

STATE DEPARTMENT OF HIGHWAYS
AND PUBLIC TRANSPORTATION

VARIOUS _____ County

MINUTE ORDER

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District No. D-12

WHEREAS, the Commission is empowered by Article 6666, V.T.C.S., to promulgate rules for the conduct of the work of the State Department of Highways and Public Transportation and is further empowered by the Certificate of Title Act, Article 6687-1, V.T.C.S., to promulgate rules and regulations for implementation of that Act; and

WHEREAS, S. B. 763, 70th Legislature, Regular Session, 1987, effective August 31, 1987, amends Article 6687-1, V.T.C.S., to allow the department to issue a certificate of title for a vehicle under an alias for a law enforcement agency's use in covert criminal investigations; and

WHEREAS, the Commission by Minute Order No. 86218 dated August 31, 1987, adopted on an emergency basis and proposed for permanent adoption new Section 17.7 to Title 43, Texas Administrative Code, after finding that such new section is needed in order to implement the provisions of Article 6687-1, V.T.C.S., as amended by S. B. 763 and to protect the health, safety, and welfare of law officers involved in ongoing covert criminal investigations and the general public; and

WHEREAS, said Minute Order also directed the Engineer-Director to initiate and take appropriate action for implementing the emergency and proposed permanent adoption of new Section 17.7 pursuant to the requirements of the Administrative Procedure and Texas Register Act, Article 6252-13a, V.T.C.S.; and

WHEREAS, the new proposed Section 17.7 was published in the September 8, 1987, issue of the Texas Register (12 TexReg 3095); and

STATE DEPARTMENT OF HIGHWAYS
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District No. D-12

WHEREAS, public comments were received from the General Services Administration concerning the proposed new Section 17.7, which comments and the Commission's response are summarized in Exhibit "A" attached to this Order; and

WHEREAS, the Commission has determined that said proposed new Section 17.7, with changes, as specified in said exhibits to this Order should now be permanently adopted; and

WHEREAS, the Commission finds that the changes do not affect new subject matters or different individuals; and

WHEREAS, said emergency action with respect to Section 17.7 will expire on December 30, 1987, and the Commission now desires to renew such emergency action for such additional length of time from that expiration date until the permanent adoption of proposed new Section 17.7 becomes effective.

NOW, THEREFORE, BE IT ORDERED that said proposed new Section 17.7 be and the same is hereby permanently adopted with changes, to read as shown in Exhibit "B" attached, and fully incorporated herein; and

BE IT FURTHER ORDERED that the period of effectiveness of new Section 17.7 as adopted on an emergency basis be extended for such additional length of time until permanent adoption of the proposed new rule, with changes, becomes effective;

AND BE IT FURTHER ORDERED that the Engineer-Director is directed to take the necessary administrative steps to implement actions ordered herein, pursuant to the requirements of the Texas Administrative Procedure and Texas Register Act, Article 6252-13a, V.T.C.S.

Submitted by

Examined and recommended by:

Alan K. Neill
(Title) Director, Division
of Motor Vehicles

Approved

Deputy Director

R. E. Stoker, Jr.
Engineer Director

Minute Number 86651

Date Passed DEC 21 87



The following changes to the proposed text of §17.7 are made in response to public comments received, and as a result of staff review.

The Commission received comments from the General Services Administration expressing concern regarding the department's requiring the executive administrator of an agency or his designee to execute the affidavit for alias certificate of title and the notarization of an alias signature.

The Commission has reviewed the proposed sections as they relate to the execution of the application by the executive administrator and the notarization requirement. The Commission has determined that subsections (b) and (c) of §17.7, as originally proposed, addressed the affidavit for alias exempt registration and the application for certificate of title, rather than the application for title necessary to create the alias title record. Therefore, the proposed subsection (b) regarding the authority to issue an alias title and subsection (c) identifying the affidavit for alias certificate of title necessary to support the creation of the alias record are changed as follows:

Subsection (b) is changed by deleting "an application supported by an" and inserting "the exempt agency's" before the word "affidavit", and adding "for alias certificate of title" after "affidavit". Subsection (b) is further changed by inserting ", certificate of title application," following the word "administrator" and deleting "as provided in this section" after the word "ownership". In addition,

the words "that is titled in the name of the exempt agency" has been deleted following the word "vehicle", and "used by an exempt law enforcement agency in covert criminal investigations" has been inserted at the end of the sentence.

Subsection (c) has been changed by deleting the words "and application" and inserting "for alias certificate of title." Subsection (c), paragraph (1) has been further changed by deleting "and application", and inserting ", but is not limited to," after the word "contain".

Subparagraphs (B) and (C) were deleted. Subparagraphs (D), (E), and (F) are relettered (B), (C), and (D).

Subsection (c), paragraph (2) has been changed by deleting the words "and application" and inserting "for alias certificate of title" after the word "affidavit" at the end of the sentence.

