioned  
15 license plates and privileges should be canceled, as provided in  
16 subparagraph (I) of this paragraph, the director or the  
17 director's designee will mail a notice by certified mail to the  
18 last known address of the registrant. The notice will state the  
19 facts underlying the assessment or cancellation, the effective  
20 date of the assessment or cancellation, and the right of the  
21 registrant to request a conference as provided in clause (ii) of  
22 this subparagraph.

23 (ii) Conference. A registrant may request a

1 conference upon receipt of a notice issued as provided by clause  
2 (i) of this subparagraph. The request must be made in writing  
3 to the director or the director's designee within 30 days of the  
4 date of the notice. If timely requested, the conference will be  
5 scheduled and conducted by the director or the director's  
6 designee at division headquarters in Austin [~~the regional~~  
7 ~~supervisor at the regional office~~] and will serve to abate the  
8 assessment or cancellation unless and until that assessment or  
9 cancellation is affirmed or disaffirmed by the director or the  
10 director's designee. In the event matters are resolved in the  
11 registrant's favor, the director or the director's designee will  
12 mail the registrant a notice of withdrawal, notifying the  
13 registrant that the assessment or cancellation is withdrawn, and  
14 stating the basis for that action. In the event matters are not  
15 resolved in the registrant's favor, the director or the  
16 director's designee will issue a ruling reaffirming the  
17 department's assessment of additional registration fees or  
18 cancellation of apportioned plates and privileges. The  
19 registrant has the right to appeal in accordance with clause  
20 (iii) of this subparagraph.

21 (iii) Appeal. If a conference held in accordance  
22 with clause (ii) of this subparagraph fails to resolve matters  
23 in the registrant's favor, the registrant may request an

1 administrative hearing. The request must be in writing and must  
2 be received by the director no later than the 20th day following  
3 the date of the ruling issued under clause (ii) of this  
4 subparagraph. If [~~timely~~] requested within the designated  
5 period, the hearing will be initiated by the department and will  
6 be conducted in accordance with §§1.21 et seq. of this title  
7 (relating to Procedures in Contested Cases). Assessment or  
8 cancellation is abated unless and until affirmed or disaffirmed  
9 by order of the Texas Transportation Commission.

10 (K) Reinstatement.

11 (i) The director or the director's designee will  
12 reinstate [~~accept a new application for~~] apportioned

13 registration to [~~from~~] a previously canceled registrant if [~~+~~]

14 [~~(I) all apportioned license plates, cab cards (if~~  
15 ~~available), and temporary operating authorities have been~~  
16 ~~surrendered to the department;~~]

17 [~~(II)~~] all applicable fees and assessments due on  
18 the previously canceled apportioned account have been paid [~~+~~]  
19 and

20 [~~(III)~~] the applicant provides proof of an  
21 acceptable recordkeeping system for a period of no less than 60  
22 days.

23 [~~(ii)~~] ~~The application will be processed and 100%~~

1 ~~registration fees shall be due Texas. Mileage for all other~~  
2 ~~jurisdictions must be shown as an estimate and registration fees~~  
3 ~~in excess of 100% shall be due.]~~

4 (ii) [~~(iii)~~] The application for the following  
5 registration year will be processed in accordance with the  
6 provisions of the IRP [~~elause (ii) of this subparagraph if the~~  
7 ~~application for reissuance is submitted after July 1 of the~~  
8 ~~current registration year]~~.

9 (L) Denial of apportioned registration for safety  
10 reasons. The department will comply with the requirements of  
11 the Performance and Registration Information Systems Management  
12 program (PRISM) administered by the Federal Motor Carrier Safety  
13 Administration (FMCSA).

14 [~~(L) Temporary operating authority permit. The~~  
15 ~~director will authorize the issuance of temporary operating~~  
16 ~~authority permits to a registrant to expedite the adding of a~~  
17 ~~vehicle to a specified fleet or to replace the license plate or~~  
18 ~~cab card of a vehicle in that fleet. The registrant must submit~~  
19 ~~an application for the permits to the department on a form~~  
20 ~~prescribed by the director. Upon approval of the application,~~  
21 ~~the department will issue a supply of no fewer than 10 or more~~  
22 ~~than 50 permits to the registrant for a particular fleet subject~~  
23 ~~to the following conditions.]~~

1           (i) Denial or suspension of apportioned registration.

2 Upon notification from the FMCSA that a carrier has been placed

3 out of service for safety violations, the department will:

4           (I) deny initial issuance of apportioned

5 registration;

6           (II) deny authorization for a temporary cab card,

7 as provide for in subparagraph (M) of this subsection;

8           (III) deny renewal of apportioned registration; or

9           (IV) suspend current apportioned registration.