Additionally, to ensure that the proposed rule, with changes, conforms with the statutory authority to issue alias certificates of title for vehicles used by law enforcement agencies in covert criminal investigations and the provisions of law providing for the statutory exemption from title requirements for vehicles used in the services of agencies of the federal government, the Commission has determined that §17.7 is further changed as follows:

New subsection (a), paragraph (1) has been added to provide a specific definition regarding the affidavit for alias

certificate of title, and new paragraph (4) has been added to provide a specific definition regarding the application for certificate of title. Paragraphs (1), (2), (3), (4), (5), and (6) have been renumbered (2), (3), (5), (6), (7), and (8).

Subsection (a), paragraph (3), has been changed by deleting "nonnegotiable" to comply with statutory requirements.

Subsection (d), has been added to address the information required by the department to create and maintain the alias title record and the application for title form that must accompany the affidavit. Subsections (d) and (e) are relettered to (e) and (f), respectively.



General Services Administration, Region 7
819 Taylor Street
Fort Worth, TX 76102



RECEIVED
DKN

October 23, 1987

OCT 29 1987

DIVISION OF
MOTOR VEHICLES

Dear Mrs. Neill:

General Services Administration (GSA), an agency of the U.S. Government, is responsible for the management of a fleet of motor vehicles operated in the State of Texas by employees of various federal agencies. A part of this management responsibility is the routine licensing of vehicles with U.S. Government license plates. Additionally, in accordance with the provisions of the Federal Property Management Regulations, about 3 percent of the almost 6,000 vehicles operated in Texas have been approved for exemption from the requirement to display official U.S. Government tags, these exempt vehicles display state license tags obtained by GSA.

The new exempt license tag requirement published in 43 TAC 17.7 and 17.50 as a result of Senate Bill 763, passed by the 70th Texas legislative, has created considerable difficulty for this agency in obtaining Texas tags for use on exempt U.S. Government vehicles. Specifically, the interpretation of the "Executive Administrator" as being the agency head at the Washington level, and the requirement that annual designation approval authority rests only with that person.

The authority to operate a federal government vehicle using state tags, is granted by the agency which employs the driver, and the provisions for exemption are defined by Federal regulations. The General Service Administration's function is to provide the vehicle, order the state tags, and maintain accountability and renewal control. We review all agency requests for exemption of government tags on GSA vehicles and approve the request in accordance with prevailing regulations. These actions are performed at the regional level; therefore, we request that the provisions of the new exempt license requirement redefine the Executive Administrator to include the GSA Regional Administrator since this office has responsibility for GSA activities within Texas.

Currently, GSA vehicles are purchased and sold without state title. We do not require an "alias" Certificate of Title, and we anticipate considerable problems in obtaining Notary Public certification for an alias signature on Form 62G.

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Presently, we have several GSA vehicles out of service because of expired state tags. This is a direct result of the new provisions for exempt tag issuance; therefore, a resolution of this issue is urgently needed.

In summary, we request the designation authority rest with the GSA Regional Administrator and that the requirement for title in an alias name be changed to permit title to the General Services Administration. Your assistance in providing a solution is sincerely appreciated. If further information is required, please call Virlene Griffin on FTS 334-2384.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Godfrey", with a long horizontal flourish extending to the left.

David F. Godfrey
Regional Administrator

Mrs. Dian K. Neill
Director, Division of Motor Vehicles
State Department of Highways
and Public Transportation
40th and Jackson Avenue
Austin, TX 78779



COMMISSION
ROBERT C. LAWER, CHAIRMAN
ROBERT M. BASS
RAY STOKER, JR

STATE DEPARTMENT OF HIGHWAYS
AND PUBLIC TRANSPORTATION

DIVISION OF MOTOR VEHICLES
AUSTIN, TEXAS 78779-0001

ENGINEER-DIRECTOR
R. E. STOTZER, JR.

November 4, 1987

IN REPLY REFER TO
D12-OGC

Mr. David F. Godfrey
Regional Administrator
General Services Administration, Region 7
819 Taylor Street
Fort Worth, Texas 76102

Dear Mr. Godfrey:

This is in response to your letter dated October 23, 1987, regarding the Department's proposed rules published in the September 8, 1987, issue of the Texas Register.

As you are aware, Senate Bill 763, enacted by the 70th Texas Legislature, Regular Session, 1987, became effective August 31, 1987, and amended the Registration Law and Certificate of Title Act so as to provide for the issuance of alias exempt registrations and alias certificates of title for vehicles used in covert criminal investigations conducted by law enforcement agencies. This Act necessitated the Department to adopt rules to ensure the proper administration of the registration law as it relates to exempt registration issued to sanctioned agencies and alias exempt registrations and titles issued to exempt law enforcement agencies.

When a law enforcement agency makes application for exempt registration issuance in the name of an alias as recorded on the Form 62G, the form must be executed by the Executive Administrator as prescribed by statute, Article 6675a-3aa, V.T.C.S. To ensure the integrity of the system, it has been determined that the "Executive Administrator", for the purpose of this Act, is the individual charged with the highest level of agency responsibility and must execute the application for alias exempt registration; or otherwise

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November 4, 1987
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delegate such authority. The Notary Public's execution of the Form 62G acknowledges the signature of the Executive Administrator or his designee as recorded on the Letter of Authorization on file with this Department.

In an effort to safeguard investigators operating vehicles registered and titled in an alias name, this Department will issue regular stock Texas license plates for display on such vehicles involved in covert criminal activities as provided by Senate Bill 763. Our data base will contain alias ownership information for these vehicles.

Vehicles used in the services of your agency that qualify for exempt registration, as provided by Article 6675a-3(c), V.T.C.S., that are not used in covert criminal activities will be issued Exempt License Plates. Our data base will contain agency ownership information for these vehicles. The Affidavit and Application for Exempt License Plates, Form 62A, may be executed by any authorized person of your agency.

We have carefully reviewed the proposed rules as they relate to the notarization requirement. We have determined that 43 TAC 17.7(c), as originally proposed, addressed the affidavit and application for alias exempt registration (Form 62G), rather than the application for title necessary for the creation of the alias title record. Therefore, we plan to revise this section to properly identify the alias certificate of title application completed to support the alias record. A notarization of the alias signature on the title application will not be required.

Additionally, we plan to revise 43 TAC 17.50(c) which proposes the issuance of a certificate of title as a prerequisite to the issuance of exempt vehicle registration. In accordance with Article 6687-1, Section 60, V.T.C.S., vehicles operated by the federal government or its agencies are not required to be titled. Therefore, vehicles used in the services of federal agencies will not be required to secure certificate of title for vehicles qualifying for the issuance of exempt registration.

Mr. David F. Godfrey
November 4, 1987
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Mr. Godfrey, we appreciate your interest in this matter and your allowing us to explain the Department's position concerning the proposed rules regarding the issuance of exempt vehicle registration and title.

Sincerely,

R. E. Stotzer, Jr.
Engineer-Director

By: *Dian K. Neill*

Dian K. Neill, Director
Division of Motor Vehicles

KAB:cs

§17.7. Alias Certificate of Title.

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

(1) Affidavit for alias certificate of title - A form prescribed by the director that must be executed by an exempt law enforcement agency to request the issuance of title in the name of an alias.

(2) Alias - The name of a vehicle owner reflected on the certificate of title, different than the name of the legal owner of the vehicle.

(3) Alias certificate of title - A title document issued by the department for a vehicle used by an exempt law enforcement agency in covert criminal investigations.

(4) Certificate of title application - A form prescribed by the director that reflects the information required by the department to create the alias title record.

(5) Department - State Department of Highways and Public Transportation.

(6) Director - Director, Division of Motor Vehicles, State Department of Highways and Public Transportation.

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

(8) Exempt agency - A governmental body sanctioned by statute to register motor vehicles without paying applicable registration fees.

(b) Authority to issue. Upon receipt of the exempt agency's affidavit for alias certificate of title properly executed by the executive administrator, certificate of title application, and evidence of ownership, the director may authorize the issuance of an alias certificate of title for a vehicle used by an exempt law enforcement agency in covert criminal investigations.

(c) Affidavit for alias certificate of title.

(1) The affidavit for an alias certificate of title shall be in a form prescribed by the director and must contain, but is not limited to, the following information:

(A) the vehicle description;

(B) the name of exempt agency;

(C) a sworn statement that the vehicle will be used in covert criminal investigations; and

(D) the signature of the executive administrator or an authorized designee as provided in paragraph (2) of this subsection.

(2) The executive administrator, by annually filing an authorization with the director, may appoint a staff designee to execute the affidavit for alias certificate of title. Upon the appointment of a new executive administrator or his designee, a new authorization must be filed.

(d) Certificate of title application.

(1) The application for certificate of title in the name of an alias shall be in a form prescribed by the director and must contain, but is not limited to, the following information:

- (A) the vehicle description;
- (B) the odometer reading;
- (C) the empty weight;
- (D) the name and address of the alias; and
- (E) the name and address of the alias previous owner.

(2) Notarization of the application for certificate of title in the name of an alias is not required.

(e) Evidence of ownership. A certificate of title in the name of an alias will not be issued to an exempt law enforcement agency, including an agency of the federal government, unless such agency furnishes evidence of vehicle ownership.

(f) Cancellation. An alias certificate of title will be cancelled if the vehicle for which it was issued ceases to be used by the exempt law enforcement agency in a covert criminal investigation.