10           ~~[(i) The registrant is accountable to the department~~  
11 ~~for all permits issued under this subparagraph. Upon request,~~  
12 ~~the registrant shall present to the department the company copy~~  
13 ~~of all assigned permits and all unassigned permits, still~~  
14 ~~intact, for inspection by the department.]~~

15           (ii) Issuance after denial of registration or

16 reinstatement of suspended registration. The director or the

17 director's designee will reinstate or accept an initial or

18 renewal application for apportioned registration from a

19 registrant who was suspended or denied registration under clause

20 (i) of this paragraph upon presentation of a Certificate of

21 Compliance from FMCSA, in addition to all other required

22 documentation and payment of fees.

23           ~~[(ii) No more than one permit will be issued for a~~

1 ~~particular vehicle in a registration period.]~~

2           ~~[(iii) Each permit issued in accordance with this~~  
3 ~~subparagraph must be validated by the department before the~~  
4 ~~registrant assigns the permit to a vehicle.]~~

5           ~~[(iv) The registrant must submit an application for~~  
6 ~~apportioned registration for the vehicle on a form prescribed by~~  
7 ~~the director within 20 calendar days from the date the permit~~  
8 ~~was validated.]~~

9           ~~[(v) If it is determined that the permit was~~  
10 ~~validated and an application for apportioned registration for~~  
11 ~~that vehicle was not submitted to the department, the registrant~~  
12 ~~shall pay registration fees to the state for the period the~~  
13 ~~permit was valid.]~~

14           ~~[(vi) If it is determined that a registrant cannot~~  
15 ~~account for a permit, the registrant shall be subject to~~  
16 ~~registration fees due to the state in an amount not to exceed~~  
17 ~~the 45-day period for which each such permit could be valid.]~~

18           ~~[(vii) A registrant's privilege to obtain temporary~~  
19 ~~operating authority permits may be denied if it is determined~~  
20 ~~that the registrant has failed to complete the permit forms~~  
21 ~~properly or has repeatedly been assessed registration fees for~~  
22 ~~the improper use of permits.]~~

23           ~~[(viii) The registrant's refusal to pay registration~~

1 ~~fees assessed in accordance with clauses (v) and (vi) of this~~  
2 ~~subparagraph may result in the cancellation of all operating~~  
3 ~~privileges in accordance with subparagraph (I) of this~~  
4 ~~paragraph.]~~

5 (M) Temporary cab card.

6 (i) Application. The department may authorize  
7 issuance of a temporary cab card to a motor carrier with an  
8 established Texas apportioned account for a vehicle upon proper  
9 submission of all required documentation, a completed  
10 application, and all fees for either:

11 (I) Texas Certificate of Title as prescribed by  
12 Transportation Code, Chapter 501 and §17.3 of this chapter, or

13 (II) Registration Purposes Only as provided for in  
14 Transportation Code, §501.029 and §17.22(b)(4) of this  
15 subchapter.

16 (ii) Title application. A registrant who is applying  
17 for a certificate of title as provided for in  
18 §17.51(c)(2)(L)(i)(I) of this subchapter and is requesting  
19 authorization for a temporary cab card, must submit a photocopy  
20 of the title application receipt issued by the county tax  
21 assessor-collectors office to a Vehicle Titles and Registration  
22 Division Regional Office by email, fax, overnight mail or in  
23 person.

1           (iii) Registration Purposes Only. A registrant who  
2 is applying for Registration Purposes Only under clause (i)(II)  
3 of this subparagraph and is requesting authorization for a  
4 temporary cab card, must submit an application and all  
5 additional original documents or copies of original documents  
6 required by the director to a Vehicle Titles and Registration  
7 Division Regional Office by email, fax, or overnight mail or in  
8 person.

9           (iv) Department approval. On department approval of  
10 the submitted documents, the department will send notice to the  
11 registrant to finalize the transaction and make payment of  
12 applicable registration fees.

13           (v) Finalization and payment of fees. To finalize  
14 the transaction and print the temporary cab card, the registrant  
15 may compute the registration fees through the department's  
16 apportioned registration software application, TxIRP system, and

17           (I) make payment of the applicable registration  
18 fees in the form of a check, cashier's check, money order, or  
19 electronic funds transfer through an automated clearinghouse  
20 (ACH) payable to the department in United States funds; and

21           (II) afterwards, mail or deliver payment of the  
22 certificate of title application fee in the form of a check,  
23 certified cashier's check, or money order payable to the county

1 tax assessor collector in the registrant's county of residency  
2 and originals of all copied documents previously submitted.

3 (vi) Deadline. The original documents and payment  
4 must be received by the Vehicle Titles and Registration Division  
5 Regional Office within 72-hours after the time that the office  
6 notified the registrant of the approval to print a temporary cab  
7 card as provided in clause (iv) of this subparagraph.

8 (vii) Failure to meet deadline. If the registrant  
9 fails to submit the original documents and required payment  
10 within the time prescribed by clause (vi) of this subparagraph,  
11 the registrant's privilege to use this expedited process to  
12 obtain a temporary cab card will be denied by the department for  
13 a period of six months from the date of approval to print the  
14 temporary cab card.